

Third District Court of Appeal

State of Florida

Opinion filed October 23, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D17-0936
Lower Tribunal No. 07-18012

Christa Adkins,
Appellant,

vs.

Michael Sotolongo,
Appellee.

An appeal from the Circuit Court for Miami-Dade County, George A. Sarduy,
Judge.

Christa Adkins, in proper person.

Abramowitz and Associates, and Evan L. Abramowitz, for appellee.

Before EMAS, C.J., and LINDSEY, and MILLER, JJ.

PER CURIAM.

Appellant, Christa Adkins, the mother, challenges a final order approving the recommendation and report of a general magistrate in her postdecretal action against appellee, Michael Sotolongo. As Adkins timely filed exceptions, “the trial court abused its discretion by [prematurely] adopting and ratifying the general magistrate’s report and recommendations without conducting a hearing” on the same. Cazi v. Prophete, 130 So. 3d 723, 723 (Fla. 3d DCA 2014); see Fla. Fam. L. R. P. 12.490(f) (“The general magistrate must file the report and recommendations and serve copies on all parties. The parties may file exceptions to the report within [ten] days from the time it is served on them . . . If exceptions are filed, they must be heard on reasonable notice by either party or the court.”); Gutierrez v. Gutierrez, 48 So. 3d 118, 119 (Fla. 5th DCA 2010) (“[T]he father was entitled to receive a hearing on his exceptions to the general magistrate’s report because he did timely file his exceptions.”); Simmons v. Simmons, 16 So. 3d 878, 878 (Fla. 5th DCA 2009) (“[W]e reverse because the trial court failed to hold a hearing on Husband’s timely filed exceptions to the magistrate’s report before entering the final judgment.”) (citations omitted); Burnstine v. Townley, 976 So. 2d 624, 627 (Fla. 5th DCA 2008) (“[T]he trial court erred when it denied [the father’s] exceptions without first conducting a hearing.”); Yoxsimer v. Yoxsimer, 918 So. 2d 997, 998 (Fla. 2d DCA 2006) (“Florida Family Law Rule of Procedure 12.490(f) provides that if exceptions

are filed to a general magistrate's report, they '[must] be heard on reasonable notice by either party or the court.'" (footnote omitted).

Accordingly, we reverse the final order under review and remand this case to the lower tribunal to conduct an appropriate hearing forthwith on the exceptions.

Reversed and remanded.