

EXHIBIT K

At a term of the Family Court of the State of New York held in and for the County of Orange at Goshen, New York on February 1, 2012.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

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In the Matter of a Proceeding
Under Article 10 of the Family Court Act.

MOTIONS #4 & #5 & #6

DECISION & ORDER
Family File #55083
Docket #NN-2127/2128-10

[REDACTED]

CHILDREN UNDER EIGHTEEN YEARS
OF AGE ALLEGED TO BE NEGLECTED
BY

JACOB TEITELBAUM
MIRIAM TEITELBAUM,

Respondents.

----- X

Bivona, J.

There are three applications brought by the Respondent, "pro se" for relief. The first application (motion #4) seeks an order: "(A) making a determination through a fact finding hearing that the underlying involvement of the CPS in this matter is based on political motivation. (B) Ordering the CPS to discontinue such political motivated involvement in this matter, and from intimidating myself, my wife and children on such motivations. (3) to adjourn all other pending proceedings in this matter until this issue could be heard. (D) and for such other and further relief as this Hon. Court deems just and appropriate."

That motion was brought on by way of Notice of Motion returnable in this Court on

January 17, 2012. The Department of Social Services, through its attorney, Stephanie Bazile, Esq., Assistant County Attorney, filed an Affirmation in Opposition. Neither the Attorney for the Child nor the co-Respondent filed responsive pleadings. In reaching its decision the Court has considered the motion papers, the Affirmation in Opposition, and the contents of the Court's file.

In 2010, the Orange County Department of Social Services filed a neglect petition against the above captioned respondents. On August 16, 2010, the matter was settled with an adjournment in contemplation of dismissal for Mrs. Teitelbaum and a consent finding of neglect as to Mr. Teitelbaum pursuant to Family Court Act §1051(a). The dispositional order placed the household under the supervision of the Department of Social Services upon certain terms and conditions and the children were returned home.

A petition alleging a violation of the terms and conditions of the order of supervision was filed on October 25, 2010. In the petition it was alleged that the child [REDACTED] had access to his father's bi-polar medication, zyprexa, had ingested same, was admitted to Westchester Medical Center as unresponsive and remained there for a period of one week. As a result of a violation proceeding brought by the Department of Social Services, Mr. Teitelbaum admitted that he failed to properly secure his medication. As disposition on the violation petition, the children were placed in the custody of the Department of Social Services where they remain to date. There is currently a petition filed by the Department of Social Services against both parents to terminate parental rights based on mental illness. ~~The preliminary proceeding on that petition is scheduled~~ for February 17, 2012.

The Court has also received numerous requests (letters dated December 27, 2011, December 28, 2011, January 3, 2012 [erroneously dated 2011], and January 9, 2012 [erroneously

dated 2011]), as well as a motion (Motion #5) by Respondent Jacob Teitelbaum for his attorney to be relieved so that he can represent himself. That motion is returnable February 16, 2012.

The Court is also advancing Motion #6 which is returnable on February 23, 2012. The Court is advancing both motion #5 and #6 so all pending motions filed by Mr. Teitelbaum are decided herein. Motion #6, brought by Mr. Teitelbaum, seeks an order: "(A) Directing the Department of Social Services to give me in writing whether or not they determine that my involvement in the religious campaign is a problem, and if they determine that it's not, to then provide me in writing what the current charges are and what they require of me to comply with in relation to these charges. (B) and for such other and further relief as this Hon. Court deems just and appropriate."

First, the Court notes that Mr. Teitelbaum is represented by counsel and all motions should be made by his attorney (CPLR §321[a]). The Court could deny the motions on that basis alone. However, the Court will deny the motions #4 and #6 on the basis that they are frivolous. It appears to be Mr. Teitelbaum's contention that the actions of the Child Protective Services are politically motivated by a dissident faction of the Hasidic Orthodox community within Kiryas Joel, a village populated primarily by people of the Hasidic faith. Mr. Teitelbaum attaches a letter from one Benzion Friedman to his motion in support of his contention that the actions of Child Protective Services are politically motivated.

~~Mr. Teitelbaum has already consented to a finding of neglect regarding his children and~~
then admitted to violating the Court's order of disposition. There is clearly no merit to any allegations of political motivations on the part of Orange County Department of Social Services Child Protective Services. Mr. Teitelbaum's allegations have no basis in fact but are based solely

on suspicion and conjecture. It appears that Mr. Teitelbaum is so enmeshed in his religious battle that he cannot see reality. It is reality that when medication is left where a one year old child can have access to it that the child will ingest it. It is reality that a child can die as a result of that ingestion. To suggest that proceedings brought on behalf of a one year old child who has ingested his father's bi-polar medication and been seriously ill as a result of same are politically motivated because of a religious dispute indicates a serious lack of understanding of the legal process. Such a motion, in the realm of law, is frivolous and is therefore denied.

Mr. Teitelbaum is represented by John Burke, Esq., who was appointed from the Family Court 18B panel. Mr. Burke is a former law clerk for a Family Court Judge and has practiced extensively in the Family Court for several decades. Mr. Teitelbaum's motion #5 seeks to have Mr. Burke discharged as his attorney so that he can represent himself.

The Court of Appeals addressed the issue of self-representation in *Matter of Kathleen K.*, (17 NY3d 380; 929 NYS3d 535, June, 2011). In a case remarkably similar to the case at bar, in that case Kathleen K.'s father sought to fire his attorney and represent himself in a permanent neglect proceeding. In reaching its decision, the Court of Appeals reviewed the decision of the United States Supreme Court in *Faretta v California* (422 U.S. 806, 93 S.Ct. 2525, 45 L.Ed. 2d 562[1975]) and its decision in *People v McIntyre* (36 NY2d10, 364 NYS2d 837) and reiterated three criteria the courts must look at in determining whether or not a criminal defendant can represent him or herself in a proceeding.

"A defendant in a criminal case may invoke the right to defend *pro se* provided: (1) the request is unequivocal and timely asserted, (2) there has been a knowing and intelligent waiver of the right to counsel, and (3) the defendant has not engaged in conduct which would prevent the fair and orderly exposition of the issues" (citing *People v McIntyre* 36 NY2d10 at 17, 364 NYS2d 837).

While not specifically stating that these criteria also applied in child protective proceedings, the Court did apply the criteria to the father's application to proceed *pro se*. In that case, the Court only reached the first criteria of whether or not the request to represent himself was unequivocal and timely asserted and stopped the inquiry at that point finding that the request was not unequivocal.

Here, Mr. Teitelbaum's request to represent himself is timely and unequivocal. The Court has not at this point made inquiry of Mr. Teitelbaum as to whether his waiver of counsel is knowing and intelligent but does not believe it is necessary based on Mr. Teitelbaum's motion practice and letter campaign to this Court. The Court finds that Mr. Teitelbaum is clearly engaging "in conduct which would prevent the fair and orderly exposition of the issues". This motion practice makes it clear that Mr. Teitelbaum does not understand the legal issues but is enmeshed in religious issues that are irrelevant to the case at bar. Mr. Teitelbaum's concerns that the actions of the Department of Social Services, who act only to protect the children, are politically motivated and his requests that the Court issue an order directing the Department to state whether or not his involvement in "a religious campaign" is a problem, etc., demonstrate his complete lack of understanding of the nature of the proceedings before this Court. It is apparent to the Court that Mr. Teitelbaum would clog this court's calendars with excessive and irrelevant motion practice thereby preventing "the fair and orderly exposition of the issues". The Court recognizes that if he were permitted to represent himself, his lack of understanding of the nature of the proceedings before the Court would extend to the courtroom. Accordingly, the Court finds that it cannot permit Mr. Teitelbaum to act as his own attorney and his motion to do so is denied. The Court will not accept any other motions filed by Mr. Teitelbaum as only his attorney can file

motions on his behalf. Likewise, Mr. Teitelbaum is directed not to send correspondence to this Court but may only communicate with the Court through his attorney.

This constitutes the decisions and orders of the Court.

Dated: Goshen, N.Y.
February 8, 2012

ENTER

Andrew P. Bivona
ANDREW P. BIVONA
Family Court Judge

To: Orange County Department of Law
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NOTICE OF ENTRY
PLEASE TAKE NOTICE that the
within is a true copy of an order
entered in the office of the Clerk
of the Family Court of the State
of New York in the County of
Orange on

2/8/12
Elizabeth C. Holbrook
Chief Clerk of the Family Court

"Pursuant to section 1113 of the family court act, an
appeal must be taken within 30 days of receipt of the
order by appellant in court, 35 days from the mailing
of the order to appellant by the clerk of the court, or
30 days after service by a party or attorney for the child
upon the appellant, whichever is earliest."

Check applicable box:

Order mailed on _____

To:

Order received in court on:

To: