

HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
FURTHER REFLECTING PRE-TRIAL HEARING
HELD ON 12-9-2014 AND ISSUING PRE-TRIAL
ORDERS

This matter came to be heard upon the motion of the Hamilton County Department of Job and Family Services to Modify Temporary Custody to Permanent Custody, filed on 10-8-2014, and upon the separate petitions for Legal Custody filed in the past but held in abeyance, by the child's aunt Tamika Moore, uncle Michael Higgins and grandfather James Muhammad

A Pre-Trial hearing was held on 12-9-2014 and was continued for a further more detailed entry and orders which is now issued today

On 12-9-2014

The mother Pauletta Higgins was not present but was legally and actually notified of today's pre-trial hearing

Attorney Erica Dority was present and is the Guardian Ad Litem (GAL) for the mother

Attorney Phyliss Schiff was present and is a Legal Advisor appointed for the mother

The father Edward Martin was not present but was legally notified of today's pre-trial hearing

Assistant prosecuting attorney Ernest Lee was present representing the State and the Hamilton County Department of Job and Family Services (HCDJFS)

Attorney Kacy Eaves was present and is the Guardian Ad Litem (GAL) for the child

Attorney Mary Beth Wallingford was present and represents the child as his attorney in accordance with *In re Williams*, 101 Ohio St 3d 398, 2004-Ohio-1500

The child's aunt and present caretaker, Tamika Moore was present, pro se

The child's uncle, Michael Higgins was not present

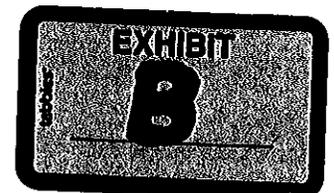
The child's grandfather, James Muhammad was not present

The child under consideration is

Zyvauntae Higgins DOB 11-14-2006 now age 8 years old

At the 12-9-2014 pre-trial hearing it was determined that the father's whereabouts are not known and he has not been involved with this case or with his child in several years. It appears that he has had no recent communication with any of the agencies connected with this case.

Court records indicate that on 10-15-2015 the father was served with a notice and copy of the HCDJFS motion to Modify Temporary Custody to Permanent Custody by publication and by mailing to the address last known to the HCDJFS, 6515 Betts Ave Cincinnati, Ohio 45239



At the 12-9-2014 pre-trial hearing it was determined that the mother's whereabouts are not known, though she has frequent communication with various persons involved with her case and with Juvenile Court Clerks

On 9-12-2014 the mother testified on the record that her address is 1504 Miller Ave Orlando, Florida, 32805

On 10-8-2014 the HCDJFS filed a motion to modify the Temporary Custody to Legal Custody

On 10-8-2014 the mother, participating by telephone, was informed by the HCDJFS and the Court on the record at a hearing held that day that the said motion had been filed. The mother promised to provide the Court of an address where she will accept service but she did not timely do so

On 10-15-2014 Court records indicate that the mother was served with a notice and copy of the HCDJFS motion to Modify Temporary Custody to Permanent Custody by publication and by mailing to her reported last known address of 1504 Miller Ave Orlando, Florida, 32805

On 11-6-2014 the mother participating in a hearing by telephone, stated on the record that she was out of state, but would receive mail and court documents at PO Box 3063, Orlando, Florida 32801

Though the service as already provided may be legally sufficient, in order to ensure that the mother is properly notified, the HCDJFS shall re-serve the mother at the address that she most recently provided on the record - PO Box 3063, Orlando, Florida 32801 If the re-service is by publication, then the address that the mother recently supplied to the Court must be included

It appears to the Court that there are three separate petitions for Legal Custody filed by relatives of this child The petitions were filed on 7-10-2013 by the child's maternal grandfather James Muhammad, on 2-18-2014 by the child's maternal uncle Michael Higgins, and on 2-20-2014 by the child's maternal aunt Tamika Moore

It further appears to the Court that those petitions have been held in abeyance since the disposition granting Temporary Custody to the HCDJFS on 5-8-2014 The Decision entered on that day contemplated a determination whether the Court would proceed with the petitions would be made at the annual review scheduled for 6-12-2014 On 6-12-2014 no action was taken regarding the custody petitions Therefore the petitions still remain in abeyance

Each of the petitioners, James Muhammad, Michael Higgins and Tamika Moore are hereby instructed to provide written notice to the Court on or before 12-23-2014 informing the Court whether or not the petitioners wish to proceed with their petitions That notice will then be distributed to the other parties in this matter Tamika Moore has already stated in Court on 12-9-2014 that she wants to continue with her petition, but might withdraw it at a later date if she is able and confident to apply for adoption of the child Ms Moore shall reduce her statement to a written notice so that the Court journal can document her position regarding her custody petition

This matter is set for a second pre-trial hearing on 1-12-2015 @ 2 00 pm – 3 30 pm

This matter is set for a third pre-trial hearing on 2-9-2015 @ 2 00 pm – 3 30 pm

This matter is set for trial regarding the Permanent Custody motion and the Legal Custody petitions on the following dates and times

2-17-2015 1:00 pm - 4 00 pm

2-18-2015 9 00 am – 4 00 pm

2-19-2015 9 00 am – 4 00 pm

2-20-2015 9 00 am – 10 00 am, 11 00 am, -1 30 pm, and 2 30 pm – 4 00 pm

2-23-2015 12 00 pm – 4 00 pm

2-24-2015 1 00 pm – 4 00 pm

2-25-2015 11 00 am – 4 00 pm

2-26-2015 10 00 am – 4 00 pm

2-27-2015 9 00 am – 4 00 pm

All parties must appear in person if they wish to participate in the Permanent Custody /Legal Custody trial. All subpoenaed witness must appear in person to give testimony before the Court.

The mother has been represented by the Public Defender's Office in the past but is not currently represented. On 4-16-2014 the mother knowingly, intelligently and voluntarily waived counsel and has represented herself since. She has indicated on the record that she might retain or request counsel in the future.

If the mother secures private counsel for the Permanent Custody /Legal Custody trial she must immediately inform the Court and her counsel must file a notice of appearance.

If the mother requests representation by the Public Defender's Office an attorney will be appointed for her. She must immediately inform the Court and must personally appear at the Public Defender's Office to obtain an attorney in accordance with the established policies and practices of the Public Defender's Office.

Any attorney retained or appointed to represent the mother must be prepared for the scheduled trial.

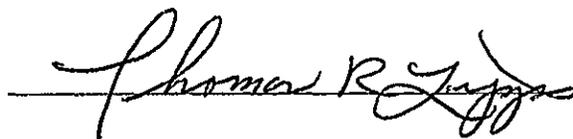
The mother has filed numerous appeals with the First District Court of Appeals of Ohio, Hamilton County. Some of those appeals have been dismissed but at least one appeal is pending. As set out in prior entries of this Court no hearings or rulings will be made regarding substantive issues in this case except in true emergency circumstances involving the health and welfare of this child, so long as appeals are pending. Pre-trial procedural hearings may be held for the proper conduct of the trial Court's docket.

When appeals are resolved the trial Court will address the pending motions filed in this matter that have been held aside while the Court of Appeals has had the case under their consideration. The scheduled trial may be delayed if appeals are still pending.

All parties including the three relatives petitioning for Legal Custody are to be served with a copy of today's entry and the 12-9-2014 entry.

12-10-2014

Date



Judge Thomas R. Lipps, Retired
Sitting by Assignment of the Ohio Supreme Court

This Entry is not intended to be a final and appealable order of the Juvenile Court.

CERTIFIED COPY

I hereby certify that this document is a true copy of the original on file in the Hamilton County Juvenile Court.
Date 2-2-15

Lipps
Judge Juvenile Court

By Nancy McNeill
Deputy Clerk

