

NO. 2000-27121

IN THE INTEREST OF

**NICHOLAS CHRISTOPHER
ARMAND DEL RIO**

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IN THE DISTRICT COURT

311TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

MOTION FOR DISQUALIFICATION AND TRANSFER OF VENUE

This Motion is brought by Victor Del Rio and Nicholas Del Rio who are requesting that Hon. Judge Shelton and Hon. Judge Warne be disqualified and Transfer of Venue based on Constitutional grounds.

1.

On July 2000, Nicholas was nearly drowned while in Tracey's custody. He was 20-30 seconds underwater while supposedly taking swimming lessons with approximately 15 other kids accompanied by their parents and swimming instructor. Victor had contacted an attorney to sue the Y.M.C.A – Ella Blvd; the attorney explained that there was a Judge who lived in the area who wouldn't appreciate the suing of his Y.M.C.A. Tracey later gave another disturbing explanation of the incident that involved Texas Children's Hospital.

2.

In a heated conversation with someone at Texas Children's Hospital in mid 2006, a strange reference to Family Court 311 was made in retort to Victor insisting Nicholas be given IQ testing at the Meyer Center. Later, results indicated him normal – Performance (non-verbal) IQ was 96; however, Verbal IQ was 74.

3.

The Best Interest case originated after Victor discovered Tracey Del Rio, Defendant, and Denise 'Dede' Drexler, Executive Director of Special Services for Spring Independent School District, had been colluding for years on debilitating Nicholas academically, mentally, and emotionally on December 18, 2007. Tracey began to deny visitation and home school, and eventually all contact, with Nicholas after Victor witnessed Nicholas suffer a brain seizure.

4.

Days later, Tracey communicated a message from Denise 'Dede' Drexler strongly implying he would need considerable luck finding legal representation. To date, that has continuously been proven true.

5.

On or around December 15, Victor and Nicholas had met with Sherrita Lee, Family Law attorney, who wholeheartedly agreed to help them further their success with Victor having primary custody. Proceedings were to begin as soon as he provided her a copy of their finalized divorce decree. Victor was greatly concerned when he was informed the 2001 divorce had not been finalized by Hon. Judge Warne. In January 2008, Ms. Lee's office manager finally claimed Ms. Lee was allegedly in poor health after not returning several of his messages; he agreed that Victor should precede Pro Se because of mounting concern for Nicholas' well being and Tracey's increasing antagonism.

6.

He filed electronically in Family Court and waited a week without a response. The clerks in Family Intake and Family Court 311 took considerable efforts to provide a hostile

environment as he attempted to file his Suit Affecting Parent-Child Relationship including Temporary Orders. The original filing appeared incomplete as it was handed to him to submit to the Court. The Court clerks would only vaguely comment 'not enough information' and 'not the right form'.

7.

Despite paying approx \$300 filing fees when he filed electronically, he was made to pay even more fees by Family Intake.

8.

Family Intake clerks always shared noticeable knowing glances towards each other when he would arrive. After having set my paperwork down to wait on a particular clerk, an unfamiliar attorney called him over to begin to oddly ask pointless questions. He later discovered the purpose of the conversation. In the seconds to walk over to the inquisitive attorney, the clerk probably asked another nearby attorney to steal his latest filing.

9.

Despite Nicholas' health at stake and the urgent nature of the case, Judge Shelton further delayed a few days by opting to review the divorce decree. Then very oddly concludes a mere Modification was the best to expect.

10.

Continuous problems and delays from Family Court 311 and Family Intake prompted him to contact both Judges out of desperation. He only intended to express to them his wishes to be present when they reviewed the case again to avoid further claims of 'not enough information' or delays. Judge Shelton refused; Judge Warne negatively responded using capital letters despite a child's health in danger and being informed

of persistent problems from his own staff.

11.

Evidence that he was under surveillance was becoming rapidly obvious. Victor spoke with another attorney Edward Bardwell right before he attempted Pro Se. Mr. Bardwell seemed straightforward and that could get results quickly; however, he seemed entirely different after the failed attempt at Pro Se. Two weeks after he was hired, Mr. Bardwell explained the Judges were incredulously hesitant to give a Hearing date because Victor had contacted them and even though Nicholas was still at risk.

12.

Though he made exhaustive efforts for years to collaborate with Denise 'Dede' Drexler on an effective, cost free F.A.P.E and avoid wasteful litigation, Victor felt justified requesting for Public Funding for Private Education for successful home schooling. Victor was later informed that he was going to risk being Civil Commitment if he dared to continue litigation against the school district. And one day he almost was as he made his way to District Court to file paperwork on Tracey in February 2008. He discovered that Civil Commitment to be the purpose behind his unfinalized divorce decree including Tracey's repeated taunts of him being bi-polar, having to endure months of continuous torment, and under surveillance.

13.

Victor is informed by Tracey that Nicholas is going to be made mentally retarded for having litigated against S.I.S.D because that's what he wanted. Eventually, he is allowed to see Nicholas in late February and in March but he's in slightly diminished capacity. He's also been suffering suspicious nosebleeds and had been diagnosed with

Encephalopathy NOS in 2006 which has gone untreated to date. The references to Family Court 311 in 2000 and 2006 are indicative of their involvement.

14.

Victor keeps Nicholas on May 9th to get him medically examined because of Tracey's extremely paranoid questioning about their plans that evening. Victor having tried unsuccessfully to file kidnapping charges against Tracey; Victor is briefly held at gunpoint, with Nicholas in tow, to answer charges of kidnapping in mid May 2008. And Nicholas clearly expressed to the officers that he does not wish to speak or see his mother whatsoever.

15.

Victor meets with Mr. Ray Gregory of Gregory and Gregory who spends two hours confirming there is absolutely no conspiracy despite his struggles. And that he wouldn't take his \$3,500 retainer if there wasn't a very good chance of him winning. And another foreshadowing remark is inadvertently made about Family Court 311.

16.

However, it seems Tracey secured an attorney a week later but was able to file charges much quicker than Victor in Family Court 311.

17.

Before the Habeas Corpus Hearing Tracey has successfully filed, Myrna Gregory and Kitty Crutcher are oddly adamant about Victor not bringing up events over the last few months or anything bad about the school or Tracey to Judge Warne in Family Court 311.

18.

Despite being given copies of Nicholas' medical and academic records, including Tracey's tormenting emails and text messages well in advance, Myrna Gregory and Kitty Crutcher are not at all prepared to argue our case; Myrna dramatically rips up a redacted copy of Nicholas' Encephalopathy diagnosis and chastises me for being unprepared in view of Tracey.

19.

Tracey's attorney's, Elizabeth Pagel of Lanier and Pagel LLP, Habeas Corpus is opinionated and actually indicative of her complete inconsideration of Nicholas' health. That, along with my meager testimony, easily provide the justifiable grounds for Judge Warne to order Nicholas returned to Tracey.

20.

Despite their 37 years of experience in Family Law, my attorney's remain silent after I ask them about Civil Commitment and unfinalized divorce decrees.

21.

I honestly present the pros and cons of living with me and his mother to Nicholas. I assure him that I will not be angry or confused however he answers. In the presence of my mother, he confidently states to us that he wishes to live with me. I videotape the event.

22.

At our 1st Best Interest Hearings in Family Court 311 with Judge Shelton, the past is still not to be brought up or questioned despite my attempt at Pro Se. My testimony and defense is heavily censored by my attorney's again. Tracey and her attorney give a very

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22.

At our 1st Best Interest Hearings in Family Court 311 with Judge Shelton, the past is still not to be brought up or questioned despite my attempt at Pro Se. My testimony and defense is heavily censored by my attorney's again. Tracey and her attorney give a very

poor testimony on her behalf; her attorney only manages to both exaggerate but confuse the facts behind C.P.S. cases Tracey and S.I.S.D. unjustly filed against me. Tracey is found to have lied in the Habeas Corpus hearing about Nicholas' allergies. Towards the end of the Hearing, her attorney's line of questioning indicates a 'Jail No Bail' strategy. Ms. Pagel presents 600 pages of academic records as evidence at closing.

23.

At a preparation meeting, my attorney's Myrna and Kitty both looked at each in surprise but don't answer my 'Jail No Bail' question. They also don't address my concerns that this case, now with 600 pages of academic records and Nicholas' future at stake, belongs in Civil Court.

24.

At the last preparation meeting, I appear to be a great bother to both Myrna and Kitty. I am not asked anything about the 600 pages of academic records.

25.

At our 2nd Best Interest Hearings in Family Court 311 with Judge Shelton, the past is still not to be brought up or questioned despite my attempt at Pro Se. And my testimony is greatly weakened by being forced to answer biased and pointless Yes/No questions.

Attorney Pagel and Judge Shelton manage to quickly discuss the 600 pages of academic records; Judge Shelton concludes that Tracey be given sole decision making authority.

My defense is intentionally nonexistent. And I again asked my about legal disputes with S.I.S.D. who have only proven to be committed to the Malicious Use of Process, Fraud, Malpractice, Child Abuse/Neglect/Exploitation, and Abuse of Power. Tracey is very obviously confident about the outcome that she, her sister, and attorney are openly

conversing with the Court Reporter during breaks. Even though she performed badly and lied at the 1st Hearing, Tracey somehow prevails and I lose very critical rights over Nicholas' education and medical care that were, and still are, Cause for my case.

26.

I am convinced that the current insistence on the credibility of an alleged unknown and rare genetic disorder diagnosed by Baylor College of Medicine and Texas Children's Hospital to be the reason I will discover him one day rendered mentally incapable by those dedicated to enforcing 'You don't take Texas to Court!', ensuring they receive disability income after child support ends and special education funding till Nicholas' graduates high school at age 25, and the avoiding of prosecution for all of those involved.

27.

He would have to be mentally incapacitated to not have to tolerate the indignity and torment he would suffer graduating at that age.

28

As a result, I would have to be committed to a mental institution if this were to happen to Nicholas.

29.

Thus far, Honorable Judges Warne and Shelton have been far too supportive and involved in this protocol that includes the denial of Nicholas' and Victor's rights, equal protection, life, liberty, and property as provided by the U.S. Constitution.

30.

The recent decisions rendered by Family Court 311 support this protocol by allowing Tracey to have continued custody and collaboration with Texas Children's Hospital who she herself admitted to be behind his near drowning in 2000.

31.

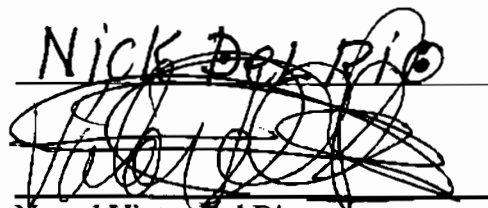
Based on Nicholas' consistent statements expressing my sole custody as his preference, notably expressed in May and June 2008, I formally charge his verbal answer on record in Cause 2000-27121 as PERJURY.

32.

I request TRANSFER OF VENUE to United States District Judge Ewing Werlein, Jr to preside including Civil Action No. 4:08-cv-02366.

Respectfully submitted, this the 8th day of August, 2008.

By

A handwritten signature in black ink that reads "NICK DEL RIO". The signature is written in a cursive style and is positioned above a horizontal line.

N. and Victor Del Rio
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