

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JENNIFER ADAMS WILLEY,

Appellant,

v.

Case No. 5D20-1636
LT Case No. 2010-DR-8280-O

MARK JOSEPH STILLMAN,

Appellee.

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Opinion filed December 3, 2021

Appeal from the Circuit Court
for Orange County,
Jeffrey L. Ashton, Judge.

Nicholas A. Shannin and Carol B.
Shannin, of Shannin Law Firm, P.A.,
Orlando, for Appellant.

No Appearance for Appellee.

PER CURIAM.

Jennifer Adams Willey appeals two contempt orders—one holding her in civil contempt and the other holding her in indirect criminal contempt. We affirm the civil contempt order because any meritorious argument as to that

order was either not preserved below or was not adequately raised in the initial brief. However, we find that Willey's argument that the court erred when it refused to allow her to call an exculpatory witness at the criminal contempt hearing has merit. Therefore, we reverse the indirect criminal contempt order.

At the indirect criminal contempt hearing, the trial court excluded Willey's thirteen-year-old son from testifying as an exculpatory witness because the court did not want Willey's son to "take sides" between his parents. According to a proffer, the son's testimony would have been directly relevant to whether Willey intentionally disobeyed the order at issue.

"An indirect criminal contempt proceeding must fully comply with rule 3.840, Florida Rules of Criminal Procedure, and defendants are entitled to the appropriate due process protections" *Bowen v. Bowen*, 471 So. 2d 1274, 1279 (Fla. 1985). Therefore, "[t]he defendant is entitled to be represented by counsel, have compulsory process for the attendance of witnesses, and testify in his or her own defense." Fla. R. Crim. P. 3.840(d); *see also Baumgartner v. Joughin*, 141 So. 185, 187 (Fla. 1932) (explaining that the accused is entitled to the "assistance of counsel, if requested, and the right to call witnesses to give testimony").

Given our record, we conclude that the exclusion of Willey's son as a witness violated rule 3.840. We therefore reverse the indirect criminal contempt order and remand for a new hearing on that issue. We affirm in all other respects.

AFFIRMED in part; REVERSED in part; and REMANDED.

EDWARDS, EISNAUGLE and WOZNIAK, JJ., concur.