

ORIGINAL

In the
Supreme Court of Ohio

STATE OF OHIO, ex rel.)
VICTORIA K. BELTOWSKI)
)
)
Realtor,)
)
vs.)
)
HON. BRADLEY J. SMITH, Judge)
)
and)
)
SANDUSKY CTY. JUVENILE COURT)
)
Respondents.)

Case No. 2014-1319

ORIGINAL ACTION IN PROHIBITION

FILED
OCT 14 2014
CLERK OF COURT
SUPREME COURT OF OHIO

**AFFIDAVIT OF JOHN J. SCHNEIDER
COUNSEL FOR RELATOR WITH EXHIBITS
Pursuant to S.Ct.Prac.R. 12.06**

STATE OF OHIO)
)) ss.
COUNTY OF CUYAHOGA)

I, John J. Schneider, in accordance with S.Ct.Prac.R. 12.06, being first duly cautioned and sworn, and having personal knowledge of each of the following assertions due to my extended and personal involvement in these present pending matters and previous matters both before the Sandusky County Juvenile Court in Case Nos. 20840220 and 21330357 and before the Ohio Supreme Court in Case No. 2013-0636 deposes and states as follows:

1. I am the counsel of record for Relator Victoria Beltowski in the present prohibition action; and have been her counsel of record throughout the proceedings in the Sandusky County Juvenile Court continuously since November 30, 2012;

RECEIVED
OCT 14 2014
CLERK OF COURT
SUPREME COURT OF OHIO

2. The Relator Mother has been defending against Complaint(s) for Custody filed in the Sandusky County Juvenile Court on December 19, 2013 in Case No. 20840220, which Case Number was interlineated and changed to Case No. 21330357 pursuant to an Order of Judge Bradley Smith, which is attached hereto as Exhibit A;

3. Judge Bradley Smith is known to be the sole elected Judge of the Sandusky County Juvenile Court whose Order on December 20, 2013 allowed Case No. 21330357 to be docketed and proceed forward as a normal case in that court, and that Order is attached hereto as Exhibit B;

4. The Ohio Supreme Court granted Relator's Writ of Prohibition in Case No. 2013-0636 on December 17, 2013 finding that the Sandusky County Juvenile Court was acting without jurisdiction in Case No. 20840220; and both Counsel and the Sandusky County Juvenile Court were duly served with said decision, which is attached hereto as Exhibit C;

5. The Complaint for Custody in Sandusky County Juvenile Case No. 21330357 is identical to the Custody for Complaint filed previously in Sandusky County Juvenile case No. 20840220, that Complaint as filed on November 19, 2012 is attached hereto as Exhibit D;

6. Judge Smith vacated the orders entered in Case No. 20840220 and the minor child: J.B., was returned to the Mother's sole custody late in the following day of December 20, 2013 as set forth in Exhibit E attached hereto;

7. The Mother and child immediately left the State of Ohio to return to their long term home in the State of Arizona and have remained there since;

8. Subsequent to the Ohio Supreme Court's decision in *The State Ex. Rel. V.K.B. v. Smith Judge, et al.*, (2013) 138 Ohio St.3d 84, the Mother Relator sought and gained clarifying Orders of the Superior Court of Pima County, Arizona wherein that Court has determined that it

is solely exercising exclusive continuing jurisdiction over the minor child; that the minor child is a resident of Arizona; and that the Mother is the sole legal custodian; and certified copies of said orders are incorporated into Relator's Exhibit F attached hereto which also constitutes the filing of the Orders of the Arizona Court with the Sandusky County Juvenile Court;

9. Those Orders were filed pursuant to a Notice of same filed with the Sandusky County Juvenile Court by facsimile on July 28, 2014 personally performed by Relator's Counsel;

10. Relator's Counsel filed a Motion to Dismiss the Complaint for Custody in Sandusky County Juvenile Court Case No. 21330357 on January 17, 2014 and that Motion has been decisional since late March of 2014; a copy of which is attached hereto as Exhibit G;

11. Relator's Counsel received a request for appointment of a visiting judge sent to the Supreme Court by Judge Smith;

12. Relator's Counsel previously did not receive any formal Notice of any appointment;

13. Relator's Counsel received a Hearing Notice in Case No. 21330357 for August 14, 2014 scheduled for two (2) hours which is attached hereto as Exhibit H;

14. Relator's counsel, at that time, had cause to know the Sandusky County Juvenile Court was patently without jurisdiction due to the law of the previous proceedings and believed the two hour hearing could ostensibly be some sort of evidentiary hearing to try and assert some basis for Sandusky County to assert jurisdiction based upon "new evidence" discovered during the pendency of Case No. 20840220 which was never asserted in that case; which case was vacated and closed;

15. Counsel has cause to believe that the Sandusky County Juvenile Court will attempt to unlawfully continue to exercise jurisdiction until the Ohio Supreme Court compels compliance with its mandate and orders previously entered in this matter;

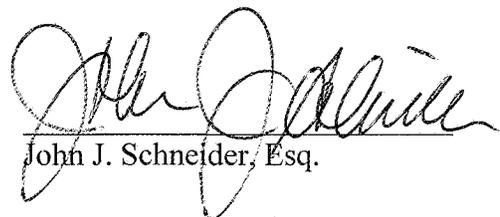
16. Relator's Counsel attended the hearing on August 14, 2014 at which time Visiting Judge David Basinski entered an Order ostensibly closing Sandusky County Juvenile Court Case No. 21330357 finding that the Sandusky County Juvenile Court could not continue to attempt to exercise jurisdiction due to the Ohio Supreme Court's Order in Case No. 2013-0636. Judge Basinski's Order is attached hereto as Exhibit I;

17. The Sandusky County Juvenile Court's Order, however, does continue to enter prospective Orders ostensibly compelling Mother to provide her address in Arizona; which undersigned Counsel has been ordered not to do out of fear for the safety of the minor child since the minor child was ostensibly kidnapped when in Ohio previously;

18. Subsequently, undersigned counsel received correspondence from the paternal Grandfather's counsel requesting compliance with that Court's Order and Relator's counsel fully expects to receive a Motion to Show Cause if paternal grandfather's counsel is allowed to file the same; and that letter is attached hereto as Exhibit J;

19. Relator's Counsel also notes that Exhibits attached to the last Order out of Sandusky County enters Orders regarding child support; which otherwise are within the jurisdiction of that Court; but these Orders reallocate the child support obligation as if the custody order of the Juvenile Court of Sandusky County vacated by the Ohio Supreme Court was nonetheless valid for purposes of child support.

FURTHER, Affiant sayeth naught.


John J. Schneider, Esq.

On October 12, 2014, the forenamed Affiant, known to the Notary Public; did appear before the same and did swear the foregoing to be true according to his personal knowledge.

Gerald R. Walton
Notary Public

GERALD R. WALTON, Attorney,
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Issued 147.00 O.R.C.

COURT OF COMMON PLEAS OF SANDUSKY COUNTY, OHIO
JUVENILE DIVISION

In The Matter of

December 19, 2013

Jaldyn Beltowski
d.o.b. 08/15/2008

I.D. No. 72674
Case No. 20840220
Case No. 21330357

Private Action

ORDER

This matter comes before the court for review of the Complaint for Custody, UCCJEA Affidavit, and Motion for Restraining Order filed today under case number 20840220 by Attorney Mary Beth Fiser, counsel for paternal grandfather Gary Beamer.

Due to the Writ of Prohibition issued by The Supreme Court of Ohio, this Courts intention is to comply by vacating all orders subsequent to August 2010 and then dismiss and close case number 20840220.

The Court has determined that there was a clerical error in listing the existing case number on the filings received today by Attorney Fiser. The Court accepts today's filings and instructed the deputy clerk to issue a new case number.

It is Ordered that the Complaint for Custody, UCCJEA Affidavit, and Motion for Restraining Order filed December 19, 2013 by Attorney Fiser will be under case number 21330357.



Bradley J. Smith, Judge

Copies to:

V. Beltowski, mother
K. Beamer, father
G. Beamer, paternal grandfather
J. Bagley, paternal grandfather significant other
V. Miller, maternal grandmother

Atty. Schneider

Atty. Fiser

Atty. Brikmanis, GAL

EXHIBIT A

The Supreme Court of Ohio

FILED

DEC 17 2013

CLERK OF COURT
SUPREME COURT OF OHIO

State of Ohio, ex rel. Victoria K. Beltowski

Case No. 2013-0636

v.

JUDGMENT ENTRY

Bradley J. Smith, Judge and Sara Jo Sherick,
Magistrate and Sandusky County Juvenile
Court

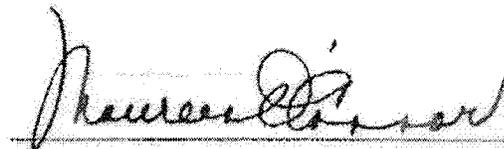
APPEAL FROM THE
COURT OF APPEALS

This cause, here on appeal from the Court of Appeals for Sandusky County, was considered in the manner proscribed by law. On consideration thereof, the judgment of the court of appeals is reversed, a writ of prohibition is granted directing the Sandusky County Juvenile Court to vacate all orders entered in this matter subsequent to August, 2010, and the child is to be returned to the custody of the mother forthwith, and this cause is remanded to the court of appeals, consistent with the opinion rendered herein.

It is further ordered that appellant's motion for oral argument is denied.

It is further ordered that a mandate be sent to and filed with the clerk of the Court of Appeals for Sandusky County.

(Sandusky County Court of Appeals; No. S-13-001)



Maureen O'Connor
Chief Justice

EXHIBIT C

I HEREBY CERTIFY that this document
is a true and correct copy of the
entry of the Supreme Court of Ohio
filed Dec 17 2013 in Supreme
Court case number 2013-0636

In witness whereof I have hereunto
subscribed my name and affixed the
seal of the Supreme Court of Ohio
on this 7th day of January, 20 14

CLERK OF COURT
by Keri Hamiter, Deputy

FILED
SANDUSKY COUNTY

NOV 19 2012

1

COURT OF COMMON PLEAS
SANDUSKY COUNTY, OHIO
(Juvenile Division)

JUVENILE COURT
Bradley J. Smith
JUDGE

In the Matter of: : Judge
Jaidyn Beltowski : Case No. 20840220
d.o.b. 08/15/2008 : ID No. 72674
:
: COMPLAINT FOR CUSTODY

Now comes the paternal grandfather, Gary W. Beamer, and by and through his attorney, Mary Beth Fiser, and as and for his complaint, states as follows:

1. Gary W. Beamer is the biological grandfather of the minor child Jaidyn Beltowski, born 08-15-2008. Gary W. Beamer brings his complaint pursuant to Ohio Revised Code Section 3109.12 of the Ohio Revised Code and Juvenile Rule 12 (A) for custody of the minor child.
2. Kyle Beamer, the biological father of said minor child, consents to the within request for custody of said minor child. Victoria Beltowski is the residential parent for said minor child, as ordered in the Judgment Entry filed December 18, 2009.
3. Neither the mother nor the father are in active military status as defined by the Soldiers and Sailors Act of 1940, Public Act #871-76 Congress.

Mary Beth Fiser Co., L.P.C.
Attorney at Law
127 South 27th Street
P.O. Box 277
Clyde, Ohio 43010

Ohio Supreme Court
Registration No. 0037937

Phone 419/547-2770
Fax 419/547-2200

EXHIBIT D

nor as defined as the Selective Service and Training Act of 1940. In fact both parties are civilians.

- 4. The natural mother removed the minor child from the state of Ohio shortly after the decision which granted her custody of the minor child to Tucson, Arizona. Thereafter, complainant had very little contact with the minor child from age 10 months until September of 2012.
- 5. Upon the return from the state of Arizona, complainant, Gary W. Beamer has had frequent and continuing contact with the minor child and these contacts have raised grave concerns for the physical and emotional well-being of said minor child.
- 6. Based upon these observations, the paternal grandparent states that there has been significant change in the circumstances of the residential parent and the minor child which warrant a change in custody and that the harm likely to be caused by the change in custody is outweighed by the advantages of the same.
- 7. Complainant, Gary W. Beamer states that, neither parent is at this time fit to parent this minor child under the standards as set forth in Ohio vs Perez and that custody should be awarded to him in order to protect the minor child and the best interest said minor child.

WHEREFORE, counsel for the grandfather respectfully requests this court for an order granting him custody of said minor child; that this court determine

Nory Beth Dean Co., LLP
Attorney at Law
107 South Main Street
P.O. Box 972
Clyde, Ohio 43020

Ohio Supreme Court
Registration No. 0022991

Phone 419/537-2770
Fax 419/537-2200

reasonable visitation for both parents and for such other and further relief as this court may deem necessary, proper and in the best interest for the minor child.



Mary Beth Fisor
Attorney for Paternal Grandparent
Gary W. Beamer

Mary Beth Fisor Co., LPA
Attorney at Law
117 South Main Street
P.O. Box 572
Clyde, Ohio 43002

Ohio Supreme Court
Registration No. 0032281

Phone 419/537-7770
Fax 419/547-0202

COURT OF COMMON PLEAS
SANDUSKY COUNTY, OHIO
JUVENILE DIVISION

FILED
SANDUSKY COUNTY

DEC 19 2013

JUVENILE COURT
Bradley J. Smith
JUDGE

In The Matter of

Jaidyn Beltowski
d.o.b. 08/15/2008

Private Action

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*

December 19, 2013

I.D. No. 72674
Case No. 20840220

JUDGMENT ENTRY

This matter comes before the court today for a previously scheduled Status Pre-Trial on all pending matters, and a review and action on recent decisions and orders from The Ohio Supreme Court.

The court finds as follows:

1. Present for hearing were the following: Victoria Beltowski, mother; Attorney John Schneider, counsel for mother; Kyle Beamer, father; Gary Beamer, paternal grandfather; Attorney Mary Beth Fiser, counsel for paternal grandfather; Jodi Bagley, significant other to paternal grandfather; Valerie Miller, maternal grandmother; Attorney John Brikmanis, Guardian ad Litem for Jaidyn Beltowski; Any other party or person not previously listed: _____
2. This court has received and reviewed: The Supreme Court of Ohio, State ex rel. V.K.B. v. Smith, Slip Opinion No. 2013-Ohio-5477, issued December 17, 2013; as well as the Judgment Entry and Writ of Prohibition, both issued by The Supreme Court of Ohio, in their Case No. 2013-0636. Copy of JE & Writ attached hereto.
3. After review, in conclusion, at ¶29 of the the Slip Opinion, The Supreme Court of Ohio has Ordered:
 - a. "The writ of prohibition is granted. The Sandusky County Juvenile Court is hereby directed to vacate all orders entered in this matter subsequent to August 2010, and the child is to be returned to the custody of the mother forthwith."

EXHIBIT E

JOURNALIZED

12-19-2013 [Signature]

It is therefore ORDERED as follows:

4. Based upon the Writ of Prohibition issued by The Supreme Court of Ohio, this Court hereby vacates all orders entered in this matter subsequent to August 2010.
5. Based upon the Writ of Prohibition issued by The Supreme Court of Ohio, this Court hereby Orders that the child is to be returned to the custody of the mother forthwith. Said return shall occur within 24 hours of this Order, as can be peaceably arranged by counsel and parties in order to reduce any potential trauma to the child, which by agreement is set at a transition time of 5 p.m. on Friday, December 20th, 2013.
6. Based upon the decision issued by The Supreme Court of Ohio, indicating a lack of jurisdiction over the child in this matter, this Court hereby Dismisses the underlying Complaint in Sandusky County Juvenile Court Case No. 20840220 and Orders the case officially closed via this Judgment Entry today.
7. The following previously scheduled hearing dates that were set by Notice, not Order, are hereby vacated and shall be removed from the Court's calendar:
 - a. February 6, 2014 from 9:00 a.m. to 4:00 p.m.
 - b. March 6, 2014 from 9:00 a.m. to 4:00 p.m.
 - c. March 7, 2014 from 9:00 a.m. to 4:00 p.m.
8. The Attorney Guardian ad Litem shall prepare and submit a billing to the Court for any final fees that have not yet been paid, and said billing shall be reviewed by the Court and any amount approved paid by the Court as an expense of this matter. Outstanding balance owed to former Attorney Guardian ad Litem shall also be paid by the Court.

IT IS SO ORDERED.



Bradley J. Smith ~ Judge

Copies to:

V. Beltowski, mother
Attorney Schneider
K. Beamer, father
G. Beamer, paternal grandfather
Attorney Fiser
J. Bagley, significant other to paternal grandfather
V. Miller, maternal grandmother
Sandusky County C.S.E.A.
Attorney Brikmanis, GAL
Court Fiscal Director

Gerald R. Walton & Associates

2800 Euclid Avenue, Suite 320
Cleveland, Ohio 44115

(216) 621-1230
(216) 621-3039 (fax)

FACSIMILE TRANSMISSION

TO: Juvenile Clerk of Courts

OF: Sandusky County Juvenile Court

FROM: John Schneider

FAX # (419) 334-6210

PHONE # (419) 334-6200

Number of sheets including this cover page: 9

Date transmitted: July 28, 2014 Time of transmission: 2:55 p.m.

Person sending: John Schneider

Re: *In the Matter of: Jaidyn Beltowski*
Case No. 21330357
ID No. 72674

Message: Please file the following: Notice of Arizona Superior Court, Pima County: Family Law Order Vacating Orders and Accepting Jurisdiction; Order Confirming Mother As Sole Custodian and Arizona As Child's Residence. The original will be mailed to the Clerk. Thank you.

Confirmed by: _____ Spoke to: _____ Date: _____ Time: _____

THIS TRANSMISSION MAY CONTAIN PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE PERSON TO WHOM IT IS SENT. IF YOU ARE NOT THE INTENDED RECIPIENT OR HIS OR HER AGENT, PLEASE NOTIFY THE SENDER IMMEDIATELY, AND RETURN THIS TRANSMISSION TO THE SENDER VIA THE UNITED STATES POSTAL SERVICE. PLEASE KNOW THAT ANY DISTRIBUTION OR COPYING OF THIS TRANSMITTAL IS PROHIBITED.

EXHIBIT F

The third attached Order is an Amended Minute Entry wherein the Arizona Superior Court, Pima County amended its previous Minute Entry to correct that the Petitioner Mother's Exhibit 1 at the April 28, 2014 was misidentified and correctly naming that Exhibit.

The three foregoing mentioned Orders are attached hereto consecutively as Exhibit A; Exhibit B; and Exhibit C.

Respectfully submitted,

s/John J. Schneider
John J. Schneider, Esq. (0073671)
Gerald R. Walton & Associates
2800 Euclid Avenue, Suite 320
Cleveland, Ohio 44115
(216) 621-1230; (216) 621-3039 (fax)
jsschneider_44107@yahoo.com
Counsel for Mother

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing Notice of Arizona Superior Court, Pima County: Family Law Order Vacating Orders And Accepting Jurisdiction; and Order Confirming Mother as Sole Custodian and Arizona as Child's Residence, etc. is being served by regular mail on this 28th day of July 2014 to: Mary Beth Fiser, Esq., PO Box 372, Clyde, OH. 43410 and to Kyle Beamer by regular mail at his address of record at 1600 CR 243, Fremont, Ohio 43420.

s/John J. Schneider
John J. Schneider

EXHIBIT A

FILED
TOMM HELLON
CLERK OF SUPERIOR COURT

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. DANIELLE B. LIWSKI

14 APR -6 AM 10:35
CASE NO. DC20129040

DATE: April 6, 2014
NATHAN ROTHSCHILD, DEPUTY

VICTORIA BELTOWSKI
Petitioner

and

KYLE BEAMER
Respondent

ORDER

FAMILY LAW ORDER VACATING ORDERS AND ACCEPTING JURISDICTION

The Court received a motion to vacate its dismissal of this case on March 13, 2014 and to accept jurisdiction. There was no response.

The Motion alleges that the foreign trial court which had exercised jurisdiction in this matter had improperly exercised jurisdiction and all orders since August 2010 had to be vacated due to lack of jurisdiction. See: *Store ex rel. V.K.B. v. Smith*, 2013-Ohio-5477, 3 N.E.3d 1184.

This Court in refusing jurisdiction relied on the Ohio court's exercise of jurisdiction. Rule 85(D) provides: "When a judgment has been rendered upon the judgment of another state or foreign country, and the foreign judgment is thereafter reversed or set aside by a court of such state or foreign country, the court in which judgment was rendered in this state shall set aside, vacate and annul its judgment." RFLP Rule 85. The Court has no evidence before it to suggest Ohio has jurisdiction.

IT IS ORDERED vacating the orders made on April 10, 2013.

IT IS ORDERED vacating the order to dismiss dated November 21, 2013.

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/

Nathan Rothschild
Law Clerk

ORDER

Page 2

Date: April 01, 2014

Case No.: DC20120040

THE COURT FINDS Arizona is the proper Jurisdiction.

IT IS ORDERED setting a status conference on April 28, 2014 at 10:30 A.M. for thirty minutes.



HON. DANELLE B. LIWSKI

cc. Hon. Danelle B. Liwski
Kyle Beamer
Victoria Beltowski
Clerk of Court - Civil Unit

Nathan Rothschild
Law Clerk

STATE OF ARIZONA)
COUNTY OF PIMA } ss.

The foregoing instrument is a
full, true, and correct copy of the
original on file in this office.

Attested JUN - 5 2014

TONI L. HELLON, Clerk

By Crystal Diaz Deputy
Crystal Diaz

3

EXHIBIT B

FILED
4/28/14
TONI ZEBELON, Clerk
Deputy

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. DANIELLE B. LIWSKI

CASE NO. DC20120040

COURT REPORTER: John Bouley
Courtroom - 686

DATE: April 28, 2014

MAY - 1 2014

VICTORIA BELTOWSKI
Petitioner

In Proper Person

and

KYLE BEAMER
Respondent

MINUTE ENTRY

STATUS CONFERENCE

Petitioner is present. Respondent is not present.

The Court informally questions the petitioner.

Petitioner's Exhibit 1, being a copy of case State of Texas v. Smith, is identified and admitted.

For the reasons as stated on the record,

IT IS ORDERED that the parties shall comply with the current orders regarding the minor child: the petitioner/mother shall have sole legal decision making, the minor child shall reside in Arizona, and there shall be no parenting time for the respondent/father.

If the respondent/father chooses he may petition the Court, in Arizona, for parenting time.

The Court signs this minute entry in lieu of a more formal order.


HON. DANIELLE B. LIWSKI

cc: Hon. Danielle B. Liwski
Kyle Beamer
Victoria Beltowski

Rachel Petty
Deputy Clerk

STATE OF ARIZONA)
COUNTY OF PIMA } ss.

The foregoing instrument is a full, true, and correct copy of the original on file in this office.

Attested RM - S 264
TONI L. BELLON, Clerk
By [Signature] Deputy
Crystal Diaz

EXHIBIT C

FILED
TONI HELLON
CLERK, SUPERIOR COURT
5/13/2014 4:13:03 PM
By: Rachel Petty

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. DANELLE B. LIWSKI

CASE NO. DC20120040

DATE: May 13, 2014

VICTORIA BELTOWSKI
Petitioner

and

KYLE BEAMER
Respondent

MINUTE ENTRY

AMENDED MINUTE ENTRY--FAMILY LAW

IT IS ORDERED that the minute entry dated Monday, April 28, 2014, be amended as follows:

Petitioner's Exhibit 1, being a copy of case State of Ohio v. Smith, is identified and admitted.

IT IS FURTHER ORDERED that said minute entry shall remain in full force and effect in all other respects.

cc: Hon. Danelle B. Liwski
Kyle Beamer
Victoria Beltowski

Rachel Petty
Deputy Clerk

FILED
SANDUSKY COUNTY

JAN 21 2014

IN THE COURT OF COMMON PLEAS
SANDUSKY COUNTY, OHIO
JUVENILE DIVISION

JUVENILE COURT
Bradley J. Smith
JUDGE

In the Matter of : Jaidyn Beltowski,
(D.O.B. 08/15/2008)

) I.D. No. 72674
) Case No. 21330357
)
)
)
)
)
)
)

**MOTION TO DISMISS COMPLAINT
FOR CUSTODY DUE TO LACK OF
JURISDICTION AND/OR LACK
OF STANDING; AND/OR MOTION
TO STRIKE**

Mother Victoria Beltowski, by and through undersigned counsel, respectfully moves this Honorable Court to dismiss the paternal grandfather's self styled Complaint for Custody for lack of jurisdiction due to the mandate, determination and order of the Ohio Supreme Court issued on December 17, 2013 in Case No. 2013-0636. Additionally, and/or alternatively Mother moves this Honorable Court to dismiss the paternal grandfather's Complaint for Custody for lack of standing as a proper party to this matter without having filed a motion to intervene. Finally, Mother moves this Honorable Court in the alternative to strike the Complaint for Custody pursuant to Juvenile Rule 10(A) since the Complaint is not supported by a sworn Affidavit as required by the Juvenile Rules of Procedure. A Memorandum in Support of this Motion to Dismiss and/or to Strike the Complaint is attached hereto and incorporated as being fully herein. The same is being offered as a responsive pleading pursuant to Ohio Rule of Civil Procedure Rule 12(A)(2) and/or Juvenile Rule 22(A).

EXHIBIT G

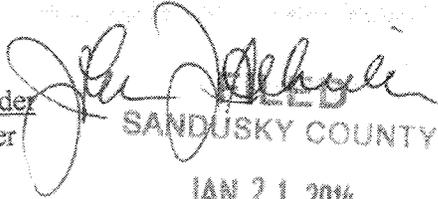
WHEREFORE, for good cause shown, Mother Victoria Beltowski, by and through undersigned counsel respectfully moves this Honorable Court to dismiss and/or strike the paternal grandfather's Complaint for Custody at paternal grandfather's cost.

Respectfully submitted,


s/John J. Schneider
John J. Schneider, Esq. (0073671)
Gerald R. Walton & Associates
2800 Euclid Avenue, Suite 320
Cleveland, Ohio 44115
(216) 621-1230; (216) 621-3039 (fax)
jsschneider_44107@yahoo.com
Counsel for Mother

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing Mother's Motion to Dismiss, etc. is being served by facsimile and/or electronic mail and regular mail on this 17th day of January 2014 to: Mary Beth Fiser, Esq., PO Box 372, Clyde, OH. 43410 and to Kyle Beamer by regular mail at his address of record at 1600 CR 243, Fremont, Ohio 43420.


s/John J. Schneider
John J. Schneider

SANDUSKY COUNTY

JAN 21 2014

MEMORANDUM IN SUPPORT

I. Brief Underlying Facts

Paternal Grandfather previously in Case No. 20840220 set forth in a Complaint for Custody essentially the same facts he now sets forth in the Complaint for Custody in the "new" Case No. 21330357. Previously, as well, in Case No. 20840220 he had filed a Motion for Custody Exparte seeking temporary custody.

On December 17, 2013 when the Ohio Supreme Court granted the Writ of Prohibition they held that this Court did not have jurisdiction over the child and the parties and required the vacation of all orders of the Court subsequent to August 20, 2010. At that time the paternal

JUVENILE COURT
Bradley J. Smith
JUDGE

grandfather had never been joined as a party to that case nor had ever stood in the place of the custodial parent in this matter.

II. Law and Argument

A.) **This Honorable Court Does Not Have Jurisdiction of the Underlying Matter And the Court is Barred by Collateral Estoppel Or Res Judicata From Asserting Same**

The controlling law in Ohio is that:

The modern view of res judicata embraces the doctrine of collateral estoppel, which basically states that if an issue of fact or law actually is litigated and determined by a valid and final judgment, such determination being essential to that judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or different claim.

Hicks v. De La Cruz, 52 Ohio St.2d 71, 74, 369 N.E.2d 776,778 1977). Herein the Ohio Supreme Court has already determined that the Sandusky County Juvenile Court does not have jurisdiction over this child. "Thus, if V.K.B. can prove the allegations in her complaint, the juvenile court has not satisfied the requirements of the statute, and therefore does not have jurisdiction over the parties, the child, or the case." *State ex rel. V.K.B. v. Smith*, [Slip Opinion No. 2013-Ohio-5477.] Basically at this point, the paternal grandparents by and through counsel is asking this Court to act contrary to the Ohio Supreme Court's decision and order. The Sandusky County Juvenile Court cannot assert and/or continue to assert jurisdiction over this child without ignoring what has already been decided as a point of both fact and law by the Ohio Supreme Court. The Sandusky County Juvenile Court cannot now determine that they have jurisdiction over this child, and the power or ability to award custody of the child to the paternal grandparents under the same facts as were alleged over a year ago.

For this reason the Complaint for Custody must be dismissed and/or stricken. The paternal grandparents cannot set forth facts alleging that this Court has jurisdiction when the Ohio Supreme Court has held otherwise as a matter of law.

B. The Complaint Must Be Dismissed Because It Alleges Nebulous Facts Apparently Meant To Constitute A Neglect and Dependency Complaint But The Complaint Is Not Verified Nor Supported By A Sworn Affidavit

Ohio Juvenile Rule 10(B)(3) mandates that a complaint filed in Juvenile Court that attempts to set forth allegations of neglect and dependency must be made under oath. The present complaint is not verified nor accompanied by an Affidavit attesting to the allegations set forth in the Complaint. This fatal flaw at a minimum requires that the Complaint be dismissed because truly the Complaint fails to set forth a claim upon which relief can be granted. In addition, a complaint alleging neglect and dependency must set forth in a fairly clear basis actual facts of the neglect and/or dependency and the complaint must set forth the date on which the neglect or dependency existed. *In re Barnhart*, 4th Dist., Athens No. 02CA20, 2002-Ohio-6023 (citing other authorities therein). See also O.R.C. §2151.23(A)(1).

These fatal flaws are not *de minimus* and cannot be rectified through amendments to the pleadings. The Complaint must be dismissed.

C. The Complaint Must Be Dismissed Because the Paternal Grandfather Is Not a Proper Party To This Action As He Has Never Been a Party Prior To This Date of Record

Although this Honorable Court has "closed" Case No. 20840220, the facts are that in the history of that case until, August 20, 2010, the paternal grandfather was never a party to the matter nor ever acted *in loco parentis* to or for the child. The law in this regard is clear in the State of Ohio.

O.R.C. §3127.01(13) provides:

"Person acting as a parent" means a person, other than a child's parent, who meets both of the following criteria:

- (a) The person has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence from the child, within one year immediately before the commencement of a child custody proceeding; and
- (b) The person has been awarded legal custody by a court or claims a right to legal custody under the law of this state."

O.R.C. §3127.01(13), Lawriter 2013. The paternal grandfather does not meet this definition because the paternal grandfather only did so previously because of actions the Ohio Supreme Court has determined were without jurisdiction, in essence illegal. The Ohio Supreme Court purposefully did as Courts are inclined to do when granting a Writ of Prohibition. The Ohio Supreme Court directed basically that anything that happened in Case No. 20840220 be vacated. Legally it is as if nothing happened between August 20, 2010 and December 19, 2013. It's as if legally the paternal grandfather was never granted temporary custody, etc.

Ohio going back to the time of the common law provided that grandparents had no legal right of access to or custody of their grandchildren. *In re Whitaker* (1988), 36 Ohio St. 3d 213, 214. No constitutional right exists providing for association between grandchildren and their grandparents. *In re Schmidt* (1986), 25 Ohio St.3d 331, 336. These legal strictures when combined with the Juvenile Rule 2(Y) means that for a grandparent to be joined as a party to an action in the Juvenile Court concerning the custody of that grandparent's grandchild, that grandparent must file a Motion to Intervene. The grandfather is not a proper party to a custody complaint and it must be dismissed once again for failure to state a claim which can be rightly granted under law.

D. The Complaint Must be Dismissed As The Child Is Not a Resident of Sandusky County

The Ohio Supreme Court by ordering the vacation of all orders of the Sandusky County Juvenile Court in Case No. 20840220 retroactively back until August 20, 2010 returned Mother back to the state of being a resident of the State of Arizona. The Ohio Supreme Court in its opinion even refers to the minor child as "an Arizona child". The fact that the child and the Mother were wrongfully detained in Ohio for over a year does not change the legal residency of the Mother and the child. The Ohio Supreme Court put the parties back into the position they were before jurisdiction was wrongfully assumed. The Mother and the child are residents of the State of Arizona. O.R.C. § 3109.12 provides that a complaint for visitation can be filed in the county where the child resides and/or is a resident. The minor child is not and legally never was a resident of Sandusky County, Ohio once the child moved to Arizona and acquired "home state" status there after six (6) months of moving there in August of 2010. Therefore the Complaint once again must be dismissed for failing to state a claim upon which relief may be granted.

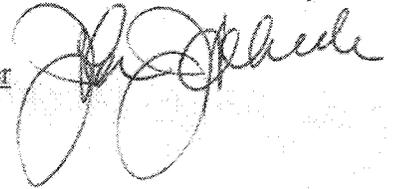
The Mother to date has not filed a Notice of Relocation to Arizona because Mother was forced to remain in Ohio against her will and never relocated to Ohio, and never filed a "Notice of Relocation to Ohio". Mother has now returned to Arizona, her state of legal residency.

This Court must take judicial notice of these facts of record as set forth in the history of Case No. 20840220 and facts as found by the Ohio Supreme Court. As such, the Mother, by and through undersigned counsel is not asking this Court to consider matters that are truly outside the pleadings. In essence the paternal grandfather is essentially asking this Court to modify its custody order of December 18, 2009. It that sense these other matters are already before this Court whether not exhaustively set forth in the Complaint.

III. Conclusion

For good cause shown, Mother, by and through her undersigned counsel, respectfully moves this Honorable Court to dismiss the paternal grandfather's Complaint for Custody. Mother requests that she be awarded the costs and attorney's fees necessitated by defense of this improper complaint that lacks support under law and facts, or the Ohio Rules of both Juvenile and Civil Procedure.

s/John J. Schneider
John J. Schneider

A handwritten signature in cursive script, appearing to read "John J. Schneider", written in dark ink.

Sandusky County Juvenile Court
100 N. Park Ave., Suite 224
Fremont, OH 43420-5400
(419) 334-6200 ext. 3

In the Matter of:

07/21/2014

JAIDYN BELTOWSKI

I. D. No. 72674

Case No. 21330357

Private Action Case

NOTICE OF HEARING

To: Gary BEAMER
210 S. Mulberry Street
Clyde, OH 43410

Kyle BEAMER
1600 County Road 243
Fremont, OH 43420

Notice is hereby given that the above captioned matter is scheduled before the Sandusky County Court of Common Pleas, Juvenile Division, on **08/14/2014 at 9:00 AM to 11:00 AM for Hearing on MOTION TO DISMISS COMPLAINT FOR CUSTODY DUE TO LACK OF JURISDICTION AND/OR LACK OF STANDING; AND/OR MOTION TO STRIKE.**

Bradley J. Smith
Judge and Ex-Officio Clerk

Heather Edmonson
Deputy Clerk

Copies to

Victoria Bellowski
Atty. Fiser
Atty. Schneider

EXHIBIT H

Proper attire required. The Court may refuse entrance to the courtroom if attire is inappropriate.

FILED
SANDUSKY COUNTY

AUG 14 2014

JUVENILE COURT
Bradley J. Smith
JUDGE

COURT OF COMMON PLEAS
SANDUSKY COUNTY, OHIO
JUVENILE DIVISION

In the Matter of

JAIDYN BELTOWSKI
d.o.b. 08/15/2008

Private Action

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August 14, 2014

I.D. No. 72674

Case No. 21330357

JUDGMENT ENTRY

This matter comes before the court today for a previously scheduled hearing on the Motion of the Mother, Victoria Beltowski, to Dismiss Complaint For Custody Due To Lack Of Jurisdiction And/Or Lack of Standing; And/Or Motion To Strike.

The court finds as follows:

1. Present for the hearing were the following: Attorney John J. Schneider, Counsel for Mother; Attorney Mary Beth Fiser, counsel for Paternal Grandfather; Kyle Beamer, Father and Jodi Bagley, significant other to Paternal

EXHIBIT I

JOURNALIZED

August 14, 2014

Grandfather.

2. Argument was had with both counsel and Father participating. The only Exhibits introduced were Father's 1-A and 1-B which were records from the Sandusky County Child Support Enforcement Agency.
3. On November 19, 2012, Paternal Grandfather filed a Complaint for Custody and a Motion for Custody Ex Parte. This court granted custody of the child to her Grandfather. That order remained in effect until the ruling by the Ohio Supreme Court in State ex rel. V.K.B. v. Smith, 2013-Ohio-5477, 138 Ohio St.3d 84. The Ohio Supreme Court determined that the Sandusky County Juvenile Court does not have jurisdiction over this child and ordered the Juvenile Court to "vacate all orders entered in this matter subsequent to August 2010, and the child is to be returned to the custody of the mother forthwith." Id. at page 90.
4. On December 19, 2013, this court, pursuant to the mandate of the Ohio Supreme Court of December 17, 2013, vacated all orders entered in this matter subsequent to August 2010, provided for the return of the child to the Mother and dismissed the previous case with the following:
 - "6. Based upon the decision issued by The Supreme Court of Ohio, indicating a lack of jurisdiction over the child in this matter, this

Court hereby Dismisses the underlying Complaint in Sandusky County Juvenile Court Case No. 20840220 and Orders the case officially closed via this Judgment Entry today."

5. On the same day, December 19, 2013, Grandfather again filed for custody of Jaidyn, using the exact form previously filed in the action already dismissed. The language was identical. If this court did not have jurisdiction in the previous matter, all as determined by the Ohio Supreme Court, this court cannot now have jurisdiction under an identical complaint. To attempt to do so would be contrary to the decision of the Ohio Supreme Court.
6. This court, therefore, grants Mother's Motion to Dismiss this Complaint. This case is officially closed with this Judgment Entry today.
7. Within 10 days of the filing of this entry, or by August 24, 2014, Mother will provide Grandfather with an address that he might use to contact Jaidyn. Said address shall be provided to Grandfather via his attorney, Mary Beth Fiser, Esq., PO Box 372, Clyde, Ohio 43410.
8. Based upon Father's Exhibits, the court herewith credits him with the payments he made to the then custodian Gary Beamer. The Sandusky County Child Support Enforcement Agency is herewith ordered to credit the Father with payment made to the previous custodian in the amount of \$2,668.36 and to reduce his arrearage by that amount.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David A. Basinski". The signature is written in a cursive style with a horizontal line underneath the name.

David A. Basinski

Copies to:
V. Beltowski, Mother
Attorney Schneider
K. Beamer, Father
G. Beamer, Paternal Grandfather
Attorney Fiser
Sandusky County Child Support Enforcement Agency

Father's
1-A

PHAS

ACCOUNT SUMMARY

08/01/14 14:47
WSED72 S DORR

CASE #: 7095030198 CASE TYPE: NPRG ORDER #: 72764B I/R/N: N
 CTR BEAMER GARY W ORIG EFF DATE: 01/29/2013
 APF BEAMER KYLE L UNALLOC HOLDS: .00
 ORDER STATUS: COMPLETE
 ASSIGNED ARREARAGE: .00 TOTAL BALANCE DUE: .00
 UNASSIGNED ARREARAGE: .00 FUTURES: 2668.36
 TOTAL ARREARAGE: .00 CURRENT MONTH DUE: .00

CHK/EFT/EDISB									
S	TRAN DATE	TOT MTH OBLIG	--COLLECTION-- SRCE	AMOUNT	ISSUANCE DATE	DISBURSED AMOUNT	TYP SRC	CORR DATE	PAY COR
-	01/13/2014		EMPL	82.87	01/14/2014	82.87	C A		
-	01/06/2014		EMPL	82.87	01/06/2014	82.87	E A		
-	12/30/2013		EMPL	82.87	12/30/2013	75.83	E A		
-	12/23/2013		EMEL	82.87	12/23/2013	82.87	E A		
-	12/16/2013		EMPL	82.87	12/16/2013	82.87	E A		
-	12/09/2013		EMPL	82.87	12/09/2013	82.87	E A		

PF3=COLL PF4=DISB PF5=PAY CORR PF19=FCPCH PF10=HIST RPT PF15=ENLD PF17=FCRS
 NEXT TRAN: _____ PARMS: _____ MORE...

Judy B

PHAS

ACCOUNT SUMMARY

08/01/14 14:45
WSED72 S DORR

CASE #: 7073730009 CASE TYPE: NPRG ORDER #: 72674 I/R/N: N
 CPM ROBERTSON VICTORIA K ORIG EFF DATE: 08/15/2008
 APF BEAMER KYLE L UNALLOC HOLDS: .00
 ORDER STATUS: COMPLETE
 ASSIGNED ARREARAGE: .00 TOTAL BALANCE DUE: 4454.33
 UNASSIGNED ARREARAGE: 4040.78 FUTURES: .00
 TOTAL ARREARAGE: 4153.90 CURRENT MONTH DUE: 359.11

S	TRAN DATE	TOT MTH OBLIG	--COLLECTION--		CHK/EFT/EDISB			CORR DATE	PAY COR
			SRCE	AMOUNT	ISSUANCE DATE	DISBURSED AMOUNT	TYP SRC		
	08/01/2014	359.11							
-	07/28/2014		EMPL	35.00	07/28/2014	35.00	D A		
-	07/21/2014		EMPL	35.00	07/21/2014	35.00	D A		
-	07/14/2014		EMPL	35.00	07/14/2014	35.00	D A		
-	07/07/2014		EMPL	35.00	07/07/2014	35.00	D A		
-	07/01/2014	359.11							

PF3=COLL PF4=DISB PF5=PAY CORR PF19=FCPCH PF10=HIST RPT PF15=ENLD PF17=FCRS
 NEXT TRAN: _____ PARMS: _____
 288 - CANNOT PAGE BACKWARD FROM PAGE ONE MORE...

Mary Beth Fiser Co., LPA
Attorney at Law

127 South Main Street
PO Box 372
Clyde, Ohio 43410

Phone – (419) 547-7770
Facsimile – (419) 547-2202
E-mail – mbflaw@gmail.com

September 9, 2014

John J. Schneider, Esq.
2800 Euclid Ave., Suite 320
Cleveland, Ohio 44115

Re: Jaidyn Beltowski Case No. 20840220 ID No. 72674

Dear Mr. Schneider:

Please be advised that it has been in excess of 14 days since the Judge ordered you to have your client produce the address for my client. I am aware that the other orders of this Judge were honored, particularly that for CSEA. Could you kindly contact me and let me know when I can expect the address as requested and orders?

EXHIBIT J

Very truly yours,

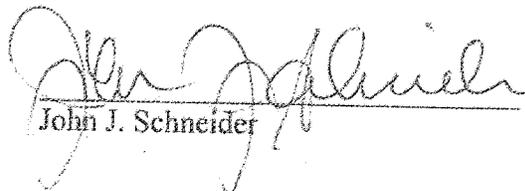


Mary Beth Fiser

MBF: tsk 9/09/2014

CERTIFICATE OF SERVICE

On October 14, 2014, a true copy of the foregoing Affidavit of John J. Schneider Counsel for Relator With Exhibits was served upon Normal Solze, Esq. , Counsel for Respondents by email to: Solze-norman@co.sandusky.oh.us. in Case No. 2014-1319.


John J. Schneider