



THE FAMILY COURT OF THE STATE OF DELAWARE

J----- C-----, Petitioner,)	FILE NO.: CN13-06182
)	
)	
vs.)	CPI NO.: 22-03168
)	Trial Date: July 28, 2022
D---- P----- --, Respondent.)	Date of Decision: August 11, 2022
)	

PETITION RULE TO SHOW CAUSE ORDER

Before the Court is a Petition-Rule to Show Cause filed by J----- C----- (“Mother”), self-represented, against D---- P----- -- (“Father”), represented by James Edwards, Esq. This Petition is in regard to the parties minor child, -- -----, born --- --, ---- (“Child”).

Procedural History

By Default Order on April 1, 2014, the Court granted Father sole legal custody and primary residence of Child. By Order dated January 13, 2020, this Court modified the parties’ arrangement, granting joint legal custody to Mother and Father, primary residence with Father, and gradually increasing visitation with Mother. On February 11, 2022, Mother filed her Petition – Rule to Show Cause. Mother alleges that Father violates her parental rights by not responding to inquiries or requests regarding Child’s school progress, after school care, medical treatment, school activities, school conferences, religious events, or other activities that Child participates. Father also allegedly ignores Mother’s request to speak with Child on the phone. Trial was scheduled for July 28, 2022. Mother, Father, and Father’s counsel participated. The Court took testimony from Mother and Father.

Discussion

The purpose of a Petition RTSC seeking to hold someone in civil Contempt of Court is to enforce compliance with the court's order. The standard for a Petition RTSC is well-established in this Court. “In order to find someone in civil contempt of the Court's Order the Court must first

find by clear and convincing evidence that a violation of its Order has taken place.”¹ Specifically, the Court must find that 1) a valid mandate, judgment or order exists; 2) the alleged violator had the ability to abide by the valid mandate, judgment or order; and 3) the alleged violator disobeyed the valid mandate, judgment or order.² The failure to obey the Court’s Order must not be a mere technicality but must be done in a “meaningful way.”³ Since the purpose of levying a civil contempt fine is to coerce compliance with a Court Order, subsequent compliance with the Order may purge the finding of civil contempt.⁴

The parties share joint legal custody, pursuant to this Court’s Order of January 13, 2020. Further applicable to the parties is 13 *Del. C.* § 727(a) which provides:

Whether the parents have joint legal custody or 1 parent has sole legal custody of a child, each parent has the right to receive, on request, from the other parent, whenever practicable in advance, all material information concerning the child’s progress in school, medical treatment, significant developments in the child’s life, and school activities and conferences, special religious events and other activities in which parents may wish to participate and each parent and child has a right to reasonable access to the other by telephone or mail.

At trial, Mother detailed several purported violations of her rights by Father.

First, Mother has requested information about Child’s counseling from Father. Mother explained that she was initially ignored, but then Father eventually responded and provided the names and the office name of Child’s counselor. Mother then asked Father for the phone or email of Child’s counselors, to which Father responded, “Google it.”⁵ Mother has also inquired into who prescribes Child’s ADHD medications, to which Father did not respond and instead only said, “Tell me who?”⁶ Mother testified that she has attempted to contact Child’s doctors, but that they refused to provide her information as they needed Father’s permission. Mother testified that she still does not know who prescribed Child’s ADHD medication. Father explained he did not provide Child’s counselors contact information because he figured that Mother could find it herself. Father

¹ *J.T.D. v. B.N.D.*, No. CN07-04006, 2010 WL 2708610, at *4 (Del. Fam. Ct. May 5, 2010) (citing *Feliciano v. Colon*, 697 F. Supp. 26, 34 (D.P.R. 1987)).

² *See Watson v. Givens*, 758 A.2d 510, 512 (Del. Fam. Ct. 1999).

³ *J.T.D. v. B.N.D.*, 2010 WL 2708610 at *4.

⁴ *DiSabatino v. Salicete*, 671 A.2d 1344, 1350 (Del. 1996) (citing *Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 829 (1994)).

⁵ Respondent’s Exhibit #3.

⁶ *Id.*

also claims he is not allowed to use his phone at work and was not able to provide the information for that reason as well. Further, Father testified that Child has seen the same doctor since infancy, Dr. ----. Father also claims to have told Child's doctor office that Mother has permission to receive records and that no one has reached out to him seeking his permission for Mother to see the records. Father also testified that Child's doctors have been divulged previously in prior court proceedings.

Mother explained that there have been several incidents at Child's school, and when she asked Father for details about it, Father has told her he has no details. Mother had been having difficulty receiving information from Child's school, but recently that has changed, and she has been receiving information from the school. In May 2022, there was an incident on the school bus involving Child, which Mother inquired about from Father. Text messages indicate Father's initial refusal to answer Mother, stating that Mother was already told by the school, but later explaining the situation.⁷ Father explained that he has provided Mother with the information that he has, which the school gives him. Father testified that he does not have additional information about those incidents, other than what he has told Mother. Mother continued to inquire into the situation resulting in Father providing the name of the bus company associated with incident, but no contact information. Father instead told her to Google the bus company

Mother also testified that Father would not let Child attend a funeral for a family member. According to Mother, Father would not permit Child to attend because he had been suspended from school. Father further testified that he did not allow Child to attend that memorial because Child himself did not want to attend and Father had concerns about a pending Division of Family Services Investigation and Protection from Abuse involving Mother and her brother.

Child actively participates in football and Mother testified that Father has not provided her information about Child's practice and game schedules so that she could attend. Mother contends that she has not been allowed to attend Child's activities when it is Father's weekends, but that Father attends all games, even on her weekends. Mother provided text messages between August 31, 2019 and October 1, 2019 demonstrating Father not responding to Mother's inquiries at all about Child's football practices, as well as who Child's teacher was for the year.⁸ When asked if he ever responded to those messages, Father could not recall responding. Father also provided text

⁷ Respondent's Exhibits #2 and #4.

⁸ Petitioner's Exhibit #1.

messages indicating that he responded to Mother's continued inquiries on October 28, 2019.⁹ Father testified that Child's football program has a website, in addition to a Facebook page, that Mother can see the schedules on. Further, Father believes Mother was told to give Child's coach her contact information. Father also contends that practices and games take place at the same location every time. Mother testified that she does not have access to Child's football schedule on Facebook and Child's program has not asked her for her contact information.

Father testified to a conversation between Mother and Father from June 2020 about possibly taking Child off of his ADHD medications during the summertime. Father indicated that he did not want to do so, as Child was supposed to attend a summer camp. Mother had inquired into what camp, to which Father claimed Mother had already been told as it was divulged in past court proceedings. Mother then asked him to let her know when he makes decisions for Child, to which Father said it did not impact her time with Child.

Father believes that Mother can do independent research into her inquiries and therefore he does not have to give her the information when she asks him. Although, yes, Mother likely could Google some of this information or make calls elsewhere, the statute does not state that parents must make independent efforts to seek material information about their child before talking to the other parent. The mere fact that Mother could locate information independently, does not remove or otherwise cancel out Mother's right to the information directly from Father.

The Court is well aware of Father's history of efforts to not provide Mother with the information she is entitled to and to place obstacles in her ability to obtain such. Regarding Child's medically related information and Child's extracurriculars, Father could have provided the information that has been requested over the years, but intentionally has not. Father seems to hold the belief that Mother has the burden to exhaust all other avenues to get the information she wants before bothering him with her inquiries. But the statute is clear, Mother has the right to the material information about Child, upon request, "*from the other parent*"¹⁰ with no additional caveats, not even one requiring that Mother's requests be reasonable.

Mother testified that she has asked Father not to provide Child with communications to be provided to Mother. Mother believes the parties should be able to communicate directly, rather than through their Child. Father conveniently could not remember how often or what exactly those

⁹ Respondent's Exhibit #1.

¹⁰ See 13 Del. C. § 727(a) (emphasis added).

communications were about. Father could only recall communicating with Mother once through Child. Father did not believe the communication was of an adult nature, but that Mother did, which was why Father believed Mother believed it was a problem.

Father provided Child a cell phone for his birthday. Father contends the phone is only for emergencies and for those who are able to pick Child up from school. However, Father also permitted Child to give the number to three of his friends, because he would have the phone during the school day for use. Father has refused to provide the number to Mother and, according to Mother, Father has instructed Child not to give Mother the number. Mother has the right to reasonable access to Child by phone, something made significantly easier by Child having his own phone. Further, if the phone is for emergencies only, then Mother, who has joint legal custody of Child and is entitled to material information about Child, which in this Court's opinion would include Child's contact information, should be entitled to access to that number.

Conclusion

The Court makes the following findings by clear and convincing evidence. The Court finds there is a valid Order that exists, that being the January 13, 2020 Order providing that the parties have joint legal custody. Further, 13 *Del. C.* § 727(a) is applicable. Further, the Court finds that the alleged violator, here being Father, had the ability to abide by that Order and statutory right. Finally, the Court finds that Father did violate or otherwise disobey the Order by failing to provide known information to Mother upon her request, and by preventing Mother from having reasonable access to Child, by refusing to provide Child's direct contact information.

ACCORDINGLY, IT IS HEREBY ORDERED AS FOLLOWS:

1. D---- P----- --- is hereby held in civil Contempt of Court.
2. In order to purge this contempt, Father shall provide to Mother with all material information upon his receipt of Mother's request. Father shall also allow Mother access to communicate with Child.
3. Father shall communicate directly with Mother and not through Child.

IT IS SO ORDERED.

Date Written Order Issued
August 11, 2022

/ Robert Burton Coonin /
ROBERT BURTON COONIN, JUDGE