FILED
AUG 08 2023
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

IN THE CIRCUIT COURT
OF ST. LOUIS COUNTY, MISSOURI
FAMILY COURT DIVISION

IN RE THE MARRIAGE OF REGAN HOBBS and CORY ALAN KOTOWSKI	)	
	)	**Division 34**
REGAN HOBBS,	)	
Petitioner,	)	
vs.	)	**Case No: 18SL-DR01027-02**
CORY ALAN KOTOWSKI,	)	
Respondent.	)	

MODIFICATION JUDGMENT

On this 8th day of August, 2023, the Court enters the following Judgment on the issues pending per Respondent's Motion to Modify filed with the Court on January 27, 2020 and Petitioner's Counter-Motion to Modify filed with the Court on February 4, 2020. This cause was called and heard for trial on June 8, 2023. On June 8, 2023, Petitioner, Regan Hobbs (hereinafter referred to as "Mother"), appeared in person and by counsel, Laura Clubb of The Clubb Law Firm, LLC. Respondent, Cory Kotowski (hereinafter referred to as "Father"), failed to appear and did not have counsel at the time of trial. The duly appointed Guardian ad Litem, attorney Sarah Pleban, appeared in person and on behalf of the unemancipated minor child.

Trial was called, testimony was heard and evidence adduced. The Court provided additional time to the Guardian ad Litem to submit her proposed parenting plan and fee bill, and provided both of the parties 30 days to submit respective proposed Judgments, Findings of Fact, and Conclusions of Law. Upon submission of the same, the Court declared the evidence closed. Neither party filed a Request for Findings of Fact in this matter.

Procedural Background

1. Mother has been a resident of the State of Missouri for more than ninety (90) days next preceding the filing of this action, currently residing in St. Louis County, Missouri.

2. Father is currently a resident of the State of Illinois, residing at 2510 Pulaski Street, Peru, LaSalle County. Father was a resident of the State of Missouri for more than ninety (90) days next preceding the filing of this action.

3. The parties' social security numbers are as set forth in the case information sheet and the last four digits of their social security numbers are as set forth in the caption of the case.

4. On September 17, 2014, the parties stipulated to an entry of Judgment of Dissolution of Marriage in the Circuit Court of St. Clair County, State of Illinois, in the captioned matter 13-D-0002.

5. The following child was born of the parties during the marriage and remains unemancipated, to-wit: [redacted], (hereinafter referred to as "[redacted]") age [redacted]

6. On July 22, 2015, the Circuit Court of St. Clair County, Illinois, in Case Number 13-D0002, ordered temporary supervised visitation between Father and [redacted] pursuant to a petition for order of protection filed by Mother. Father was ordered to attend a 32-week anger-management program.

7. On January 26, 2017, Mother and Father agreed to a modification of the Dissolution Judgment, in Case Number 13-D0002. Said Modification Judgment awarded Mother sole legal and sole physical custody of [redacted], with Father receiving parenting time on alternating weekends and one weekday each week.

8. On July 18, 2017, the Circuit Court in St. Clair County, Illinois, in Case Number 13-D0002, entered an Agreed Order wherein the Court ordered Father to pay Mother One Thousand Four Hundred Eighty-Four Dollars ($1,484.00) per month for child support.

9. On February 28, 2018, Mother filed a Motion and Affidavit for Registration of Foreign Judgment with the Circuit Court of St. Louis County, Missouri, Case Number 18SL-DR01027.

10. On March 23, 2018, Mother filed a Motion to Modify Child Custody and Support, Case Number 18SL-DR01027-01.

11. On January 18, 2019, this Court entered a Modification Judgment awarding Mother sole legal and sole physical custody of [redacted], with Father having parenting time on alternating weekends. Father was ordered to pay the sum of One Thousand One Hundred Dollars ($1,100.00) per month to Mother for the support of [redacted].

12. On January 27, 2020, Father filed a Motion to Modify Judgment of Modification alleging that Mother had physically abused [redacted], that [redacted] was afraid of being with Mother, and that Mother was being investigated for this alleged abuse.

13. On February 4, 2020, Mother filed an Answer and a Counter Motion to Modify Child Custody and Child Support, and for Attorney Fees. Mother's Counter Motion alleged that Father had abused [redacted] emotionally and psychologically, that [redacted] had been traumatized by Father's behavior, that Father had a long history of violent criminal activity and a propensity to abuse women and children, and that Father repeatedly violated the parenting plan.

14. On February 26, 2020, the Court appointed Sarah Pleban to serve as Guardian ad Litem for [redacted] and entered an Order requiring each party to deposit the sum of $1,500.00 with the Court registry for anticipated GAL fees. Both Mother and Father deposited this sum with the Court.

15. On June 23, 2020, the Court ordered each party to pay an additional sum of $500.00 directly to the GAL. Both Mother and Father paid this sum to Ms. Pleban.

16. On June 23, 2020, the Court further ordered, upon recommendation of the GAL, that the parties participate in a custody evaluation, with each party paying one-half of the costs of the custody evaluation. The total cost of the evaluation was Thirteen Thousand Six Hundred Sixty-Six Dollars ($13,666.00). Mother has paid her half of the cost of the custody evaluation, totaling Six Thousand Eight Hundred Thirty-Three Dollars ($6,833.00). Father has not paid his half of the cost of the custody evaluation.

17. On October 26, 2020, the Court ordered each party to pay an additional sum of $1,000.00 directly to the GAL for fees. Both Mother and Father paid this sum to Ms. Pleban.

18. On March 29, 2021, the Court ordered each party to pay an additional sum of $1,000.00 directly to the GAL for fees. Both Mother and Father paid this sum to Ms. Pleban.

19. On or about June 9, 2021, Mother filed a Verified Motion for Temporary Restraining Order with Exhibits one through ten attached. The TRO alleged that Father is a dangerous and violent person, that Father was an immediate and present threat to [redacted] safety, that [redacted] had been threatening self-harm if forced to see Father, and that Father had had more than twenty orders of protection entered against him for domestic violence against women and children.

20. Also on June 9, 2021, the Court ordered each party to pay an additional sum of $1,000.00 directly to the GAL for fees. Both parties paid this sum to Ms. Pleban.

21. On June 10, 2021, the Court granted the Temporary Restraining Order without Notice, entered a Show Cause Order, and set the matter for hearing.

22. On or about July 26, 2021, the Court entered the parties' stipulated Temporary Restraining Order. This Order suspended Father's parenting time with the child, except for periods of supervised visitation.

23. On November 11, 2021, the parties consented to a continuance of the Temporary Restraining Order.

24. The Court set this matter for trial beginning on February 14, 2022.

25. On January 9, 2022, Father requested a continuance of the trial date, and the matter was removed from the trial docket.

26. On February 15, 2022, the Court ordered each party to pay an additional sum of $1,000.00 directly to the GAL for fees. Both parties paid this sum to Ms. Pleban.

27. On March 30, 2022, the Court ordered each party to pay an additional sum of $1,000.00 directly to the GAL for fees. Both parties paid this sum to Ms. Pleban.

28. On February 21, 2023, this Court set the matter for trial on June 8, 2023, at 10:00 a.m.

29. The Court sent a notice to Father with the date and time of the trial. The Court, Ms. Pleban, and Ms. Clubb also sent a copy of the scheduling order to Father that contained certain deadlines for the trial. Father knew that the trial was set for June 8, 2023, at 10:00 a.m.

30. On June 6, 2023, Father filed a Motion to Continue, seeking to have the trial reset for a date in January of 2024. Father argued in his motion that he was attempting to hire an attorney. The Court denied Father's Motion to Continue on June 6, 2023.

31. The Court called the matter at 10:00 a.m. on June 8, 2023. The Court waited to begin the trial until 11:00 a.m., but Father failed to appear for the trial and did not reach out to the Court with any explanation for his absence.

32. Mother works in the pharmaceutical industry and earns $8,409.00 in gross monthly income.

33. Father's employment status is unknown. Father filed a sworn Income and Expense Statement with the Court on January 27, 2020, stating that he earns $10,537.00 in gross monthly income.

34. Mother testified that Father is in arrears on his child support in the amount of $1,100.00 as of the date of the trial.

35. Pursuant to the current Modification Judgment, Father was ordered to provide health insurance coverage for [redacted], to pay half of all uncovered medical expenses, and to pay half of all [redacted] extracurricular expenses.

36. Mother testified that Father has not provided health insurance coverage for [redacted] since December of 2021.

37. Mother has medical, health and hospitalization insurance available for [redacted] through Mother's place of employment at a cost of $210.00 per month.

38. Mother testified that Father has not paid his 50% obligation for uncovered medical expenses for [redacted] since December of 2021. Mother has paid $9,900.00 of Father's portion of [redacted] uncovered medical expenses.

39. Mother testified that Father has not paid for extracurricular activities for [redacted] since December of 2021. Mother has paid $1,486.48 of Father's portion of [redacted] extracurricular activities.

40. Mother has requested a reallocation of the fees paid to the Guardian ad Litem and to the custody evaluator.

41. Mother testified that she pays $300.00 per month for childcare and transportation for Sophia.

42. Mother did not file a motion to determine sums due and owing.

CUSTODY

43. [redacted] is a bright, intelligent, 13-year-old girl. She is a straight A student, president of her school class, and was recently selected to play on a national youth volleyball team.

44. [redacted] has not always been as successful and happy as she is now. When this matter was filed, more than three years ago, [redacted] was struggling because of her relationship with Father. [redacted] made numerous threats of self-harm if she were forced to continue seeing Father and she was having difficulty dealing with her generalized anxiety disorder.

45. [redacted] has been seeing a therapist for three years.

46. Father initiated this action claiming that [redacted] was being physically abused by Mother. This complaint was investigated by the Missouri Children's Division and said allegations were unsubstantiated.

47. Pursuant to the Court's Order of June 23, 2020, Dr. Rick Scott, Ph.D., of Scott Psychological Associates, conducted a custody evaluation. A copy of Dr. Scott's report was received by the Court, along with Dr. Scott's deposition transcript and curriculum vitae.

48. In his 63-page report, Dr. Scott found fault with some of the decisions made by each parent, but ultimately recommended that Father have no visits with the child at this time. Dr. Scott's recommendation was predicated, in part, by Father's long history of domestic violence directed at women, including orders of protection, and Father's specific conduct toward Sophia. Dr. Scott also set forth recommendations for how Father might heal his relationship with [redacted]. The Court has carefully considered Dr. Scott's report and the recommendation of the Guardian ad Litem, Ms. Pleban.

49. Ms. Pleban submitted a proposed parenting plan for the Court's consideration, as did Mother.

50. In determining the standard applicable to the present case, the Court is guided by Section 452.400 RSMo and *Morgan v. Morgan*, 497 S.W.3d 359 (Mo.App.E.D. 2016). In the instant case, Mother is requesting a modification of sole physical custody, specifically a modification of Father's visitation to supervised visitation. The Court finds that Mother has the burden to prove that a modification is in the best interests of [redacted] and that unsupervised visitation would endanger [redacted] physical health or impair her emotional development. See *Morgan*.

51. Taken as a whole, the credible evidence received by this Court supports Mother's Motion to Modify and as such Mother has sustained her burden of proof, such that a modification is necessary to serve the best interests of [redacted] In support of said finding, this Court makes the following findings in accordance with Section 452.375 RSMo, including the wishes of the child's parents as to custody and the proposed parenting plans submitted by Mother and the Guardian ad Litem.

i. The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of the parents to actively perform their functions as mother and father for the needs of the child - at one time, [redacted] had a relationship with Father, but Father has undermined that relationship by engaging in domestic violence toward others, prioritizing romantic relationships over the relationship with [redacted], and violating [redacted]'s boundaries and wishes. Mother has not encouraged [redacted] to have a close relationship with Father since June of 2021 when Mother had to pick [redacted] up from the police station after Father's girlfriend took [redacted] and the girlfriend's own young children and went to the police to escape Father's physical abuse.

The Court recognizes that Mother has engaged in conduct that has tended to alienate [redacted] from Father. Mother seems to genuinely feel fearful for the child's safety and Father has done

nothing to demonstrate to this Court, the custody evaluator, the Guardian ad Litem, or to [redacted], that he can act as a parent to [redacted] at this time.

ii. The interaction and interrelationship of the children with parents, siblings, and any other person who may significantly affect the child's best interests – The child has a close relationship with Mother. Dr. Scott found that Mother has encouraged the child's animosity toward Father, but that Father has been his own worst enemy in this respect. Father cannot seem to stay out of high-conflict romantic relationships wherein he abuses his partners. Father's actions with these women and their children have directly impacted [redacted] in a negative way. Mother continued to encourage [redacted] to visit Father until the events of June of 2021, when [redacted], Father's girlfriend, and the girlfriend's children had to flee Father's abusive behavior and seek refuge at a police station.

iii. Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent - Both parents, unfortunately, have engaged in behaviors that denigrated the other to the child. Mother did not continue to bring [redacted] to supervised visits after the events of June of 2021. Dr. Scott found that it would be harmful for [redacted] for Father to have any kind of custody at this time.

iv. The child's adjustment to the child's home, school, and community - [redacted] has, in the last two years, achieved success in school, athletics, and her social life. She is president of her school class and plays on an elite national volleyball team.

v. The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. Mother suffers from post-traumatic stress disorder (PTSD) as a direct result of Father's physical, verbal, and psychological abuse. Father does not have a mental health diagnosis, but has a host of problematic personality traits that are associated with

impairment in his relationships, his failings as a parent, and his resistance to change. Father has engaged in domestic violence with at least four women in addition to Mother and [redacted] has been present during many of these incidents.

Father has demonstrated repeated issues managing verbal and physical violence toward women. Father has, at least twice, been court-ordered to complete anger management courses. Dr. Scott has recommended that, because of his history, Father complete a long-term batterer's intervention program. Dr. Scott also noted in his report that Father does not recognize Father's need to resolve his anger issues.

[redacted] suffers from generalized anxiety disorder, which has been exacerbated by the conflict with her parents and between Father and other women.

vi. The intention of either parent to relocate the principal residence of the child: Mother did not express a desire to relocate the principal residence of [redacted] at trial.

vii. The wishes of a child as to the child's custodian [redacted] who is now thirteen, does not want to see Father or to spend time with him. Dr. Scott, Mother, and the Guardian, all agree that the child has been through very upsetting experiences with Father. [redacted] is an intelligent child, but she does not yet possess the judgment, experience, or maturity to decide to terminate her relationship with Father. The Guardian ad Litem has recommended only supervised visits for Father and Mother concurs.

52. There is a long history of domestic violence between the parties to this action. Father was abusive to Mother during and after the marriage and [redacted] has been privy to some of those incidents. There is a long history of domestic violence between Father and his romantic partners and [redacted] has been privy to some of those incidents. Both Dr. Scott and the Guardian have stated that [redacted] mental and emotional health, specifically her generalized anxiety disorder,

would be exacerbated if [redacted] were forced to have unsupervised time with Father. The Court finds that to allow unsupervised parenting time with Father would impair [redacted]'s emotional development.

53. After carefully considering the specific facts of this case, the Court finds that it is in [redacted] best interest that Father have parenting time supervised by a trained professional, Dr. Paul Handal, Ph.D. The Court finds the Guardian ad Litem's proposed parenting plan is in the best interests of [redacted] and adopts the same as its Parenting Plan Part A which is attached hereto as Judgment Exhibit A and incorporated herein by reference.

CHILD SUPPORT

54. The court has reviewed the Form 14 submitted by Mother. The Court finds that the presumed child support amount is not unjust and inappropriate under the circumstances and incorporates same into its Modification Judgment. All other provisions regarding support of the minor child are contained in Exhibit A herein.

55. Father is not entitled to an overnight visitation credit.

FEES

56. Mother incurred attorney fees of $43,287.50.

57. Mother has requested reimbursement of her attorney's fees. After considering, pursuant to Section 452.355, RSMo., the financial resources of both parties, the merits of the case, and the actions of Father during the pendency of this action, the Court finds that Father shall pay a portion of Mother's attorney fees, totaling $30,000.

58. Mother has requested reallocation of the GAL and custody evaluation fees and seeks reimbursement from Father for Mother's portion of these fees. Said motion/request is DENIED.

59. Mother has requested that the Court's award of child support be retroactive to the date of the filing of her Counter Motion to Modify.

60. The Guardian ad Litem has adequately protected [redacted]'s rights. The Guardian ad Litem is entitled to additional fees of Three Thousand Six Hundred and Seven Dollars ($3,607.00).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

61. Mother is awarded sole legal and sole physical custody of [redacted] The parties are ordered to abide by the terms of the attached Parenting Plan attached hereto at Exhibit A, and incorporated herein by reference.

62. Mother's address shall be used as [redacted] address for mailing and educational purposes.

63. Father shall pay to the Family Support Payment Center, P.O. Box 109001, Jefferson City, Missouri 65110-9001, as Trustee for Mother, as and for child support for [redacted], the sum of One Thousand Three Hundred Twenty-Six Dollars ($1,326.00) per month, retroactive to February 4, 2020.

64. The Clubb Law Firm, LLC, shall have judgment against Father as and for payment of Mother's attorney's fees in the sum of Thirty Thousand Dollars ($30,000.00).

65. The Guardian ad Litem shall have judgment against each party, jointly and severally, as and for GAL fees in the sum of Three Thousand Six Hundred and Seven Dollars ($3,607.00).

66. All other relief requested is denied.

67. Court costs are taxed against Father.

JUDGMENT ENTERED AND SO ORDERED:

8/8/23

Hon. Amanda B. McNelley
Judge