

JUL 07, 2020 11:20 AM

  
Jody M. Higdon, Clerk  
Morgan County, Georgia

**IN THE SUPERIOR COURT OF MORGAN COUNTY  
STATE OF GEORGIA**

**TYLER PERRY,** )  
 )  
 **Petitioner,** )  
 )  
 **vs.** )  
 )  
 **KAITLYN V. JENKINS,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**CIVIL ACTION  
FILE NUMBER: SUCA2018000030**

**RESPONSE TO MOTION**

Respondent Kaitlyn V. Jenkins is filing her Response to Petitioner Tyler Perry’s Motion filed on June 19, 2020 and in support of said Response, Respondent Kaitlyn V. Jenkins shows the Court as follows:

1.

The above-referenced matter was set down by opposing counsel for a hearing on June 17, 2020 after the Georgia Court of Appeals had remanded this case back to this Court for the purpose of giving express due consideration to joint physical custody.

2.

At the hearing on June 17, 2020, the Court determined that it was aware of the positions of the respective parties, that a transcript of the bench trial had been filed and was accessible by the Court, and that the trial court still had its notes from the trial. Given these facts, the Court determined that it did not need to hear any additional argument and was aware of the direction by the Georgia Court of Appeals.

3.

Despite this declaration by the Court, opposing counsel has used the Motion as a vehicle to provide the argument that she would have made had the Court been inclined to hear such

argument. Because we are using Zoom for hearings due to COVID-19, parties have been providing exhibits to one another via email prior to said hearings. Here, opposing counsel provided Respondent's counsel with said documentation on June 16, 2020. Some of this same documentation is attached to the Motion filed by opposing counsel. Given the Court's express ruling on declining to hear any additional argument or evidence, Petitioner has filed this Motion anyway by couching it as a motion to follow O.C.G.A. section 15-6-21 initially but then descends into Petitioner's argument on the issue of joint physical custody. Respondent objects to the portions of the Motion that simply seek to reargue the case contrary to the Court's ruling on June 17, 2020.

4.

Further and more specifically, opposing counsel seeks to introduce a State Bar of Georgia Family Law Review article on joint physical custody into evidence. While the Family Law Review is titled as such, it is really a magazine for family law practitioners with articles and advertisements. "An article appearing in a magazine cannot be admitted in evidence to prove the opinions of the writer, although he might be an expert in the field in which he wrote." Isley v. Little, 219 Ga. 23, 31 (1963). Further, Petitioner did not introduce any expert testimony on the alleged advantages on joint physical custody at the bench trial. If some expert had been called for such purposes, Respondent would have had the opportunity to cross-examine that witness on his or her opinions. Since that did not occur, this article is inadmissible hearsay. For these reasons, Petitioner's introduction of said article is inadmissible and inappropriate and cannot be relied on by the Court.

5.

As it relates to the remainder of the Motion, Respondent takes no part in Petitioner's criticism of the Court.

This 7<sup>th</sup> of July, 2020.

/s/ Brad J. Evans  
Brad J. Evans  
State Bar of Georgia No. 251610

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**CERTIFICATE OF SERVICE OF DISCOVERY**

I certify that I have served a copy of the foregoing **RESPONSE TO MOTION** via

PeachCourt:

Virginia Nell Morris  
Morris Law  
P.O. Box 7224  
Athens, Georgia 30604

This 7<sup>th</sup> of July, 2020.

/s/ Brad J. Evans  
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