

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

P L R,	:	NO. 98-21,036
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - Law
	:	Custody
D B,	:	
Defendant	:	

OPINION AND ORDER

Before the Court is a Petition filed by P L R (mother) asking that primary custody of T R B, born December 10, 1995 be placed with her. The child is presently in the primary custody of his father, D B. The parties are familiar to the undersigned as this Court has entertained a number of matters with respect to the parties including a custody trial which ended August 23, 1999. The issues which confronted the Court in that custody trial are nearly identical to the issues which confront the Court in the present custody trial. It should be stated that both parties are unrepresented and both parties wish to have primary physical custody of T. The main reason the Court awarded primary physical custody of T to father was mother's status of a recovering alcoholic. She indicated that at the time of the 1999 trial she had been recovering for less than one (1) year. Mother was having some difficulty managing her finances and worked an irregular job schedule. As a result, the Court found that there was greater stability in the home of father.

With this custody trial, the Court has been brought up-to-date on the status of the parties and there are few changes. Father still occupies the same house that he occupied at the time of the last trial and still works for the same employer, Coca Cola Bottling Co. for approximately the same wage. Mother now reports she has been alcohol free for eight (8) months due to a very short-term relapse earlier this year. Mother is working for two (2) employers and her hours are quite irregular. She

agrees with the Court that the present schedule is a little bit unmanageable for primary custody. Mother's normal schedule is that she works from 6:00 a.m. until 10:00 a.m. on Monday, Tuesday, Wednesday and Friday and from 6:00 a.m. until 2:00 p.m. on Thursdays. The employer is the Community Service Group. Mother also works for a disabled woman on Tuesdays, Thursdays and Fridays from 3:30 p.m. until 5:30 p.m. She goes back to the home nearly every evening from 10:00 p.m. to 10:30 p.m. to help her employer prepare for bed. On top of this, mother must attend AA meetings from 12:00 p.m. until 1:00 p.m. and she attends counseling sessions at Genesis House on Tuesdays and Fridays for an hour either from 11:00 a.m. until noon or from 1:00 p.m. until 2:00 p.m.

Mother very genuinely wants primary custody of T as she feels that she can provide superior care for him. Mother has indicated that she has some flexibility in the schedule but when pressed by the Court was unable to provide an example of an adjusted schedule. Rather, she indicated that she would make the adjustment if she was awarded custody. If mother is not awarded custody, she would not bother to make the adjustment. Although the Court asked several times the nature of the adjustment, mother was unable to provide any specifics. Mother's concerns include the condition of the child's hygiene and the influence of the child's half-sisters, J and J who are also in Mr. B's home.

Father countered these arguments with statements from the day care center indicating how appropriate and well-groomed T appeared. In addition, father has indicated that his daughters are both honor roll students at Curtin Middle School and neither has any difficulty which would cause the Court concern. Again, mother was unable to provide specifics as to the source of her concerns and it appears that her concerns were primarily speculative.

The question before the Court is whether a transfer of primary custody is in the best interest of T. In this instance it is the burden of mother as the moving party to demonstrate that the best interest of the child does lie with the transfer of primary custody from father to mother. After a review of all of the evidence, the Court is unable to make such a determination. Accordingly, the Orders dated August 23, 1999 and August 28, 2000 will remain unchanged. Mother has indicated she would like to have some additional partial custody while the child is at day care. Under her present schedule, it appears there is little room for her to capitalize on this matter, however, should she avail herself of adjustments in her work schedule which would permit blocks of time, mother could exercise partial

custody where the child would otherwise be in day care, the Court has no objection. It also appears that father has no objection to this type of arrangement either. If the parties cannot mutually agree, once mother has adjusted her schedule, then either may contact the Court for further conference in this regard.

ORDER

AND NOW, this 21st day of November, 2000, for the reasons stated above the Petition for Primary Custody filed by Plaintiff, P L. R, is hereby denied. Custody of the minor child, T, shall remain consistent with the previous Orders dated August 23, 1999 and August 28, 2000.

By The Court,

Dudley N. Anderson, Judge

cc: P R
D B
Gary Weber, Esq.
Stacy Griggs, Esq.
Hon. Dudley N. Anderson