

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

January 22, 2015

To: Mr. Michael Bishop, GDC1022761 353/870, Cobb County Sheriff's Office Adult Detention Center, Post Office Box 100110, Marietta, Georgia 30061

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia in your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

COBB County ~~Court~~
Court of ~~Georgia~~
STATE of GEORGIA
APPEALS Court

RECEIVED IN OFFICE
MICHAN 16 11:42
CLERK/COURT APPOINTING TRAINER
COURT OF APPEALS OF GA

STATE of Georgia § 29:3. Change of Custody

NADINE BELLINGER

Civil no. 14-1-1615

Plaintiff's

WARRANT NO. 14-W-4032

vs.

Michael Bishop

Appeal of Change to

Defendant

Custody

I Michael Bishop, (Defendant) Petition the State of Georgia, Appellate Court over Jurisdiction Claim over Children. I accuse that the trial COURT of Cobb County, committed GRIEVOUS error and GROSS abuse of discretion.

- 1) Cobb County, Federal Violated § 32:3.1 of the (UCCJEA) once they infringed on Jurisdiction of Phila Penna. Court's
- 2) Cobb, Court's as required procedure, of handling Custody, & Out of State Prior order, for prevention of violation to (UCCJEA) *followed no procedure.
- 3) The Issue of Venue/Jurisdiction is no contest, Even by-passing (UCCJEA) with TPO, The Federal PKPA (Parental Kid-napping Prevention act) Supercedes all orders, Home State Rule's.

Every Law, Attempting to Justify Change of Custody, over home State, become's VOID to PKPA.

5) Georgia Court's Violated O.C.G.A § 19-3-3(c) Davis-Redding v. Redding 246 GA. APP. 792, 794, 542, S.E. 2d 197 (2000) Notice Must be Given to Respondent within (10) days
A) Notice arrived for Civil no. 14-1-1515, (2) days Prior of Hearing 1500 miles away, My Rights to be Heard were violated.

6) I've Provided Evidence of Plaintiff (Bellinger), filed Petition for TPO at Superior Court of Custodial Parent, Jurisdiction over US and History, Best to Judge by more History of Case/civil action, That TPO was vacated 2-7-14. IF Georgia Court's would have followed Laws of Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) Phila. Court's recent action's over TPO, Custody would have been available to Cobb County Courts, Eliminating this Gross Error.

7) I've Provided Proof of Perjured Affidavit on Georgia TPO Petition vs. Affidavit for same incident for Phila. TPO. Cobb Court's has Ignored.

8) The warrant (14-w-4032) I did not violate because Phone Calls were made from Out-of-State, Some Calls were initiated by Children & Ex-Wife

Georgia, also had no Personal Jurisdiction over Self; Technically, Georgia's TPO and warrant, are Void, Illegal, Null. O.C.G.A. §§ 19-13-1 et seq. Stalking over Phone by out of State defendant voids: must occur within GA.

STATES Witness: Officer J. M. Byrum, I've motioned for striking his testimony for, Prior Formal Complaint fo, Internal Affairs, Attorney General, FBI, Superior officers, on factual grounds of Dereliction of Duty (Refusal to arrest ex-wife, with active arrest warrant) Aiding & Abetting a fugitive of Justice, Co ~~Comp~~ Conspirator to Kid-napping, Improper Relationship to ex-wife, So he testified maliciously, Vindictive and misleading and Perjured (Probable Cause Hearing)

- A) Illegal, Void TPO (Perjured)
- B) Lack of Jurisdiction/Venue
- C) Warrant from Perjured Testimony (void)
- D) Violation to (UCCJEA) & PKPA Fed. Laws
- E) Failure to honor Phila Custody order's or Decision on TPO Petition for accusation in Home Venue/Jurisdiction, and Best Knowledge of.
- F) Failure of Due Process & No Response from Court's to Motion's, etc.
- G) Error by Judge Cox for impeaching over Phila.

Active Family Court orders, and negating procedure
to handling of NON Jurisdiction Procedure (UCCJEA)
H) Error of Interpretation to law concerning modifi-
cation to Custody Order Per Custodial & Non Custodial
Parent, Per Judge Cox over Probable Cause Hearing.

* Relief *

Prayfully Enforcement to PKPA & (UCCJEA)

Dismissal's to all Charge's from Perjured.
Initial TPO from (Bellinger)

District Attorney to Enforce Correcting of
Violation's of Civil & Federal Right's to my
Children being Abducted!

Receipt and Responce by (10) day's of
filling, Please

12-28-14 Michael Bishop
Michael Bishop

Ga. Divorce, Alimony, & Child Custody § 24:5
Georgia Divorce, Alimony, and Child Custody
Database updated November 2014
Dan E. McConaughy, ³⁰
Part III. Custody
Chapter 24. Modifying Prior Award

orders were void

§ 24:5: Full faith and credit

Full faith and credit shall be given in each state to the public Acts, Records and Judicial Proceedings of every other state. ¹
A judgment of a court of competent jurisdiction in another state awarding the custody of a child, which is regular on its face and unimpeached for fraud, is conclusive of the status at the time of its rendition and will be accorded full faith and credit when introduced in proceedings in the state for the custody of the child. ²
Georgia has enacted the Uniform Child Custody Jurisdiction and Enforcement Act to resolve interstate child custody disputes. ³

Westlaw © 2014 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

- ¹ The Falls, Atlanta Georgia
- ² U.S. Const. Art. IV, § 1.
- ³ *Jernigan v. Carrel*, 135 Ga. 390(2), 117 S.E. 327 (1923).
The Parental Kidnapping Prevention Act of 1980 (P. L. 96(6)1) requires state courts to give full faith and credit to the custody decrees of other states. This Act also makes the Federal Parent Locator Service (a part of the Social Security Act) available for finding child snatching parent. 7 F. L. R. 1033 and 2138.
- ⁴ See §§ 32:1 et seq., *infra*. For full faith and credit, see § 32:1(6), *infra*.

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

Ga. Divorce, Alimony, & Child Custody § 24:6
Georgia Divorce, Alimony, and Child Custody
Database updated November 2014
Dan E. McConaughy, ³¹
Part III. Custody
Chapter 24. Modifying Prior Award

§ 24:6: Change of condition—Generally

The use of a complaint in the nature of habeas corpus seeking a change in child custody is prohibited by the Georgia Child Custody Interstate Jurisdiction Act of 1978. ¹ (Although some of the cases cited in this chapter are in the nature of habeas corpus seeking a change of custody, they are only cited as precedent for the legal points contained therein.)
A recent far-reaching Georgia Supreme Court decision provides that in all relocation cases, as well as in all child custody cases, the trial court (1) must apply the best interests of the child test, and (2) cannot apply a bright-line test, i.e., the rebuttable presumption that the custodial parent has a prima facie right to retain custody. ² This means that in a change of custody case, the initial custody award will not always control after any new and material change in circumstances that affects the child is considered. ³ Not only does this decision reverse the long line of cases relating to relocation of a parent, ⁴ but it also reverses any other Georgia case that presumes the custodial parent has a prima facie right to retain custody. ⁵
It has been uniformly held by the courts of this state that, even though the legal right to custody of a child has been adjudicated by a court of competent jurisdiction, either of this state or of a foreign state, the court may nevertheless thereafter, in a custody proceeding, exercise a sound legal discretion as to the custody of the child if it be shown that new and material conditions substantially affecting the interest and welfare of the child have arisen since the rendering of such former judgment and decree. ⁶

The best interests of the child is the primary consideration in deciding custody; all other rights are secondary, and the initial custody award will not always control after evidence of new and material change in circumstances that affects the child is considered, and decisions such as change of custody must be on a case-by-case basis. ⁷

While the judgment fixing the custody of a child in a habeas corpus proceeding, ⁸ or where a divorce is granted, ⁹ is conclusive between the parties and the principle of res judicata is applicable, where a complaint is brought alleging a material change of circumstances substantially affecting the interest and welfare of the child arising since the decree, such proceeding is an independent one and it is not an effort to modify the original decree. ¹⁰

Although the award of custody in a divorce proceeding is conclusive between the parties, it is not conclusive for all time, ¹¹ and in a subsequent proceeding for the possession of the child, between the parties to the decree, the unfitness of the party to whom custody was awarded, ¹² or neglect or mistreatment of the child, ¹³ or other cause arising since the date of the decree may be alleged and proved. ¹⁴

When parents have been awarded joint physical custody in a divorce decree, in a subsequent modification action both have an equal right to retain physical custody of the child; there is no prima facie right. ¹⁵

A decree in a divorce suit awarding the child to one of the parties is prima facie evidence of the legal right to custody, but it is not conclusive, and where there is a change of circumstances materially affecting the welfare and interest of the child, the decree awarding custody may be modified as the interest of such minor child may require. ¹⁶ Likewise, judgment awarding custody in a prior habeas corpus proceeding in the superior court, ¹⁷ the probate court, ¹⁸ or a juvenile court proceeding ¹⁹ is not res judicata where there is a change in condition since the prior award.

The burden of proof is on the petitioner to show the required change in circumstances so as to relieve the case from the former adjudication and reopen the issue as to custody before any new judgment can be properly rendered in petitioner's favor. ²⁰ If the petitioner's evidence fails to show the required change in circumstances, the trial court upon motion may properly dismiss

Cobb County Superior Court
COBB County, STATE of GEORGIA
District ~~Appellate~~ Court

12/30/2014

STATE of Georgia

§
NADINE BELLINGER

PLAINTIFFS

vs.

Michael Bishop

§

Commonwealth of Penna.

DEFENDANT'S

Appeal to Appellate Court, District
Chap. 32, Part III Custody § 32:2. Jurisdic-
tion generally (UCCJEA).

CIVIL NO. 14-1-1615-99

WARRANT NO. 14-W-4032

Request, Expediously Jurisdiction
Priority Hearing of (UCCJEA)

I Michael D. Bishop, (defendant) Request's Priority,
Emergency Hearing, To rule over issue of Jurisdiction,
and violation of (UCCJEA) & (PKPA) Parental Kidnap-
ping Prevention Act by, Cobb County, Court.

I've communicated by motion, appeal, Petition and
Request's, to Due Process to be heard for Court's err, to
law. Cobb has no Jurisdiction over home-State Custody
order, that has not surrendered Jurisdiction, and has
exercised Jurisdiction for modification, after Georgia's
Illegal TPO infringement. I've requested Emergency,
and every other type of Hearing, To get into Court.
Every attempt is ignored. I've been Illegally charged
aggravated Stalking, for calling Not under Georgia's
personal Jurisdiction from Phila Penna. Also
Illegal of Ga. Court.

Relief

I prayfully request the Appellate Court to make Cobb County's Courts aware their orders are VOID, Null and in Federal Violation of Law's.

This is Maliciously being committed, by officer I've formally filed Complaint's on, and I refuse to believe Judge Cox, whom Issued TPO, with-out utilizing Procedures with-IN (UCCJEA) along with charging Err of law of Custody & modification procedures at my Probable Cause hearing, Are not aware this is illegal, on Cobb's behalf. also I have a \$300,000.⁰⁰ Excessive bail. Illegally!!

Request Receipt of Service
Please.

12/30/2004
Michael Bishop
Michael Bishop

AND Responce. I've been Incarcerated Since 8/28/14 with Excessive bail For Very Justifiable actions for communication with abducted Children Illegally Removed From Home & School in Phila Pa.

Defendant; Michael D. Bishop
Prays that with this motion
ALL charges will be dismissed
AGAINST him within the
State of Georgia, Cobb County.

I Michael D. Bishop would
like to thank the Clerk
of Court AND the honorable
Judge with his/her time
with the filing of my
motion.

Pro Se
w/stby
counsel

THANK YOU
Michael D. Bishop

Michael Bishop

DATE: 10-13-14

x Treasure Blackmon
October 13 2014

