

THE LAW OFFICE OF
DAVID PERRY DAVIS
COUNSELLOR AT LAW
112 WEST FRANKLIN AVE
PENNINGTON NJ 08534-9541
(609) 737-2222
FAX: (609) 737-3222
E-MAIL: DPD@DPDLAW.COM

July 9, 2007

Hon. Mitchell Ostrer, JSC
Superior Court of New Jersey
175 South Broad Street
Trenton, NJ 08650-0068
Via Fax: 571-4874

Re: MCBSS o/b/o Ricks v. Fowler
Docket No. FD-11-1012-06

Dear Judge Ostrer:

This office represents Revel Fowler, the father of Crystal Fowler. Please accept this brief letter in lieu of a formal brief in this matter.

I completely adopt the arguments made by counsel for Crystal Fowler. I add only that Mr. Fowler has an independent due process right to have support he pays used for his daughter and not for the children of Ms. Ricks' prior relationships nor for a debt accrued to the MCBSS on behalf of Ms. Rick's prior children. Even if, *arguendo*, the Assignment Provision could withstand scrutiny under Sojuner, A. v. Department of Human Services, 177 N.J. 318 (2003) and Bowen v. Gilliard, 43 U.S. 587 (1987) as applied to Crystal, the Child Exclusion impermissibly interferes with Mr. Fowler's right to have his income used to support his child and violates his rights under the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, paragraph 20 of the New Jersey Constitution. As much as the emphasis is on a parent's *duty* to support a child, there should be consideration given to the *right* of a Parent of Alternate Residence to have his income used to support his child. *Cf.* Pascale v. Pascale, 140 N.J. 583 (1995).

If the court is to set a final child support amount at the final hearing, please be advised that there are two undisputed errors on the current guidelines worksheet. Mr. Fowler provides health insurance for Crystal. Her share of the weekly cost is \$18. Additionally, he has 10 overnights under the current order but is given credit for none.¹ As to any considerations of standard of need, it should be noted that, contrary to the implication before the court, Mr. Fowler in fact grosses \$1,675 per month.

Respectfully submitted,



David Perry Davis, Esq.

Cc: Leslie E. Chappo, Esq
Legal Aid Society of Mercer County
16-18 W Lafayette St
Trenton NJ 08608 (Via PDF and regular mail)

Melanca Clark, Esq
Gibbons Fellow Gibbons P.C.
One Gateway Center
Newark, NJ 07102-5310 (Via PDF and regular mail)

Thomas W. Sumners, Jr., Esq.
Mercer County Board of Social Services
100 Wolverton Street
Trenton, NJ 08611 (Via Fax and regular mail)

Revel Fowler

¹ Since the birth of Ms. Fowler's most recent child in April, 2007, Mr. Fowler has been having daily parenting time with Crystal, picking her up each morning and returning her before he goes to work in the late afternoon. Although he technically has Crystal for more hours per week than Ms. Ricks does (and far more of the waking hours per week), he is not seeking to change the custodial designation; he still seeks an equally shared, 50/50 schedule, as shared parenting is the absolute right of every child with two fit parents. The home evaluations were recently completed and a final custody / parenting time schedule under FD-11-1187-06 should be completed in the near future.