

Justin to a neuro-psychologist, Dr. Richard Dowell, for an evaluation. The evaluation was requested because Justin seemed to be having somatic symptoms or physical (stomach) symptoms arising from his anxiety about visiting with Father in Florida. Dr. Dowell saw Justin twice, once in January and once in February 2000. He did a clinical interview with the child and Mother, and he performed various psychologist tests on the child. This testing showed Justin to be a very bright child with a full scale IQ of 127, and showed Justin to have high levels of stress and anxiety. While Dr. Dowell admitted that Justin came into his office on a "mission" to thwart visits with his Father in Florida, he felt the testing to be a true barometer of deeply felt stress within Justin about the visits. Dr. Dowell believes for some reason Justin feels unsafe and insecure in leaving his home to visit with his Father in Florida and that this stress might be alleviated to some substantial degree if Justin was given a measure of control of the situation by being able to decide that the visit will end early and that he can return to Pennsylvania. Dr. Dowell thus recommends that Justin go on the visits to Florida as Ordered with the condition that the visits would end at any time Justin decides he wants to return to Pennsylvania. Dr. Dowell acknowledges this concept might not be practicable for the five day visits. He also acknowledged that there should be some time period in Florida where Justin would have to wait and acclimate to his surroundings before he should be able to end a visit. However, Dr. Dowell never clearly specified what this time period should be. Dr. Dowell is hopeful that by giving Justin the ability to terminate a visitation early, he will feel less stress about the visit and may ultimately be more willing to stay for the entire visit. He thus is hopeful that by giving this control power to Justin we may increase the chance that Justin will voluntarily work through these problems with his Father.

To better understand the dynamics of the case we have considered the factual history of

the case.¹ Mother and Father had a relationship in 1987 when they both lived in Florida. Justin was born July 14, 1987 in Boca Raton, Florida. Mr. Chisesi supported Ms. Wright during her pregnancy, and after the baby was born she lived in an apartment owned by Mr. Chisesi. Mr. Chisesi visited the baby on a daily basis but the parties had a falling out when Mr. Chisesi believed Ms. Wright had another boyfriend and Ms. Wright left the apartment with the baby and moved in with her sister. Mr. Chisesi continued to support the baby. Finally, in May of 1988, Ms. Wright, without notice to Mr. Chisesi, moved to her Mother's residence in Williamsport, Pennsylvania. The child was 10 months old. Mr. Chisesi called Ms. Wright at her Mother's residence about two weeks after she moved to Pennsylvania. He then made no further contact with Ms. Wright until she filed the Petition to change the child's name on March 1, 1990.² This Court denied the Petition to change name because we feared the proposed name change might adversely affect the Father-Son relationship. Subsequent to the Petition for Custody filed by Mother in 1990, the Court entered a Preliminary Order on May 17, 1990, which permitted Father to visit with the child, but because of the gap in time where he had not seen the child when Mother moved to Pennsylvania, the Order required Father for a six-month period to travel to Williamsport once per month to visit with the child. Father complied with this requirement and visited with the child in Pennsylvania.

In January of 1991, Ms. Wright moved from the Williamsport area with Justin to Panama City, Florida. During this time Mother and Father were able to agree to partial custody time for

¹The Court looked at its Opinion and Order of February 7, 1991 wherein we denied Mother's Petition to officially change the child's name from Ignazio Chisesi, Jr. to Justin Michael Knapp. That Opinion, pursuant to hearing testimony, made Findings of Fact.

²Ms. Wright also filed a Petition for Custody of the child in this time frame.

Father with his son. Mr. Chisesi testified in this custody trial that he saw his son once a month for two week periods. Ms. Wright agreed Mr. Chisesi had regular contact with Justin.

However, in late 1992 (December), Ms. Wright again moved away from Florida and returned to Williamsport, Pennsylvania with Justin. Once again, a dispute arose with Mother and Father about Father's contact with Justin. Mr. Chisesi thus filed a Complaint for Custody in the Lycoming County Courts(No.93-21,265 filed September 8, 1993). Ultimately, this custody litigation led to a written custody agreement and custody Order of June 15, 1994. This Order, which is the subject of the present modification agreement, gives Father time with Justin in Florida for two (approximately five day) holiday periods during the school year and for almost the entire summer beginning one week after school ends until two weeks prior to the beginning of school.

It should be noted that on October 29, 1996, Ms. Wright filed a Complaint to Modify and reduce Mr. Chisesi's visitation with Justin. After an objection by Mr. Chisesi to a lack of specificity in this Complaint, an Amended Complaint to Modify Custody was filed on January 16, 1997. Ms. Wright alleged in this Complaint that Justin was afraid of flying and each trip to Florida was traumatic to him. She also alleged that Mr. Chisesi subjected the child to mental abuse by threatening each time the child visited that he would not permit him to return to Mother. She also alleged the Father did not interact with the child when he visited and that the child was made to spend time at Mr. Chisesi's place of employment during the days. A psychologist, Dan Egli, was retained by Mother to evaluate Justin.³ However, a custody trial scheduled in June

³We believe Mother also obtained a psychologist to evaluate Justin in the earlier litigation, Michael Gillam. Dr. Dowell would thus be the third psychologist retained by Mother to evaluate Justin over the years.

1997 on the Modification Agreement was canceled with agreement of both parties, after they settled the case by agreeing to leave the June 1994 Order intact.⁴

Ultimately, Ms. Wright filed the current Petition to Modify on May 10, 2000. She filed this Petition after receiving a report from Dr. Dowell as previously testified. It should also be noted that after Dr. Dowell submitted his report, Justin did not cooperate with the summer visitation with Father. On the day he was to fly to Florida he traveled to the airport with Mother, but before getting on a plane to go to Florida, he ran away from the airport. He was found a few hours later, at his Grandmother's house. He then returned home with his Mother. Justin thus did not go to Florida this summer to visit with his Father.

The Court interviewed Justin in Chambers as part of the trial process in this case. Justin indicated that he last visited with Father in December 1999, pursuant to the Court Order. He also visited his father in the summer of 1999. During this visit he enjoyed going to a Sports Camp during the day. He also described taking a trip to Disney World. He told the Court he didn't want to go to Florida this summer, but that his Father said he had to come. He acknowledged running away when he went to the airport to go to Florida this summer. Justin claimed he decided well in advance of the day he was supposed to go to Florida, that he would not go. He claims his Mother told him he had to go. Although Justin did not depict any particular abuse or poor treatment of his Father or his family to him, he maintained he didn't want to visit with or see his Father. He claims he doesn't like it at his Father's home and that he would rather be at home. For whatever reason, Justin seems to not want to pursue his relationship with his Father, although he'd visit with his Father if he came up to Williamsport.

⁴Ms. Wright testified that after obtaining Dr. Egli's report, she withdrew the Petition to Modify.

It is hard for the Court to understand why Justin seems to have such anxiety about seeing his Father in Florida. It seems fair to say that Mr. Chisesi has maintained an active role with his son, except for one period in the child's early years in 1988, when Mother left Florida with child without notice to Father. In 1990 Father's contact resumed with son and it appears Father has been dedicated to developing a normal relationship with his son. It is noteworthy that in 1990, when Judge Smith ordered Father to exercise his visits with his son in Williamsport (one weekend per month for a six month period), Father traveled to this area from Florida to exercise this time with his son. When Mother then moved back to Florida in 1991, Father exercised regular contact with his son. When Mother again left Florida (unannounced to Father), and returned to Williamsport in late 1992, Father filed a Custody Complaint which ended in the agreed upon custody schedule of June 15, 1994, which Mother seeks to modify today.

It is hard for the Court to understand why Justin now seems so reluctant to visit with Father and why Justin seems willing to forgo his relationship with Father. As stated, Father has made significant efforts over the years to be a part of his son's life. There may well be some coolness between Mother and Father, but we do not believe on the evidence presented that we can conclude that Mother is intentionally trying to alienate Justin from Father.⁵ However, we believe Mother can play a stronger role in supporting Father's effort to stay in Justin's life.

We do not think it would be wise at this time to simply order Justin to comply with the prior Order on the theory that we should not let the child make these important decisions. We fear that to do that would further foster rebellion in Justin for the visits. However, we do feel that

⁵With agreement of counsel, we have looked at earlier psychological reports written by Dr. Dan Egli, February 14, 1994; Dr. Larue Montanye, December 7, 1990, and Dr. John Kelsey, July 9, 1993. None of the reports seem to indicate intentional alienation of the child to Father.

Justin must be told that regular visits will continue with his Father with the support and blessing of the Court and Mother. It is our hope that by providing these contacts, we will give Father the opportunity to help his son get over this problem so their relationship can strengthen and grow.

It is our belief that the best way to encourage this goal is to maintain the school year visits as currently ordered, and require Justin to visit in the summer as currently ordered, with the provision that he can decide to return to Pennsylvania after spending 30 days with his father in Florida. Of course, Justin could also decide to stay in Florida for the summer per the schedule of the current order.

It is the court's belief that by giving Justin some degree of control over the lengthy summer period, he will feel more relaxed and less trapped by the situation. We are hopeful that he will stay the entire summers as per the schedule. We have chosen a thirty-day period because in fairness to Father, we believe a shorter period would not give him sufficient time to work out his relationship with his son. Thus, if Justin could choose to leave Florida after one or two weeks, he might program himself to do this without giving Father a real chance to effectively develop his relationship with Justin. We believe a thirty-day period should enhance Father's effort to break down some of the barriers developing from his son to the visits.

To enhance Father's efforts we will recommend and approve him coming to Pennsylvania before the start of any visit and flying back to Florida with Justin. While we understand this would be an additional expense, it may well ease the transition of Justin leaving the area and may effectuate the visit with his son. In this event, Father should notify Mother in advance when he will take the opportunity to come to Pennsylvania to pick Justin up for a visit.

The final change we will make is to indicate that if Justin decides to leave Florida in the summer after a thirty-day period, Father may have the opportunity to come up to Pennsylvania

toward the end of the summer and spend a four-day period with Justin. The period could be overnight and could include travel. For instance, Father could take Justin on a short trip to the seashore or Washington D.C., or any other appropriate location. Again, Father would have to promptly notify Mother if Justin leaves Florida, as to whether he will be able to exercise this local visitation and when he would plan to exercise this visit.

It is our hope in doing this Order that Father will be able to build his relationship with his son and help his son reach a comfort level with the situation. We believe giving Justin some say over the extent of the summer visit to Florida may further the relationship with the parties.

Accordingly, the following is entered.

ORDER

AND NOW, this ____ day of September, 2000, the Petition For Modification of Custody filed by Renay (Guillaume) Wright on or about May 16, 2000, is **GRANTED IN PART** and **DENIED IN PART**. The June 15, 1994 custody Order that approves the parties' custody settlement agreement of June 6, 1994, shall remain in full force and effect, but for Section 3(a) entitled *Summer Vacation*, on page 3 of the agreement.

Section 3(a) summer vacation is modified as follows:

Mr. Chisesi shall have partial custody of Ignazio Jr., during the summer school vacations. Ignazio Jr., shall depart for his father's residence one week after school ends in June. Mr. Chisesi may, if he would like, come to Pennsylvania and spend an overnight with his son and then accompany him back to Florida. He should notify Ms. Wright in advance if he will come to Pennsylvania to so accompany his son to Florida. Otherwise, it will be the obligation of Ms. Wright to insure that Ignazio Jr., is on the appropriate flight so that he may come to Florida.

The duration of the summer visit shall be from one week after school ends in June until two weeks prior to the beginning of school. Ignazio Jr., may have the option of deciding to end the summer visit after spending thirty (30) days in Florida. If he so decides, Mr. Chisesi shall make prompt arrangements for Ignazio Jr.'s return to Pennsylvania.

If Ignazio Jr., does decide to return to Pennsylvania after thirty days, Mr. Chisesi may exercise a visit with his son in Pennsylvania for a four day, four night period. Mr. Chisesi should give prompt notice to Ms. Wright if he will exercise this time frame. If Ignazio Jr., decides to return to Pennsylvania after staying thirty days in Florida, Mr. Chisesi may, if he would like, fly back to Pennsylvania with his son, whereupon he may exercise this four-day period. We would expect that he would allow Ms. Wright to see her son promptly upon his return to Pennsylvania if he plans to immediately exercise this four-day period. Of course, both Mr. Chisesi and Ms. Wright will have to maintain their communication about these plans and about Ignazio Jr.'s decision about returning to Pennsylvania early.

But for this change to Section 3(a), all other sections of the June 6, 1994 custody agreement shall remain part of this Order.

By The Court,

Kenneth D. Brown, Judge

c: Christina L. Dinges, Esquire
Steven S. Hurvitz, Esquire