



IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

WILLIAMS, LA'BERRICK D.

Plaintiff,

V.

(WILLIAMS), DESTINY L. PAYTON

Defendant.

CIVIL ACTION NO.

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO RETURN CHILD
AND MOTION FOR CONTEMPT**

COMES NOW the Defendant, Destiny L. Payton (Williams), by and through her attorney of record, Christen D. Butler, and files before the Court this, her Defendant's Response to Plaintiff's Motion to Return Child and Motion for Contempt, and in support thereof, sets out as follows:

1. That the Defendant agrees with the allegations contained in Paragraphs One and Two, but notes that this is an intentional bad faith framing of the facts by omission of key information. Defendant avers that the Plaintiff was arrested, and on January 21, 2025, a bond condition addendum was entered permitting the Plaintiff to contact the Defendant **only** for the purpose of custodial exchange.
2. That the Defendant did not receive a copy of the bond condition addendum until January 27th, 2025, by mail. That on January 28th, 2025, having been made aware of the bond condition addendum, Defendant's counsel immediately reached out to counsel for the Plaintiff to facilitate custodial exchanges under the conditions set forth in the bond condition addendum, to arrange make-up days for the Plaintiff, and further, to come to a mutual long term arrangement to minimize further conflict between the parties and the need for court intervention. That a copy of this request is attached hereto as Exhibit "A".

3. That the counsel for the Plaintiff failed to respond until after the Defendant's counsel sent a second request for an immediate conference on Monday, February 3rd, 2025, attached hereto as Exhibit "B".
4. That upon returning to the office on Tuesday, February 4th, Defendant's counsel noted an after-hours phone call was made to Defendant's counsel's office from the office of Plaintiff's counsel. Counsel for Defendant promptly returned the call and a 2:00 p.m. phone conference took place with Plaintiff's Counsel on Tuesday, February 4th, the same day.
5. Shortly after said phone conference, Plaintiff's counsel responded with an amended custodial exchange process, which required the Defendant's terminally ill elderly father to facilitate the exchange. Less than an hour after the initial phone conference and prior to the Defendant's counsel being able to respond to any resulting communication, Plaintiff's counsel filed their misleading and bad faith motion with the Court.
6. That upon best information and belief, Defendant avers an unreasonable offer, using her terminally ill elderly father as a pawn, was made to create further delay in an attempt to justify the Plaintiff's manipulated timeline of recent events.
7. That Plaintiff filed a bad faith motion alleging that the Defendant was willfully withholding the child despite, as shown in the attached Exhibits, being fully aware that Defendant and her counsel were actively attempting to seek a resolution to this issue and were offering make-up days. Plaintiff did so without waiting even a full hour for a response from the Defendant to the offer they had made, and despite assurances a response would come the same date.
8. That in accordance with the statements made by this Honorable Judge, Defendant's counsel believed this was an easily resolvable issue without the intervention of Court, and still believes it would be so, if not for the Plaintiff's regretful attempt at manipulating the Court

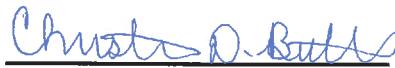
record by omitting the very fact that the Defendant was actively attempting to arrange for a custodial exchange.

9. That this is a pattern of the Plaintiff's counsel refusing to respond or otherwise discuss exchange or custody issues with Defendant's counsel, preferring instead to force all such discussion to occur in Court during active litigation.
10. That Plaintiff, at no point, communicated with the Defendant regarding exchange, despite the Bond Condition addendum permitting him to do so.
11. That the Defendant avers that she fears for her safety in the presence of the Plaintiff, as the Plaintiff physically abused her during the marriage. That the Defendant does not feel safe seeing the Plaintiff at custodial exchanges, given the Plaintiff grabbed and screamed at her during a prior custodial exchange, which required the intervention of a uniformed police officer.
12. That the Defendant agrees with the allegation that the Plaintiff Father's custodial week would have begun on February 2, 2025, and points out, given the delay of response by Plaintiff's counsel, and Plaintiff's complete lack of attempt at discussing such issue with Defendant, that this was a blatant attempt to delay the conversation and custodial exchange of the minor child so as to justify a Motion for Contempt.
13. Thus Defendant's counsel request attorney's fees for the need to file and address this motion due to the bad faith of Plaintiff and his counsel in this situation.

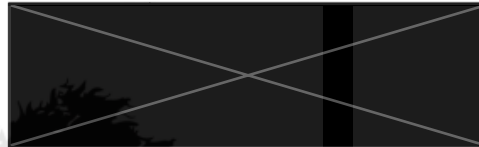
WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Honorable Court enter an Order denying Plaintiff's Motion to Return Child and Motion for Contempt, and Ordering the parties to continue their already ongoing conversations on how to resolve this topic.

Defendant requests in the alternative, this Honorable Court enter an Order setting Plaintiff's Motion, and Defendant's response thereto, for hearing on the same date as the Defendant's Petition for Protection from Abuse.

Defendant further requests an Order be entered awarding her attorney's fees and costs incurred in the response to a frivolous bad faith motion filed by the Plaintiff. Defendant further requests such additional or different relief that the Court deems just and appropriate.



Christen D. Butler (BUT048)
Attorney for Defendant

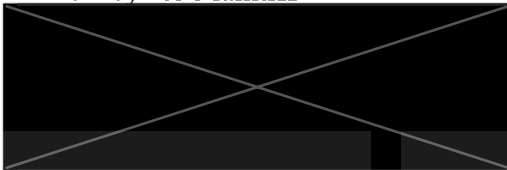
CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served on counsel for all parties to the proceedings by:

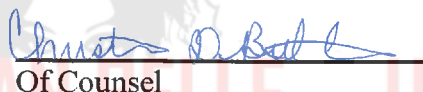
- electronically filing the foregoing with the Clerk of Court using the CM/ECF System, which will send notification of such filing;

this February 5, 2025, to the following:

Jonathan M. Lusk
Jordan B. Butler
Attorney for Plaintiff



Elbert H. Parsons, Jr.
Attorney for Department of Human Resources

Of Counsel




Will J. Nelson

From: Will J. Nelson
Sent: Tuesday, January 28, 2025 5:00 PM
To: [REDACTED]
Cc: Christen D. Butler; Robin M. Goode
Subject: Williams v. Williams



Good afternoon Attorney Lusk,

Would you have time over the next two days to have a phone call with Attorney Butler? We're seeking to discuss ways to alter the custody exchange to avoid the current issues that are popping up, as well as arranging makeup custodial days for your client. If you could let me know when you would have time, that would be much appreciated.

Thanks,

Will J. Nelson
Attorney



Will J. Nelson

From: Will J. Nelson
Sent: Monday, February 3, 2025 4:35 PM
To: [REDACTED]
Cc: Christen D. Butler; Robin M. Goode
Subject: RE: Williams v. Williams

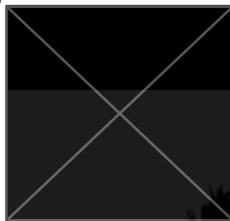


Good afternoon Attorney Lusk,

I'm following up on the below e-mail. Would you have an opportunity to discuss this with Attorney Butler, hopefully early this week?

Thank you,

Will J. Nelson
Attorney



From: Will J. Nelson
Sent: Tuesday, January 28, 2025 5:00 PM
To: [REDACTED]
Cc: Christen D. Butler [REDACTED]; Robin M. [REDACTED]
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