

NOTE: If you would like to contact Lisa please send an email to ncfmsd@earthlink.net .

8/20/08

“A divorce from a spouse is not a divorce from their children, nor should custody decisions be used as a punishment...”

To Whom it May Concern:

I am writing this letter on behalf of my family to explain the devastating effect the family court system has had on our family's emotional and financial well-being. This has been detrimental to all involved and something needs to change to make the family court system see that they are doing no favors to families by allowing these disparities to continue. This is happening to many others all across the country.

["KENTUCKY: Chalupa v. Chalupa, Kentucky Court of Appeals, No. 90-CA-001145-MR; \(May 1, 1992\).](#)

Judge Schroder, writing for the majority:

A divorce from a spouse is not a divorce from their children, nor should custody decisions be used as a punishment. Joint custody can benefit the children, the divorced parents, and society in general by having both parents involved in the children's upbringing.... The difficult and delicate nature of deciding what is in the best interest of the child leads this Court to interpret the child's best interest as requiring a trial court to consider joint custody first, before the more traumatic sole custody. In finding a preference for joint custody is in the best interest of the child, even in a bitter divorce, the court is encouraging the parents to cooperate with each other and to stay on their best behavior. Joint custody can be modified if a party is acting in bad faith or is uncooperative. The trial court at any time can review joint custody and if a party is being unreasonable, modify the custody to sole custody in favor of the reasonable parent. Surely, with the stakes so high, there would be more cooperation which leads to the child's best interest, the parents' best interest, fewer court appearances and judicial economy. Starting out with sole custody would deprive one parent of the vital input."

A few things that need to be understood in this situation are that this is a typical, middle income family. The single mother in this situation is not on welfare or uneducated. She is white, her daughter is white. They live in a nice gated community, in which the home is owned by the mother. The child in question has every toy, every material thing that she could ever want, and every advantage, **EXCEPT**, equitable and fair access to her father. It should also be stated that there is no history whatsoever of neglect or abuse.

Senator Obama recently gave a speech, on Father's Day, on the effects of absentee fathers in this country, and how men need to step up and do the right thing. If anyone

would care to take a closer look at this particular situation, they would see why many fathers do not. It's because of things like this, that happen in the family court that make it impossible. My husband has spent thousands of dollars financially supporting his daughter while her mother was allowed to work part-time and finish school. Yet the court ordered him to work full-time, even though he is a disabled vet and was trying to take advantage of his educational benefits in order to gain a better job. The court gave him no reprieve in his child support payments to afford him the same opportunity, to provide a better lifestyle for himself and his children. He is tens of thousands of dollars in debt so that he could make his child support payments and finish his education. Now that he is finished with his education, he makes more money and is required to pay more. All is fair, except that more money was only requested for the sole purpose of making it impossible for him to afford visitation with his daughter. He wanted more than 2 weeks, so he sought the court's help in making that happen. Her mother did not want to compromise so she fired back with a child support adjustment.

Why is it that a mother can continually ask for additional money out of anger, in order to keep a father out their child's life? They can make demands that are so great that it will leave the father with little hope of ever getting out of debt, or providing the same kind of financial resources to the rest of his family. It seems like there is a one sided punishment occurring in our society that solely blames the father for a divorce.

I am the "New" wife in this situation and these are my laundry list of complaints with the child support system as a whole:

There are no set visitation schedules for non-custodial parents. When there is no neglect or abuse involved there should be an automatic standard that the court applies, unless the parties are both agreeable to some other arrangement. Instead, the non-custodial parent is forced to go to court, pay all the fees and be told that their minor children are allowed to make the decision about how long they will spend with the parent. This is always in the custodial parent's favor because they have more access to the child and are allowed to campaign to make sure the child says/does what they want them to. The job of the courts is to make sure that children maintain contact with **both** parents, not make it financially impossible for them do so. It was also ordered in our case that all transportation costs would be the burden of my husband. When the additional cost of plane tickets became impossible for us to pay, the court ordered him to pay the costs anyway, even though the plane ticket was purchased without any prior notification so that we could make alternative arrangements to pay for it. Again, the court seems to be punishing my husband for his inability to have a never-ending cash supply. They deemed his reason of not having enough money as being "without good cause".

He requested the "standard" 6 six week visit that is practiced by most families in our situation and yet the court ordered that the child could decide (based on her mother's campaigning) that she only wanted to see her father for 2 weeks. This is for the entire year. How is 2 weeks per year maintaining a relationship with a parent and child? He pays his child support, maintains contact as best he can, given that we live in Oregon

and she lives in Kentucky. Her father is the one expected to shoulder the entire burden in order for her to have any contact with him at all. Not to mention, our home is a perfectly good place for her to spend the summer bonding with her 2 brothers and father, yet the court thought it best to raise the child support payments so that her mother could send her to summer camp on her father's dime. They would rather her be in the care of strangers for 50 hours per week during the summer, while her mother is working, rather than in her father's home or having the opportunity to get to know her paternal grandparents and other family members. She is 9 years old.

Child support payments are not determined by cost of living according to the state that one lives in. For instance, it costs more to live in Oregon than it does in Kentucky.

A custodial parent can own their home outright thanks to a wealthy family member, but does not have to list that as a resource that is provided to the child by the custodial parent. Child support payments are supposed to be based on housing/shelter, food and clothing costs, yet no proof is required for the custodial parent to provide these things. There needs to be an alternate federal system in place for families residing in different states where the cost of living, resources, and assets are all taken into consideration. If a custodial parent owns her home or has a low housing cost, it should be counted in the calculations for child support. This may take a few more minutes of someone's time to figure out, but it is a more fair way to make sure that the custodial parent is not gaining additional disposable income. Why is there no accountability for custodial parents to show what the money is spent on? I can understand such an arrangement if my husband was not remarried with children. *If I were to divorce him today, and ask to receive the same amount of support for each of our children, he would have approximately \$600 per month leftover to live on. Because the calculations are based solely on both parents' income and not on actual financial need, he would most likely be ordered to pay me even more because I am disabled and therefore make much less money than his ex-wife.*

Our commitment to provide for our 2 sons is burdened more than it should be. The way the Kentucky child support system is calculating the payment, there is no consideration for any other biological children a non-custodial parent has living in their home. This is a serious issue to address because all children should have **equal** access to their parent's financial resources. Instead, the Kentucky child support system does not allow for a non-custodial parent to provide for their additional children. In the case of our 2 sons, one is an infant, and the other is 4 years old with an autism diagnosis, that requires extra supports and services, and the support rules do not care. When our eldest son was a baby and toddler we had to rely on section 8 housing, food stamps and WIC in order to meet the child support obligation every month. Many other states have a way of adjusting such disparities so that children in the same family are taken into consideration to make an accurate calculation.

I believe it also to be unfair when looking at the tax liability in a situation like this. A custodial parent gets the child support payment tax free. So in reality, the parent paying support is actually paying above what the court orders for the child support. I guess we

are supposed to feel grateful that we get to claim her on our taxes. Yet when our income was so low that we required public assistance for housing costs and food, we were not allowed the earned income credit because she did not reside in our home.

So far, I have mostly complained about the financial consequences for our family. I cannot begin to express the sorrow and anger that is felt by many in our family, especially my husband. He feels that he has essentially lost his daughter. He was trying to do the right thing by being present, fighting for a relationship with her and creating a bond for her and her brothers. The way things stand, he is devastated and withdrawn. He has given up any hope of ever seeing her again. At every turn, he has been seen only as a financial resource. This is a great discredit to him as a man, a veteran of this country, and most importantly, a father.

My husband is a hard working, intelligent, caring family man who was trying to do the right thing. As someone who has spent a great deal of time supporting him through this ordeal, I can say that his daughter is truly going to miss out on having him as a steady and capable influence in her life. He is someone who could have taught her the importance of standing up for what is right in this world, that money and materialistic pursuits are *not* the most important values. She could have seen what it was like to be a part of intact family instead of spending all of her summers in a childcare setting.

I hope that those who take the time to read this, and have the power to make changes that allow non-custodial parents better access to their children will do so. Children need both of their parents. Raising a child requires more than money, it takes time, love, guidance, a sharing of values and morals. A single mother who all too often leaves her young daughter in front of a television set or in daycare setting does not teach her the importance of family, how to be a good human being, nor does it allow a place for the child to turn when they experience hardships and difficulties in their young lives. What is the future for this little girl who will continue to be fatherless because he has been so financially devastated that he can no longer afford the fight?

I am signing this as a concerned mother looking out for the best interest of my children.

Lisa J E

For those agencies who would like to inquire further about this matter in order to help our family file a grievance against the family court in question, it would be much appreciated if you could direct me to the proper resource or authority.

Cc: Children's Rights Council, Judicial Conduct Commission, Kentucky Bar Association, Citizen's Divorce & Custody Reform, National Coalition of Free Men, Children's Rights Council of Kentucky, Oprah Winfrey Show (via email), Dr. Phil Show,

Office of the Speaker, Senator Gordon Smith, Family Law Division (Eugene, OR), Oregon Child Support Program, Oregon Dept. of Justice, Steven Veno, Attorney General Jack Conway, Senator Tim Shaughnessy, Jefferson Circuit Court (Hon. Donna L. Delehanty), Senator John McCain, Senator Hillary Rodham Clinton, Senator Barack Obama, R. Gary Lowen, I. Joel Frockt, Children's Rights Council of Oregon, National Fatherhood Initiative, Governor Steve Beshear, Governor Ted Kulongoski, Kentucky Commission on Human Rights, Commissioner Patricia R. Wilson, U.S. Department of Justice, Kentucky Legislative Ethics Commission

8/31/08

This is the one I am sending to the Kentucky Child Support Commission who make the rules for child support. It was recommended to me by the child support enforcement agency that I send my list of suggestion to be reviewed by them. I just thought you may want to also include this with the other one on your website. Thanks!

Kentucky Child Support Commission

201 West Short Street

Lexington, KY 40507

To Whom It May Concern:

I find it interesting that this quote is centered at the top of the child support website for Kentucky child support:

"Every child has a legal right to financial support from both parents."

If you are willing to take the time to read the following pages of our family's story, you will hopefully see the great disservice the state of Kentucky has imposed upon my family. Your child support system has ruled that my 2 sons do not matter and only that their older (first born) sister is entitled to \$671 per month. This is approximately 1/3 of

my husband's take home wages. If I were to divorce him tomorrow and Oregon forced him to pay me an equal amount for each of our sons, he would be left virtually penniless and how would that accommodate providing for "every child"?

Consider these facts of the Kentucky child support system:

A custodial parent is allowed to own their home outright, yet not have to report it in a child support computation to adjust for not paying a rental or mortgage expense. Child support is supposed to be used for housing costs as well as other maintenance costs. How is it that the computations do not account for this type of situation where there is little or not cost? This should be considered an asset, like income.

We have received no proof on childcare expenses, although this was the reason for an increase in support. Where's the bill? People should not be allowed to march into court say how much they pay and not be required to show proof of the expense!

Living in Oregon, like many other states, the cost of living here is considerably higher, especially in regard to taxes and housing costs. There should be some way to equalize this disparity by using some kind of percentage to reduce the child support obligation to account for tax consequences and general living costs. I can guarantee that \$671 a month goes a lot further in Kentucky than it does in Oregon for food and shelter. The tax obligation on this amount if computed at 10% makes the obligation even greater, and yet the custodial parent gets this income tax free, and can even use a federal set aside childcare dependent expense account, but the person who is actually paying the childcare expenses (through child support) is not allowed to have any relief from tax liability.

Many states allow for a child support adjustment for additional children, including our state. NO child in a family should be considered to be more financially dependent than another, especially when the system is used to make determinations strictly based on income and not **actual** expenses. It is my understanding that Kentucky uses this rule about first born children to discourage fathers, in particular, to avoid having additional children. This is a violation of the civil rights of fathers. When we adopt "no fault" divorce as the standard, which means you cannot and should not penalize a father for remarrying and creating a family with someone who is capable of being a wife. Too much blame is placed on fathers for divorce occurring. My sons are no less important than their sister and are entitled to their father's money in equal proportion. Birth order should have nothing to do with it. If he dies tomorrow, Social Security would see it the same way and divide the payments equally! There is no similar penalty for mother's who have additional children with multiple men.

Your system is terrible flawed and used relentlessly in the court system to allow judges and custodial mothers to make it impossible to maintain contact with one's child (more about this is included in the following pages). Judges should not be allowed to have any say as to when and how much child support is to be paid. It should all be handled by the

agency, so that when there is a court matter regarding visitation, child support cannot be used to allow a judge to keep children and parents apart.

These are suggestions which I consider to be terribly important and in need of reform. I hope someone on your commission is willing to do something to make changes regarding these types of circumstances.

Sincerely,

Lisa LJE

Concerned Mother and Step-mother