

STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT
P.O. Box 16577
Lake Charles LA 70616
(337) 433-9403

REHEARING ACTION: June 26, 2009

Docket Number: 08 01349-CA

L.E.P.S.
VERSUS
R.G.P.

Appealed from Catahoula Parish Case No. 19,698

BEFORE JUDGES:

Hon. Sylvia R. Cooks
Hon. John D. Saunders
Hon. Marc T. Amy
Hon. J. David Painter
Hon. Shannon J. Gremillion

As counsel of record in the captioned case, you are hereby notified that the application for rehearing filed by **Ray Gene Pitts** has this day been

DENIED.

J.D.S.

M.T.A.

S.J.G.

COOKS, J., concurring. I write this concurring opinion in the denial of this motion for rehearing for the purpose of pointing out the frivolousness of this motion for rehearing and the earlier filed motion for stay in this proceeding. In the filing of the motion for stay, the appellant argued that if this court did not grant an immediate stay of the execution of this court's ruling, the appellee would remove the children from this country. Acting on this assertion, the majority of this panel granted the requested stay, from which ruling I dissented. In the application for rehearing, the appellant has only rehashed the record that was before this court in the original hearing and encourages the majority of this panel to adopt the reasoning of the dissenting opinion that had already been rejected by the majority of this panel. In light of the argument set forth in the application for rehearing, I find that the appellant's counsel's argument on the motion for stay was so baseless that it constitutes a frivolous pleading interposed merely for delay in violation of La.Code Civ.P. art. 863. Therefore, I wholeheartedly agree with the denial of the application for rehearing and would further cast appellant's counsel with mandatory sanctions in accordance with La.Code Civ.P. art. 863(D) for filing the stay request.

PAINTER, J., dissents. I would grant the rehearing of the original panel and extend the stay an additional 10 days for appeal if the rehearing is denied.

cc: Paul A. Lemke, Counsel for the Appellant
James Edward Paxton, Counsel for the Appellee
Richard L. Fewell, Jr., Counsel for the Appellee

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