

STATE OF INDIANA)
) SS:
COUNTY OF RIPLEY)

IN THE RIPLEY CIRCUIT COURT
CAUSE NO.69C01-0701-DR-007

IN RE THE MARRIAGE OF:)
)
MELISSA BREWINGTON,)
 Petitioner,)
)
and)
)
DANIEL BREWINGTON,)
 Respondent.)

FILED

MAR 11 2010

Mary Ann McCoy
RIPLEY COUNTY COURTS

RESPONDENT'S MOTION FOR RELIEF FROM STAY AND REQUEST FOR APPROVAL OF DR. HENRY WAITE AS MENTAL HEALTH CARE PROVIDER

COMES NOW, the Respondent, Daniel Brewington (hereinafter "Respondent"), by counsel, and for his Motion for Relief from Stay states as follows:

1. On August 18, 2009 the Court entered its Judgment and Final Order on Decree of Dissolution of Marriage (hereinafter "Judgment").
2. The Judgment in part stated that "Respondent shall not be entitled to visitation until he undergoes a mental health evaluation with a Mental Health Care Provider approved by the Court. The purpose of this evaluation is to determine if he is possibly a danger to the children, Wife and/or to himself. Further, Husband shall follow all recommendations made by the Mental Health Care Provider".
3. On September 14, 2009 the Respondent filed his notice of Appeal and the Ripley County Clerk of Courts filed a Notice of Completion of Clerk's record.
4. On January 19, 2010 Respondent filed Pro Se a Motion to Release the Custody Evaluation Case File from Connor and Associates to Dr. Henry Waite, MD.

5. On January 28, 2009 the Court entered an Order Denying Motion to Release the Custody Evaluation Case File From Connor and Associates to Dr. Henry Waite, MD (hereinafter "Denial Order").

6. The Court's Denial Order stated in part that "pursuant to Indiana Appellate Rule 9, the Court of Appeals has acquired jurisdiction in this matter. For this Court to schedule a hearing or consider Respondent's pro-se Motion to Release Custody Evaluation Case File From Connor and Associates to Dr. Henry Waite, MD, Respondent should obtain permission from the Court of Appeals or otherwise show authority to this Court that it retains jurisdiction to hear this matter pending outcome of the appeal.

7. The purpose of Respondent's pro-se Motion was an attempt to comply with the Court's Judgment requiring him to undergo an evaluation prior to his ability to participate in parenting time with his minor children.

8. Pursuant to Indiana Appellate Rule 39 "an appeal does not stay the effect or enforceability of a judgment or order of a trial court or Administrative Agency unless the trial court, Administrative Agency or Court on Appeal otherwise orders".

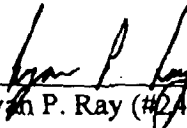
9. Respondent is requesting the trial court enforce the Judgment it has entered by approving Dr. Henry Waite MD as a Mental Health Care Provider, and order the release of the records pertinent to allowing him complete the evaluation that has been ordered by the Court. The qualifications of Dr. Henry Waite as a Mental Health Care Provider have been previously provided in Respondent's Pro Se a Motion to Release the Custody Evaluation Case File from Connor and Associates to Dr. Henry Waite, MD.

10. There is no prejudice against either party in not staying the enforcement of this portion of the Judgment pending the outcome of the appeal as the parental visitation rights of the

Respondent cannot be lessened to any extent than they already are. On the other hand, by delaying the enforcement of this order the best interests of the minor children will not be served in that they will be losing parenting time with a parent that either was improperly found to be dangerous to their welfare, or may be rehabilitated to no longer be dangerous to their welfare.

WHEREFORE, Respondent, Daniel Brewington, respectfully requests that the Court enforce its Judgment and Final Order on Decree of Dissolution of Marriage in regards to Respondent's parenting, approve Dr. Henry Waite as a Mental Health Care Provider, Order the release of the custody evaluation to Dr. Henry Waite for the purpose of conducting such an evaluation, and for all other just and proper relief under the premises.

Respectfully Submitted,

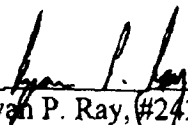


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served by US Mail, postage prepaid, this _____ day of _____, 2010, upon the following:

Angela Loechel,
310 West High Street
Lawrenceburg, Indiana 47025



Ryan P. Ray, #24358-49
Attorney at Law