

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SANDRA MORRIS,	:	No. 92-21,070
f/k/a SANDRA TYLER,	:	
Plaintiff	:	IN DIVORCE
	:	
vs.	:	CIVIL ACTION - LAW
	:	
TIMOTHY TYLER,	:	
Defendant	:	Plowman Hearing

ORDER

AND NOW, this 10th day of December 2001, after completion of a “Plowman” relocation request on behalf of mother Sandra Morris, the Court GRANTS the Petition with limitations herein delineated. The Court will approve the Mother’s relocation to the State of Florida with the three (3) children, Joshua, age 17, Justin, age 15 and Damon, age 12. After the Christmas holiday, Mother may take the younger child, Damon to Florida to live with her. The Court believes it to be in the best interest of the two older children to finish the school year at Montgomery High School. Both Children have previously lived with their father on a primary basis during a time period approximately one (1) year ago. The Court believes it would also be difficult for the older children to change schools in mid-year. The Court notes this would be consistent with Justin’s desire to finish the school year at Montgomery High School. While Joshua would prefer to immediately move to Florida with his mother. The Court also notes he is a senior in high school. As the situation stands now, taking if he passes all the courses he is taking (and he is on the borderline between passing and failing two (2) of his courses at this time), he will still be

three (3) courses shy of graduation in June 2002. In order to graduate by September 2002, he will need to pass all his current courses, take an additional correspondence course during this school year and take a summer school course and a second correspondence course during the summer. The Court believes Joshua is motivated to do all these necessary thing in order to graduate High School by September 2002, because Joshua desires to attend college in September 2002. While the Court would permit Joshua to move to Florida this summer, it may well be best for Joshua to finish his summer school course and summer correspondence course by July and then move. However, Mother may investigate the possibility of Josh taking summer school courses in Florida if this would allows him to obtain his High School diploma by September.¹

In reaching this decision, the Court finds the potential advantages of the proposed move would substantially improve the quality of life for the custodial parent, Mother, and all three (3) children. While Mother has employment in Florida, which initially is below is income from his current employment, the Court finds within six (6) months, he will be earning almost the same income as he earns presently in Pennsylvania. Also, it will not be required to travel as much in his new job, as he must do with his current job. The Court find his new job will offer Mr. Morris good growth opportunity which his current employment does not.??? The Florida move will also create more opportunities for Mother because of the help her mother can provide for her with the care of her three and

¹The Court does note that all three (3) boys, while wanting to maintain their relationship with Father, desire to move to Florida with their mother. Mother also has a three and one-half year (3 ½) old daughter with her second husband, Mr. Morris, who, of course, is not a subject of this hearing.

one-half (3 ½) year old daughter.

The move to Florida will also bring non economic benefits to the custodial family. These benefits will include better job satisfaction and less traveling for Mr. Morris. The move will also foster more personal happiness and satisfaction for Mother. All these factors will accrue to the benefit of the children who are eager to make the move to Florida.² See Alderson v. McVay, 743 A.2d 472, 475, (Pa.Super. 1999), discussing the relocation.

While some of Mother's planning for the move could have been better, especially in regard to the effect of the school situation or Joshua, the Court does not find the move is being made on a whim or with any bad motive. Mother has considered the move for close to a year. She only finalized her plan to move to Florida when she was able to realize enough profit from the sale of her Montgomery home to create a significant down-payment for a new house. She has been fully cooperative with Father's partial custody of the children, even allowing the older boys to reside with Father for a school year period when she felt the change might be beneficial to them. However, the boys were not particularly comfortable in the primary custody of their father and they returned to their mother's home at the end of the school year. The Court finds Mother will fully cooperate with Father's visitation with the children when she moves to Florida. The Court believes the integrity of the motive for the move by Mother is appropriate.

Likewise, the Court finds the integrity of the motive of Father, in opposing the

² Joshua even has college plans to attend a college in Florida and he feels he will have better employment opportunities in Florida.

move, is appropriate. Father is understandably concerned about losing time with his children. He has had consistent every other weekend and holiday contact with the children over the years. While he has had created some problems spending time with the children when they visit with him because he plays in a musical band on weekends as a hobby, he still is a concerned father.

The Court believes there is availability of realistic substitute visitation arrangements which will adequately factor Father's ongoing relationship with the children. He may have the children for five (5) weeks consecutively each summer. The Court will let the parents attempt to agree upon the five-week period. They may contact the Court if there is a problem. Further, the children may spend the Christmas holiday with Father by traveling to Pennsylvania two (2) days before Christmas on even numbered years and traveling to Pennsylvania the day after Christmas on odd numbered years. They shall return to Florida at least three (3) days before the start of school on both even and odd years. The parents may mutually modify this schedule to suit their needs if desired. This schedule will begin Christmas 2002.

The children should also visit with Father during the school year if they have a week-long holiday period such as spring break.

Father may have unlimited telephone contact with the children.

The Court acknowledges that transportation for the children for visits with Father presents difficult economic problems. Transportation for the summer visits may be by automobile. Mother should transport the children in the beginning of summer to Pennsylvania. The transportation may be by automobile. ?? At the end of the summer ???

transport the children to a reasonable halfway point, where Mother may complete the return trip home. The Court envisions Mother can drive from Florida to Pennsylvania in the summer since she can visit with her family in Pennsylvania.

Although the parties may agree to automobile transportation for the now??? summer visits, without such agreement in light of the ??? time involved, the Court would expect the parties to utilize air transportation. Mother shall pay two thirds of the cost of the airfare for the Christmas visitation. Father shall pay the remaining one-third. Mother may make the arrangements for the flights and it would be the Court's hope that, in light of the planning time frame, she could obtain low airfare rates. If there is occasion for a second non Christmas vacation period for the children to visit Father during the school year, Father shall pay sixty percent of the airfare and Mother shall pay forty percent. Mother shall cooperate fully with Father in regard to supplying him airfare information and school progress and calendar information. Father may arrange the airfare for the non Christmas vacation period since he will be paying sixty percent of this cost.

With agreement of the parties, Damon shall not leave for Florida until after this Christmas holiday. However, on a practical level, the Court will suggest the parties discuss allowing Damon to leave immediately for Florida with his mother if she goes to Florida before Christmas since the older boys will be staying with Father.

For this upcoming school year in 2002, Joshua and Justin may visit Mother in Florida at any time when there is a significant school vacation such as a four or five day period. Realistically, the Court expects air travel will need to be utilized. Mother shall pay sixty percent of this airfare and Father forty percent.

The Court notes in consideration of the factors set forth in Gruber v. Gruber, 400 Pa. Super. 174, 184, 583 A.2d 434, 438-439 (1990), the Court must also determine ultimately what is in the best interest of the children. The Court has considered all the factors previously discussed, including it extensive interviews with the children. The Court finds these parents have raised fine young people. Each parent is responsible and dedicated to the children. Mother has a particularly strong bond with the children. The Court also express confidence that Joshua will do what he need to do to graduate from high school The Court believes he can handle the delay of his move to Florida because it believes he has the maturity to realized the importance of his efforts to assure his education. The Court also believes the move to Florida will ultimately be in the best interests of the children.

By The Court,

Kenneth D. Brown, J.

cc: Janice Ramin Yaw, Esquire
Randi Dincher, Esquire
Family Court
Gary Weber, Esquire (Lycoming Reporter)
Work File