

02/21/2002

CLERK OF THE COURT  
FORM D000C

HON. DAVID K. UDALL

J. Neumann  
Deputy

DR 2000-090543

IN RE THE MARRIAGE OF  
WALTER J BURIEN

FILED: \_\_\_\_\_

DEEAN GILLESPIE

AND

DEBBIE C BURIEN

BARBARA L FUQUA

MINUTE ENTRY

8:45 a.m. This is the time set for Temporary Orders. Petitioner/Father is present and represented by counsel, Deean Gillespie. Respondent/Mother is present and represented by counsel, Barbara L. Fuqua.

Court Reporter, Sharon Palmer, is present.

Walter J. Burien and Debbie C. Burien are sworn.

The Rule of Exclusion of Witness is invoked by Petitioner's counsel and the following persons are sworn:

Darlene Fuller  
Stephen E. Porak

Henry Higuera  
Don M. Wisdom

Don M. Wisdom, having previously been sworn, testifies.

The witness steps down and is excused.

Stephen E. Porak, having previously been sworn, testifies.

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Walter J. Burien, having previously been sworn, testifies.

Petitioner's Exhibit 1 is marked for identification and received in evidence.

The witness steps down.

Darlene Fuller, having previously been sworn, testifies.

The witness steps down.

Henry Higuera, having previously been sworn, testifies.

The witness steps down.

Debbie C. Burien, having previously been sworn, testifies.

10:57 a.m. Court stands at recess.

11:09 a.m. Court reconvenes with parties and respective counsel present.

Court Reporter, Sharon Palmer, is present.

Debbie C. Burien, having previously been sworn continues her testimony.

The witness steps down.

Father's counsel presents closing arguments.

Mother's counsel presents closing arguments.

IT IS ORDERED taking the issue of custody and parenting time under advisement.

11:37 a.m. Matter concludes.

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FILED: Exhibit Worksheet and Trial Worksheet.

LATER:

This matter was taken under advisement after an Evidentiary Hearing held on February 21, 2002. The Court has considered the evidence presented and the arguments of counsel. The Court makes the following findings and enters the following orders.

THE COURT FINDS there are two minor children common to Petitioner and Respondent, John Joseph (DOB: 7/8/99) and Gloria Louise (DOB: 7/11/00).

THE COURT FINDS that Judge Mundell, in February 2000, issued an order removing John Joseph from Mother's custody and granting Father physical custody of John Joseph.

THE COURT FINDS that John Joseph was hospitalized while in Mother's care for failure to thrive.

THE COURT FINDS that Gloria Louise was born several months after this order.

THE COURT FINDS that Gloria Louise has resided with Mother since she was born until the current date.

THE COURT FINDS that there are several unsubstantiated allegations leveled by each party against the other.

THE COURT FINDS that both children are currently thriving in their current environment; Gloria Louise with Mother and John Joseph with Father.

THE COURT FINDS that both parties have not cooperated and made it difficult for the other party to have parenting time with the child not in their custody.

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THE COURT FINDS that Father has had no parenting time with Gloria Louise for many months and that Mother has had no parenting time with John Joseph for many months.

THE COURT FINDS that Mother lives in Prescott and Father lives in Mesa.

THE COURT FINDS that both parents' living residence are suitable situations for the children to be in.

THE COURT FINDS that due to the young ages of the children that it would be detrimental for their development if they were to be ripped away from their current parent with whom they are residing.

THE COURT FINDS that it is in the best interest of the children to gradually reintroduce the children with the parent with whom they are not currently residing with.

THE COURT FINDS that it would be in the best interest of the children that the children have contact with one another.

THE COURT FINDS that each parent would like to have physical custody of both children with the other party having reasonable parenting time.

Based on the ages of the children, it is impossible to determine their desires with regard to the custody issue.

THE COURT FINDS that both children are fairly well adjusted to their current environment.

THE COURT FINDS that Mother has a limited hearing impairment and was a special education student in high school.

THE COURT FINDS that Mother has also become a certified nurses' assistant, and that her capabilities of parenting are adequate.

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THE COURT FINDS that Father has been the primary caregiver for John Joseph his entire life.

THE COURT FINDS that Mother has been the primary caregiver for Gloria Louise her entire life.

THE COURT FINDS that it is in the best interest of both children that they remain in their current situation; John Joseph with Father and Gloria Louise with Mother.

THE COURT FINDS that joint custody is appropriate and in the best interest of the children. Therefore,

IT IS ORDERED, pendente lite, that the parents be awarded joint custody of the children and that Father be designated as the primary residential parent of John Joseph and that Mother be designated the primary residential parent of Gloria Louise.

IT IS FURTHER ORDERED, pendente lite, unless the parties agree otherwise, Father shall have both children the first and third weekends of the month, and Mother shall have both children the second and fourth weekends of the month.

IT IS FURTHER ORDERED that the weekend parenting time shall commence at 9:00 a.m. on Saturdays and finish at 6:00 p.m. on Sundays.

IT IS FURTHER ORDERED that the cost of transportation shall be split equally amongst the parties, however, if Mother cannot afford the cost of gas to transport the children, from Prescott to Mesa, Father shall pay Mother \$50.00 per month for transportation cost.

IT IS FURTHER ORDERED that the party who will be receiving the children on a particular weekend shall be responsible for transportation of the children for that weekend.

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IT IS FURTHER ORDERED that in months where there is a fifth weekend in the month, there shall be no parenting time exchanges for that weekend.

With respect to the summer,

IT IS ORDERED each party shall be entitled to two weeks of uninterrupted parenting time with both children. Each parent shall give the other parent 30-days notice of the dates they intend to exercise their summer two-week parenting time.

IT IS FURTHER ORDERED that the children shall be with Father on Father's Day and Father's birthday each year and with Mother on Mother's Day and Mother's birthday each year. The other holidays and the children's birthdays shall be alternated or shared such that if the child is with one parent for a holiday on a given year, the child shall be with the other parent for the same holiday during the following year.

The Court makes the findings necessary pursuant Rule 58(d) the Arizona Rules of Civil Procedure.

The Court signs this minute entry as a formal written order of the Court.

/S/ HON. DAVID K. UDALL

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JUDICIAL OFFICER OF THE SUPERIOR COURT