

FEB 20 2024
SHELLEY BRYAN

Hon. Yvonne Laird
District Judge
17th Judicial District
P.O. Box 470
Malta, MT 59538
Telephone: (406) 654-1062

MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT, VALLEY COUNTY

IN THE MATTER OF:

Cause No. DN-2023-03

**ORDER TO DISMISS AND VACATE
SHOW CAUSE HEARING**

A Youth in Need of Care.

Having considered the Motion to Dismiss filed by the Department on February 16, 2024, and the Opposition to Petitioner's Motion to Dismiss filed by counsel for the Stepmother, Krista Kolstad, on February 20, 2024, and no other responses having been filed, the Court issues the following.

DISCUSSION

This matter commenced on August 25, 2023, when the Department filed a Petition for Emergency Protective Services, Adjudication of Youth in Need of Care, and Temporary Legal Custody. The Petition alleged the Youth was suicidal, in need of psychiatric care, and the Youth's father and stepmother refused to sign paperwork consenting to the recommended care. Additional concerns brought to light during the initial investigation were reports of the Youth's father drinking excessively, stepmother being verbally abusive, the Youth actively engaging in self-harm by cutting, and marital discord between father and stepmother causing

1 the Youth stress. Although, father and stepmother initially indicated they believed the Youth
2 should receive mental health care to address the Youth's suicidal ideation, when the first bed
3 available was a bed in a Wyoming treatment facility, father and stepmother refused to allow
4 the Youth to be admitted due to concerns of Wyoming "mutilating" the Youth's body and
5 giving the Youth medication to alter the Youth's body. These concerns were invalid and
6 unsupported. Stepmother also indicated she believed the Youth was simply seeking attention
7 and was not truly suicidal.
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10 Investigation by the Department also reflected that father and birthmother, who now
11 lives in Canada, were reported to the Department in 2016 for allegations of physical neglect
12 which were ultimately unsubstantiated but did result in a referral for the family for mental
13 health counseling. Additionally, in 2017, birthmother and father were again reported for
14 physical neglect. This report included allegations of arguing and fighting between
15 birthmother and father, including birthmother chasing father with a knife and threatening to
16 kill him and then locking herself in her room with father then kicking the door down. The
17 2017 report was also unsubstantiated with recommendations for individual mental health
18 counseling for the children.
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21 Unfortunately, during the pendency of this matter, the Youth's father and stepmother
22 chose to focus on the Youth's struggle with gender identification rather than addressing the
23 issues in the family home and ensuring a safe and supportive environment for the Youth to
24 return to after receiving necessary mental health services to address the Youth's suicidal
25 ideation. The father and stepmother have engaged in ongoing behavior that has violated the
26 Youth's privacy and done so with no regard to the effects of such behavior on the Youth and
27 the Youth's well-being. All of which was done under the guise of protecting their 1st
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1 Amendment rights and in the name of their religion. The father and stepmother have also
2 defended their actions by claiming they have protected the anonymity of the Youth by not
3 using the Youth's first name. Such claims are wholly untrue and self-serving, it should be
4 self-evident to anyone who lives on or has spent time on the hi-line that simply not using a
5 child's first name does not provide any anonymity to the child. Given the worldwide platform
6 to which the father and stepmother have pandered, it is unlikely the Youth can ever
7 comfortably return to the Glasgow area or even the hi-line.
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9 FINDINGS OF FACT

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11 1. On August 18, 2023, reports were made to the Department that the Youth was
12 actively suicidal. It was reported that some of the Youth's angst was caused by the
13 Youth's father and stepmother not supporting the Youth identifying as transgender.
14 Additionally, concerns about the father's excessive use of alcohol and verbal abuse
15 by stepmother were reported.
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- 17 2. CPS Baillargeon was assigned to investigate the report. When CPS Baillargeon
18 went to the family residence, she met with father, stepmother, and the Youth. CPS
19 Baillargeon determined the Youth was actively suicidal. The father and the
20 stepmother agreed to transport the Youth to the hospital with the stepmother
21 driving. CPS Baillargeon was concerned that father should not drive as she could
22 smell alcohol on him.
23
- 24 3. The Youth was admitted to the Frances Mahon Deaconess Hospital and received
25 care for her suicidal ideation. Father and stepmother did not allow the care
26 providers to speak to the Youth alone. The Youth repeatedly stated the Youth was
27 not comfortable speaking in front of father and stepmother. The Youth was able to
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1 speak privately with a doctor and lab technicians when changing into a hospital
2 gown.

- 3 4. Stepmother requested a referral for further treatment be made to Billings.

4 Stepmother indicated other locations were too far and she and father had work and
5 animals to care for.

- 6
7 5. The Youth disclosed to CPS Baillargeon that father drinks a lot and slams things
8 around and that it is scary when father is slamming stuff around and when father
9 and stepmother argue and yell at each other.

- 10
11 6. The first treatment facility with an opening for the Youth was Wyoming
12 Behavioral Institute. On August 22, 2023, father and stepmother refused to sign
13 any admittance paperwork because of their concerns regarding Wyoming and
14 transgender transitioning. CPS Baillargeon served father and stepmother the
15 Notification to Parent and on August 23, 2023, Department staff transported the
16 Youth to Wyoming Behavioral Institute.

- 17
18 7. An Order Appointing Pre-Hearing Conference Facilitator and Setting the Pre-
19 Hearing Conference and Emergency Services Hearing was issued August 24,
20 2023. The Pre-Hearing Conference was set for Monday, August 23, 2023 at 8:30
21 a.m. and the Emergency Protective Services/Show Cause Hearing was set for
22 Monday August 23, 2023 at 9:00 a.m.

- 23
24 8. On August 25, 2023, stepmother, pro se, filed a Motion for Continuance for
25 Hearing Scheduled on Mon. 8/28/23 and a supporting Affidavit. The basis for the
26 request was a previously scheduled medical appointment in Billings for father.
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1 The hearings were continued until Tuesday, September 5, 2023 at 8:30 a.m. and
2 9:00 a.m.

3 9. On August 25, 2023, a Petition for Emergency Protective Services, Adjudication
4 of Child as Youth in Need of Care, and Temporary Legal Custody was filed by the
5 Department.
6

7 10. On August 24, 2023, an Order Granting Emergency Protective Services, Order to
8 Show Cause, Notice of Show Cause Hearing, and Appointing Counsel and CASA
9 was issued. The Show Cause Hearing was set for September 11, 2023 at 2:30 p.m.
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11 11. The Emergency Protective Services Hearing was held on September 5, 2023. At
12 the hearing counsel for stepmother expressed stepmother supported the Youth's
13 placement at the Wyoming Behavioral Institute. Father expressed that he wished
14 to have the Youth closer to allow the family to participate in therapy but otherwise
15 did not object to the placement. The Court directed the Department to explore
16 other treatment programs that would meet the Youth's needs closer to Glasgow but
17 approved the placement at Wyoming Behavioral Institute until other appropriate
18 options could be found.
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20 12. The Court convened for the Show Cause Hearing on September 11, 2023. The
21 father, through counsel, advised the Court he objects to the Petition and would like
22 a contested hearing on another day when more time was allotted on the docket and
23 requested a continuance. Stepmother advised she would not object to Temporary
24 Investigative Authority without any admissions but would also not object to a
25 continuance. The father and stepmother had provided opposing counsel with
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1 several dates of travel they had planned and would not be available. The matter
2 was then set over until November 6, 2023 at 1:30 p.m.

3 13. The Youth was discharged from the Wyoming Behavioral Institute on September
4 24, 2023, and placed in the STAR Youth Home in Billings, Montana.

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6 14. Although the exact timing is unclear, at some point it became known to the Group
7 Home Manager, that the Youth had ordered hormone blockers on the internet and
8 had taken some while the Youth lived in the family home. During a well child
9 exam, this was brought to the doctor's attention. The doctor did not believe there
10 would be any long-term effects due to the hormone blockers taken by the Youth
11 but was going to do additional research. The Group Home Manager also stressed
12 to the Youth that the Youth would not be able to take any testosterone while in the
13 group home or in CPS custody.
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15 15. On October 30, 2023, father, through counsel, filed a Motion to Continue Show
16 Cause Hearing. The basis for the motion was to allow the father and stepmother
17 more time to create a discharge plan for the Youth before the Show Cause Hearing.
18 The Motion to Continue was unopposed. The Show Cause Hearing was set for
19 December 4, 2023 at 3:00 p.m.
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21 16. On December 4, 2023, the Youth was adjudicated a Youth in Need of Care.
22 During the Show Cause Hearing the father advised the Court he no longer opposed
23 the requested relief but would like a placement hearing to be held in the near
24 future. The stepmother also advised the Court there was no objection to the relief
25 requested but that she continued to object to the current placement. A
26 Dispositional/Placement hearing was set for January 19, 2024, at 10:00 o'clock
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1 a.m. All parties stipulated to the hearing date being set beyond the statutory
2 deadlines for disposition.

3 17. On January 18, 2024, on the Motion of Youth's counsel, the Court issued an Order
4 Enjoining Disclosure of Confidential Information. Counsel for the Youth asserted
5 the father and stepmother were appearing on social media disclosing information
6 about this matter and the Youth's medical and mental health.

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8 18. On January 19, 2024, the Court granted Temporary Legal Custody to the
9 Department and authorized placement with the non-offending parent once
10 appropriate arrangements were made. The father and stepmother did not deny
11 appealing to social media and questioned the Court's authority to prohibit such
12 conduct. The father and stepmother either refused to acknowledge or simply did
13 not care about the impact such actions would have on the Youth. A Treatment
14 Plan Hearing was set for January 29, 2024 at 1:00 p.m.

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17 19. The Youth had indicated to her counsel the Youth wished to live with her
18 birthmother.

19 20. On January 22, 2024, counsel for the Youth filed a Motion to Find Stepmother and
20 Birthfather in Contempt of Court Order. The Motion alleged Stepmother and
21 Birthfather had reposted a video the Court had previously ordered them to take
22 down. On January 26, 2024, counsel for the Youth filed a Motion to Amend
23 which was granted. The Amended Motion alleges the stepmother gave a radio
24 interview in violation of the Court's order. A hearing on the Motion for Contempt
25 was set for January 29, 2024 at 1:00 p.m.
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1 21. On the morning of January 29, 2024, father, through counsel filed a Motion to
2 Continue the Treatment Plan Hearing. The reason for the motion was the father's
3 father-in-law was ill out of state and father and stepmother had traveled to be with
4 him. The Court continued both the Treatment Plan Hearing and the Contempt
5 Hearing until Wednesday, February 21, 2024 at 9:00 o'clock.

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7 22. Stepmother has no legal parental rights to the Youth.

8 23. The Youth was placed with her birthmother on February 4, 2024. It is in the
9 Youth's best interest to reside with her birthmother.

10 24. The Youth's suicidal ideation has been appropriately cared for. The Youth is no
11 longer in danger of imminent harm. The Youth is happy in her placement and no
12 concerns regarding the safety of the placement have been brought to the Court.

13 25. Father has provided no indication he is willing to enter into a treatment plan to
14 address any concerns regarding his alcohol consumption or marital arguments
15 within the home.
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17 CONCLUSION OF LAW

18 1. It is the policy of the State of Montana to:

19 (a) provide for the protection of children whose health and welfare are or
20 may be adversely affected and further threatened by the conduct of those
21 responsible for the children's care and protection;

22 (b) achieve these purposes in a family environment and preserve the unity
23 and welfare of the family whenever possible;
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1 (c) support the efforts of parents whose children have been removed to
2 reunify the family, including by taking into account whether those efforts
3 may be impeded by court-ordered support payments;

4 (d) ensure that there is no forced removal of a child from the family based
5 solely on an allegation of abuse or neglect unless the department has
6 reasonable cause to suspect that the child is at imminent risk of harm;

7 (e) recognize that a child is entitled to assert the child's constitutional
8 rights;

9 (f) ensure that all children have a right to a healthy and safe childhood in a
10 permanent placement; and

11 (g) ensure that whenever removal of a child from the home is necessary,
12 the child is entitled to maintain ethnic, cultural, and religious heritage
13 whenever appropriate.

14 §46-3-101. MCA.

15 2. Whenever it is necessary to remove a child from a child's home, the
16 department shall, when it is in the best interests of the child, place the child
17 with the child's noncustodial birth parent. §46-3-101 (3), MCA.

18 3. In implementing the policy of the State of Montana, as enacted by the Montana
19 Legislature, the child's health and safety are of paramount concern. §46-3-101
20 (7), MCA.

21 4. This Court has jurisdiction of this matter and venue is proper in Valley County.
22 §41-3-103, MCA.

- 1 5. Except as authorized by statute the records pertaining to abuse and neglect
2 proceedings are confidential and those authorized to have access to such
3 records shall not further disseminate them. §41-3-205, MCA. The Court does
4 have discretion to limit the dissemination even to those authorized to receive it
5 if the Court finds disclosure will be detrimental to the child. §41-3-205 (3),
6 MCA. Additionally, the confidentiality of medical records is not affected by
7 §41-3-205, MCA.
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9 6. The Court may order the placement of the child with the noncustodial parent,
10 superseding any existing custodial order, and dismiss the proceedings with no
11 further obligation on the part of the department to provide services to the
12 parent with whom the child is placed or to work toward reunification of the
13 child with the parent or guardian from whom the child was removed in the
14 initial proceeding. §41-3-438, MCA.
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16 7. In a custody proceeding involving an amendment of a parenting plan,⁴³ the
17 Court shall consider whether a child is 14 years of age or older and desires the
18 amendment. §40-4-219 (1), MCA.
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20 ORDER

21 Based on the foregoing Findings of Facts and Conclusions of Law, and good cause
22 appearing;
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24 IT IS THE ORDER OF THIS COURT that the Youth shall be placed with the
25 noncustodial parent, birthmother, superseding any existing custodial order. A copy of this
26 order shall be filed, under seal, in Flathead County Cause, DR-2017-167. The Department
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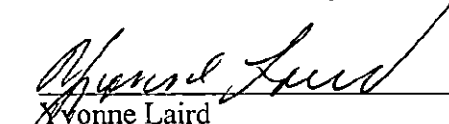
1 shall have no further obligation to provide services to the birthmother or to work towards
2 reunification with the father.

3 IT IS FURTHER ORDERED that this matter is DISMISSED.

4 IT IS FURTHER ORDERED that the contempt by the father and the stepmother is
5 undeniable. However, the damage and harm inflicted by their actions cannot now be undone
6 and is therefore moot. Given the mootness of the contempt, and the unlikelihood of self-
7 reflection and self-accountability or repentance by either father or stepmother, proceeding to a
8 contempt hearing would be an exercise in judicial futility and most likely bring further
9 negative attention to the Youth. Therefore, the Show Cause Hearing on the Motion for
10 Contempt is VACATED.
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12 The Clerk of Court shall send copies of this order to all counsel of record, the GAL,
13 and any party appearing without counsel. The Clerk of Court shall also send a copy of this
14 order for filing to the Flathead County Clerk of Court.
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16 DATED this 20th day of February 2024.
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20 Yvonne Laird
21 District Judge
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1 This is to certify that a copy or copies of the foregoing document, ORDER TO DISMISS
2 AND VACATE SHOW CAUSE HEARING, was duly served by mail upon the attorneys of
3 record and parties of record at their addresses as shown below, by depositing the same in the
United States Mail, postage prepaid this 20th day of February, 2024.

4 Dylan Jensen, Valley County Attorney – via email

5 Elizabeth Woods, Attorney for Youth – via email

6 Helge Naber, Attorney for Step-Mother – via email

7 Randy Randolph, Attorney for Mother – via email

8 Emily Lamson, Attorney for Father – via email

9 CASA/Guardian ad Litem – via email

10 Flathead County Clerk of Court – via email

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24 _____ Clerk of Court
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