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IN THE SUPREME COURT OF MISSISSIPPI
COURT OF APPEALS OF THE STATE OF MISSISSIPPI

BRIDGETTE MARIE PARRA

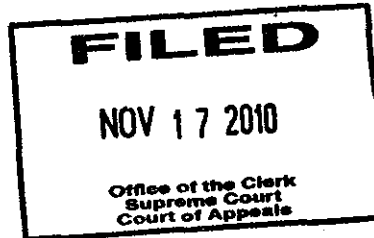
APPELLANT

VS.

NO. 2010-CA-00339

PAUL WILLIAM PARRA

APPELLEE



APPEAL FROM THE CHANCERY COURT OF WARREN COUNTY, MISSISSIPPI
Cause No. 2009-002GN

APPELLANTS REPLY BRIEF
BRIDGETTE MARIE PARRA

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I.

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this Court may evaluate possible disqualifications or recusal.

1. Bridgette Marie Parra
Appellant
2. Paul William Parra
Appellee
3. Wren C. Way, Esquire, attorney for Appellant
1001 Locust Street
Vicksburg, MS 39183
4. Edwin Woods, Jr., Esquire, attorney for Bridgette Parra
1222 Jackson Street
Vicksburg, MS 39183
5. Travis T. Vance, Jr. Esquire., attorney for Appellee
914 Grove Street
Vicksburg, MS 39183
- 6.. Michael R. Bonner, Esquire., attorney for Appellee
914 Grove Street
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7. Honorable Vicki R. Barnes, Chancellor
Post Office Box 351
Vicksburg, Mississippi, 39180

s/ Wren C. Way

WREN C. WAY, Attorney for Appellant
Bridgette Marie Parra

II.

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III.

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iii.

ARGUMENT

I.

The Mississippi Supreme Court and the Court of Appeals have consistently mandated that, in child custody matters, the chancellor must consider the evidence presented and apply all applicable factors in Albright v Albright, 437 So. 2d, 1003 (Miss. 1983) See Montgomery v Montgomery, 20 So 3d 39 (Miss. App 2009). This exercise is a subjective and complex task and an important one because it calls upon the court to protect minor children by ascertaining their paramount best interest. As pointed out in appellant's brief, Bridgette Marie Parra was a student unable to afford an attorney and was pro se. The evidence she presented regarding the paramount best interest of the children manifested that fact. Not only was she obviously ignorant of Albright, she was also oblivious to Paul Parra's scheme to kidnap the three young children to California and to forever estrange them from their mother. Paul's scheme of deception of not only Bridgette but also the lower court falls squarely within the matters contemplated by MRCP 60 (b) (1), demanding that the Judgment rendered be set aside for " fraud misrepresentation or other misconduct of an adverse party." This Rule further states:

" This Rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to set aside a judgment for fraud upon the court."

See Trim v Trim, 33 So 3d 471, 475 (Miss.2010)

Paul lied to the court in not revealing his secret, selfish scheme that would have a huge and significant adverse effect upon the children. He hid the oath - required " whole truth" from

the court - a truth that was necessary to determine what was truly in the paramount best interest of the children from a totality of the circumstances as dictated by Albright.

Certainly the relocation of the children between divorcing and divorced parents is important in adjudging their best interest, and has been addressed by both courts and even legislatures.

Both of our side - border state legislatures in Louisiana and Alabama, as well as a majority of other state lawmakers, have wisely enacted statutes that are almost mirror images of each other with reference to factors that are to be weighed by the trial court with reference to custody/best interest of the child/parent relocation. In Hains v Hains, 36 So 3d 289 (La. App/ Cir. 2010) the Louisiana court applied the Louisiana statute:

“ In determining the child's best interest, the trial court must consider the benefits the child will derive either directly or indirectly from an enhancement in the relocating parent's general quality of life. LSA-R. S. 9:355.13. To assist the trial court in reaching its decision regarding a proposed relocation, LSA-R.S 9:355.12 sets forth twelve factors that the trial court must consider:

(A) In reaching its decision regarding a proposed relocation, the court shall consider the following factors:

(1) The nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the nonrelocating parent, siblings, and other significant persons in the child's life.

(2) The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.

- (3) The feasibility of preserving a good relationship between the nonrelocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties.
- (4) The child's preference, taking into consideration the age and maturity of the child.
- (5) Whether there is an established pattern of conduct of the parent seeking the relocation, either to promote or thwart the relationship of the child and the nonrelocating party.
- (6) Whether the relocation of the child will enhance the general quality of life for both the custodial parent seeking the relocation and the child, including but not limited to financial or emotional benefit or educational opportunity.
- (7) The reasons of each parent for seeking or opposing the relocation.
- (8) The current employment and economic circumstances of each parent and whether or not the proposed relocation is necessary to improve the circumstances of the parent seeking relocation of the child.
- (9) The extent to which the objecting parent has fulfilled his or her financial obligations to the parent seeking relocation, including child support, spousal support, and community property obligations.
- (10) The feasibility of a relocation by the objecting parent.
- (11) Any history of substance abuse or violence by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.
- (12) Any other factors affecting the best interest of the child.

B. The court may not consider whether or not the person seeking relocation of the

child will relocate without the child if relocation is denied or whether or not the person opposing relocation will also relocate if relocation is allowed. (At page 295-296)”

These “child relocation” statutes require no less than 45 day notice to the non-custodial parent of such desired relocation (or a shorter period if an emergency exists) in order to allow an objecting parent a hearing to determine the best interest of the child using the specific standards set out in the statute. (See § 20-3-165. Alabama Code)

In his appellee’s brief , Paul continues his misleading of the courts by stating, in paragraph 3:

“ That the lower court had sufficient testimony and evidence to determine that the best interest and welfare of the minor children should be in the custody of appellee. After considering all of the testimony and the evidence and finding that the totality of circumstances and placed such children in the custody of appellee was in the best interest and welfare of such minor children. The court considered the Albright factors and testimony adduced by each of the respective parties in making such a decision and considered same in making the decision as to the custodial rights of either one or both parties with the minor children.”(Appellees assignment of facts)

That erroneous and misplaced argument goes to the heart of this matter. The court did not hear the whole truth. The relocation of a parent has a bearing on almost every Albright factor to be considered by the court. Paul meticulously testified as to each of these factors - the fact that he had a stable job, stable home and the stable community and schooling activities of the young children in Vicksburg, and his parenting skills, and that these factors were advantageous to all the children. This testimony was false and thoroughly negated by his sudden and surreptitiously snatching of the children and relocating them to California. He was dishonest with the courts in

CONCLUSION

The paramount best interest of children is the polestar consideration of the court in divorce - custody matters before the chancellor. In contested actions for custody, the mandated consideration and weighing of the applicable Albright factors requires a complicated and complex ,on-the-record decision. The conclusion reached by the chancellor should have written findings of fact and conclusions of law in order to assess, on appeal, whether or not such findings were manifestly wrong or clearly erroneous, or an erroneous legal standard was applied.

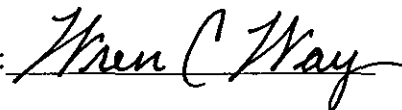
Hensarling v Hensarling, 824 So 2d 583,587 (Miss. 2002). Such is not the case in this contested matter.

Paul Parra perpetrated a fraud upon the court by secretly withholding vital information of his plans to immediately remove the children from Mississippi to California shortly after the trial, and to be forever purposefully estranged from their mother who had been afforded liberal visitation rights.

Appellant respectfully submits that this cause must be reversed, remanded and a hearing held applying all Albright factors based upon the true facts withheld from the court.

Respectfully Submitted,

BRIDGETTE MARIE PARRA

BY: 

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Bridgette Marie Parra

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CERTIFICATE OF SERVICE

I, Wren C. Way, do hereby certify that I have this day mailed a true and correct copy of the above and foregoing Appellant's Brief to:

Edwin Woods, Jr., Esquire
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Travis T. Vance, Jr., Esquire
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Vicksburg, MS 39183

Michael R. Bonner, Esquire
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Honorable Vicki R. Barnes, Chancellor
Post Office Box 351
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SO CERTIFIED, THIS THE 17th Day of November, 2010.


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