

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 KIRK ROSS HARRISON,

3 Appellant,

4 v.

5 VIVIAN MARIE LEE HARRISON,

6 Respondent.

Supreme Court No. 72880
District Court Case No. 2018-04361
Electronically Filed
Mar 20 2018 02:43 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

7
8
9 **RESPONDENT’S REPLY IN SUPPORT OF HER OPPOSITION AND**
10 **COUNTERMOTION**

11 Respondent VIVIAN LEE HARRISON (“Vivian”), by and through her attorney,
12 Radford J. Smith, Esq. of Radford J. Smith, Chartered hereby submits her Reply in support
13 of her Opposition to Appellant’s Motion and Countermotion. Respondent further requests
14 that she be permitted to file the Fast Track Response Brief rejected on February 28, 2017.

15
16
17 **I.**

18 **ARGUMENT**

19 Kirk attempts to associate Brooke’s actions with the teenage discretion clause. This
20 claim of a link between any problems with Brooke and the teenage discretion provision is
21 not supported by the record. The basis for Brooke’s actions was not a result of this provision.
22 Brooke made a decision regarding her schedule. It was her choice. She understood that she
23 was not utilizing the teenage discretion clause, and that it could not result in change of
24 custody.
25
26
27
28

1 Notably absent from Kirk's Reply is any acknowledgement that Brooke had
2 legitimate reasons for her actions. Dr. Paglini unequivocally stated that Brooke does not
3 want to hear negative information about her mother, that she does not want to be affected
4 by the divorce, and that Kirk needed to create an environment in his home so that post-
5 divorce stress was not an issue for Brooke. 15 A.App. 3371.
6
7

8 Next, Kirk attempts to associate the teenage discretion clause with parental
9 alienation. He, however, fails to acknowledge that Dr. Paglini and Dr. Ali concluded that
10 there was no parental alienation, but rather "*alignment*" with Vivian. 15 A.App. 3367-3369.
11 Moreover, neither Dr. Ali nor Dr. Paglini one found that any "*empowerment*" was related
12 to the teenage discretion clause.
13
14

15 In fact, applying the facts that Dr. Paglini had learned and observed in his interviews,
16 he did not find that Brooke met any of the elements of an alienated child. 15 A.App. 3369.
17 Further, he found that Vivian was *not* an alienating parent. 15 A.App. 3371. Nevertheless,
18 Brooke was expressing her love for both parents and agreeing to engage in therapy.
19
20

21 As a result, the court's final determination was that Brooke was "absolutely
22 wonderful" and that "there's a lot to be proud of." 16 A.App. 3616. The Court also noted
23 that Brooke understands that both her mom and dad love her, and it believed that Brooke
24 loves both Mom and Dad. *Id.* Similar to Dr. Paglini and Dr. Ali's reports, the court's
25 findings suggest that Brooke was not alienated.
26
27
28

1 Kirk also claims that Dr. Paglini would “hate to see something like that happen to
2 Rylee. Rylee, however, is not at issue. Nothing suggests that the teenage discretion
3 provision is even within Rylee’s radar. Rylee is not the basis of any problems with Brooke.
4

5 Kirk also fails to mention that Dr. Paglini did not meet or interview Rylee. 16 A.App.
6 3492. As indicated in her Opposition, Kirk’s claims that Rylee *may* be affected by the
7 affirmation of the teenage discretion clause is purely speculative. Thus, Kirk has not been
8 prejudiced.
9
10

11 Most importantly is that Kirk is asking the court to change existing precedence on a
12 custody action. Kirk completely fails to acknowledge *Blanco v. Blanco*, 311 P.3d 1170
13 (2013) which held that child custody determinations should be based on the merits of a case,
14 in his Reply. Regardless of the sanctions against counsel, the court should not dismiss the
15 case by a finding a Confession of Error because there has been no prejudice to Kirk in his
16 motion, nor any conceivable prejudice to Kirk based upon the claims he has presented to
17 this court. Thus, the court may impose other sanctions, but it should deny Kirk’s motion for
18 Confession of Error.
19
20
21

22 Finally, Kirk also claims that Vivian’s Opposition is filed in violation of the 10-page
23 limit pursuant to NRAP 27. NRAP 27(d)(2) states that “A motion or a response to a motion
24 shall not exceed 10 pages, unless the court permits or directs otherwise.”
25

26 Here, Vivian filed a motion and a response to a motion. Pursuant to NRAP 27, each
27 is allotted ten (10) pages. Thus, Vivian was allowed to file 10 pages in response to Kirk’s
28

1 Motion and 10 pages as a separate, (counter) motion (20 pages total). Vivian's Opposition
2 was 15 pages, and therefore, she was in compliance with NRAP 27.
3

4 **II.**

5 **CONCLUSION**
6

7 For the reasons set forth above and in her Opposition and Countermotion, Vivian
8 moves this Court for its order granting permission to the Clerk of the Court to file her Fast
9 Track Response.
10

11 Dated this ____ day of March 2018.

12 RADFORD J. SMITH, CHARTERED
13

14 /s/ Kimberly A. Medina, Esq.

15 _____
16 RADFORD J. SMITH, ESQ.
17 Nevada Bar No. 002791
18 KIMBERLY A. MEDINA, ESQ.
19 Nevada Bar No. 014085
20 2470 St. Rose Pkwy – Suite 206
21 Henderson, Nevada 89074
22 *Attorney for Vivian Harrison*
23
24
25
26
27
28