

[Cite as *Huston v. Huston*, 2021-Ohio-1077.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

ALECIA HUSTON

Appellee

v.

DWAYNE HUSTON

Appellant

C.A. No. 29808

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. DR-2015-03-0714

DECISION AND JOURNAL ENTRY

Dated: March 31, 2021

CALLAHAN, Judge.

{¶1} Appellant, Dwayne Huston, appeals an order of the Summit County Court of Common Pleas, Domestic Relations Division, that denied his motion to reallocate parental rights. This Court affirms.

I.

{¶2} Dwayne and Alecia Huston divorced in 2016. They are the parents of three children, all of whom were minors at the time of the divorce. The divorce decree provided that Ms. Huston would be the residential parent of the minor children and that Mr. Huston would have supervised companionship time, subject to the ongoing recommendations of a counselor. Within six months of the divorce decree, Mr. Huston filed his first motion to reallocate parental rights and responsibilities. He filed a supplement to that motion on June 7, 2017, and on April 17, 2018, he filed another motion. With respect to each, the trial court determined that Mr. Huston did not demonstrate a change in circumstances that warranted designating Mr. Huston as the residential

parent, although the trial court made some modifications to the parenting-time schedule and the conditions under which parenting time could be exercised.

{¶3} On November 21, 2019, Mr. Huston again moved to reallocate parental rights, raising many of the same arguments regarding the nature of his relationship with Ms. Huston that he had raised in previous motions. The trial court adopted a magistrate’s decision and denied Mr. Huston’s motion on March 16, 2020, concluding that Mr. Huston had failed to demonstrate a change in circumstances. Mr. Huston filed objections and supplemental objections to the magistrate’s decision. The trial court denied all of Mr. Huston’s objections, and Mr. Huston filed this appeal.

II.

ASSIGNMENT OF ERROR NO. 1

THE TRIAL COURT ERRED BY WILLFULLY NEGLECTING, AIDING, ABETTING, AND PARTICIPATING IN THE MENTAL INJURY OF THE HUSTON CHILDREN AND INTIMATE PARTNER VIOLENCE OF [MR. HUSTON], AS COURT ORDERED LICENSED PSYCHOLOGISTS AND GAL REPORTED TO THE [TRIAL] COURT WOULD OCCUR TO THE HUSTON CHILDREN AND [MR. HUSTON] BY [MS. HUSTON]. OHIO REVISED CODE 2151.031 ABUSED CHILD DEFINED. . . AS USED IN THIS CHAPTER, AN “ABUSED CHILD” INCLUDES ANY CHILD WHO: (D) BECAUSE OF THE ACTS OF HIS PARENTS, GUARDIAN, OR CUSTODIAN, SUFFERS PHYSICAL OR MENTAL INJURY THAT HARMS OR THREATENS TO HARM THE CHILD’S HEALTH OR WELFARE.

ASSIGNMENT OF ERROR NO. 4

THE TRIAL COURT FAILED TO COMPLY WITH THE INTENTIONS OF “THE BEST INTERESTS OF THE [HUSTON] CHILDREN STANDARD[,]” DIRECTION AND LAWS INTENDED TO ADDRESS THE ISSUES IDENTIFIED IN THE “FAMILY LAW REFORM: MINIMIZING CONFLICT, MAXIMIZING FAMILIES” BY THE OHIO TASK FORCE ON FAMILY LAW AND CHILDREN – SUPREME COURT, WHICH DOCUMENTS MORE CLEARLY THE ESSENCE AND INTENTIONS OF OHIO REVISED CODE 3109.04.

ASSIGNMENT OF ERROR NO. 5

WHILE UNDER THE ACCOUNTABILITY, ORDERS, AND CONTROL OF THE TRIAL COURT, THE TRIAL COURT ERRED IN PROVIDING THE HUSTON FAMILY WITH MENTAL HEALTH SERVICES THAT FAILED TO MEET PROFESSIONAL STANDARDS OF PRACTICE OR CARE[.]

ASSIGNMENT OF ERROR NO. 8

THE TRIAL COURT ERRED BY IGNORING REPORTS FROM LICENSED MENTAL HEALTH TO PROVIDE THE SPECIALIZED TREATMENT THE HUSTON CHILDREN AND FAMILY REQUIRES TO SUCCESSFULLY TRANSITION INTO A HEALTHY SEPARATED FAMILY STRUCTURE. THE TRIAL COURT ERRED TO MINIMIZING CONFLICT AND MAXIMIZING FAMILY, WHICH MAXIMIZED EXPENSIVE LITIGATION. THE TRIAL COURT ERRED BY ENABLING [MS. HUSTON'S] ATTORNEY TO MAKE THE SIMPLEST TASKS LIKE DIVIDING HOUSEHOLD ASSETS AND OBTAINING REQUIRED INFORMATION FOR [MR. HUSTON] TO FILE FEDERAL AND STATE TAXES "HIGH CONFLICT[.]" REQUIRING EXPENSIVE LITIGATION RATHER THAN MINIMIZING CONFLICT. * * * THE TRIAL COURT ERRED AND TOOK ADVANTAGE OF THE "HIGH CONFLICT PERSONALITY" OF [MS. HUSTON], AS COURT ORDERED LICENSED PSYCHOLOGISTS AND GAL REPORTED TO THE [TRIAL] COURT, WHICH WAS NOT IN THE BEST INTERESTS OF THE HUSTON CHILDREN OR FAMILY.

{¶4} Mr. Huston's first, fourth, fifth, and eighth assignments of error appear to argue error in connection with earlier rulings that pertained to custody matters and to the divorce decree itself and not with the trial court's order that denied his November 21, 2019, motion to reallocate parental rights, which is the subject of this appeal. No appeals were taken from those earlier orders, and these arguments are both untimely and beyond the scope of this appeal. *Compare Coleman v. Coleman*, 9th Dist. Summit No. 27592, 2015-Ohio-2500, ¶ 10.

{¶5} Mr. Huston's first, fourth, fifth, and eighth assignments of error are overruled.

ASSIGNMENT OF ERROR NO. 2

THE TRIAL COURT IS SUPPORTING AND PUSHING THE TRAUMA REENACTMENT NARRATIVE OR PARALLEL PROCESS AND ERRED BY OBSTRUCTING JUSTICE, TRUTH, DUE PROCESS, AND BEST INTERESTS OF THE HUSTON CHILDREN. THE FACTS AND EVIDENCE

OVERWHELMINGLY PROVE THE TRIAL COURT ABUSE[D] ITS POWER TO CREATE CONFLICTS OF INTERESTS WITH LICENSED LAWYERS AND MENTAL HEALTH PERSONNEL TO CREATE THE FALSE NARRATIVE THAT IT IS IN THE BEST INTERESTS OF THE HUSTON CHILDREN TO INFLICT ATTACHMENT TRAUMA WITH [MR. HUSTON]. THE TRIAL COURT FAILED TO COMPLY WITH OHIO CODE OF JUDICIAL CONDUCT CANON 2 – “A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY[.]” SPECIFICALLY, WITH RULE 2.1 GIVING PRECEDENCE TO THE DUTIES OF JUDICIAL OFFICE, RULE 2.2 IMPARTIALITY AND FAIRNESS, RULE 2.3 BIAS, PREJUDICE, AND HARASSMENT, RULE 2.9 EX PARTE CONTACTS AND COMMUNICATIONS WITH OTHERS, RULE 2.11 DISQUALIFICATION, RULE 2.12 SUPERVISORY DUTIES, AND RULE 2.15 RESPONDING TO JUDICIAL AND LAWYER MISCONDUCT

ASSIGNMENT OF ERROR NO. 3

THE TRIAL COURT FAILED TO COMPLY WITH [THE] OHIO CODE OF JUDICIAL CONDUCT CANONS, AND THE COURT’S DUTY TO CARE AND DUTY TO PROTECT THE CHILDREN AND THE DEFENDANT AS REPORTED TO THIS COURT BEING REQUIRED BY THE THREE COURT ORDERED LICENSED MENTAL HEALTH PERSONNEL AND THE HUSTON CHILDREN’S GAL, AS SUMMARIZED IN (EXHIBIT CL) SOURCE OF CHILD ABUSE TABLE – WHICH PARENT IS THE SOURCE OF PATHOGENIC PARENTING CREATING ATTACHMENT PATHOLOGY. THE TRIAL COURT FAILED TO COMPLY WITH OHIO CODE OF JUDICIAL CONDUCT CANON 2 – “A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY[.]” SPECIFICALLY, WITH RULE 2.5 COMPETENCE, DILIGENCE, AND COOPERATION.

ASSIGNMENT OF ERROR NO. 6

WHILE UNDER THE ACCOUNTABILITY, ORDERS, AND CONTROL OF THE TRIAL COURT, THE TRIAL COURT ERRED IN NOT REPORTING ILLEGAL MENTAL HEALTH SERVICES TO THE OHIO LICENSING BOARDS THAT FAILED TO MEET PROFESSIONAL STANDARDS OF PRACTICE OR CARE OR MALPRACTICE. SEE 4732-19-01 ENFORCEMENT AND DISCIPLINE. LICENSED PSYCHOLOGISTS AND LICENSED SCHOOL PSYCHOLOGISTS GOVERNED BY CHAPTERS 4732. AND 119. OF THE REVISED CODE FOR VIOLATION OF THESE RULES.

ASSIGNMENT OF ERROR NO. 7

WHILE UNDER THE ACCOUNTABILITY, ORDERS, AND CONTROL OF THE TRIAL COURT, THE TRIAL COURT ERRED BY DEEMING THEMSELVES COMPETENT AND LICENSED TO PRACTICE

BEHAVIORAL SCIENCE AND JUDGE WHICH LICENSED MENTAL HEALTH PROVIDER SUBMITTED TRUE TESTIMONY TO THE TRIAL COURT AND WHICH LICENSED MENTAL HEALTH PROVIDER SUBMITTED FALSE TESTIMONY TO THE TRIAL COURT OR COMMITTED MALPRACTICE, WHEN MENTAL HEALTH EVIDENCE, LACKING INTER-RATER RELIABILITY, WAS REPORTED TO THE TRIAL COURT. SUCH JUDGEMENT REQUIRES COMPETENCE AND LICENSURE WHICH IS THE JURISDICTION OF THE OHIO BOARD OF PSYCHOLOGY.
* * *

{¶6} Mr. Huston's second, third, sixth, and seventh assignments of error appear to suggest that the trial court violated various professional standards and the Code of Judicial Conduct or Rules for the Government of the Judiciary. Allegations of judicial misconduct, however, are not within this Court's jurisdiction. *Lingenfelter v. Lingenfelter*, 9th Dist. Wayne No. 14AP0005, 2015-Ohio-4002, ¶ 10; *Hendy v. Wright*, 9th Dist. Summit No. 26422, 2013-Ohio-5786, ¶ 7; *State v. Williams*, 9th Dist. Summit No. 25827, 2011-Ohio-6067, ¶ 14; *Dennie v. Hurst Constr., Inc.*, 9th Dist. Lorain No. 06CA009055, 2008-Ohio-6350, ¶ 16.

{¶7} Mr. Huston's second, third, sixth, and seventh assignments of error are overruled.

III.

{¶8} Mr. Huston's assignments of error are overruled. The judgment of the Summit County Court of Common Pleas, Domestic Relations Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

LYNNE S. CALLAHAN
FOR THE COURT

HENSAL, P. J.
SUTTON, J.
CONCUR.

APPEARANCES:

DWAYNE HUSTON, pro se, Appellant.

CHARLES M. BUDDE, CHARLES E. GRISI, and GUENNA BOLINGER, Attorneys at Law, for Appellee.