

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re Marriage of NICOLE F. BROWN and
ANTHONY YANA.

2d Civil No. B170252
(Super. Ct. No. DR 21998)
(San Luis Obispo County)

NICOLE F. BROWN (YANA),

Respondent,

v.

ANTHONY YANA,

Appellant.

ORDER MODIFYING OPINION AND
DENYING REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on December 20, 2004, be modified as follows:

1. On page 4, after the third full paragraph, the following paragraphs are to be inserted:

In her petition for rehearing Brown argues that she alone is solely "responsible" and "eligible" to make decisions concerning the residence and schooling of Cameron. She cites Family Code section 3007, which states: "'Sole legal custody' means that one parent shall have the right and the responsibility to make the decisions

relating to the health, education, and welfare of a child," and Family Code section 3006, which states: "'Sole physical custody' means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation."

We agree with Yana that Family Code sections 3006 and 3007 do not deprive a noncustodial parent of a right to a hearing when the custodial parent chooses to change the minor's residence.

There is no change in the judgment.

Respondent's petition for rehearing is denied.

I would grant rehearing.

YEGAN, J.