

Juvenile and Domestic Relations District Court
Commonwealth of Virginia

Re: Custody of Minor Child, Joey Dean Webb III

Case No: JJ015212-07-00 JJ015212-08-00

Petitioner: Sheila Barrett

MOTION TO VACATE OR SET ASIDE THE EXISTING CUSTODY ORDER

COMES NOW Sheila Barrett, petitioner, pursuant to Rule 1:1 and Rule 3:8 of the Virginia Rules of Supreme Court Procedure, and respectfully moves this Honorable Court to vacate or set aside the custody order entered in the above-mentioned matter, and as grounds therefore states the following:

I. Due Process Violations

1. Petitioner was denied a formal custody hearing prior to the issuance of the current custody order. The order was based solely on negotiated terms presented by counsel, who failed to properly inform or advise the petitioner of the legal impact or permanence of said agreement.
2. The custody order was executed under conditions that lacked the procedural safeguards necessary to satisfy Due Process under the 14th Amendment of the U.S. Constitution and Article I, §11 of the Virginia Constitution.

II. Ineffective Assistance of Counsel

3. Petitioner's prior legal counsel failed to:

- Present exculpatory medical evidence (clean blood, hair follicle and urine drug tests);
- Challenge the legitimacy and chain of custody of a contested hair follicle

drug test on the Joey Webb III

- Object to a conflict of interest involving Guardian ad Litem Ed Stout;
- Introduce the position of the child's biological father, Joey Webb Jr., who, through his assigned GAL, Matthew Crum, expressed explicit support for the petitioner's continued custody of the minor child.

4. Counsel's failure to raise these issues substantially impacted the outcome of the case and deprived the petitioner of effective advocacy.

III. Suppression of Favorable Evidence

5. Petitioner passed a blood test, hair follicle and urine drug screening administered by the agency and third party testing, however, DSS failed to acknowledge or admit this evidence.

6. Petitioner has video documentation of a caseworker admitting she failed to show her test results, but was told to sign documents without being shown the results. This is clear evidence of procedural misconduct and suppression of favorable evidence in violation of Brady v. Maryland, 373 U.S. 83 (1963).

IV. Contaminated Hair Follicle & Refusal to Investigate Alternate Sources

7. DSS relied on a single hair follicle test while ignoring known contamination risk due to the child's proximity to drug-using individuals (including the biological mother).

8. Petitioner repeatedly requested the agency test the child's hairbrush and related items for surface contamination, and DSS refused to investigate, thus violating the standard of care and objectivity.

9. If DSS truly believed the child was at risk, it failed to follow through with immediate medical evaluation, which demonstrates that removal was motivated by bureaucratic assumption rather than genuine safety concern.

V. Conflict of Interest: GAL Representation

10. Guardian ad Litem Ed Stout simultaneously served as representative for the child while also allegedly acting in an advisory or legal capacity for Ms. Flores, the party now holding custody.

11. This dual role constitutes a conflict of interest, violates ethical standards governing GAL conduct, and renders any recommendation made by Mr. Stout legally invalid and ethically compromised.

VI. Biological Father's Testimony Was Ignored

12. The child's father, Joey Webb Jr., is currently incarcerated and represented by GAL Matthew Crum. Mr. Crum was prepared to submit a recommendation on behalf of Mr. Webb Jr. in support of

petitioner Sheila Barrett retaining custody of the child.

13. This critical position was entirely ignored by the court and prior counsel, denying petitioner a full and accurate evaluation of family testimony and rights.

14. Mr. Webb Jr. is also a U.S. Air Force veteran, and the Court failed to give due regard to his judgment as a father and servicemember.

VII. Ongoing Denial of Discovery

15. Petitioner and her representative have submitted three (3) formal requests for discovery of all evidence, reports, test results, and communications relied upon in this case.

16. To date, the agency and opposing party have failed or refused to produce discovery, in violation of Rule 4:1 of the Virginia Supreme Court Rules and the petitioner's right to review evidence used against her.

17. The refusal to provide discovery, combined with documented suppression and ethical violations, further supports the need to set aside the order in question.

VIII. Abuse of Authority Under Color of Law

18. The Washington County Sheriff's Department formally closed the investigation, yet DSS proceeded as if criminal findings remained active.

19. Continued action and custody interference based on dismissed allegations constitutes abuse of authority under color of law, violating petitioner's civil rights under 42 U.S.C. §1983.

WHEREFORE, the Petitioner respectfully requests the following relief:

1. That this Honorable Court vacate or set aside the existing custody order entered without a formal hearing and based on misrepresentation, omitted evidence, ineffective assistance of counsel, apparent conflicts of interest, and violations of due process.
2. That the Court immediately reinstate the custodial rights of the Petitioner in the interest of justice and the best interest of the minor child.
3. That the Court schedule an expedited hearing to review all relevant facts, evidence, and testimony concerning the child's welfare, the prior proceedings, and any conflict of interest, misconduct, or color of law violations.
4. That the Court compel immediate production of all outstanding discovery.
5. That the Court grant such other and further relief as it deems just and proper and necessary to protect the constitutional rights of the Petitioner and the well-being of the minor child.

Respectfully submitted,

Sheila Barrett

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