

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF CAYUGA

-----x

LERoy LEUBNER, JR., : Index No. V0410/

Petitioner, : 0412-96

-against- :

MICHELLE DAVIS, : Violation of

Respondent. : Visitation

-----x

Cayuga County Courthouse
Auburn, New York

August 18, 1998

B e f o r e :

HON. PETER E. CORNING,

Justice

Lisa M. Giacona
RPR, RMR, CSR

1

THE COURT: Okay. This is Michelle Davis?

2

3

MS. DAVIS: Yes, sir.

4

THE COURT: Which one?

5

MS. DAVIS: I am.

6

THE COURT: Okay.

7

And this is Leroy Leubner?

8

MR. LEUBNER: Yes, it is, sir.

9

THE COURT: And this is?

10

MS. PARSONS: Sheryl Parsons.

11

THE COURT: There was an order granting

12

visitation to -- well, it was kind of liberal so

13

it wasn't set forth and he claims he's not

14

having visitation with his two older children.

15

Now how many children are there, Leroy?

16

MR. LEUBNER: There are three children.

17

Melissa who is right there, 14.

18

THE COURT: This is Melissa?

19

MR. LEUBNER: Okay.

20

THE COURT: How old are you, Melissa?

21

MELISSA LEUBNER: I'm 14.

22

THE COURT: Okay.

23

MR. LEUBNER: Daniel who is 12.

24

THE COURT: Um hum.

25

MR. LEUBNER: And Kimberly who is eight.

1

2

THE COURT: But you've been visiting with Kimberly?

3

4

MR. LEUBNER: Yes, quite regularly, yes.

5

THE COURT: Okay. Good.

6

Well, this is Melissa?

7

MS. DAVIS: Yes.

8

THE COURT: It would be up -- pretty much at 14 and 12 they would be making these decisions, Roy.

9

10

What's the story?

11

12

MELISSA LEUBNER: Well, I used to visit him regularly but I have a problem with his girlfriend. She and I do not get along. They are constantly telling me that I need to have more friends, analyzing me and I don't feel comfortable there. We get in fights constantly.

13

14

15

16

17

THE COURT: How about David?

18

MS. DAVIS: Daniel?

19

THE COURT: Daniel.

20

21

MS. DAVIS: My son Daniel is 12. He is autistic, Your Honor. I'm not sure if you're familiar with autism. It's a condition which they are withdrawn into themselves.

22

23

24

When Leroy does come down to pick up

25

1
2 Kimberly I always have Daniel there. Daniel
3 always goes to his father and says, no, no,
4 thank you. I bring him out to give him a hug or
5 a handshake, and Leroy always tells Daniel, it's
6 okay, you don't have to go because, Your Honor,
7 to be honest, be physically picking up this 150
8 pound child and forcing him into the situation
9 and he's autistic, Your Honor. I can't, I can't
10 do it.

11 THE COURT: Sure.

12 MR. LEUBNER: Sir, I'm here because there
13 are problems, obvious problems here. I would
14 like to have somebody mediate. This situation,
15 I want to fix this problem.

16 I don't want to make my kids come visit me
17 just for the sake of visitation. I want to have
18 input into their lives. I want to take my place
19 as their father as I should be.

20 Been over a year since Melissa and Daniel
21 have visited. I talked to having counseling,
22 talked to Michelle about counseling or some
23 other kinds of intervention. She's refused.
24 This is the way she likes it, just like this.

25 MS. DAVIS: He has mentioned counseling

1

2

once to me a year ago. In fact, Your Honor, the last year picking up Kimberly he's supposed to give one week's notice of visitation. I've been liberal. I've been letting him call a week, the next day. I don't mind but pick her up from the school. He hasn't even come to the house.

3

4

5

6

7

8

THE COURT: Let me ask you a question here.

9

10

MS. DAVIS: Um hum.

11

12

THE COURT: What I hear is this: I hear that Melissa and Daniel at this point in time don't want to visit.

13

14

MS. DAVIS: Um hum.

15

16

THE COURT: Now dad says, well, I understand that, and I think he's using good judgment not trying to force the issue.

17

18

MS. DAVIS: Um hum.

19

20

THE COURT: But what he is saying is, is there some way that we can rectify this situation? Is there something that I can do that would make Melissa or Daniel want to visit with me?

21

22

23

24

MELISSA LEUBNER: No, 'cuz I've given him two, three chances and every time I go over

25

1

2

there he'll say, okay, I won't mention the fight, we'll just have, we'll be fine; and he always breaks those promises and I'm just sick of giving him more chances.

3

4

5

6

THE COURT: So that's what I'm hearing, those three things.

7

8

9

10

Now given that, counseling, very frankly, Roy, is, it's as good as the intent of the people that, that want to engage in it.

11

12

13

14

15

16

17

You know, I -- people always come to me and say, send somebody for help. Well, when I send them up to Mental Health they say, did the Judge send you; and they say, yes. They say, sit in the hall for an hour and tell them you are here and then get out of here because we're not going to treat you.

18

19

20

I don't know how to handle that. I mean, I've got a 14 year old girl here who is, who is pretty adamant she doesn't want this.

21

22

MR. LEUBNER: I understand, but her grades have been suffering lately.

23

24

MS. DAVIS: The last two semesters, Your Honor. Eighth grade --

25

MR. LEUBNER: Her mother allowed her to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

spend a week in Canada, people she met.

THE COURT: I don't care.

MS. DAVIS: Family friends.

THE COURT: That's not the issue here.

The issue is she doesn't want to visit you, which is a very abnormal thing for a 14 year old girl and her father.

MS. PARSONS: Your Honor, since I was mentioned may I have a minute to speak to what was said --

THE COURT: Yep.

MS. PARSONS: -- really?

THE COURT: Doesn't make any difference what was said. It's what she heard. You know what I'm saying? This is the, where -- go ahead.

MS. PARSONS: I realize --

THE COURT: Don't defend yourself. You don't have to defend yourself to me.

MS. PARSONS: No, I'm not defending myself, Your Honor.

THE COURT: You don't have to.

MS. PARSONS: It's, it's a situation that has been -- I mean, the children were told that

1

2

they did not have to talk to me, respect me, I had nothing to do with their life. This is what they were told before they ever walked in the door and met me.

3

4

5

6

THE COURT: Well, that's true.

7

8

MS. PARSONS: That is abnormal, Your Honor.

9

THE COURT: There's something to that.

10

MS. PARSONS: Very abnormal.

11

THE COURT: You're not their mother.

12

13

MS. PARSONS: But, you know, Your Honor, you don't -- if someone could see the situation, if someone would investigate us and their situation and the lifestyle, that is what he's asking. This man cries constantly --

14

15

16

17

THE COURT: Well, then that's --

18

19

MS. PARSONS: -- about seeing his children. I've never met anyone --

20

21

22

23

24

25

THE COURT: Well, then I would suggest this: I would suggest that you find -- go to Cayuga Family Center, find, find a counselor. You start it between you and the counselor and then maybe the counselor can talk to Melissa and then Melissa can talk to the counselor and she

1

2

can express to the counselor how she feels and then the counselor may be able to work something out and maybe she won't.

3

4

5

If Melissa is adamant, that's the way it's going to be.

6

7

MS. DAVIS: Your Honor, my lifestyle, I am a married woman. I have support groups for my autistic son. I am involved in his education with his teachers.

8

9

10

11

Melissa is a wonderful girl.

12

THE COURT: I'm not -- yes, I know she is.

13

MS. DAVIS: We have no problems here.

14

THE COURT: I'm not being critical here.

15

I'm just saying you're facing a reality here.

16

17

My suggestion to you is -- I'm not going to enforce visitation, Roy. My suggestion to you is that if you feel that an intermediary would be appropriate, that you should go to that intermediary. I'm not going to direct them to appear some place. You go start talking to that counselor. Tell them your problems. Let the counselor then contact mother, contact Melissa.

18

19

20

21

22

23

24

25

She seems reasonable. I think she'd talk to a third person. She's very readily talking

1

2

to me so she'll talk to a counselor. She
doesn't want to talk to you and she doesn't want
to talk to --

4

5

MS. PARSONS: Sheryl.

6

THE COURT: -- Sheryl.

7

Okay.

8

MS. DAVIS: Thank you, sir.

9

10

THE COURT: Okay, but do that and maybe
you'll, maybe you'll get some insight into the
thing.

11

12

* * * *

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2 REPORTER'S CERTIFICATION
3
4

5 I, Lisa M. Giacona, do hereby certify that I am an
6 Official Court Reporter of the County Court at Auburn, New
7 York, duly appointed.

8 That I reported in stenotype shorthand the Violation
9 of Visitation had before the HON. PETER E. CORNING, Family
10 Court Judge, on the 18th day of August, 1998, in the matter
11 of LEROY LEUBNER, JR., PETITIONER, vs. MICHELLE DAVIS,
12 RESPONDENT; and

13 That the transcript herewith numbered pages 1 through 10
14 is a true, accurate and correct transcript of those
15 stenotype shorthand notes.

16
17
18 DATED AT: Auburn, New York

19 this *28th* day of *March*, 2000
20

21
22 *Lisa M. Giacona*
23
24
25