

2005

Liza J. Smith v. Earl Smith : Brief of Appellant

Utah Court of Appeals

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Earl Smith

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Pro Se

IN THE THIRD JUDICIAL DISTRICT COURT

IN SALT LAKE COUNTY, UTAH

Liza J Smith,

APPELLANT'S BRIEF

Petitioner, Appellee

*

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vs.

*

*

Trial Court No. 200502271

Earl Smith,

*

Respondent, Appellant

*

Appellate No. 20050783

Earl Smith

Pro Se

IN THE THIRD JUDICIAL DISTRICT COURT

IN SALT LAKE COUNTY, STATE OF UTAH

Liza J Smith,

* APPELLANT'S BRIEF

Petitioner, Appellee

*
*

vs.

*

* Trial Court No. 024902271

Earl Smith,

*

Respondent, Appellant

* Appellate No. 20050783

This Appeal is based upon a decision from the District Court regarding parent-time with my children.

For some reason the Judge Kennedy and Commissioner Arnett Jr. seem to think that I intend to hurt my children physically, emotionally and or mentally based upon “hearsay” from their mother. And now the Guardian ad Litem is in agreement with her and they have restricted contact with my children to a maximum of four (4) hours per week total, they must be supervised.

The furthest thing from my mind is to harm my children in any way, and only allowing four (4) hour visits per week is doing just that. My son is playing basketball and I can’t go watch because of a “restraining order” by my ex-wife.

The reason that all of this came to be, is because my oldest daughter got married earlier this year and my youngest daughter was in the wedding. I took my girlfriend with me to the wedding and when my ex-wife found out that she was there, in the middle of the ceremony PULLED our youngest daughter out of the wedding, made a scene in front of everyone there and then left. My oldest daughter continued on with the ceremony but the joyous time that the wedding should have been was ruined and very uncomfortable for all involved.

So who is the one that is really abusing the children?! Who is the one that is denying me access to my children with lies of harassment, false threats. There is a lot that my children and I have been through in the past few years and all that we are trying to do is heal from the pain and become closer but now the District Court is making even the healing process worse for all of us.

The Law and Motion Hearing held on 2005-08-24, was the first of many errors that the Court has made. In the beginning Judge Kennedy had granted me unsupervised parent-time with my children, then Mr. Peterson spoke with one of the children and from there things went down hill for me and my children. Everything that was proffered to the Court by Mr. Peterson was the doing of my ex-wife. You tell me that I can not speak ill of my ex-wife in the presence of the children, but it is okay for her to do it, I have heard in the past say things about me with the children there and nothing ever happened to her, so why is it different for me? Is it because I am a man, their father?!

There are good fathers in this world, but with the justice system the way that it is, no one is willing to see it. The Courts just want to be what the women have to say and that is all, where is the justice in that. I am guaranteed my day in Court as a Constitutional right, but I have yet to

have that day. No one wants to listen to what I have to say. It is as if the Court has already made up it's mind before the hearing and no matter what is said or done by me, there is no changing their mind.

The of the Order to Show Cause held on 2005-10-27 heard by Commissioner Arnett Jr., he granted a "Restraining Order" that had no real merit, but because the woman wanted it, it was granted, due to the fact that I was calling her home all the time, trying to speak with my children and she said that I was harassing her and threatening her, which is far from the truth. To top that the Commissioner then added that if I violated any portion of that Restraining Order my parental rights would be terminated. Right there, once again, who is the one hurting my children?! Not me!

UCA 78-3a-402(2) wherever possible family life should be strengthened and preserved,...

UCA 78-3a-408(4)(c) a single incident [that is] life-threatening.....

So in conclusion, I just want to have my parent-time with my children in accordance to UCA 30-3-35 unsupervised. And have the Court listen to what I have to say.

3RD DISTRICT COURT - SALT LAKE COURT
SALT LAKE COUNTY, STATE OF UTAH

LIZA J SMITH,	:	MINUTES
Petitioner,	:	ORDER TO SHOW CAUSE
	:	
	:	
vs.	:	Case No: 024902271 DA
	:	
EARL SMITH,	:	
	:	Commissioner: THOMAS N ARNETT
	:	JR
Respondent.	:	Date: October 27, 2005

Clerk: heatherc

PRESENT

Petitioner(s): LIZA J SMITH
Other Parties: KELLY M PETERSON
Respondent(s): EARL SMITH
Audio

Tape Number: CD 14-05 Tape Count: 10:3-11:58

HEARING

TAPE: CD 14-05 COUNT: 10:3-11:58

On Record

TIME: 10:3:01 This matter is before the court regarding
Petitioner's Order to Show Cause.

TIME: 10:10:06 After argument, Commissioner recommends:

1. Respondent RESTRAINED from disparaging/derogatory remarks in presence of minor child(ren).
2. Respondent RESTRAINED from discussing case in presence of child(ren) and against involving child(ren) in ongoing disputes
3. If Respondent does not comply with Restraining Orders above, he will lose all rights to child(ren)
4. Respondent RESTRAINED from coming to Petitioner's home for any reason
5. Recommendations of GAL to apply as stated
Petitioner to prepare order.

TIME: 10:11:58 end record

3RD DISTRICT COURT - SALT LAKE COURT
SALT LAKE COUNTY, STATE OF UTAH

LIZA J SMITH, : MINUTES
Petitioner, : LAW AND MOTION
 :
 :
vs. : Case No: 024902271 DA
 :
EARL SMITH, : Judge: JOHN PAUL KENNEDY
Respondent. : Date: August 24, 2005

Clerk: melbar

PRESENT

Petitioner(s): LIZA J SMITH
Other Parties: KELLY M PETERSON
Respondent(s): EARL SMITH
Video
Tape Number: 12:09:18 Tape Count: 12:53:29

HEARING

TAPE: 12:09:18 On Record Before the Court is respondent's Motion for Writ of Assistance for visitation. The Court, after hearing from the Guardian Ad Litem, who is recommending supervised visitation for father visits, and from the parties, denies the motion.

The Court on recommendation of the Guardian Ad Litem, requests the parties to agree to visitation for the father. The father is to have visitation of not more than 4 hours per week total. The children are not to be put in difficult situations emotionally and/or physically. Unsupervised visitation may take place at an agreed place by the parties, or in the mother's home. Guardian Ad Litem proffers the testimony of one of the children to the Court. The Court orders the parents to take no retaliatory actions against the children.

The Court rescinds his earlier order and orders temporary supervised visitation for the father, through Will Win or Renaissance. The father is to pay the costs thereof. Mr. Peterson shall prepare the order.

Earl Smith

Pro Se

IN THE THIRD JUDICIAL DISTRICT COURT
IN SALT LAKE COUNTY, STATE OF UTAH

Liza J Smith,

Petitioner, Appellee

vs.

Earl Smith,

Respondent, Appellant

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CERTIFICATE OF

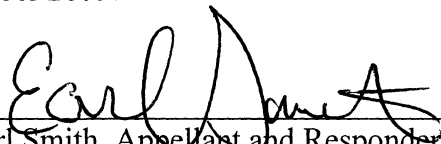
SERVICE

Trial Court No.

Appellate Court No.

Appellant, Earl Smith, certifies that a true and correct copy of the
foregoing Appellant's Brief was delivered.

DATED this 14 day of December 2005.



Earl Smith, Appellant and Respondent

3rd District Court-Trial Court
Kelly Peterson-Guardian ad Litem
Liza J Smith-Petitioner