

# Third District Court of Appeal

State of Florida

Opinion filed December 1, 2021.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D21-1786  
Lower Tribunal No. 19-15729

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**Kristopher E. Pearson,**  
Petitioner,

vs.

**Claudia M. Pearson,**  
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, David Young, Judge.

Orshan, Spann & Fernandez-Mesa, and Steven P. Spann, for petitioner.

No appearance, for respondent.

Before HENDON, MILLER, and GORDO, JJ.

HENDON, J.

Kristopher E. Pearson (“Former Husband” or “Petitioner”) petitions this Court for a writ of certiorari, seeking to quash Paragraphs 5 and 6 of the trial court’s Order on Former Husband’s Emergency Motion for Return of Minor Child and Turnover of Passport (“Order”), which, in part, appointed a Guardian ad Litem for the parties’ minor child to advance the child’s best interest (Paragraph 5) and ordered psychological evaluations of both parties (Paragraph 6). We grant the petition, in part, quashing Paragraph 6 of the Order, but without further discussion deny the portion of the petition seeking to quash Paragraph 5 of the Order. See § 61.401, Fla. Stat. (2021).

“Certiorari jurisdiction lies to review an order compelling a mental examination.” Manubens v. Manubens, 198 So. 3d 1072, 1074 (Fla. 5th DCA 2016) (quoting J.B. v. M.M., 92 So. 3d 888, 889 (Fla. 4th DCA 2012)). Florida Rule of Civil Procedure 12.360(a)(1) provides that “[a] party may request any other party to submit to . . . examination by a qualified expert when the condition that is the subject of the requested examination is in controversy.” Further, rule 12.360(a)(2) provides: “An examination under this rule is authorized only when the party submitting the request has good cause for the examination. At any hearing the party submitting the request shall have the burden of showing good cause.” See also Fla. R. Civ. P.

1.360(a)(1) & (a)(2); Gasparino v. Murphy, 352 So. 2d 933, 935 (Fla. 2d DCA 1977). Thus, the order requiring the parties to submit to psychological examinations is a departure from the essential requirements of law unless both the “in controversy” and the “good cause” prongs were established. See Wade v. Wade, 124 So. 3d 369, 374 (Fla. 3d DCA 2013).

Here, the record before this Court does not contain any pleadings specifically alleging that the parties’ mental condition was in controversy, and there is also no transcript of the hearing at which the trial court ordered the parties to submit to psychological evaluations. In addition, in the trial court’s Order of Referral to Family Court Services, although the trial court marked the “Psychological Evaluation” box, the trial court did not mark the “Mental health condition in controversy” box. As such, we grant, in part, the petition for writ of certiorari and quash Paragraph 6 of the Order requiring both parties to submit to psychological evaluations. The quashing of Paragraph 6 from the Order should not be viewed as prohibiting such an examination in the future if the necessary requirements are met.

Petition granted, in part, and order under review quashed, in part.