

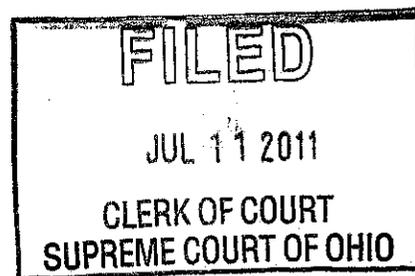
IN THE SUPREME COURT OF OHIO

JULIE ROSE ROWELL :
Appellant, : Case No. 2011-1053
: :
v. : On Appeal from the Franklin
: County Court of Appeals,
JULIE ANN SMITH : Tenth Appellate District
Appellee. :
: Court of Appeals Case Nos.
: 10AP—675 and 10AP-708

MEMORANDUM OPPOSING MOTION TO VACATE STAY OF COURT OF APPEALS'
JUDGMENT AND REINSTATEMENT OF TEMPORARY VISITATION ORDER
PENDING RESOLUTION OF THIS APPEAL

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MEMORANDUM OPPOSING MOTION TO VACATE STAY

On July 7, 2011, this Court granted appellant's motion for stay and reinstated the temporary visitation order pending resolution of this appeal.

On July 8, 2011, Appellee submitted a Motion to vacate the Court's stay order. A comparison of the Appellee's original Memorandum Contra Appellant's Motion for Stay, filed June 29, 2011, and Appellee's newly filed Motion to Vacate the entry granting the stay and reinstating the temporary visitation order pending resolution of this appeal discloses that there is simply no material difference between the two. Indeed, the primary thrust of Appellee's filing of the Motion to Vacate appears to be Appellee's concern that her original Memorandum opposing the stay was not read by the Court. See Appellee's Motion to Vacate, page 4: "Although Mother filed a pleading responsive to Appellant's request [the Motion for Stay], it is not clear from the Entry whether the Court considered as much." Such a comment, along with what amounts to no more than a resubmission of the Appellee's Memo Opposing the Motion for Stay in the guise of a new pleading, is a waste of judicial resources.

The purpose of interim orders issued in custody matters is to maintain the conditions and relationships established during the minor child's life prior to the litigation during the period of the litigation, thereby avoiding psychological damage to the minor child that results from the child's being deprived of those relationships that the child has experienced during her lifetime, during what are often protracted periods of litigation. That is the situation in the case at bar. In the absence of interim orders, or in this case, this Court's Stay of the court of appeals' decision that had the effect of undoing those orders on technical grounds, the Appellee mother herein has regularly and consistently completely deprived the minor child of contact with the Appellant, a woman who has acted essentially as a second parent to the minor child since the child's birth

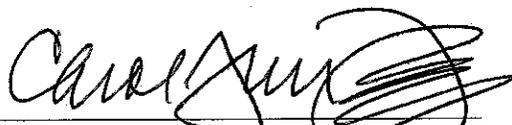
nearly eight years ago. Indeed, the very day after the Court of Appeals set aside the interim orders, Appellee Mother began yet another period of denial of all contact between Appellant and the minor child, that continues to this day. So far, even with the issuance of this Court's Stay last Thursday, Appellee Mother continues to refuse to abide by the reinstated interim orders while pursuing this Motion to Vacate the Stay.¹

There is no new information or legal argument contained in Appellee's Motion to Vacate the Stay that was not already advanced in Appellee's Memorandum Opposing Appellant's Motion for Stay. Even Appellee's urging that the Court should have denied the Motion for failure to address the issue of bond when filing the Motion for Stay is spurious; no bond was required and none was obtained, with the result that there was no issue of bond to address.

Appellant respectfully requests that the Court deny Appellee's Motion to vacate the stay, thereby permitting the Entry granting the stay to remain in effect, thereby reinstating the temporary visitation orders pending resolution of this appeal.

Thank you for your consideration.

Respectfully submitted,



Carol Ann Fey (0022876) (Counsel of Record)
Attorney & Counselor at Law

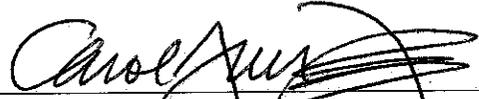
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¹ Appellant's visitation period under the reinstated interim order was to have begun on Friday, July 8, 2011, but was denied by Appellee.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Memorandum was sent by ordinary U.S. mail to counsel for Appellee, Gary J. Gottfried and Eric M. Brown, 608 Office Parkway, Suite B, Westerville, Ohio 43082, and to Meredith A. Snyder, Guardian ad Litem, 572 East Rich Street, Columbus, Ohio 43215, on July 11, 2011.



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