

IN THE SUPREME COURT OF OHIO

IN THE MATTER OF:

* Supreme Court Case No.: 12-2097
* Court of Appeals No.: OT-11-003
* Trial Court Case No.: 20630010

A. G.,

* **APPELLANT A. G.'S RENEWED MOTION**
* **FOR STAY OF THE TRIAL COURT'S**
* **DECISION AND JUDGMENT ENTRY**
* **WITH MEMORANDUM IN SUPPORT**

A Minor Child.

*
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* **(Appellant)**

FILED
MAY 30 2013
CLERK OF COURT
SUPREME COURT OF OHIO

* * *

NOW COMES Appellant, the above-named minor child A. G., by and through her attorney, and pursuant to S.Ct. Prac. R. 14.4., respectfully moves this honorable Court for an order which stays the trial court's Decision and Judgment Entry which was journalized on January 21, 2011. As previously reported by Appellant A. G. in her prior motion for stay

submitted to this Court (filed on December 14, 2012) on February 17, 2011, A. G. had filed Minor Child's Motion for Stay of the January 21, 2011 Decision and Judgment Entry with Memorandum in Support with the Court of Appeals of Ottawa County, Sixth Appellate District. On March 18, 2011, the Court of Appeals issued its Decision and Judgment which granted Appellant A. G.'s motion to suspend all visitation and contact with her natural father, Patrick Garmyn, during the pendency of the appeal. On December 18, 2012, this Court denied Appellant A.G.'s December 14, 2012 motion.

Appellant A.G. respectfully submits that events occurring subsequent to this Court's denial of her December 14, 2012 motion are of such import that sufficient basis exists that resubmittal of her motion for stay is appropriate at this time. Appellant A.G. is submitting the instant motion for the immediate stay of the prior trial court's orders issued pursuant to its January 21, 2011 Decision and Judgment Entry (previously submitted as Attachment A to her December 14, 2012 motion for stay) during the pendency of this Court's review and processing of her appeal to this Court. The basis in support of the instant motion is set forth fully in the attached Memorandum in Support.

MEMORANDUM IN SUPPORT

In addition to the arguments presented to this Court in her memorandum of support of her December 14, 2012 motion for stay of the trial court's order for unsupervised visitation between Appellant A. G. and Appellee Father, Appellant A.G. respectfully submits that during the most recent President's Day holiday observed in February 2013, she went to North Carolina in compliance with the trial court's directive that she participate in

an unsupervised visitation period with Appellee Father. Appellant A. G.'s visit lasted for several days. Upon her return to Ohio, Appellant A. G. reported that the visit was terrible and further, that she had relayed to Appellee Father that she did not want to attend any more visits with him (See Affidavit of Amelia Garmyn (Exhibit 1) at paragraphs 5 through 10 and 16). To accommodate the trial court's order for visitation during that holiday, Appellant A.G. missed two (2) days of school. During her absence, she missed a test and was unable to complete all of her homework assignments. Appellant A. G. states that Appellee Father did not permit her to complete one (1) assignment (Affidavit at paragraph 6).

After that President's Day holiday visit, Appellee Father demanded an additional visitation during Appellant A.G.'s spring break at the end of March 2013. Upon learning of Appellee Father's demands, Appellant A. G. became anxious and stressed. To alleviate her anxieties and stress, Appellant A.G. consumed a large amount of alcohol (approximately 250 ml) in a short period of time. Said action resulted in the immediate need for medical treatment at the emergency room of a local hospital. (St. Charles Mercy Medical Center, Toledo, Ohio) Her blood alcohol level was determined to be .248 and she was required to be on a ventilator to sustain her respiratory system (See Medical Records (Exhibit 2)). After a one-day stay in the emergency room, Appellant A. G. was transported to Mercy St. Vincent Medical Center Intensive Care Unit (ICU) (Toledo, Ohio) for monitoring and recovery. Appellant A.G. subsequently received further psychological medical treatment at the Kobacker Center at the University of Toledo Medical Center. During the observation of Appellant A.G. by medical professionals, it was determined that Appellant A.G. consumed

the alcohol in an attempt to alleviate the stress and anxiety that she was experiencing as a result of Appellee Father's demands for further visitations.

As reported in Appellant A.G.'s Affidavit (Exhibit 1), she does not have a relationship with Appellee Father because of the traumatic events that had occurred to her in the past when she was with Appellee Father. Because Appellee Father continues to intimidate and harass Appellant A.G., she does not wish to have any further contact with him at this time.

As reported in Appellant A.G.'s December 14, 2012 motion for stay, there was substantial evidence presented at the trial in this case regarding Appellee Father's history for domestic violence, not only with Lolita Blay and her family, but with one of his prior wives. Dr. Wayne Graves conducted a psychological evaluation of Appellee Father and concluded that he exhibits delusional, mistrust and control issues relative to relationships he has had in the past. Dr. Graves opined that Appellee Father presents a flight risk to Appellant A. G. The custody evaluations performed by Dr. Graves were court-ordered and therefore are part of the court records subject to review by this Court. It is important to further note that Dr. Graves, on March 22, 2000, summarized his findings (the trial court has maintained Dr. Grave's reports as a sealed record in its file), in part, as follows:

- 1) "...It is thought that *he (father) could harm his daughter* for various purposes feeling justified by his own suspicions and belief system." (Page 38, #17 of his report prepared in 2000)
- 2) "Patrick (father) appears to have displayed a need *to exert control over Lolita*, following a pattern of repression, threat, and then an apology, and begging. He seems to always be in

some fear over loss of control. Yet at the same time, he acts in ways that are powerful, *threatening, somewhat relentless, certainly intense....*The pattern of his behavior with Lolita appears to be similar to the pattern reported with Mary, Mr. Garmyn's second wife, in his threats, use of money, stalking behavior, and inability to let go." (Page 37, #8 and #10 of his report prepared in 2000)

- 3) "In my estimation, he (Patrick) is a high risk of flight again because of his knowledge, his flexibility of job, his past experience at work, travel, his contacts, and financial capabilities." (Page 38, #16 of his report prepared in 2000)
- 4) "He (Patrick) claims to be completely justified in his running away with Amelia to find a safe place. He presents that his flight was out of fear for Amelia's safety and to keep her from being taken to Russia again. *His (Patrick's) deliberateness and style of flight, using false names and identities, appears to have been much more systematic and intended to deny the mother a relationship with her child.* He was developing cover stories as he traveled to justify his actions." (Page 37, #6 and #7 of his report prepared in 2000)
- 5) "*His (Patrick's) behavior and beliefs have elements of grandiosity, narcissism, insecurity and paranoia.* The testing supports the idea of an almost delusional belief system, about those around him acting as a threat to him or not understanding his specialness." (Page 37, # 12 of his report prepared in 2000)
- 6) "*Patrick is the kind of individual who has significant trust difficulties.* He is constantly on guard for others doing something wrong to him. He is trying to prevent harm or injustice occurring. He feels threatened most of the time. *He blames others for problems.* He rationalizes his own difficulties in order to avoid personal responsibility, and there is a strong possibility that he actually has a developed delusional belief system about his own position in life and other's intentions against him." (Page 10 and 11 of his report prepared in 2000)(Emphasis added).

During trial, Appellee Father testified that he had never received any counseling for *domestic violence, anger management* or *personal counseling* to address the deteriorated relationship with Appellant A. G. Appellee Father further testified that he did not believe that any counseling was necessary for him. According to Appellant Father's trial testimony, he never completed any *mental health counseling* and/or treatment at any time within the last twenty (20) years. He further testified that he never addressed the mental health issues which Dr. Grave's identified during his involvement with this family. As such, a reasonable

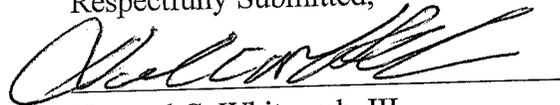
conclusion may be drawn that the conditions identified by Dr. Grave's during his three (3) evaluations over the last ten (10) years are still valid, particularly since these issues have remained untreated throughout these years. Appellee Father currently views himself as the victim and blames everyone around him for his failed relationship with Appellant A. G. But it should be noted that Appellee Father has not taken any steps to attempt rehabilitation regarding the non-existent relationship with Appellant A. G. The minor child has repeatedly told her counselors, school counselors and teachers, police officers, mother and step-father, the GAL, and the trial court (during an in-camera interview) that she fears Appellee Father and does not want to have visits with him. These fears are based on her own experiences when she was with Appellee Father as well as what he has done to her over the years (i.e. two (2) kidnapping incidents, brow-beatings, coerced letters).

As indicated in her affidavit (Exhibit 1), Appellant A. G. maintains that she still fears Appellee Father even today as she approaches seventeen and one-half (17 ½) years of age. She maintains that does not want a relationship with him at this time. Although Appellant A. G. acknowledges and respects this honorable Court and the considerations it must make regarding her future, she respectfully submits that she is prepared to forfeit her individual liberty and seek the protection afforded by juvenile detention rather than attend another unsupervised visit with her father in North Carolina. Appellant A.G. has recently become aware of a certain correspondence (Exhibit 3) sent by Appellee Father's attorney to Appellee Mother's attorney. Appellant A.G. was not sent a copy of this correspondence. In said correspondence, it appears that in exchange for the return of past child support payments (which are currently being held in escrow pursuant to trial court order), Appellee Father will

terminate all contact with Appellant A.G. Since said correspondence was not directed to Appellant A.G., she is unable to formally present her response to said correspondence. Because she is aware of it however, Appellant A.G. now believes that Appellee Father is more likely interested in recouping a monetary windfall rather than establish a meaningful relationship with her.

WHEREFORE the above-named minor child, Appellant A. G., prays, and pursuant to S.Ct. Prac. R. 14.4., for a timely order which immediately stays the trial court's January 21, 2011 Decision and Judgment Entry during this Court's review and processing of Appellant A. G.'s instant appeal now before this Court, and for such other relief that this Court deems just and proper.

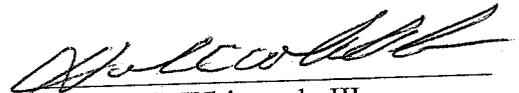
Respectfully Submitted,



Howard C. Whitcomb, III
Attorney for the Minor Child, A. G.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Appellant A. G.'s Renewed Motion for Stay of the Trial Court's Decision and Judgment Entry with Memorandum in Support was sent by ordinary U. S. Mail, postage prepaid, to Mr. Timothy W. Hallett, Esq., Attorney of Record for Appellee Father, Patrick Garmyn, at Hallett, Hallett & Nagel, 132 S. Fulton Street, Wauseon, OH 43567; Mr. Richard A. Karcher, Esq., Attorney of Record for Appellee Mother, Lolita Blay, at 421 North Michigan Street, Suite D, Toledo, OH 43604, and Ms. Bree Noblitt Brown, Esq., Guardian ad Litem for Appellant A. G., at 318 Madison Street, Port Clinton, OH 43452, this _____ day of May, 2013.


Howard C. Whitcomb, III

ATTACHMENT NOT SCANNED