

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO ex rel. :
PAULETTA HIGGINS, :
 :
Relator, : Case No. 2015-0076
 :
v. : **Original Action**
 :
HAMILTON COUNTY DEPARTMENT OF :
JOBS AND FAMILY SERVICES, et al., :
 :
Respondents. :

**MOTION TO DISMISS OF RESPONDENTS JUDGE PENELOPE CUNNINGHAM
AND THE FIRST DISTRICT COURT OF APPEALS**

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**MOTION TO DISMISS OF RESPONDENTS JUDGE PENELOPE CUNNINGHAM
AND THE FIRST DISTRICT COURT OF APPEALS**

Pursuant to Sup. Ct. Prac. R. 12.04(A) and Civ. Rule 12(B)(6), Respondents Judge Penelope Cunningham and the First District Court of Appeals hereby move this Court to dismiss Relator’s Complaint. A Memorandum in Support is attached.

Respectfully submitted,

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Ohio Attorney General

/s/ Tiffany L. Carwile
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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On January 15, 2015, Relator Pauletta Higgins initiated this original action, entitled “Emergency Extraordinary writ Motion to Compel,” related to underlying child custody matters that were originally filed in the Hamilton County Juvenile Court and then appealed to the First District Court of Appeals (“First District”).¹ Relator filed this action against a number of Respondents, including Judge Cunningham of the First District and, presumably, the First District itself. In relevant part, Relator seeks an order for discovery or evidence as to why her appeals were dismissed without Relator having an opportunity to present her case. Compl. ¶ 2.

As a writ to compel discovery does not exist, her complaint is best regarded as a request for a writ of mandamus. To the extent that Relator is asking for a reason why her appeals were denied, the First District articulated its reasons for dismissal in all her appeals. To the extent Relator is challenging those dismissals on the basis that they violated her due process rights, Relator had the adequate alternative remedy of appealing the dismissals to this Court. Accordingly, Relator’s complaint against Judge Cunningham and the First District should be dismissed.

II. STATEMENT OF FACTS

Although Relator’s complaint is devoid of relevant facts, it appears that it stems from a child custody case first filed in the Hamilton County Juvenile Court in June 2013. Compl., ¶ 1. The Hamilton County Juvenile Court awarded the Hamilton County

¹ Relator’s complaint lists the First District as a party on the cover page but contains no substantive allegations naming the First District. This Motion will address any claims against the First District itself to the extent they can be inferred from Relator’s complaint.

Department of Job and Family Services temporary custody of Z.H. on May 8, 2014. Respondents' Ex. A at 2.² In June and July 2014, Relator filed two appeals in the First District. Respondents' Ex. B (Case No. C-140330), Ex. C (Case No. C-140437). On October 7, 2014, the First District dismissed both appeals because Relator's "brief was not filed." Respondents' Ex. D.

On September 4, 2014, Relator filed an emergency motion, which the magistrate judge construed as a request for a shelter care hearing and review of the child's placement. Respondents' Ex. E. After obtaining temporary custody, the Department had placed Z.H. with his aunt, who Relator alleged abused Z.H. Respondents' Ex. F at 1. The magistrate found the allegations to be unsubstantiated and denied Relator's emergency motion. *Id.* at 2. Relator filed objections to the magistrate's order. Respondents' Ex. G at 1.

On October 8, 2014, the Juvenile Court held a hearing on Relator's objections and determined that it needed a copy of the transcript in order to rule on the objections. *Id.* The Court ordered the transcript at the State's expense and set a new hearing on the objections. *Id.* at 1-2. Relator appealed from that order, which the First District dismissed because it was not a final appealable order. Respondents' Ex. H (Case No. C-140588), Ex. I.

On October 28, 2014, the Juvenile Court held a hearing on Relator's objections. Respondents' Ex. J. However, Relator did not appear at the hearing, so the Court overruled her objections. *Id.* On the same day, the Juvenile Court set a pre-trial hearing on a permanent custody motion filed by the Department and appointed a

² For the facts regarding the history of this matter, Respondent requests that the Court take judicial notice of the underlying decisions. A court may take judicial notice of appropriate matters in considering a Rule 12(B)(6) motion to dismiss without converting the motion into a motion for summary judgment. *State ex rel. Findlay Publ'g Co. v. Schroeder*, 76 Ohio St.3d 580, 581, 669 N.E.2d 835 (1996). Courts commonly take judicial notice of documents filed in other courts. *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 774 (2d Cir. 1991). Here, the origin of this action is more easily understood through reference to the underlying child custody matters.

psychological/psychiatric consultant for Relator. Respondents' Ex. K. Relator filed an appeal from the "ruling and decision on October 28th 2014," which the First District dismissed as not being from a final appealable order. Respondents' Ex. L (Case No. C-140636), Ex. M.

On December 8, 2014, the Juvenile Court appointed an attorney for Relator to act as a legal advisor. Respondents' Ex. N. On December 9, 2014, the Court noted that it held a pre-trial for the permanent custody motion, which only concerned procedural issues. Respondents' Ex. O. In a more detailed entry regarding the pre-trial, the Court ordered the Department to serve Relator at a different address, ordered the people seeking legal custody to inform the Court whether they intended to pursue their motions, and set additional pre-trial and trial dates for the permanent custody motion. Respondents' Ex. A.

On December 15, 2014, Relator filed two appeals, challenging the "last order (Dec 2014)." Respondents' Ex. P (Case No. C-140733), Ex. Q (Case No. C-140734). On January 7, 2015, the First District dismissed both appeals for a lack of a final appealable order. Respondents' Ex. M. This action followed in which she seeks discovery and evidence as to why her appeals were dismissed. Compl. ¶ 2. She alleges that the dismissals violated her due process rights. *Id.*

However, for the reasons set forth below, Relator is not entitled to the requested relief, and Judge Cunningham and the First District respectfully request that this Court dismiss Relator's complaint.

III. LAW AND ARGUMENT

A. Standard of Review

A motion to dismiss for failure to state a claim upon which a court can grant relief challenges the sufficiency of the complaint itself, not evidence outside of the complaint. *Volbers-Klarch v. Middletown Mgmt., Inc.*, 125 Ohio St.3d 494, 2010-Ohio-2057, 929 N.E.2d 434, ¶ 11. When considering the factual allegations of the complaint, a court must accept incorporated items as true and the plaintiff must be afforded all reasonable inferences possibly derived therefrom. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988). In granting a motion to dismiss, a court must find that the plaintiff's complaint does not provide relief on any possible theory. Civ. R. 12(B)(6); *State Auto. Mut. Ins. Co. v. Titanium Metals Corp.*, 108 Ohio St 3d 540, 2006-Ohio-1713, 844 N.E.2d 1199, ¶ 8.

B. Relator's request for a writ of mandamus fails.

As previously noted, a writ to compel discovery does not exist. Therefore, Relator's complaint is best characterized as a request for a writ of mandamus, as she is requesting an order to compel performance of an action. Mandamus is an extraordinary legal remedy. *State ex rel. Gerspacher v. Coffinberry*, 157 Ohio St. 32, 36, 104 N.E.2d 1 (1952). The essential purpose of mandamus is to command the performance of an act or duty which the law especially enjoins upon an office or tribunal. *Id.* To be entitled to a writ of mandamus, the relator must establish three elements: (1) a clear legal right to the requested relief; (2) a corresponding clear legal duty on the part of the respondent; and, (3) the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Richard v. Mohr*, 135 Ohio St.3d 373, 2013-Ohio-1471, 987 N.E.2d 650, ¶ 4. The burden of proof

in mandamus rests with the moving party. *State ex rel. Van Gundy v. Indus. Comm.*, 111 Ohio St.3d 395, 2006-Ohio-5854, 856 N.E.2d 951, ¶ 13. If a relator fails to establish any one of these elements, the court has discretion to dismiss the action. *Id.* at ¶ 1.

A writ of mandamus may be used to compel an officer or tribunal to discharge its duty. It cannot, however, control judicial discretion. R.C. 2731.03; *State ex rel. Richfield v. Laria*, 138 Ohio St.3d 168, 2014-Ohio-243, 4 N.E.3d 1040, ¶ 11. Indeed, mandamus will not lie to control even abused judicial discretion. *State ex rel. Richfield*, 138 Ohio St.3d at ¶ 11; *State ex rel. Rashada v. Pianka*, 112 Ohio St.3d 44, 2006-Ohio-6366, 857 N.E.2d 1220, ¶ 3.

If Relator's request is construed as a request that the First District articulate reasons for dismissing her appeals, then the complaint is moot. In all of the dismissals, the First District provided the reason why the appeals were dismissed—two appeals were dismissed because Relator failed to prosecute her appeal and four were dismissed for a lack of a final appealable order. *See* Respondents' Ex. D, Ex. H, Ex. M. Accordingly, this request is moot.

To the extent Relator is challenging the dismissals of her appeals based on an alleged due process violation, Relator has or had an adequate alternative remedy. Pursuant to this Court's Rules of Practice, Relator could have filed an appeal, alleging that the case involved a substantial constitutional question—i.e. the deprivation of her due process rights. S.Ct.Prac.R. 5.02. This adequate remedy at law precludes relief in mandamus. *State ex rel. Ervin v. Barker*, 136 Ohio St.3d 160, 2013-Ohio-3171, 991 N.E.2d 1146, ¶ 10.

Accordingly, because Relator has failed to meet her burden to show that mandamus is warranted, Judge Cunningham and the First District respectfully request that this Court dismiss the complaint as it relates to them.

IV. CONCLUSION

For the foregoing reasons, Respondents Judge Cunningham and the First District Court of Appeals respectfully request that this Court dismiss Relator's Complaint for a writ of mandamus against them.

Respectfully submitted,

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Judge Penelope Cunningham and

the First District Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion to Dismiss of Judge Penelope Cunningham and the First District Court of Appeals* was filed electronically with the Court and served by regular U.S. mail, on February 12, 2015, to the following:

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/s/ Tiffany L. Carwile
TIFFANY L. CARWILE (0082522)

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PAULETTA HIGGINS,

Relator,

v.

HAMILTON COUNTY DEPARTMENT OF
JOBS AND FAMILY SERVICES, et al.,

Respondents.

:
:
:
: **Case No. 2015-0076**
:
: **Original Action in**
: **Mandamus/Prohibition**
:
:
:
:

EXHIBITS A – Q TO MOTION TO DISMISS OF JUDGE PENELOPE CUNNINGHAM
AND THE FIRST DISTRICT COURT OF APPEALS

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- A.** Entry – Further Reflecting Pre-Trial Hearing Held on 12/9/2014 and Issuing Pre-Trial Orders [12/10/2014]
- B.** Case Summary – Case No. C1400330
- C.** Case Summary – Case No. C1400437
- D.** Entry of Dismissal – Case No. C140330 [10/7/2014]
- E.** Order of Magistrate – Case No. F/06/002497Z [9/12/2014]
- F.** Order of Magistrate – Case No. F/06/02497Z [9/18/2014]
- G.** Entry Continuing for Transcripts and Oral Argument – Case No. F06-2497 [10/8/2014]
- H.** Notice of Appeal – Case No. C140588 [10/10/2014]
- I.** Entry of Dismissal – Case No. C-140588 [10/29/2014]
- J.** Entry Setting Permanent Custody Motion for Pretrial Hearing; Appointing Psychological/Psychiatric Consultant for the Mother [10/28/2014]
- K.** Entry Adopting the Magistrate’s Order of 9-12-2014 / 9-18-2014 [10/28/2014]
- L.** Notice of Appeal – C1400646 [10/31/2014]
- M.** Entry Granting Motion to Dismiss [1/7/2015]
- N.** Entry Appointing Attorney as Legal Adviser for the Mother [12/8/2014]
- O.** Entry Reflecting Pre-Trial Hearing [12/9/2014]
- P.** Notice of Appeal – Case No. C1400733 [12/15/2014]
- Q.** Notice of Appeal – Case No. C1400734 [12/15/2014]

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

F/06/002-497 12/10/2014



J8169087

E03

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

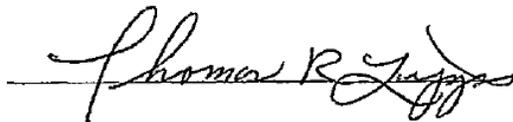
The mother has filed numerous appeals with the First District Court of Appeals of Ohio, Hamilton County. Some of those appeals have been dismissed but at least one appeal is pending. As set out in prior entries of this Court no hearings or rulings will be made regarding substantive issues in this case 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.

Case Summary

Case Number: C 1400330
Case Caption: IN RE Z H vs.
Judge: Unavailable
Filed Date: 6/10/2014
Case Type: A100 - NOTICE OF APPEAL - TAXED
Total Deposits: \$ 0.00
Total Costs: \$ 144.00

Case History

Doc	Image#	Date	Description	Amount
<input type="checkbox"/>		11/25/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		11/21/2014	ENTRY OVERRULING MOTION FOR RECONSIDERATION	
<input type="checkbox"/>		10/27/2014	MOTION FOR RECONSDIERATION	
<input type="checkbox"/>		10/10/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		10/9/2014	ENTRY STRIKING MOTION	
<input type="checkbox"/>		10/8/2014	MOTION TO EXTEND TIME	
<input type="checkbox"/>		10/7/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		10/7/2014	ENTRY OF DISMISSAL	
<input type="checkbox"/>		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSED OF APPEAL	
<input type="checkbox"/>		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
<input type="checkbox"/>		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
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<input type="checkbox"/>		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PUPPOSES OR APPEAL	
<input type="checkbox"/>		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
<input type="checkbox"/>		9/9/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		9/9/2014	ENTRY STRIKING ORIGINAL ACTION	
<input type="checkbox"/>		9/5/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		9/5/2014	ACCELERATED CALENDAR SCHEDULING ORDER, ENTERED. 09/20/14 RECORD DUE. 09/29/14 APPELLANT'S BRIEF DUE. 10/29/14 APPELLEE'S BRIEF DUE. ***AMENDED***	
<input type="checkbox"/>		9/4/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>		9/3/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	

<input type="checkbox"/>	9/3/2014	ENTRY STRIKING EMERGENCY MOTION TO ADDRESS THE VIOLATION OF VISITATION RIGHTS	
<input type="checkbox"/>	8/27/2014	ENTRY OVERRULING EMERGENCY MOTION TO RELOCATE THE CHILD	
<input type="checkbox"/>	8/26/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>	8/25/2014	MOTION TO EXTEND TIME	
<input type="checkbox"/>	8/25/2014	ENTRY GRANTING EXTENSION OF TIME TO FILE APPELLANT'S BRIEF UNTIL 09/29/14.	
<input type="checkbox"/>	8/22/2014	EMERGENCY MOTION TO ADDRESS THE VIOLATION REGARDING MY VISITATION RIGHTS THAT IS GOING WITHIN THE JUVENILE COURT	
<input type="checkbox"/>	8/21/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>	8/20/2014	ENTRY GRANTING MOTION FOR TRANSCRIPT OF PROCEEDINGS AT STATES EXPENSE	
<input type="checkbox"/>	8/11/2014	EMERGENCY MOTION	
<input type="checkbox"/>	7/24/2014	MOTION TO PREPARE TRANSCRIPTS OF PROCEEDINGS AT STATES EXPENSE	
	7/23/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>	7/22/2014	ENTRY OVERRULING EMERGENCY MOTION FOR ORIGINAL ACTION	
<input type="checkbox"/>	7/11/2014	EMERGENCY MOTION FOR ORIGINAL ACTION	
	7/9/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
	7/9/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
	7/9/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>	7/9/2014	ENTRY OVERRULING EMERGENCY MOTION TO REMOVE THE CHILD FROM ABUSIVE RELATIVE	
<input type="checkbox"/>	7/9/2014	ENTRY OVERRULING MOTION TO RELOCATE THE CHILD	
<input type="checkbox"/>	7/9/2014	ENTRY OVERRULING EMERGENCY MOTION TO STAY THE CHILD'S TONSIL SURGERY	
<input type="checkbox"/>	6/26/2014	EMERGENCY MOTION TO REMOVE CHILD FROM ABUSIVE RELATIVE AND PLACE IN FOSTER CARE	
<input type="checkbox"/>	6/20/2014	MOTION EMERGENCY MOTION TO STAY/SAVE THE SURGERY OF SONS TONSILS	
<input type="checkbox"/>	6/20/2014	NOTICE OF EVIDENCE	
<input type="checkbox"/>	6/19/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
<input type="checkbox"/>	6/19/2014	ACCELERATED CALENDAR SCHEDULING ORDER, ENTERED. 07/29/14 RECORD DUE. 08/29/14 APPELLANT'S BRIEF DUE. 09/30/14 APPELLEE'S BRIEF DUE.	
<input type="checkbox"/>	6/18/2014	MOTION TO RELOCATE MY CHILD	
<input type="checkbox"/>	6/13/2014	TRANSCRIPT OF DOCKET AND JOURNAL ENTRIES FILED F06-2497	
<input type="checkbox"/>	6/10/2014	AMENDED NOTICE OF APPEAL	
	6/10/2014	CASE FILED IN JUVENILE COURT: 06/10/2014 09:42	
	6/10/2014	JUVENILE COURT CASE # F06-2497	
<input type="checkbox"/>	6/10/2014	DOCKET STATEMENT FILED.	
	6/10/2014	APPEAL - ON QUESTIONS OF LAW	
	6/10/2014	TAXED IN COSTS - FILING IN RE Z H	0.00
<input type="checkbox"/>	6/10/2014	NOTICE OF APPEAL FILED.	

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Case Summary

Case Number: C 1400437
Case Caption: IN RE Z H vs.
Judge: Unavailable
Filed Date: 7/25/2014
Case Type: A100 - NOTICE OF APPEAL - TAXED
Total Deposits: \$ 0.00
Total Costs: \$ 77.00

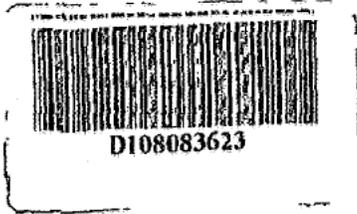
Case History

Doc	Image#	Date	Description	Amount
		11/25/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		11/21/2014	ENTRY OVERRULING MOTION FOR RECONSIDERATION	
		10/27/2014	MOTION FOR RECONSDIERATION	
		10/10/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		10/10/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		10/9/2014	ENTRY STRIKING MOTION	
		10/9/2014	ENTRY STRIKING MOTION TO EXTEND TIME FOR TRANSCRIPT'S AND BRIEF	
		10/8/2014	MOTION TO EXTEND TIME	
		10/7/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		10/7/2014	ENTRY OF DISMISSAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PURPOSES OF APPEAL	
		9/22/2014	TRANSCRIPT OF PROCEEDINGS FROM COMPACT DISC FOR PUPPOSES OR APPEAL	
		9/9/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		9/9/2014	ENTRY STRIKING ORIGINAL ACTION	
		9/5/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
		9/5/2014	ACCELERATED CALENDAR SCHEDULING ORDER, ENTERED. 09/20/14 RECORD DUE. 09/29/14 APPELLANT'S BRIEF DUE. 10/29/14 APPELLEE'S BRIEF DUE. ***AMENDED***	

📄	9/3/2014	ORIGINAL ACTION	
📄	8/27/2014	DOCKET STATEMENT FILED.	
	8/7/2014	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
📄	8/7/2014	ORDER TO SHOW CAUSE	
📄	7/30/2014	TRANSCRIPT OF DOCKET AND JOURNAL ENTRIES FILED F06-2497	
	7/25/2014	JUVENILE COURT CASE # F06-2497	
	7/25/2014	CASE FILED IN JUVENILE COURT: 07/25/2014 08:42	
	7/25/2014	APPEAL - ON QUESTIONS OF LAW	
📄	7/25/2014	NOTICE OF APPEAL FILED.	
	7/25/2014	TAXED IN COSTS - FILING IN RE Z H	0.00

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ENTERED
OCT 07 2014



IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: Z.H.

APPEAL NO. C-140330; C-140437
TRIAL NO. F06-2497

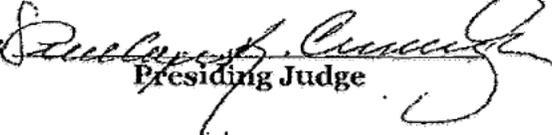
ENTRY OF DISMISSAL

This cause came on to be considered upon the appeal from the trial court.

The Court *sua sponte* dismisses the appeal for failure of the appellant to comply with the Ohio Rules of Appellate Procedure to wit: the appellant's brief was not filed. See Appellate Rule 18(C).

It is further ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To the clerk:
Enter upon the journal of the court on OCT - 7 2014 per order of the court.

By:  (Copies sent to all counsel)
Presiding Judge

HAMILTON COUNTY JUVENILE COURT

Case No. F/06/002497 Z

IN RE:
THE HIGGINS CHILD.
REGARDING
ZYVAUNTAE HIGGINS
ONLY

Order of Magistrate

On September 12, 2014, a PRE TRIAL/PRELIMINARY hearing was conducted.

THE MAGISTRATE FINDS:

A hearing was conducted today on the Emergency Motion filed on September 4, 2014, by Pauletta Higgins (mother) that contained Notice of Sexual/Physical Abuse Tourching(sic) Ms Higgins was permitted to participate in the hearing by phone as she requested. Additionally, Ms Higgins was afforded an opportunity to present sworn testimony. The Court admitted and considered Mother's Exhibit 1 a letter from mother's friend, Alexis Walker, dated September 5, 2014, and faxed to the Court on September 12, 2014. Ms Higgins elected to proceed without an attorney today but plans to retain private counsel in October of 2014. Also present Erica Dority (GAL for Ms Higgins), attorney Kacey Eaves (GAL for Zyvauntae), attorney Lee representing Alex Patsfall, Brittney Dudley and Kacie Rolfes (HCJFS). The Court is construing mother's motion as a motion to review the child's status in HCJFS custody and a request for a shelter care hearing.

Based upon the evidence presented and in the child's best interest, the Emergency Motion to alter the child's custody status and placement is denied. HCJFS and the GAL shall assess mother's concerns and evaluate whether an investigation is warranted. HCJFS and the GAL shall be prepared to present an update to the Court at the next hearing.

Findings of fact shall be issued by 09/19/2014

CD # 612



Magistrate Carla Guenther
September 12, 2014

I have received a copy of the above Order of Magistrate and therefore waive service by the Clerk

Motion to Set Aside Magistrate's Order

Any party may file a Motion with the Court to set aside a Magistrate's Order. The Motion shall state the moving party's reasons with particularity and shall be filed not later than 10 days after the Magistrate's Order is filed. See Juvenile Rule 40.



J8109336

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Page 1

HAMILTON COUNTY JUVENILE COURT

Case No. F/06/002497 Z

IN RE:
THE HIGGINS CHILD.
REGARDING
ZYVAUNTAE HIGGINS
ONLY

Order of Magistrate

THE MAGISTRATE FINDS.

An evidentiary hearing was held on September 12, 2014, on the Emergency Motion filed by Pauletta Higgins (mother) that contained a Notice of Sexual/Physical Abuse Tourching The Emergency Motion was denied at the conclusion of the hearing and the matter was continued for Findings of Fact

The following parties appeared before the Court
PAULETTA HIGGINS (MOTHER - BIOLOGICAL of ZYVAUNTAE HIGGINS) by MAIL and waived counsel

The following attorneys and parties also appeared
Ernest Lee, Jr (Attorney representing Hamilton County Prosecutor's Office for Kacie Rolfes, Brittanie Dudley, Alex Patsfall)
Alex Patsfall (Case Worker representing Hamilton County Job and Family Services for ZYVAUNTAE HIGGINS)
Kacie Rolfes (Case Worker representing Hamilton County Job and Family Services for ZYVAUNTAE HIGGINS)
Erika Dority (GAL/Attorney for PAULETTA HIGGINS)
Kacy Eaves (GAL/Attorney for ZYVAUNTAE HIGGINS)
Brittney Dudley (HCJFS)

FINDINGS OF FACT ON THE MOTION:

Evidence was presented to establish the following
Pauletta Higgins is the mother of Zyvauntae Higgins (d o b 11/14/06) Zyvauntae is currently in the Temporary Custody of the Hamilton County Department of Job & Family Services and placed with the maternal aunt, Tamika Moore He entered substitute care on June 27, 2013, pursuant to an ex-parte emergency order

Mother has a history of making allegations that Ms Moore has abused and neglected Zyvauntae while in her care To date, these allegations have been unsubstantiated Mother has filed multiple appeals regarding rulings issued by this Court, and the matter is pending before the First District Court of Appeals Judge Lipps issued an order on July 7, 2014, indicating that this Court should refrain from making decisions or issuing rulings in this matter until the appeals are resolved The one exception involves allegations related to the child's health or an emergency situation Given the serious nature of mother's allegations set forth in her emergency motion filed September 4, 2014, Judge Lipps docketed the matter before this Magistrate on September 12, 2012 at 9 00 AM for a hearing All parties were properly notified of the hearing Ms Higgins was permitted to participate in the hearing by conference call since she currently resides in Florida

The entry of September 10, 2014 is amended as follows the date of the Magistrate's Decision that led to the filing of objections was September 4, 2014 and not October 4, 2014 Additionally, the date of the evidentiary hearing on the Emergency Motion was set for September 12, 2014 and not October 12, 2014

In support of her emergency motion, Ms Higgins provided her own sworn testimony along with a letter faxed to the Court by Alexis Walker on September 12, 2014 Mother claims her friend (Alexis Walker) and a private investigator she retained (Robert Combs) went to the home of Tamika Moore in Dayton, Ohio on September 3, 2014 At approximately 5 25 PM on September 3, 2014, Alexis Walker allegedly went to the side of Ms Moore's home and peaked in a window through the blinds Ms Walker claims she saw Zyvauntae naked through the blinds and observed Ms Moore attempting to get Zyvauntae to "jack off" by playing with his genitals Zyvauntae was kicking and screaming according to Ms Higgins and Ms Walker, and Zyvauntae then proceeded to exit the home and run into the street It was reported that Zyvauntae came within two inches of being struck by a red SUV Ms Moore ran after Zyvauntae, who was still naked, and drug him on the concrete surface by pulling his hands above his head while his body was dragged by her on the concrete surface Zyvauntae was crying

jcmr874o dot

Page 1

September 18, 2014

When Ms Walker and Zyvauntae returned to the home, Ms Walker observed Ms Moore through the blinds shoving oatmeal down the child's throat with a metal spoon Zyvauntae began to vomit At some point Ms Walker left her vantage point to get Mr Combs so he could serve as a witness All of these events reportedly took place in under 5 minutes

At no point did Ms Walker or Mr Combs intervene to assist Zyvauntae or contact law enforcement To date, Ms Walker and Mr Combs have not contacted law enforcement Ms Higgins indicated a report was made to a Public Children Services Agency, but she cannot identify what county received the report about the allegation

Ms Higgins testified that Ms Walker returned to Columbus and faxed her statement to the Court from Columbus, Ohio However, the fax was sent by Ms Walker from a FedEx Office in the Orlando, Florida area where Ms Higgins resides To date, Ms Higgins has not received a report from Mr Combs but expects to receive documentation in the near future

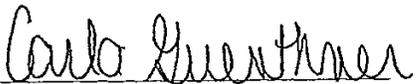
The faxed letter from Ms Walker is marked as Mother's Exhibit 1, was admitted into evidence and is incorporated by reference herein

The Emergency Motion was denied on September 12, 2014 The evidence lacks credibility and does not support a finding that an emergency change in the child's agency placement would serve his best interest HCJFS and the GAL shall assess mother's concerns and evaluate whether an investigation is warranted and appropriate HCJFS and the GAL shall assess the child's safety and submit a written report within 10 days to the Court A more detailed report can be provided at the next hearing

HCJFS and the GAL identified no concerns regarding the care of Zyvauntae by Ms Moore

THE MAGISTRATE FURTHER ORDERS.

Continue for Motion to 10/15/2014 at 09 45 AM Magistrate Brenda Anthony for ZYVAUNTAE HIGGINS


Magistrate Carla Guenther
September 18, 2014

I have received a copy of the above Order of Magistrate and therefore waive service by the Clerk

Motion to Set Aside Magistrate's Order

Any party may file a Motion with the Court to set aside a Magistrate's Order The Motion shall state the moving party's reasons with particularity and shall be filed not later than 10 days after the Magistrate's Order is filed See Juvenile Rule 40



J8113096

HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
CONTINUING FOR TRANSCRIPTS
AND ORAL ARGUMENT

This cause came to be heard upon the "Objection to the mag Decision" filed by the mother on 9-21-2014 and on 10-3-2014 Both filings appear to relate to the Magistrate's Order dated 9-12-2014 Accordingly and in consideration that the mother is pro se, the Court will construe the filings as motions to Set Aside the Magistrate's Order of 9-12-2014

The following parties were present for today's hearing held on 10-08-2014

The mother, Pauletta Higgins pro se, did not appear in person but was on speaker telephone during the hearing

Attorney Erica Dority, Guardian Ad Litem for the mother was personally present

Attorney Ernest Lee representing the State and the Hamilton County Department Jobs and Family Services (HCDJFS) was personally present

Attorney Kacy Eaves, Guardian Ad Litem for the child (GAL) was personally present

The child under consideration is

Zyvauntae Higgins DOB 11-14-2006 now age 7 ½ years old

The mother has been represented by two attorneys from the County Public Defender's Office in the past but both have been withdrawn due to various conflicts between the mother and the attorneys The mother asserted that she wished to represent herself and that she does not wish to be represented by an attorney at this time, but might in the future

A transcript of the hearing held before the Magistrate on 9-12-2014 is needed in order to determine whether the Magistrate's Order should be adopted, rejected or modified The mother states that she is unable to afford transcripts This Court hereby orders that the necessary transcript be prepared at State expense The mother promises to send the Court a motion asking for transcripts to be provided and paid by the State

F06/002497 10/08/2014



J8127106

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The State objected to the Court conducting the hearing and asked that the motions be dismissed

Both the State and the GAL stated that they had not been served with the objections nor formally notified of the Court hearing. They stated that this lack of process has been repeated again and again in this case. The mother claims that she served all parties.

The state objected to the mother being allowed to participate by phone. The state objected that the mother continues to appear by phone, has not been available for personal service of process and is concealing her whereabouts and address to avoid service of process. The mother refused to give an address but promised to quickly provide a Post Office Box address to formally accept service.

The Court will review the transcripts and will consider the mother's Motion to Set Aside. The Court will allow the mother to present oral argument on her motions at the continued hearing (10-28-2014) by telephone appearance.

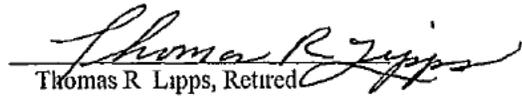
It was indicated in Court that the Court of Appeals may have ruled on the pending Appeals in this matter, but this Court has not yet been formally notified by a filing of such Rulings.

The State/HCDJFS has filed a Motion to Modify their Temporary Custody to Permanent Custody. That motion has apparently not yet been served on the mother at this time.

The mother has a pending hearing set for 10-15-2014 regarding holiday visitation to be heard by the Chief Magistrate.

Oral argument regarding the mother's motions to Set Aside the Magistrate's Order of 9-12-2014 will be held on 10-28-2014 @ 12:00 noon JTL.

10-8-2014
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.

Hamilton County Juvenile Court

Cincinnati Ohio

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Pauletta Higgins

F062497

V.

Hamilton County Department

Cps

FILED
COURT OF APPEALS

OCT 10 2014

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY

FILED
HAMILTON COUNTY
JUVENILE COURT
2014 OCT 10 AM 10:32

FILED
2014 OCT 10 A 11:45
TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

Notice of appeal

On Oct 8th 2014 I Pauletta Higgins appeared in front of Judge Thomas Lipps (Via telephone) and state as follows: I appeal Judge Lipps decision due to violation of freedom of speech fraud and violation of my civil rights and much more to be explained. I asked Judge lipps as a request to make an Oral Motion which he refuse noting this was related to my loving and caring child but was denied that access.

I asked judge lipps to rule on my motion for change of venue, relocation of my child, motion to get my son on upcoming holidays and his birthday and motion to not all Magistrate Gunther on this case due to corrupt belief and Magistrate Brenda Anthony being familiar on this HIGGINS filed since 1994. There is Cleary son Funky business and fraud going on in the Hamilton County Juvenile Court and I seek justice. My child is been held against my will and much more and Hamilton County attend to take the state side refusing to give me a fair trial.



D108152761 INI

I seek relief due this irrapable harm of emotional distress, Violations, and a correction of
the violation that is going on among the juvenile court.

RESPECTFULLY SUBMITTED

Pauletta N. Higgins

October 10th 2014

703-479-0700

ENTERED
OCT 29 2014

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO



IN RE: Z.H.

APPEAL NO. C-140588
TRIAL NO. F06-2497

ENTRY OF DISMISSAL

This cause came on to be considered upon the notice of appeal filed by the appellant on October 10, 2014.

The Court *sua sponte* dismisses said appeal for the reason that it has not been taken from a final appealable order.

To the clerk:

Enter upon the journal of the court on OCT 29 2014 per order of the court.

By: *[Signature]*
Presiding Judge

(Copies sent to all counsel)

HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
SETTING PERMANENT CUSTODY MOTION FOR
PRETRIAL HEARING;
APPOINTING PSYCHOLOGICAL / PSYCHIATRIC
CONSULTANT FOR THE MOTHER ;

This matter came to be heard upon the Motion to Modify the Temporary Custody of this child to Permanent Custody

The child under consideration is
Zyvauntae Higgins DOB 11-14-2006 now almost 8 years old

It appears that both the mother and the father have been served with the motion by publications and all other parties have actual and personal service. Although the mother has been actively involved in this matter she has not advised the parties or the Court where she lives. Her present whereabouts are unknown. The mother promised to provide a post office address for service process purposes, but she failed to do so.

The Motion to Modify the Temporary Custody to Permanent Custody filed in this matter by the HCDJFS is hereby set for a pre-trial hearing on 12-9-2014 @ 12:00 noon JTL, hearing room 615. All parties are expected to attend. All discovery issues should be addressed at that time. Witness lists and probable length of testimony should be provided to the Court and exchanged with the parties on that day. Trial dates may be set.

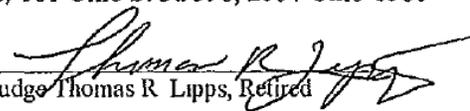
Any pre-trial motions should be addressed at the pre-trial hearing.

Upon the request of the mother's Guardian ad litem and in the best interests of the child and in the interests of due process, a psychological / psychiatric consultant is hereby appointed to assist the mother in accordance with *In Re Angelo Brown*, 1986 Lexis 9237. There will be a hearing held on the motion for Permanent Custody, mental health may be an issue and the mother is indigent.

If the mother requests an attorney, one will be appointed for her. The Court will consider whether a consulting attorney who is not actual counsel should be available to help the mother.

At the pre-trial hearing the GAL for the child should relay her determinations to the Court regarding whether a conflict exists between the guardian's recommendations and the child's wishes and whether a separate attorney to represent the child needs to be appointed in accordance with *In re Williams*, 101 Ohio St 3d 398, 2004-Ohio-1500.

10-28-14
Date


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



HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
ADOPTING THE MAGISTRATE'S ORDER OF
9-12-2014 / 9-18-2014

This matter came to be heard upon the Motion to Set Aside the Magistrate's Order of September 12, 2014 filed by the mother, Pauletta Higgins filed on September 26, 2014

The hearing before the Magistrate was recorded transcribed and reviewed The Magistrate's Order of 9-12-2014 was reviewed The Magistrate's findings related to the hearing and set out on 9-18-2014 were reviewed

This matter was scheduled for hearing despite possible pending appeals as the Magistrate's Order and thus this Court's consideration of the motion to Set Aside the Magistrate's Order both fall within the excepted instance of consideration of emergency health and welfare interests of the child under Juvenile Rule 13

The mother did not appear for the hearing scheduled for oral argument today The mother was personally notified of the hearing The mother did not call in or seek to be heard by telephone as has been her recent habit The Court is unable to call the mother as her whereabouts are unknown

Attorney Erica Dority, Guardian Ad Litem for the mother was present
Attorney Ernest Lee was present representing the State and the Hamilton County Department Jobs and Family Services (HCDJFS)
Attorney Kacy Eaves, Guardian Ad Litem for the child was present

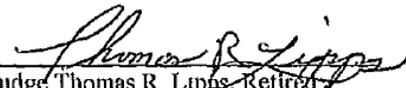
The child under consideration is
Zyvauntae Higgins DOB 11-14-2006 now almost 8 years old

The mother did not appear and forward her objections The Magistrate's Order and findings are appropriate on their face and in accordance with the transcript of the hearing

Therefore the Magistrate's Order is adopted as the judgment of this Court

Therefore the mother's motion to Set Aside the Magistrate's Order is denied

10-28-2014
Date


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





Hamilton county Juvenile Court

Pauletta N. Higgins

Vs

F062497

Hamilton County dept

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Of eps

FILED
COURT OF APPEALS

OCT 31 2014

Notice of appeal

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY

Now comes petition Pauletta Higgins and states as follows: I comes forth and appeal judge lipps ruling and decision on October 28th 2014 base on fact of disability discrimination, freedom of speech civil rights and much more that will be explain and a full hearing judge lips has fail to in a professional legal manger and I appeal his decision base on the facts that listed and this complaint and much more to be explained.

Respectfully submitted

Signed: Pauletta N. Higgins

Dated: October 30, 2014

Paulettahiggins89@gmail.com

FILED
HAMILTON COUNTY
JUVENILE COURT
2014 OCT 30 PM 2:37



.01342912154

Recipient Information

To: Clerk of court
Fax #: 5139469450

Sender Information

From: Pauletta Higgins
Email address: kithug2@gmail.com (from 208.185.32.142)
Phone #: 5555555555
Sent on: Thursday, October 30 2014 at 2:27 PM EDT

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1/1

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

ENTERED
JAN 07 2015

IN RE Z.H.

APPEAL NOS. C-140636
C-140733
C-140734
TRIAL NO. F-062497

ENTRY GRANTING
MOTION TO DISMISS

This cause came on to be considered upon the motion of appellee Hamilton County Department of Job and Family Services filed herein to dismiss the appeals for lack of a final appealable order and upon the responses therero.

The Court finds the motion to dismiss is well taken and is granted. The cases are hereby dismissed. All other pending motions are hereby overruled, and the juvenile court is instructed to proceed on the underlying matter.

It is further Ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To The Clerk:

Enter upon the Journal of the Court on JAN 07 2015 per order of the Court.

By *[Signature]*
Presiding Judge

(Copy sent to counsel)

dis-ss4.doc



HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
APPOINTING ATTORNEY AS
LEGAL ADVISER FOR THE
MOTHER

This cause came to be heard upon the Court's own motion

The mother has consistently stated that she does not want appointed counsel to represent her in this matter. The Court has listened to her and has granted her knowing, intelligent and voluntary waiver of counsel. The mother has also indicated that she may retain private counsel in this matter but no attorney has filed a notice of appearance as her counsel.

The HCDJFS has filed a motion to modify the Temporary Custody of this child to Permanent Custody. If granted, a Permanent Custody commitment would thereby terminate all parental rights in this matter.

Therefore, the Court hereby appoints an attorney through the Public Defender's Office to act as a legal advisor to the mother during proceedings regarding the HCDJFS motion. The appointed attorney shall not act as the mother's attorney or counsel, but only as her legal advisor. If the mother is appointed or retains an attorney to represent her as counsel, then this legal advisor appointment may be terminated.

Therefore the Court hereby appoints a separate and independent attorney to serve as a legal advisor for the mother in the proceedings before the Court.

12-8-2014
Date


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



HAMILTON COUNTY, OHIO
JUVENILE COURT

IN RE:
ZYVAUNTAE HIGGINS

§ F06-2497

§ ENTRY
REFLECTING PRE-TRIAL HEARING

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.

Today's hearing was scheduled as a Pre-Trial hearing

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

Pre-trial discussion was held with the parties The pre-trial concerned procedural issues only

Service, notice, scheduling, discovery and appellate issues were considered

A further more detailed entry regarding today's pretrial hearing, scheduled hearing dates and any pre-trial orders will be issued shortly, on or before 12-15-2014

12-9-2014
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.



Hamilton County Juvenile Court

C 1 4 0 0 7 3 3

FILED
COURT OF APPEALS

IN Re: Z.H
F062497

DEC 15 2014

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY



D108901094 INI

Notice of appeal

FILED
HAMILTON COUNTY
JUVENILE COURT
2014 DEC 15 AM 8:50

Now comes Pauletta Higgins and states as follows I object to judge lipp last order (Dec 2014) base on sexual abuse toward my child with Tamika Moore, Perjury under oath with Kacy eves (noting she has a patten of conduct with conspiacy,with children, please see federal case Case No. 1:13-CV-00326)tamika has been a prosetute since she was 16 years old and contiue to be tamika have acted in sexual abuse towards my child on nurmous occassions.(please see juvenile court record to the matter) i have nofied juvenile court who refuse to protect my child and much more to be explaine and a full edvidencary hearing iseek remedy on behalf of my child due to a mother's job to protect her son from harm there have been aolt of witness to the matter howeve hamilton county juvelkie court and cps contine to the the problems occurred. Hamilton County Juvenile Court/cps is manipulating court recourd that my child is doing marvolous. my child always been doing great' happy, great student and school since before he was before in they care/custodid and i have the edvidence to prove it (edvidence will be sent in thur my child who life) hamilton juvenile has beem listen to hear say and stead of seeing proble cause with there own eye most important I Pauletta Higgins have proble cause that will be submitted with a appriaiate time frame with this appeal

FILED
DEC 15 2014
TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY, OH

F/06/002497 12/15/2014



J8171228 M017

RESPECTFULLY SUMITTED

Pauletta Higgins

P.O Box 3063

Orlando Fl

32801

FILED
HAMILTON COUNTY
JUVENILE COURT
2014 DEC 15 AM 8:50

Hamilton County Juvenile Court



IN Re: Z.H
F062497

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DEC 15 2014

TRACY WINKLER
CLERK OF COURTS
HAMILTON COUNTY

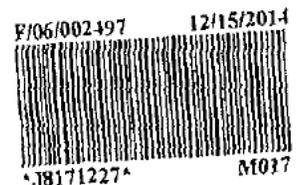
FILED
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Notice of appeal

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