

ORIGINAL

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Steven D. Grierson  
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*Steven D. Grierson*

1 **DECC**  
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11 **DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**

13 WILLIAM DIMONACO,  
14  
15 Plaintiff,

CASE NO. : D-16-539340-C  
DEPT. NO. : Q

**DECREE OF CUSTODY**

16 vs.

17 ADRIANA DAVINA FERRANDO,  
18  
19 Defendant.

Hearing Date: June 21, 2017  
Hearing Time: 1:30 p.m.

20 This matter came before the Court on the 21<sup>st</sup> day of June, 2017 for a Non-Jury Trial. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco (hereinafter "Dad"). Steven M. Altig, Esq. appeared with Defendant, Adriana Ferrando (hereinafter "Mom"). The Honorable Bryce C. Duckworth presided over the matter.

The parties had numerous stipulations, but requested that the Court decide several matters.

Non-Trial Dispositions:

- |  |  |
|--|--|
| <input type="checkbox"/> Other                             | <input type="checkbox"/> Settled/Withdrawn:        |
| <input type="checkbox"/> Dismissed - Want of Prosecution   | <input type="checkbox"/> Without Judicial Conf/Hrg |
| <input type="checkbox"/> Involuntary (Statutory) Dismissal | <input type="checkbox"/> With Judicial Conf/Hrg    |
| <input type="checkbox"/> Default Judgment                  | <input type="checkbox"/> By ADR                    |
| <input type="checkbox"/> Transferred                       |  |

Trial Dispositions:

- |   |   |
|---|---|
| <input type="checkbox"/> Disposed After Trial Start | <input checked="" type="checkbox"/> Judgment Reached by Trial |
|---|---|

1 of 13

RECEIVED

OCT 12 2017

Docket 74696

FAMILY COURT  
DEPARTMENT Q

1       The Court, having read the papers and pleadings on file herein, having  
2 heard argument, having heard from the parties, having heard from third parties in  
3 the courtroom, having heard the stipulations of the parties, being well advised in  
4 the premises, and for sufficient cause shown, hereby finds and orders as follows:

5       **THE COURT HEREBY FINDS** that Dad is now and has been an actual  
6 bona fide resident of the State of Nevada and has actually been domiciled in the  
7 State of Nevada for more than six weeks prior to the commencement of this  
8 action.

9       **THE COURT FURTHER FINDS** that it has complete jurisdiction in the  
10 premises, both as to the subject matter thereof as well as the parties hereto.

11       **THE COURT FURTHER FINDS** that Dad and Mom were never married  
12 to each other.

13       **THE COURT FURTHER FINDS** that Dad and Mom have one child  
14 together, to wit: Grayson Ashton DiMonaco-Ferrando (born August 12, 2014  
15 (hereinafter “the child”); the parties have no other minor children together, no  
16 adopted children together, and, Mom is not currently pregnant with Dad’s child.

17       **THE COURT FURTHER FINDS** that Dad is the child’s natural father.  
18 Mom and Dad signed an affidavit of paternity as to the child, which has not been  
19 revoked. Dad is listed as the child’s natural father on the child’s birth certificate.

1 The child bears Dad's surname. Dad has held the child out to the world as his  
2 natural child. Mom does not contest that Dad is the child's natural father.

3 **THE COURT FURTHER FINDS** that the child has resided in the State  
4 of Nevada for at least six months prior to the filing of the Complaint. As such,  
5 this Court has the necessary UCCJEA jurisdiction to enter orders as to child  
6 custody and visitation. Nevada is the child's home state and state of habitual  
7 residence.

8 **THE COURT FURTHER FINDS** that the parties have stipulated to  
9 having joint legal custody and joint physical custody of the child. This  
10 arrangement is in the child's best interest.

11 **THE COURT FURTHER FINDS** that the visitation schedule delineated  
12 is in the child's best interest. Mom proposed a visitation schedule that splits  
13 weekends. Setting a visitation schedule that splits the weekends is not in the  
14 child's best interest. While it may be feasible due to the child not yet being in  
15 school, from a planning standpoint, it does not work as the parents would not  
16 have full weekends. (Video Record at 14:12:00).

17 **THE COURT FURTHER FINDS** that, under the case law (*Lewis v.*  
18 *Hicks and Rodgers v. Rodgers*), a spouse has a community property interest in  
19 the other spouses income, which may be used to offset a child support award.  
20 (Video Record at 14:15:00, 14:25:00). Dad offered that Mom's husband makes

1 approximately \$120,000.00 per year (\$79,029.00 regular pay + \$20,843.14 in  
2 overtime pay + \$20,897.75 in other pay = \$120,769.89 or \$10,064.16 gross  
3 monthly income—benefits are not included in this calculation). (See Exhibits  
4 filed June 19, 2017 at W DIMONACO 000039; *see also* Video Record at  
5 14:23:15, 14:29:20). The Court inquired as to what Dad’s girlfriend earns. Dad’s  
6 counsel stated that his girlfriend contributes \$500 per month to his household and  
7 that her actual income is not relevant as they are not married. The Court stated  
8 “what is good for the goose is good for the gander.” (Video Record at 14:24:50).  
9 Dad’s girlfriend stated that she makes \$47,000.00 per year salary (which is a  
10 gross monthly income of \$3,916.67). (Video Record at 14:30:20). Using a  
11 *Wright v. Osburn* calculation to determine child support only imputing Mom’s  
12 prior income upon her, the child support obligation from Dad to Mom is \$550.00.  
13 (Video Record at 14:27:10). Another deviation factor the Court may consider is  
14 the relative income of the parties (NRS 125B.080(9)). (Video Record at  
15 14:27:20). The total household income of each side is germane to the Court’s  
16 calculation of child support. (Video Record at 14:28:15). The Court  
17 acknowledged that Dad wants further discovery into Mom’s household income,  
18 but the Court stated it could attempt to determine that issue today and resolve the  
19 need for further discovery into this issue. (Video Record at 14:28:35). The  
20 household incomes appear to be \$109,400 on Dad’s side (Dad and his girlfriend)

1 and \$120,769 on Defendant's side without imputing income on Mom—with an  
2 approximate \$11,000 higher income in Mom's household. (Video Record at  
3 14:31:25). The Court accepts the offers of proof as to Dad's girlfriend's income  
4 and as to Mom's husband's income. (Video Record at 14:32:55). The Court  
5 inquired if any party needed further discovery into the household income issue,  
6 but the parties stated that they did not need further discovery. (Video Record at  
7 14:33:25). The Court inquired of the parties and confirmed that both parties are  
8 providing health insurance for the child, which shall continue. (Video Record at  
9 14:35:20). The Court is utilizing the deviation factor of relative income of the  
10 parties to look at the additional income the parties receive from their significant  
11 others. (Video Record at 14:35:35). The Court is imputing \$2,143.72 in gross  
12 monthly income upon Mom, which is essentially her 2014 income recomputed to  
13 a full yearly figure. This is her earning capacity. (Video Record at 14:35:50).  
14 Dad's gross monthly income is \$5,200.00, which makes his obligation \$936.00;  
15 whereas, Mom's obligation is \$386.00, which results in a *Wright v. Osburn*  
16 calculation of \$550.00. (Video Record at 14:36:30). Based on the relative  
17 income of the parties and given the \$10,000 difference in incomes (between  
18 Mom's husband by himself and Dad and his girlfriend combined), the Court is  
19 going to give a downward deviation in the sum of \$100.00, thus making Dad's  
20 child support obligation \$450.00 per month. (Video Record at 14:36:42).

1       **THE COURT FURTHER FINDS** that, as to constructive child support  
2 arrears, the law is discretionary as to a reasonable amount—and not that the  
3 statutory formula be applied retroactively. Mom alleges that Dad did not pay for  
4 September, October, and November 2016 and that Dad did make payments prior  
5 to then, albeit not at the amount eventually ordered by the Court. As payments  
6 were made up through August 2016, the Court is not going to revisit that issue.  
7 The Court will apply the December 2016 child support amount (\$650.00) to  
8 September, October, and November 2016. The parties shall work out any  
9 overpayments and give credit for the same. (Video Record at 15:01:00 –  
10 15:04:45).

11       Therefor,

12       **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,  
13 pursuant to stipulation of the parties, Mom and Dad shall have joint legal custody  
14 and joint physical custody of the child.

15       **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the  
16 parties shall have the following regular visitation with the child:

- 17       • Mom shall have regular visitation with the child from Monday at 8:00 am  
18       or drop off at school if school is in session until Wednesday at 8:00 am or  
19       drop off at school if school is in session;

20

- 1 • Dad shall have regular visitation with the child from Wednesday at 8:00  
2 am or drop off at school if school is in session until Friday at 8:00 am or  
3 drop off at school if school is in session; however, if Dad is working on  
4 Wednesday, the child shall remain with Mom until Dad gets out of work—  
5 this provision is only for Wednesdays; Wednesdays are still days  
6 designated to Dad (Video Record at 14:51:20);
- 7 • The parties shall alternate the weekends, which shall be defined as  
8 beginning Friday at 8:00 am or drop off at school if school is in session  
9 and concluding Monday at 8:00 am or drop off at school if school is in  
10 session; For clarity, Mom has the weekend of June 23, 2017.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the  
12 Court's standard holiday and visitation schedule shall control. A copy of the  
13 same is attached hereto as Ex. 1. The parties may agree to deviate from the  
14 schedule, as they are free to agree to deviate as to any visitation schedule. (Video  
15 Record at 14:57:25). Holiday visitation time shall take precedence over all other  
16 visitation time, and vacation visitation time shall take precedence only over  
17 regular visitation time. (Video Record at 15:00:12).

18 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that  
19 either party may designate other parties to drop off/ collect the child. The Court  
20

1 expects that when a party designates another to collect the child, that parent  
2 would notify the other in advance. (Video Record at 14:56:40).

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,  
4 pursuant to stipulation of the parties, Dad shall provide the transportation of the  
5 child for child exchanges. Currently, Dad drives nearby Mom's house on the  
6 way to and from his work. (Video Record at 14:55:00). In the event that Dad is  
7 unable to provide the transportation, then the parties shall communicate in  
8 advance to designate an alternate individual to do the transporting.

9 **NOTICE IS HEREBY GIVEN** of the following provision of NRS  
10 125C.0045(6):

11 Penalty for violation of order: The abduction, concealment or  
12 detention of a child in violation of this order is punishable as a category D  
13 felony as provided in NRS 193.130. NRS 200.359 provides that every  
14 person having a limited right of custody to a child or any parent having no  
15 right of custody to the child who willfully detains, conceals or removes the  
16 child from a parent, guardian or other person having lawful custody or a  
right of visitation of the child in violation of an order of this court, or  
removes the child from the jurisdiction of the court without the consent of  
either the court or all persons who have the right to custody or visitation is  
subject to being punished for a category D felony as provided in NRS  
193.130.

17 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention  
18 of October 25, 1980, adopted by the 14th Session of the Hague Conference on  
19 Private International Law apply if a parent abducts or wrongfully retains a child  
20



1 in a foreign country. The parties are also put on notice of the following provisions  
2 of NRS 125C.0045(8):

3 If a parent of the child lives in a foreign country or has significant  
4 commitments in a foreign country:

5 The parties may agree, and the court shall include in the order for  
6 custody of the child, that the United States is the country of habitual  
7 residence of the child for the purposes of applying the terms of the Hague  
8 Convention as set forth in subsection 7.

9 Upon motion of one of the parties, the court may order the parent to  
10 post a bond if the court determines that the parent poses an imminent risk  
11 of wrongfully removing or concealing the child outside the country of  
12 habitual residence. The bond must be in an amount determined by the  
13 court and may be used only to pay for the cost of locating the child and  
14 returning him to his habitual residence if the child is wrongfully removed  
15 from or concealed outside the country of habitual residence. The fact that  
16 a parent has significant commitments in a foreign country does not create  
17 a presumption that the parent poses an imminent risk of wrongfully  
18 removing or concealing the child.

19 **IT IS FURTHER ORDERED** that all parties shall be bound by the  
20 provisions of NRS 125C.006, which states:

1. If primary physical custody has been established pursuant to an  
order, judgment or decree of a court and the custodial parent intends  
to relocate his or her residence to a place outside of this State or to  
a place within this State that is at such a distance that would  
substantially impair the ability of the other parent to maintain a  
meaningful relationship with the child, and the custodial parent  
desires to take the child with him or her, the custodial parent shall,  
before relocating:

(a) Attempt to obtain the written consent of the noncustodial  
parent to relocate with the child; and

1 (b) If the noncustodial parent refuses to give that consent, petition  
2 the court for permission to relocate with the child.

3 2. The court may award reasonable attorney's fees and costs to the  
4 custodial parent if the court finds that the noncustodial parent  
5 refused to consent to the custodial parent's relocation with the child:

6 (a) Without having reasonable grounds for such refusal; or

7 (b) For the purpose of harassing the custodial parent.

8 3. A parent who relocates with a child pursuant to this section without  
9 the written consent of the noncustodial parent or the permission of  
10 the court is subject to the provisions of NRS 200.359.

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the  
12 provisions of NRS 125C.0065, which states:

13 1. If joint physical custody has been established pursuant to an order,  
14 judgment or decree of a court and one parent intends to relocate his  
15 or her residence to a place outside of this State or to a place within  
16 this State that is at such a distance that would substantially impair  
17 the ability of the other parent to maintain a meaningful relationship  
18 with the child, and the relocating parent desires to take the child with  
19 him or her, the relocating parent shall, before relocating:

20 (a) Attempt to obtain the written consent of the non-relocating  
parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent,  
petition the court for primary physical custody for the purpose  
of relocating.

2. The court may award reasonable attorney's fees and costs to the  
relocating parent if the court finds that the non-relocating parent  
refused to consent to the relocating parent's relocation with the  
child:

1 (a) Without having reasonable grounds for such refusal; or

2 (b) For the purpose of harassing the relocating parent.

3 3. A parent who relocates with a child pursuant to this section before  
4 the court enters an order granting the parent primary physical  
5 custody of the child and permission to relocate with the child is  
6 subject to the provisions of NRS 200.359.

6 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,  
7 based upon the findings herein, Dad shall pay Mom monthly child support in the  
8 amount of \$450.00 effective May 1, 2017.

9 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that  
10 Dad's child support obligation for the months of September, October, and  
11 November 2016 shall be calculated at the rate of \$650.00 per month. The arrears  
12 of \$1,950.00 shall be payable at the rate of \$50.00 per month until paid in full.  
13 The parties shall work out any overpayments. (Video Record at 15:04:10).

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that  
15 both parties shall continue to provide the medical / health insurance for the child.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any  
17 of the child's unreimbursed medical, dental, optical, orthodontic, surgical, and  
18 other health-related expenses shall be equally divided by the parties pursuant to  
19 the 30/30 rule. The 30/30 rule provides that the party paying any unreimbursed  
20 medical expenses has thirty (30) days from the date the expense is paid to forward

1 proof of payment to the opposing party. If that party does not timely forward the  
2 proof of payment, then the Court may construe that the party waived the right to  
3 be reimbursed for that expense. Upon receipt of a timely-forwarded proof of  
4 payment of an unreimbursed medical expense, the receiving party has thirty (30)  
5 days to reimburse the paying party one-half of the expense or to object to the  
6 expense. If the receiving party does not either object to the expense or reimburse  
7 the paying party for half of the expense, then that party is subject to sanctions for  
8 contempt of court. (*Compare* Complaint for Custody at ¶ 13 *with* Answer at  
9 1:23).

10 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and  
11 125.007 apply regarding the collection of delinquent child support payments.

12 **NOTICE IS HEREBY GIVEN** that either party may request a review of  
13 child support pursuant to NRS 125B.145.

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that  
15 each side shall bear his / her own attorney's fees and costs.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that  
17 each party shall provide their social security numbers on a separate form to the  
18 Court and to the Welfare Division of the Department of Health and Human  
19 Services pursuant to NRS 125B.055, NRS 125.130, and/or NRS 125.230. Such  
20 information shall be maintained by the Clerk in a confidential manner and shall


1 not be part of the public record. The parties shall update the information filed  
2 with the Court and the Welfare Division of the Department of Human Resources  
3 within ten (10) days should any of that information become inaccurate.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Mr.  
5 James shall prepare the Order with Mr. Altig to countersign.

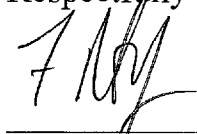
6 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

7 Dated this \_\_\_\_ day of October, 2017

8 **NOV 06 2017**

9   
DISTRICT COURT JUDGE  mp  
10 Approved as to form and content by:

11 Respectfully submitted by:



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702-385-7227  
Counsel for Defendant

# EXHIBIT 1

## HOLIDAY AND VACATION PLAN

### Department Q

The Court encourages parents to communicate regarding holiday and vacation time with their children. The following Holiday and Vacation Plan is a "default" schedule where parents are unable to otherwise agree. Any deviation therefrom should be memorialized in writing with both parents' signatures. Holidays/Special Occasions take precedence over residential time and Vacation time. Unless otherwise ordered, reference to a "school" schedule for the purpose of defining a Holiday or Special Occasion shall be defined by the Clark County, Nevada School District Schedule. (*See [www.ccsd.net](http://www.ccsd.net)*)

THREE DAY HOLIDAYS (Holiday visitation begins when school gets out on the day preceding the holiday weekend (or 3:00 p.m. if the children are not in school) and continues until 9:00 a.m. on the day following the holiday weekend or when the children are scheduled to resume school.)	ODD YEAR	EVEN YEAR
Martin Luther King Day	Mom	Dad
Presidents' Day	Dad	Mom
Memorial Day	Mom	Dad
Labor Day	Dad	Mom
Nevada Admission Day	Mom	Dad

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
<b>Thanksgiving:</b> The holiday visitation shall begin when school gets out on the Wednesday preceding Thanksgiving (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Mom	Dad
<b>Christmas/Winter Break:</b> Winter break shall be divided equally between the parents, with the first half commencing when the children get out of school to begin the Winter Break (or 3:00 p.m. if the children are not in school), and continue until December 26 at 10:00 a.m. The second half shall commence on December 26 at 10:00 a.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).		
First Half	Dad	Mom
Second Half	Mom	Dad

EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin when school gets out on the last day of school (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Dad	Mom

SPECIAL OCCASIONS (Special Occasions begin at 9:00 a.m. on the individual day and continue until 9:00 p.m. on the same day)	ODD YEAR	EVEN YEAR
Mother's Day	Mom	Mom
Father's Day	Dad	Dad
Children's Birthdays	Dad	Mom

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1 <sup>st</sup> of each year. The dates shall be conveyed to the other party in writing by way of certified mail. If there is a conflict in dates, the parent who designates the vacation first (as verified by the certified mail stamp) will prevail as to the vacation time. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.



DEPARTMENT OF THE AIR FORCE  
HQ AFOSI/WF  
27130 TELEGRAPH RD  
QUANTICO MARINE GROUND INSTALLATION, VA 22134

SPECIAL ORDER

PURPOSE: PARTICIPATE IN OPERATION: \*\*\* DATA MASKED \*\*\*  
PID \*\*\*\*\*

SPECIAL MISSION TRAVEL (MSN)

PROCEED O/A: 27 DEC 2017 FROM: NEILLIS AFB, NEVADA  
DEN: TO: MUWAPPAQ SALTI AB, JORDAN  
TDY LENGTH: 186 RETURN TO: NEILLIS AFB, NEVADA

VARIATIONS AUTHORIZED  
TYPE ORDERS: CED

REMARKS:

RPT TO PERSCO TEAM UPON ARRIVAL AT EMP LOC. ACCEPT NO PROMO ITEMS; I.E. GIFTS BONUS TIX ETC. PER AFI 24-101, GOVT PROCURED TRANS DIRECTED; CONTACT COMM TRVL OFF(CTO) OR TMO ASAP. DOD & AF POLICY PROHIBITS MBR FROM SELF-PROCURING OFFICIAL TRVL. UPON RTN TO HOME STATION, MBR MUST IN-PROCESS CSS & NOTIFY MPS/IPR OF DATE RTND. PERDIEM RATE TAW JTR. RPT TO FINANCE PRIOR TO DEPT, W/CY OF ORDERS IF YOU'RE A MBR W/DEPENDENTS & YR PROJ TDY EXCEEDS 30 DAYS. AMN GET REACHBACK SUPPORT THRU MYPERS WEBSITE (HTTPS://MYPERS.AF.MIL) OR CAN SPEAK W/REP AT TESC (1-800-525-0102) PRESS 1 (REGAF) THEN # KEY (DEPLOYED) TO MOVE TO FRONT OF QUEUE. OVERSEAS LOCS CALL DSN 312-665-5000 (ACTIVE) OR DSN 312-647-3294 (GUARD/RES). DATA MASKED CED ORDERS ARE UNCLASSIFIED. ALL CED ORDERS, EXCEPT FOR RESERVISTS, ARE ENTERED INTO DTS. WHEN LOCS ARE DATA MASKED AND TRAVELERS FWD DEPLOY TO CLASSIFIED LOCS, TRVLR MUST CONTACT FINANCE OFFICE BEFORE CREATING THEIR DTS VOUCHER. PER DIEM RATE: ALL GOVERNMENT MEALS ARE AVAILABLE AND DIRECTED. PERSTEMPO TRAVEL CODE A APPLIES. ALL MEMBERS MUST INPROCESS WITH 332 PERSCO UPON ARRIVAL, CONTACT AT DSN 318-457-6111/6110 OR IN COUNTRY CELL: 962-79-962-8289. NIPK ORG EMAIL: 332RFFS.PERSCO@AZAB.APCENT.AF.MIL SIPR ORG EMAIL: 332RFFS.PERSCO@AZAB.APCENT.AF.MIL PERSONNEL MUST HAND CARRY PRINTOUT OF APPROVED APACS REQUEST. AN OFFICIAL NO-FEE PASSPORT OR TOURIST PASSPORT IS HIGHLY RECOMMENDED BUT NOT REQUIRED IF PERSONNEL ARE ALREADY IN POSSESSION OF ONE. THIS IS SEPARATE OF COUNTRY ENTRY REQUIREMENT WHICH ONLY REQUIRES A CAC AND CED ORDERS. UPON ARRIVAL CACS WILL BE SCANNED, FOR ACCOUNTABILITY PURPOSES, BY THE JORDANIAN DIRECTORATE OF MILITARY SECURITY. MEMBER WILL DEPLOY WITH 2 PT UNIFORM SETS. WEAR OF MILITARY UNIFORMS OFF BASE IS NOT PERMITTED; BRING AT LEAST ONE SET OF CONSERVATIVE CIVILIAN CLOTHING FOR TDYS, LEISURE ACTIVITIES, OR OFF BASE TRAVEL. ALL MEMBERS WILL BE ISSUED THE A-BAG (TO INCLUDE SLEEPING BAG), B-BAG (01 OCT - 31 MARCH), C-BAG, IFPAK, AND BODY ARMOR WHILE AT HOME STATION UNLESS TRAVELING THROUGH AN ETDC WHERE MEMBERS WILL ACQUIRE ITEMS PRIOR TO ARRIVAL IN JORDAN. MEMBERS ARRIVING VIA MIL AIR ARE REQUIRED TO BRING CHEMICAL PROTECTION MASKS, FILTERS, JLIST, AND OVERBOOTS (IF ARRIVING BY COMMERCIAL AIR, THESE WILL BE ISSUED UPON ARRIVAL). HOME STATION IS REQUIRED TO ISSUE COLD WEATHER GLOVES, WATCH CAP, AND APACS JACKET AND PANTS WITH LINERS FOR PERSONNEL SCHEDULED TO DEPLOYED FOR ANY DURATION FROM 01 OCTOBER THROUGH 31 MARCH. HOMESTATION IS REQUIRED TO ISSUE ANSI Z87+ EYE PROTECTION SAND GOGGLES AND BALACLAVA FACE MASK. UNIFORM OF THE DAY IS ABU. DESERT FLIGHT DUTY UNIFORM, OR FLAME RESISTANT ARMY COMBAT UNIFORM. DURING TRAVEL TO THE AOR, THROUGH ALL IMMEDIATE STOPS, MEMBERS MUST HAVE A PERSONAL BAG INCLUDING REQUIRED HAND-CARRY USAF CENT PRE-DEPLOYMENT CHECKLIST ITEMS. MEMBERS TRAVELING ON A MILITARY FLIGHT MUST WEAR UNIFORM. MEMBERS TRAVELING COMMERCIAL MUST WEAR CONSERVATIVE CIVILIAN ATTIRE. THE MEMBERS OCONUS INCIDENTAL RATE IS \$3.50/DAY. MEMBERS WILL RESIDE IN RELOCATABLE BUILDINGS. MUST BRING A PILLOW, TWIN BED LINENS AND A BLANKET. VARIATIONS AUTHORIZED. CHECKED BAGGAGE IS LIMITED TO TWO (2) PERSONAL BAGS NOT TO EXCEED 70 LBS EACH AND LINEAR MEASUREMENT NOT TO EXCEED 62 LINEAR INCHES IN LENGTH, WIDTH, AND HEIGHT. A SMALL CARRY-ON BAG NOT TO EXCEED 45 LINEAR INCHES IS AUTHORIZED. \*\*IN ADDITION TO TS/SCI CLEARANCE, PERSONNEL DEPLOYING TO ATO/ITO AORS REQUIRE READ-ON TO THE FOLLOWING PROGRAMS; SI, TK, G, HCS.\*\* A 6 DAY OVERLAP HAS BEEN ADDED TO THE END OF TOUR PER LINE REMARKS. MEMBER IS AUTHORIZED TO CARRY WEAPONS IAW OFFICIAL DUTIES M41 & M11:

LEGEND:

SECURITY STATUS CODES: V-SCI (DCID 1/14 ELIG); PERSONNEL RELIABILITY PROGRAM: -N/A; GENERAL LEGEND CODES: H-WILL. HANDCARRY; 15 COPIES OF CED ORDERS AND ORIGINAL NATO ORDER W/ BLUE STAMP OR SIGNATURE, MED/DEN LTR, COMPLETED DEPLOYMENT CHECKLIST, A RECORD OF ANCILLARY TRAINING, DD FORM 2AF (CAC ID CARD), ID TAGS, V-RED PRINT OUT, CURRENT LES, IMMUNIZATION RECORD, DD FORM 2766 DEPLOYABLE MED RECORD, PERSONAL/GOVERNMENT DRIVERS LICENSE, AF FORM 55, COMPLETED AF FORM 245.50

AUTHORITY: OPORD DATED 18 SEP 01  
ISSUING HQ: DEPARTMENT OF THE AIR FORCE

APPROVING OFFICIAL: JASMINE M. SPRUILL, 1SGT, USAF  
MTOIC, PERSONNEL READINESS

FUND CITE 1: 57B3400 308 150K AMHJZB 04 40924 25127F 387700 ESP: QA  
CIC 1: 4 4 815 04HJ 387700  
FOR THE COMMANDER  
OFFICIAL

MARK A. LUCAS, GS-13, DAPC  
CHIEF, WARPIGHTER READINESS

DISTRIBUTION: NONE.



OSBORNE.AMAN Digitally signed by  
DA.NICOLE.1362  
1362813162  
Date: 2017.12.19 12:58:07  
-0500

Amanda N. Osborne, SSgt, USAF  
Authorized Certifying Official

DATE OF ISSUE: 18 DEC 2017

PROCESSED IN DTS

AFOSI CED ORDER  
SUBMITTED FOR  
DTS PROCESING ON  
DATE: 18 DEC 17

ULN	LNR	Name	SSN	GRD	CIV	TYP	COMP	AFSC	TDY	S P S	E R E Home	TDY	C P X Unit	Unit	Remarks
001		DIMONACO WILLIAM E		UNK		A		7XXX	V	M	WG07FKDS	WG07H01Q	EAC	BAF 6	AJJ OSC



DIMONACO WILLIAM E

(LAST ITEM)

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

2  
3           WILLIAM DiMONACO,

4                   Appellant,

5           vs.

6           ADRIANA FERRANDO,

7                   Respondent.

No.: 74696

Electronically Filed  
Jan 19 2018 03:04 p.m.

Elizabeth A. Brown  
**MOTION TO STAY APPEAL**  
Clerk of Supreme Court

8           COMES NOW Appellant, William DiMonaco, by and through his counsel,  
9           F. Peter James, Esq., who hereby requests that this Honorable Court stay the  
10          appeal as Appellant, an active-duty member of the United State Air Force, has  
11          deployed.

12          Dated this 19<sup>th</sup> day of January, 2018

13          /s/ *F. Peter James*

14          \_\_\_\_\_  
LAW OFFICES OF F. PETER JAMES

15          F. Peter James, Esq.

16          Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

17          Las Vegas, Nevada 89102

702-256-0087

18          Counsel for Appellant

19          ///

20          ///

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## POINTS AND AUTHORITIES

Appellant, William DiMonaco, is an active duty USAF member. Appellant has recently deployed. (*See* Deployment Orders, attached hereto). As Appellant is deployed, he will not be able to participate in a Settlement Conference and in the appellate process.

The issue on appeal is a child support issue. Appellant asserts that the district court erred in its calculations and that the amount of support was set too high. Appellant is **not** requesting a stay of the order pending appeal.

The Servicemembers Civil Relief Act (“SCRA”) generally requires a stay of civil legal proceedings while a servicemember is deployed. *See generally* 50 U.S.C. 3901, *et seq.* The purposes of the SCRA are:

- (1) to provide for, strengthen, and expedite the national defense through protection extended by this chapter to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and
- (2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

50 U.S.C. 3902.

Appellant acknowledges that the SCRA is generally for actions not to be taken against servicemembers while they are deployed. In this particular case,

1 there was a strict jurisdictional deadline to appeal, so Appellant had to file for the  
2 appeal knowing he was being deployed.

3 As there is no known applicable legal standard to this situation, Appellant  
4 will address the standard for a stay of the underlying action (though Appellant is  
5 only requesting a stay of the appeal).

6 NRAP 8(c) provides as follows:

7 **(c) Stays in Civil Cases Not Involving Child Custody.** In deciding  
8 whether to issue a stay or injunction, the Supreme Court or Court of  
9 Appeals will generally consider the following factors: (1) whether  
10 the object of the appeal or writ petition will be defeated if the stay  
11 or injunction is denied; (2) whether appellant/petitioner will suffer  
12 irreparable or serious injury if the stay or injunction is denied; (3)  
whether respondent/real party in interest will suffer irreparable or  
serious injury if the stay or injunction is granted; and (4) whether  
appellant/petitioner is likely to prevail on the merits in the appeal or  
writ petition.

13 Here, the stay factors weigh heavily in favor of granted a stay of the appeal  
14 pending Appellant's return from deployment.

15 **1. Whether the object of the appeal or writ petition will be defeated if the**  
16 **stay or injunction is denied**

17 The object of the appeal might be defeated if the stay is denied. Appellant  
18 is deployed. This matter might well settle at a Settlement Conference if the  
19 parties can sit down with Judge Gaston (who has been assigned as the Settlement  
20 Judge) and hammer out the decision.

1 It is the policy of the Court and the State to resolve conflicts in mediation.  
2 *See e.g.* NRAP 16. Parties must participate in the settlement conference in good  
3 faith, which includes attending in person—failure to do so is grounds for  
4 sanctions. *See* NRAP 16(g). Being deployed, Appellant cannot attend a  
5 settlement conference.

6 **2. Whether appellant/petitioner will suffer irreparable or serious injury**  
7 **if the stay or injunction is denied**

8 It is unlikely that Appellant will suffer irreparable or serious injury of the  
9 stay is denied. Physical harm is not at issue. Appellant will suffer financial harm  
10 if he is required to brief an appeal that could have been resolved in a settlement  
11 conference.

12 Further, it is well known throughout the courts that, when parties resolve  
13 their differences, they are much less likely to return to court for further litigation.  
14 This benefit of settlement is not available if the stay is not granted.

15 **3. Whether respondent/real party in interest will suffer irreparable or**  
16 **serious injury if the stay or injunction is granted**

17 Respondent will suffer no harm whatsoever if the stay is granted. Status  
18 quo in the district court remains until resolution of the appeal. Appellant is not  
19 requesting a stay of the district court proceedings while he is deployed.  
20

1 **4. Whether appellant/petitioner is likely to prevail on the merits in the**  
2 **appeal or writ petition**

3 Appellant is highly likely to prevail on the merits of the appeal. The  
4 district court committed clear legal error in its determination of child support.

5 When a parent remarries, that new spouse's income may be used as a  
6 deviation factors under NRS 125B.080(9) for relative income of the parties due  
7 to the community property nature of the income. *See Rodgers v. Rodgers*, 110  
8 Nev. 1370, 887 P.2d 269 (1994).

9 Here, the district court properly included Respondent's spousal income in  
10 its determination of the final support amount; however, the district court made  
11 clear legal error by including Appellant's girlfriend's income as community  
12 property—stating “what is good for the goose is good for the gander.” (*See*  
13 *Decree of Custody* at 3:17 – 5:20, which is attached hereto). Including  
14 Appellant's girlfriend's income as Appellant's community property is  
15 contradictory to Nevada law.

16 As the district court made clear legal error, the likelihood of Appellant  
17 prevailing on appeal is high.

18 \* \* \*

1 As such, the factors for a stay (albeit for a stay of the lower court  
2 proceedings) weigh in favor of granting the stay pending Appellant's return from  
3 deployment.

4  
5 **CONCLUSION**

6 Based on the SCRA, the factors for a stay, and equity, the Court should  
7 stay the appeal pending Appellant's return from deployment.

8 Dated this 19<sup>th</sup> day of January, 2018

9 */s/ F. Peter James*

10 

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14 Counsel for Appellant



