

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

DOCKET NO. A-1819-14

---

JUDITH E. TURKHEIMER,

Plaintiff-Appellant,

v.

PETER T. BURKE,

Defendant-Appellee

---

:  
:  
:  
: On Appeal From a Final Judgment of the  
: Superior Court of New Jersey,  
: Chancery Division, Middlesex County  
:  
: Sat Below:  
: Hon. Colleen M. Flynn, J.S.C.  
:

---

REPLY BRIEF ON BEHALF OF JUDITH E. TURKHEIMER

---

Judith E. Turkheimer, Pro Se  
8 Hodge Road  
South Brunswick, New Jersey 08824  
732-821-2996

September 21, 2015

## REPLY CERTIFICATION

The Court made it clear and recognized that Zachary's behaviors were "contrary to the advice of both parents. For example, staying up all night and sleeping during the day." However, that does not in any way indicate that he is "beyond the sphere of influence" as it relates to emancipation...certainly not as the Judge Flynn interpreted it and not as the Defendant would want the Court to believe. That behavior is not indicative of an adult who can live on their own, rather, it is more like a 12-year-old who is being defiant.

Zachary was classified by the team of professionals by employed by the school district's child study team. An IEP was in place that took into consideration Zachary's issues, issues that were not related to any learning disabilities.

The Court has said that the emancipation of a child occurs when the fundamental relationship between a parent and a child is terminated. "When a child moves beyond the sphere of influence and responsibility exercised by a parent and obtains an independent status on his or her own, generally he or she will be deemed emancipated." Bishop v. Bishop, 287 N.J. Super. 593, 598 (Ch. Div. 1995). New Jersey law does not fix an age at which emancipation occurs. Youssefi v. Youssefi,

328 N.J. Super. 12, 22 (App. Div. 2000); Wanner v. Litvak, 179 N.J. Super. 607, 612 (App. Div. 1981). And although N.J.S.A. 9:17B-3 establishes a presumption that emancipation will occur when a child reaches majority at the age of eighteen, that presumption is rebuttable. Weitzman v. Weitzman, 228 N.J. Super. 346, 356 (App. Div. 1988), certif. denied, 114 N.J. 505 (1989).

In this case, Zachary is clearly not beyond the sphere of influence and responsibility exercised by a parent and he does not yet have the ability to obtain an independent status on his own. His behavior are merely acts of defiance...not the acts of a responsible adult. His issues are ones that need to be addressed with the help, guidance, and support of his parents. Therefore, the special needs child is in need of continued support and the Defendant should be compelled to provide that ongoing support for his special needs son.

In fact, in Mascuillo v. Mascuillo, the Court made it clear that the parents were responsible for the ongoing support of their special needs child and not relieved of those duties until the child was relieved of the disability.

Further, in Ribner, the Court found it was the parents' duty to support their psychiatrically disabled child whose disability manifested before the age of majority. It is clear that Zachary has psychiatric issues that manifested

themselves over a period of years prior to reaching the age of majority. Therefore, he is in need of continued support and the Defendant should be compelled to provide that ongoing support for his special needs son.

I would like to remind the Court that the Defendant comes to this Court with unclean hands.


The Defendant willfully and purposefully chose to ignore the Custody and Property Settlement Agreement. The Defendant willfully and purposefully ignored the welfare of Zachary - regardless of the Zachary's needs and the recommendation of the school district's child study team - for the sake of his own financial gain. It is clear that the Defendant's objectives are in direct conflict with the needs of Zachary. The Defendant's sole purpose was to accomplish nothing more than to terminate his child support obligation.

The Defendant made a unilateral decision to terminate his child support obligation without securing a Consent Order from me or filing an application with the Court. The Defendant's action was a clear violation of the Custody and Property Settlement Agreement.

CONCLUSION

Based upon the foregoing reasons, it is respectfully submitted that the Court erred in its decision to emancipate Zachary Burke. Therefore, I respectfully request that the Order of the trial court be reversed, and this Court enter an Order providing for the support obligation of Zachary's father until such time that Zachary is, in fact, emancipated.

Respectfully submitted,



Judith E. Turkheimer

Dated: September 21, 2015

ORDER ON MOTION

-----

JUDITH E TURKHEIMER ETC  
V.  
PETER T BURKE

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-001819-14T1  
MOTION NO. M-000081-15  
BEFORE  
JUDGE(S): MARIE E. LIHOTZ

MOTION FILED: 09/02/2015

BY: PETER T BURKE

ANSWER(S)  
FILED:

SUBMITTED TO COURT: September 17, 2015

ORDER

-----

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS  
17th day of September, 2015, HEREBY ORDERED AS FOLLOWS:

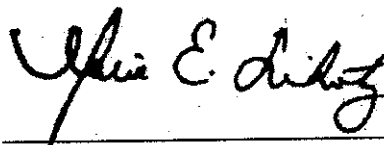
MOTION BY RESPONDENT

MOTION TO FILE RESPONDENT'S  
BRIEF AS WITHIN TIME

GRANTED

SUPPLEMENTAL:

FOR THE COURT:



MARIE E. LIHOTZ, P.J.A.D.