

FILED

JAN 21 2022

IN THE SUPREME COURT OF THE STATE OF NEVADA

JANETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

LISA MYERS,)
)
Appellant,)
)
vs.)
)
CALEB HASKINS,)
)
Respondent.)
_____)

Supreme Court No: 83576
District Court Case No: D-10-434495-C

FAST TRACK RESPONSE

1. Name of party filing this fast track response:

Caleb Haskins

2. Name, law firm, address, and telephone and number of attorney submitting this fast tract response:

Caleb Haskins, Respondent in proper person
340 N. 16th Lane, Philomath, Oregon 97370
(775) 445-0488

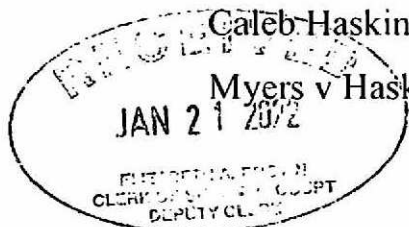
3. Name, law firm, address and telephone number of appellate counsel if different from trial counsel.

Respondent is in Proper Person

4. Proceedings raising same issues. List the case name and docket number of all appeals or original proceedings presently pending before this court, of which you are aware, which raise the same issues raised in this appeal:

Caleb Haskins v Lisa Myers D-10-434495-D

Myers v Haskins Nevada Supreme Court Case No. 65518



22-02217

Myers v Haskins Nevada Supreme Court Case No. 62330
Myers v Haskins Nevada Supreme Court Case No. 61664
Myers v Haskins Nevada Supreme Court Case No. 61046
Myers v Haskins Nevada Supreme Court Case No. 60690
Myers v Haskins Nevada Supreme Court Case No. 59916
Myers v Haskins Nevada Supreme Court Case No. 59626
Myers v Haskins Nevada Supreme Court Case No. 58581
Myers v Haskins Nevada Supreme Court Case No. 58306
Myers v Haskins Nevada Supreme Court Case No. 57825
Myers v Haskins Nevada Supreme Court Case No. 57621

5. Procedural history. Briefly describe the procedural history of the case only if dissatisfied with the history set forth in the fast-track statement:

Respondent agrees with the majority of the Appellant's procedural history with the following exception and/or omissions:

On February 27, 2014, the parties were before the Court for an Evidentiary Hearing for Respondent's request to relocate with the parties' daughter, Sydney to the State of Oregon. At the conclusion of this hearing the Court issued an order that included findings of facts and conclusions of law supporting their decision granting the Respondent's relocation request. The order from this hearing was filed by the Court on March 18, 2014 and omitted by the Appellant.

6. Statement of facts. Briefly set forth the fact's material to the issues on appeal only if dissatisfied with the statement set forth in the fast track statement (provide citations for every assertion of fact to the appendix, if any, or to the rough draft transcript):

Respondent agrees that this case is lengthy and the bulk of her appeals pre-date the parties' divorce but demonstrates a clear pattern of her unwillingness to accept the orders of the District Court. Despite this unwillingness the District Court allotted Appellant ample opportunity to prove her allegations by way of discovery.

Appellant failed to provide the Court with any evidence of domestic violence and/or neglect of the parties' daughter, Sydney. In fact, Respondent provided ample evidence that there was no domestic violence in his home, provided extensive medical records and a very detailed CPS Report stating that they found all allegations of abuse were unsubstantiated. [Appellant's Appendix Volume II pp MEY000189 – MEY000270]

Respondent does not believe Appellant provided any evidence that a prima facia case existed requiring an Evidentiary Hearing.

7. Issues on appeal State concisely your response to the principal issue(s) in this appeal:

The issue on appeal is whether the District Court Judge erred in its denial of an Evidentiary Hearing by Appellant regarding a request to modify custody of the parties' daughter, Sydney.

8. Legal argument, including authorities:

The Standard

Pursuant to Rooney v Rooney, 109 Nev. 540 (1993), the Nevada Supreme Court held that the district court has discretion to deny a request to modify custody without holding a hearing unless the moving party demonstrates “adequate cause” for holding the hearing. *Id.* at 124. Adequate cause that warrants a hearing for a motion to modify custody requires something more than allegations, which if proven, might permit inferences sufficient to establish grounds for a change in custody; it arises when a moving party establishes a prima facie case for modification, showing the facts alleged in the Affidavit are relevant to grounds for modification and that the evidence is not merely cumulative or impeaching. *Id.* at 125; NRS 125.51.

In the instant case Respondent submits that adequate cause does not exist, and that the trial court did not err in denying the Appellant’s request for an Evidentiary Hearing.

First and foremost, Respondent would inform this Court that these proceedings were brought about as a result of Appellant refusing to return the parties daughter after her 2020 summer visitation. Appellant told Respondent that Sydney confided in her that she did not want to return home because he and the stepmom were drinking and fighting constantly and did not feel safe at Respondent’s home and

that when she attempted to place Sydney on the flight home that she had a panic attack prompting Appellant to record the incident and keep the minor child.

Appellant also alleged that Sydney's grandmother told her that the minor child appeared to be in physical pain with eating stating that Sydney is suffering from lack of dental treatment and in need of braces. The truth of the matter is Appellant has severe mental health issues; these issues include pathogenic behaviors like lying, manipulating others or manufacturing evidence through manipulation. All of these issues were addressed in her eldest son's case by way of testimony from Dr. Paglini. The trial court heard testimony at the time of the parties' divorce but stated that the testimony was credible it was also stale.

The trial court Judge took Appellant's allegations seriously and opened discovery to allow both parties to provide evidence to prove or disapprove the allegations. Respondent provided a very detailed Children Protective Services (CPS) addressing the bulk of Appellant's allegations. The CPS Worker's report noted that there was a welfare check through the Police Department on November 3, 2021. The officer instructed that he did not find any clear and/or immediate danger as alleged by the Appellant and that she should evaluate the family to be safe. The CPS Worker ultimately closed the case unsubstantiated. [Appellant Appendix Vol II pp Mey000189 – Mey000210]

Respondent's discovery responses addressed and disapproved all the Appellant's allegations and that is the reason the trial Court's decision should be upheld.

9, Preservation of issues. Stat concisely your response to appellant's position concerning the preservation of issues on appeal:

This is not a that present any substantial issues that would require preservation.

VERIFICATION

1. I hereby certify that this fast track response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

This fast track response has been prepared in a proportionally spaced type face using Microsoft Office 365 2019 in in size 14 Times New Roman.

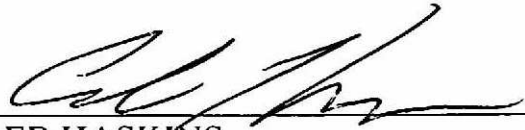
2. I further certify that this fast track complies with the page- or type-volume limitations of NRAP 3C(h)(2) because it is either:

Proportionately spaced, has a typeface of 14 points or more and contains 1173 words; or

3. Finally I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track response and that the Supreme Court of Nevada may

sanction an attorney for failing to file a timely fast track response, or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge and belief.

Dated this 3rd day of January 2022.

A handwritten signature in black ink, appearing to read 'Caleb Haskins', written over a horizontal line.

CALEB HASKINS
Respondent in Proper Person

CERTIFICATE OF SERVICE

I certify that on the 3rd day of January 2022, I served a copy of this Fast Track Response Statement to Appellant's counsel, Patricia Marr by mailing it first class mail with sufficient postage prepaid to the following address:

Patricia A. Marr, Esq.
Patricia A. Marr, LLC
2470 St. Rose Parkway, Ste. 110
Henderson, Nevada 89074


CALEB HASKINS