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Elizabeth A. Brown
Clerk of Supreme Court

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

MAYRA E. ARREGUIN,
Plaintiff,

vs.

JAVIER RAMIREZ RIVAS,
Defendant.

ORDER AFTER OCTOBER 27, 2016
HEARING

THIS MATTER comes before this Court pursuant to the Court's Order Setting Hearing filed on September 27, 2016. The Court set the hearing after receiving an Order of Reversal and Remand issued by the Nevada Court of Appeals on September 20, 2016. The Court held a hearing on October 27, 2016 at 9:00 a.m. Present at the hearing was Mayra Arreguin and Javier Ramirez Rivas, both in proper person. Ms. Escobar provided interpreter service to Mayra Arreguin. Also present was Chris Bayer, the CASA assigned to the children in this matter, and Kristopher Komarek, LCSW, the children's therapist.

Mr. Komarek swore an oath to tell the truth and proceeded to testify regarding his involvement with the children. He stated that he has been the children's therapist for the past three years, and began therapy after the children experienced difficulties surrounding their parents' divorce. He stated that there remains a high level of conflict between the parties. He explained to the Court that based on his frequent sessions with the children, it is his professional opinion that there is no indication that the children's visitation schedule should be changed.

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1 Mr. Kormarek updated the Court as to the well-being of the children. He stated that
2 Eduardo continues to experience problems with urises, and attributes that to the totality of the
3 trauma he experienced throughout the parties' divorce. Mr. Kormarek also explained that Mr.
4 Ramirez has a difficult personality, which has at times made therapy more difficult. However,
5 Mr. Kormarek testified that it is his professional opinion that it is important for the children to
6 have a relationship with Mr. Ramirez. During cross examination, Mr. Kormarek explained that
7 issues with bedwetting are being addressed in therapy, and that there is no known abuse in the
8 home related to the bedwetting.

9 Chris Bayer swore an oath to tell the truth and proceeding to testify to the Court about his
10 involvement as the children's CASA. Mr. Bayer explained to the Court that it is clear that Mr.
11 Ramirez loves his children, however, Mr. Ramirez struggles to create positive interactions with
12 the children. He also stated that he continues to observe a high level of conflict between the
13 parties. He explained that Mr. Ramirez tends to cause "unnecessary negative emotions.
14 Examples of this include a time when he noticed an old scar on one of the childrens' hands and
15 pressed for emergency medical attention despite having talked to the school nurse who
16 concluded that there was no emergency; Mr. Ramirez refused to accept reasonable visitation
17 conditions, like eliminating discussion of Ms. Arreguin, when the parties attempted to expand
18 visitation; Mr. Ramirez continually tries to initiate conflict with Ms. Arreguin; further, Mr.
19 Ramirez has two prior incidences of abuse.

20 Mr. Bayer stated that in his opinion as the children's CASA, it is in their best interest to
21 continue visitation as it is currently scheduled. Based on his interactions with Ms. Arreguin and
22 the children over the past few years, he opined that primary physical custody with Ms. Arreguin
23 is in the children's best interests. He explained that while both parties have displayed issues with
24 their parenting, Ms. Arreguin has successfully made efforts to improve her parenting skills and
25 Mr. Ramirez continues to be disruptive. Further, during visitations Mr. Ramirez refuses to
26 support Ms. Arreguin's parenting boundaries, which both confuses the children and causes them
27 to resist those boundaries when they return to Ms. Arreguin's custody.

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1 Ms. Arreguin then swore an oath to tell the truth and proceeded to testify before the
2 Court. She stated that the children are doing well in her care, aside from minor issues like
3 bedwetting that are being addressed in therapy. She stated that it is her practice to do what is best
4 for the children on a daily basis. She also explained that the children have their own rooms at her
5 house. Regarding the incident with the cut/scar on one of the boys' hand, she provided first aid
6 initially and then had it looked at during a routine doctor's visit where the doctor stated that there
7 was no problem. An issue of the children allegedly going to work was brought up. Ms. Arreguin
8 explained that her partner is a gardener, and after the boys lost an expensive toy she had them go
9 along with her partner and participate in some gardening work for a few hours to teach them
10 about responsibility, hard work, and to take care of their belongings. She explained that the
11 children only did this a few times. Ms. Arreguin also brought up the issue of child support,
12 stating that Mr. Ramirez has not paid arrearages nor current child support as previously ordered.

13 Mr. Ramirez then addressed the Court. He claimed that Mr. Bayer and Mr. Kormarek do
14 not have the correct facts for which they are testifying. He informed the Court that he does not
15 have a vehicle to provide transportation for visitation. He also stated that his wages are not
16 currently being garnished, and that he has not made a payment since he was ordered to do so in
17 May 2016.

18 The Court made findings of fact pursuant to NRS 125C.0035(4). The Court found that at
19 this time the children are of insufficient age to articulate their preference as to their custody. No
20 guardian has been nominated in this case, so that factor is not applicable at this time. The Court
21 found that there is an extreme level of conflict between the parties, and much of that conflict is
22 initiated by Mr. Ramirez. The Court found that with every issue, regardless of how minor it may
23 be, Mr. Ramirez creates a major conflict. Ms. Arreguin is the parent most likely to allow for
24 visitation with the other parent, because she has a steady history of providing for visitation
25 between the children and Mr. Ramirez. Ms. Arreguin has the ability to cooperate with Mr.
26 Ramirez to meet the needs of the children. She also provides a stable environment. The Court
27 found that the nature of the relationship between Ms. Arreguin and the children is a loving and
28 positive one. On the other hand the nature of the relationship between the children and Mr.
Ramirez is not as positive: there is a history of abuse, issues with bedwetting related to his

1 interactions with the children, and recurring issues with the children's behavior after visitation
2 with Mr. Ramirez.

3 The Court recognizes that the children care for Mr. Ramirez, but the Court finds that joint
4 physical custody is not in their best interests based on the above findings. The Court found that
5 visitation shall essentially continue as ordered in the Order Regarding Visitation filed April 20,
6 2016, with the exception that it be expanded to weekly, because Mr. Ramirez has refused to
7 accept any parameters that have been proposed when either party attempts to increase visitation.
8 Each week, Mr. Ramirez shall have visitation with Eduardo on Wednesdays from 4 p.m. until 5
9 p.m., supervised at the Ron Wood Center. Ms. Arreguin shall provide for the transportation of
10 Eduardo to and from the Ron Wood Center. Mr. Ramirez shall have visitation with Carlos every
11 Sunday from 3:30 p.m. until 9 p.m., unsupervised. Each party shall meet at the Carson City
12 Sheriff's Office to exchange Carlos.

13 Regarding child support, Mr. Ramirez shall provide the Court with his two most recent
14 pay stubs within ten (10) days of the filing of this order. His failure to do so will be contempt of
15 this Court. Mr. Ramirez shall pay the nine hundred and eighty dollars (\$980.00) in arrearages
16 ordered in the Order After July 13, 2016 order, directly to Ms. Arreguin within 30 days. Further,
17 Mr. Ramirez shall pay to Ms. Arreguin directly arrearages for support owed for the months of
18 August, September, and October, in the amount of three hundred dollars (\$300) per month,
19 within 30 days from the date of filing this order. Any future payments shall be made to the child
20 support office in Carson City, in the amount of three hundred dollars (\$300) per month. Failure
21 to make the above payments will result in a hearing for contempt.

22 The Court also holds that Mr. Ramirez shall be listed as a secondary emergency contact
23 for the children's school, medical providers, and after school care, to be used if there is an
24 emergency and Ms. Arreguin is not available. As it relates to previous orders of this Court,
25 "medical emergency," shall mean those emergencies deemed as such by a qualified medical
26 professional.

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1 **IT IS HEREBY ORDERED** that Ms. Arreguin shall have primary physical custody of
2 EDUARDO JAVIER RAMIREZ (DOB: 04/13/2006) and CARLOS ADRIAN RAMIREZ
3 (DOB: 10/09/2007).

4 IT IS FURTHER ORDERED that Mr. Ramirez shall have visitation with Eduardo on
5 Wednesdays from 4 p.m. until 5 p.m., supervised at the Ron Wood Center. Ms. Arreguin shall
6 provide for the transportation of Eduardo to and from the Ron Wood Center. Mr. Ramirez shall
7 have visitation with Carlos every Sunday from 3:30 p.m. until 9 p.m. Each party shall meet at the
8 Carson City Sheriff's Office to exchange Carlos. This visitation schedule is subject to change
9 based on Mr. Ramirez's work schedule.

10 IT IS FURTHER ORDERED that Mr. Ramirez shall submit his two most current pay
11 stubs to the Court within 10 days of the filing of this order.

12 IT IS FURTHER ORDERED that Mr. Ramirez shall pay the nine hundred and eighty
13 dollars (\$980.00) in arrearages ordered in the Order After July 13, 2016 order, directly to Ms.
14 Arreguin within 30 days.

15 IT IS FURTHER ORDERED that Mr. Ramirez shall pay to Ms. Arreguin directly
16 arrearages for support owed for the months of August, September, and October, in the amount of
17 three hundred dollars (\$300) per month, within 30 days of the date of filing of this order.

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1 IT IS FURTHER ORDERED that beginning in November 2016 Mr. Ramirez shall
2 submit child support payments to the child support office in Carson City, in the amount of three
3 hundred dollars (\$300) per month.

4 **NOTICE**

5 **PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,**
6 **CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS**
7 **PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS**
8 **200.359 provides that every person having a limited right of custody to a child or any**
9 **parent having no right of custody to the child who willfully detains, conceals or removes the**
10 **child from a parent, guardian or other person having lawful custody or a right of visitation**
11 **of the child in violation of an order of this court, or removes the child from the jurisdiction**
12 **of the court without the consent of either the court or all persons who have the right to**
13 **custody or visitation is subject to being punished for a category D felony as provided in**
14 **NRS 193.130.**

15 The parties are hereby notified that the terms of the Hague Convention on the Civil
16 Aspects of International Child Abduction, done at the Hague October 25, 1980, adopted by
17 the 14th session of the Hague Conference on Private International law, and entered into
18 force for the United State July 1, 1988 (TIAS 11670) apply if a parent abducts or
19 wrongfully retains a child in a foreign country.

20 **IT IS SO ORDERED.**

21 Dated this 4th day of November, 2016.

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JAMES T. RUSSELL
DISTRICT JUDGE

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