

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEHMET SAIT KAR,

Appellant

vs.

KATHLEEN A. KAR,

Respondent.

) Supreme Court No. 65985

) District Court No. D441849

) Due Date: September 2, 2014

FILED

SEP 05 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

CIVIL PROPER PERSON APPEAL STATEMENT

Appellant in Proper Person

Attorney for Respondent

MEHMET SAIT KAR

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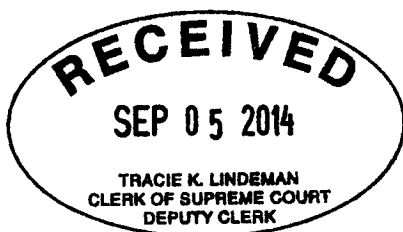
Las Vegas, NV 89104

Appellant:

Respondent:

MEHMET SAIT KAR

KATHLEEN A. KAR



Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date
6/16/14

Name of Judgment or Order
Order (Notice of Entry of Order filed 6/16/14)

Notice of Appeal. Give the date you filed your notice of appeal in the district court:
6/26/14

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
N/A		

Issues on Appeal. Does your appeal concern any of the following issues?
Check all that apply.

<input type="checkbox"/> divorce	<input checked="" type="checkbox"/> child custody/visitation	<input checked="" type="checkbox"/> child support
<input type="checkbox"/> relocation	<input type="checkbox"/> termination of parental rights	<input type="checkbox"/> attorney fees
<input type="checkbox"/> paternity	<input type="checkbox"/> marital settlement agreement	<input type="checkbox"/> division of property
<input type="checkbox"/> adoption	<input type="checkbox"/> prenuptial agreement	<input type="checkbox"/> spousal support
<input checked="" type="checkbox"/> other - briefly explain: Jurisdiction - court declined, leaving Appellant no proper means to address interference with visitation		

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

The parties in this matter were divorced by JOINT PETITION on March 15, 2011. There is one minor child, to wit: ALEXANDER KAAAN KAR (DOB: 4/1/08), age 6 years.

MEHMET/Father is a native of Turkey. After the parties' divorce, due to financial hardship, he returned to Turkey, and continued to have a relationship with his son, as best he could, by skype and phone. He realized he would not be able to exercise in person visitation very often from Turkey, but the divorce allowed him visitation every other weekend, from Friday - Sunday. He was unemployed and child support was \$100 per month, as agreed by the parties in the divorce, and thereafter ordered by the court.

On May 13, 2013, KATHLEEN filed a motion seeking to modify custody to award her sole legal and physical custody of the child; and establish child support arrears. Acknowledging his inability to appear, and the fact that KATHLEEN is raising this child with the limited ability of MEHMET to participate, he acquiesced to her motion seeking sole legal and physical custody of the child. He provided a document entitled DEFENDANT RESPOND TO PLAINTIFF, filed on June 20, 2013. Thus, the hearing set on 6/11/13 did not require a hearing at all. MEHMET acquiesced to the award of sole legal and physical custody after reading the motion. That motion clearly stating that MEHMET's visitation would not be disrupted. That motion also stated the following:

"Kathleen will encourage a frequent and continuing relationship between ALEXANDER and his father. Kathleen has never denied Mehmet access to his child. She wants Mehmet to have a relationship with his child."

See KATHLEEN's motion, bottom of page 8 - top of page 9.

MEHMET understands KATHLEEN seeking sole legal and physical custody of the child, given that she already knew she was relocated to ENGLAND with the child at the time of the filing of her motion. In fact, she is now in ENGLAND - which is only 3 hours by air from Turkey - and much closer to MEHMET than the child would be in the United States.

Again, KATHLEEN failed to comply with E.D.C.R. 5.11, and could have resolved the motion without necessity of a hearing; she did not. When MEHMET received the motion, he responded by email - as stated in open court - indicating he was not contesting because visitation was not affected. The motion stated the current visitation would remain in effect (top of page 9 of KATHLEEN's motion); and therefore, there was no need for a hearing. This could have been resolved in a stipulation and order.

KATHLEEN has been trying to keep the child from MEHMET since the divorce. On December 14, 2011, she filed a Petition for a change of name. In this document, she seeks that not only SHE, but the CHILD be entitled to resume her former name. MEHMET was never informed of this, and when she was informed that the child's name change would be denied, she dismissed the case. [See register of actions, Case D-11-456429.] This demonstrates that the attempt to alienated and take the child's father from his life has been ongoing.

KATHLEEN, in bad faith with unclean hands, failed to indicate she was to be leaving with military orders to England with the child when she filed for sole legal and physical custody, where there is a more realistic possibility that MEHMET might see the child over summer vacation - or on a weekend; she misrepresents that she will continue to encourage a relationship; and the current visitation will remain in effect - then she provides MEHMET this email:

"Yes, I have a new number and we are no longer living in that house. The fact is Alex does not want to talk to you. It does not matter what you want or what I want, what matters is what HE wants. Once he tells me he wants to speak or meet with you then I will contact you to make arrangements. But I am not going to force him to do something he does not want to do. I forced him to speak with you the last couple times on Skype and I will not do it again...."

"You can get pissed all you want, bu the Nevada courts gave me 100% control over making decisions and raising him...."

Thus, based upon KATHLEEN's misrepresentations that she wants the child to maintain a relationship with MEHMET; and her misrepresentations that she encourages the same; and that visitation will remain intact, the court issued its order.

Clearly, KATHLEEN's intent was solely to terminate any relationship between MEHMET and his son, which is NOT in the child's best interest under NRS 125.480.

While KATHLEEN's motion previously complained that had only skyped 29 times in 306 days (just under once a week) and made 8 additional phone calls (which results in contact at least once per week), she did not disclose that she also made the contact difficult. MEHMET could not prove it, so he did not fight it. He did not care that KATHLEEN call custody "sole" so long as his visitation were intact - as the motion promised - and he did not care to prevent her from going on with her life; or being able to move when he already lived out of country.

Did she ask if he would agree? No. Did she comply with E.D.C.R. 5.11? No. Thus, the attorney fees incurred by KATHLEEN were not necessary, and should not have been ordered of MEHMET. A stipulation and order could have been done.

In actuality it is clear that KATHLEEN desired to obtain sole legal and physical custody, not because she was the sole parent living with the child, but so that she could CONTROL not providing MEHMET where his child lives - she has not provided her address in court records. She has changed her phone number, and completely denied skype access - all against the best interest of the child, and in direct defiance of her statements made in the motion to obtain sole legal and physical custody.

This is a clear and direct violation of the court order and demonstrates SOLE LEGAL CUSTODY is NOT in the child's best interest. KATHLEEN is so brazen about her contempt, she is now putting it in writing, and there can be no doubt she is interfering with a relationship with the child.

Clearly, KATHLEEN holds herself above the law, and is in contempt of court for not only interfering with MEHMET's visitation on an ongoing basis, but she also LIED TO THIS COURT about her motives.

This is fraud. In fact, the Notice of Entry of Order filed July 15, 2013 should be set aside and reconsidered; or in the alternative, at a minimum, KATHLEEN should be held in contempt of court for interfering with MEHMET's contact with the child; and SANCTIONED in the sum of \$500 for each misrepresentation to this court, and violation of contact, to be offset from sums owed from MEHMET to KATHLEEN - which she uses like a sword to keep MEHMET from his child. The court is aware - and KATHLEEN needs to know - that child support arrears do not give cause to withhold contact of the child.

Based upon the evidence by email of KATHLEEN's interference with contact between the child and MEHMET, he requested the court order that the joint legal custody be reinstated; that KATHLEEN be required to keep MEHMET informed of the child's address and phone number; that set weekly skype visitation be ordered, telephonic visitation be allowed at all reasonable times; and that the court inform KATHLEEN that the child, age 6 at this time, is not able to determine what contact is in his best interest. It should be clear by the TONE of the email, and the FACTS presented, that KATHLEEN does not encourage a relationship, as she alleges, but in fact, can easily DISCOURAGE a relationship, and seek to shift all fault to MEHMET. Yes, a relationship out of country is DIFFICULT; however, the child should always know his father loves him, and his father should always have access to the child.

MEHMET requested the court set aside the prior order, or in the alternative, modify the sole legal custody to joint legal custody in this matter. However, the court, upon hearing the matter, stated it lacked jurisdiction as neither party current lived in Nevada. Appellant believes this is in error for several reasons:

1. Respondent had left Nevada less than six months prior to the requested, thus jurisdiction remained appropriate in the State of Nevada.
2. Respondent left Nevada due to her military duties in England. Thus, Nevada remains the state with the most significant ties to the child.
3. Relinquishing jurisdiction left Appellant with no appropriate venue to address visitation issues. The court's idea of domesticating the matter in England is not appropriate, as this is a temporary duty station, and not within the United States.

At this time, due to this Order, Appellant has no visitation, cannot enforce the prior visitation, and cannot hold Respondent in contempt for the clear alienation and FRAUD used to keep the child from a relationship with his father.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take.

1. The court erred by not accepting jurisdiction, since the Respondent had not resided outside Nevada for over six months.
2. The court erred by not accepting jurisdiction, given that Respondent is in England on a military assignment, and it is appropriate that state in the United States with the most significant ties, retain jurisdiction while the child is out of country due to military assignment ONLY, and remains an American Citizen.
3. That the court failed to consider the actions of Respondent as contempt. The above evidence demonstrates she promised to continue the visitation, then she immediately terminated it, or worse yet, alleges a 6 year old doesn't have to take to Appellant because he does not want to. Six is not sufficient age and maturity to say; and there is no evidence this is the CHILD's opinion - and if it is even the CHILD's opinion.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

___ By personally serving it upon him/her; or

X By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

KATHLEEN KAR
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APO, AE 09469

DATED this 2 day of Sept, 2014.



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