

IN THE SUPREME COURT
STATE OF FLORIDA

BOBBIE SUE WISHART, and)
CHARLES F. WISHART,)
Appellees, Cross-Appellants,) CASE NO: 71,370
and Petitioners)
v.) 2ND DCA NO: 86-2408
LESLIE BATES (BOGGS),)
Appellant, Cross-Appellee,) TRIAL NO: 83-7250
Respondent)
v.)
RANDALL A. BATES,)
Cross-Appellee, Respondent)

FILED

DEC 22 1986

CLERK OF THE COURT
TALLAHASSEE, FLORIDA

APPELLEES RESPONSE TO
APPELLEES NOTICE TO INVOKE DISCRETIONARY JURISDICTION

Leslie Bates (Boggs)
P.O.Box 4
Seffner, Fla. 33584
Phone (813) 623-6893
Appellant

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Florida Statute, 61.13..... 2,4,6

TEXT

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REPORT

Murphy, Margaret, Statement of the Department of
Health and Rehabilitative Services, Hillsborough
County, Florida, October 15, 1986..... 4,5,6

Appellant, Leslie Bates (Boggs) also appeals to the Florida Supreme Court to review this case, but prays for an order to halt this grave injustice. Review of this case will show that this case should be dismissed forever, that Bobbie Sue Wishart and Charles F. Wishart must cease and desist all harrassment to Leslie, Tiffany and the legal system, that this case file should be sealed and expunged, and Appellant should be granted legal expenses and punitative damages for herself and minor daughter, Tiffany.

Appellant is a fit and proper parent, the Appellees have been heard, they have no right to visitation or custody, and Charles Wishart is not a contestant and has been Disqualified as Attorney of Record for Bobbie Sue Wishart.

Review of this case file will show that Appellees object to every order of the court that is not what they want, they object to every Judge that hands down an order that is not what they want, and they object to every opinion of H.R.S. and everyone else they have involved in this cruel and inhuman massacre of Leslie and Tiffanys rights.

Appellees opinion of the problems within the legal system is not sufficient cause for any further litigation in this issue that should have been quashed years ago.

In this response, the parties will be refered to as they stood in the lower Court, to wit:

Appellant, Leslie Bates (Boggs): Tiffany's mother;

Tiffany Michell Bates: minor child;
Randall A. Bates: Tiffany's father;
Appellee, Bobbie Sue Wishart: paternal grandmother;
Charles F. Wishart: Bobbie Sue Wisharts husband;

Appellants exhibits will be refered to as (L.Ex#).

Appellees exhibits will be refered to as (W.Ex#).

This case was initiated in 1983 by the Wisharts deliberate false allegations and illegally withholding Tiffany from Leslie. (L.Ex A Pg2 p4, Pg3 p7, Pg6 p35)

The purpose of Florida Statute 61.13 is not to aid and abet any illegal attempt to gain standing as contestants in a child custody battle.

On the contrary, the Uniform Child Custody Jurisdiction Act was enacted to prohibit such cases as this.

It was determined early in this case that Charles Wishart was not a contestant, but was only acting as Attorney of Record for Bobbie Sue Wishart. (L.Ex A Pg4 pl4)

Being Disqualified as Attorney of Record for Bobbie Sue Wishart on August 2, 1986, should prohibit Charles Wishart from participation in this case. (L.Ex.B)

There has never been an order granting Bobbie Sue Wishart nor Charles Wishart custody of Tiffany.

There has never been an order granting Charles Wishart visitation with Tiffany.

The Final Hearing was delayed until December of 1984 because the

Wisharts deluged Leslie and the Courts with motions and hearings without end, misstated facts, refused to obey court orders. (L.Ex A Pg6 p45, Pg7 p49)

The Wisharts have kept this case in the courts until 1988 by the same tactics.

The Honorable Judge Manuel Menendez heard the Wisharts testimony for two full days at the final hearing, and awarded shared parental custody to Appellant, Leslie Bates (Boggs), and Randall Bates, with primary residence with Leslie. (W.Ex.B)

The Wisharts appealed the Final Judgement to the Second District Court of Appeals. In direct contradiction with this voluminous case file they represented that they had not been given an opportunity to present evidence and testimony.

Appellees were granted a hearing to do so by order on April 2, 1986. (W.Ex "C") The ruling that Appellant have custody of her minor daughter was not altered.

On page 33 paragraph 183 of Appellees MOTION FOR REHEARING AND CLARIFICATION filed with the Second District Court of Appeals on August 24, 1987, the Wisharts admit that "...namely that they did get a fair trial, the opportunity to be heard and present evidence...". Now they admit they were heard, but now switch the issue to "..the trial was held over their objection...."

Almost two years ago, the Second District Court of Appeals granted Appellees another hearing to present evidence and testimony. Appellant has been in Court repeatedly, but they have not entered any testimony or evidence that wasn't already in the case file. They

were erroneously granted another opportunity to be heard, but they have merely repeated their previous testimony in four additional days of hearings, with two more days scheduled in December. The Wisharts have repeatedly presented their "evidence" to the lower Court, and now claim the present "trial" is unfair because their evidence is two or more years old. They initiated this case because they supposedly had evidence. A legal case should be based on evidence at hand at the onset, and their "evidence" has been presented to the court, repeatedly.

Appellant confirms that Appellees "evidence" is old, and the present "trial" is unfair. Almost five years of litigation has been "unfair" to Tiffany, Leslie and the Courts.

The most recent, of several, home study investigations ordered by the Trial Court was conducted by Ms. Margaret Murphy of the Department of Health and Rehabilitation which was entered into the court records on October 29, 1986. (L.Ex C)

Review of this case file will show that neither Bobbie Sue Wishart, paternal grandmother, nor Charles Wishart, her husband, have a right to custody, and visitation with them is not in Tiffany's best interest. (State exrel Sparks v. Sparks, 97 So. 2d 18), (Florida Statute 61.13), (Uniform Child Custody Jurisdiction Act) Ms. Murphy's report.(L.Ex C)

Appellant is a fit and proper mother, and this entire case has been a sham for almost five years. Leslie, Tiffany and the Courts have been, and are continuing to be, subjects of Wisharts misuse and abuse.

The lower court has taken into consideration that the natural parents have a superior right to the custody of a child over any third parties, including a grandparent. Therefore, neither of the Wisharts have a right to custody. (Besade v. Besade, 312 So 2d 484)

The emotional conflict and hostility between Appellant and the Wisharts is detrimental to Tiffany and is but further cause for no contact with them. (Giacoaia v. Giocoaia, 286 So. 2d 225 (Fla. 3rd DCA 1973))

The Wisharts have repeatedly refused to abide by the court orders. They demonstrated this defiance when they abducted Tiffany for three months. (L.Ex "D") Neither mother nor child should have to live with a constant fear of separation, and the Wisharts have abused the privilege of visitation.

The natural mother is a fit and proper parent, and an order granting visitation rights to either of the Wisharts is without authority and unenforceable. (Shehee v. Shehee, 325 So 2d 12 (Fla 2nd DCA 1975)) (Tamargo v. Tamargo, 348 So. 2d 1163 (Fla. 2nd DCA)), (Rodriguez v. Rodriguez, 295 So. 2d 328)

The objective of the court is to determine what is in Tiffanys best interest, and this case file is evidence that visitation and/or contact with the Wisharts is detrimental to Tiffany. (Ferrell v. Reuge, 397 So. 2d 723 Fla. DCA 1981) (Ms. Murphys Report)

Appellant, Leslie Bates (Boggs) contends that the facts in this case, Florida Statute 61.13, the Uniform Child Custody Jurisdiction Act, the case law cited herein, and Ms. Margaret Murphy's report are sufficient evidence that it would be in Tiffanys best interest for this case to be stopped, closed, sealed and expunged.

The Uniform Child Custody Jurisdiction Act in itself should protect Leslie and Tiffany from the psychological and financial damage that the Wisharts have maliciously caused with five years of harrassment.

SUMMARY OF ARGUMENT

The Florida Supreme Court has the jurisdiction and authority to put an end to this matter that has been before the court for almost five years.

Review of this case file will show that Charles Wishart was not a contestant when they initiated this case, and still is not a contestant. Charles Wishart was disqualified as attorney of record for Bobbie Sue Wishart on August 2, 1986 and the courts should not accept motions from him after that date.

Review of this case file will further show that the Wisharts have never had any "evidence", but have unjustly caused emotional and financial harrassment to Leslie and Tiffany, and abused and belittled the legal system.

Charles Wishart has filed something against everyone he has involved in this case. The papers he filed that included the Second District Court of Appeals and Judge Ryder, also included the Florida Supreme

Court Judges. That motion is but further evidence of the Wisharts unethical, unprofessional practices and abuse of the legal system in an attempt to create a case.

A reasonable person should be able to assume that an accused has a right to a speedy and fair trial. Leslie has been on trial for almost five years even though Wisharts allegations were disproven almost immediately.

The Wisharts have used the Courts to violate both Tiffany and Leslies legal and God given rights.

Leslie and Tiffany are the victims and the Courts have a responsibility to protect them.

Appellant, Leslie Bates (Boggs), therefore asks this Honorable Florida Supreme Court to review this case file, and based on true facts contained therein, hand down an order:

1. that this case be dismissed, closed, stopped forever,
2. that this case file be sealed and expunged,
3. that Appellees cease and desist any further harrassment to Appellant and minor daughter,
4. that Appellant recover from Appellees all of the legal expenses incurred because of their disproven allegations,
5. that Appellant and minor daughter recover from Appellees a reasonable amount for emotional and psychological damage.

Respectfully submitted,

Leslie Bates (Boggs)

C E R T I F I C A T E O F S E R V I C E

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Bobbie Sue Wishart, Charles F. Wishart, and Randall A. Bates at 410 W. Bloomingdale, Brandon, Fla. 33511-7402 this 10th day of December 1987 by U.S. Mail.

Leslie Bates Boggs

Leslie Bates (Boggs)
P.O.Box 4
Seffner, Fla. 33584
Phone (813) 623-6893