IN THE COURT OF APPEALS

STATE OF GEORGIA

LAKIEVIA JOHNSON	)	
	)	
Appellant,	)	**Appeal Case Number: A24A1241**
	)	
	)	
v.	)	
	)	
	)	
ELAINE SMART et al.	)	
	)	
Appellees.	)	

APPELLANT'S BRIEF

Lakievia Johnson, MBA, CAPM, PMP

[redacted]

COUNSEL FOR APPELLANT

Table of Contents

PART I 5

INTRODUCTION 5

JURISDICTIONAL STATEMENT 8

ENUMERATION OF ERRORS 8

Enumeration of Error No. 1: 8

Enumeration of Error No 2: 9

Enumeration of Error No. 3: 10

Enumeration of Error No. 4: 11

Enumeration of Error No. 5: 12

Enumeration of Error No. 6: 13

Enumeration of Error No. 7: 14

Enumeration of Error No. 8: 14

Enumeration Error No. 9: 15

PART II 16

STATEMENT OF THE PROCEEDINGS IN THE TRIAL COURT 16

STATEMENT OF MATERIAL FACTS 17

1 17

2 18

3 18

4 18

5 19

6 19

7 19

8 19

9 20

10 20

11.....20

12 21

13 21

14 22

15 22

16 22

17 23

18 23

19 23

PART III.....23

ARGUMENT AND CITATION OF AUTHORITIES.....23

Standard of Review......24

Point No. 1:.....24

Point No 2:.....25

Point No. 3:.....26

Point No. 4:.....27

Point No. 5:.....27

Point No. 6:.....27

Point No. 7:.....29

Point No. 8:.....30

Point No. 9:.....31

CONCLUSION.....32

Table of Cited Authorities

CASES

In re C.J.V., 323 Ga. App. 283 (Ga. Ct. App. 2013) ---------- 25,29

Interest of J. H, 210 Ga. App. 255 (Ga. Ct. App. 1993) ---------- 24

Mashburn v. Mashburn, 353 Ga. App. 31 (Ga. Ct. App. 2019)---------- 27, 29

Selvage v. Franklin, 350 Ga. App. 353 (Ga. Ct. App. 2019)---------- 27, 31

Weiss v. Grant, 346 Ga. App. 208 (Ga. Ct. App. 2018)---------- 26

OFFICIAL CODE OF GEORGIA (OCGA)

OCGA § 15-6-61 ---------- 18

OCGA § 5-6-34 (a)---------- 8

PART I

INTRODUCTION

This appellant case is a custody dispute between three (3) parties: (1) Appellant and biological mother, Lakievia Johnson, (2) Appellee and biological father, Jeremy Curd, and (3) Appellee and paternal grandmother, Barbara (Elaine) Smart. Given that this custody case involves three (3) parties, and children are naturally born to two (2) parents, it should be immediately obvious to assume this case is unique. As a survivor of domestic violence, and the party who initiated a divorce to leave the abusive relationship with Mr. Curd, Ms. Johnson's accounts of abuse throughout the relationship are similar to the common and complex reports of other abused and battered women. Despite Mr. Curd's inability to (1) prove he hasn't been abusive, (2) maintain a stable lifestyle, and (3) provide a clean drug test, The Trial Court allowed his mother, Elaine Smart, - someone who also abused Ms. Johnson - to intervene, (1) silencing Ms. Johnson, (2) condoning the domestic and family violence, and (3) sustaining child abuse and neglect.

In 2019, because of claims made against Ms. Johnson she was not made aware of or given the opportunity to address in court, Ms. Johnson lost custody and privilege to contact and visit with her minor child, Lauryn Grace Curd. After (1) testing positive for methamphetamine and (2) refusing to provide a clean drug test, Mr. Curd also lost custody of Lauryn. Unbeknownst to Ms. Johnson, Ms. Smart

filed a Motion to Intervene to ask for custody of Ms. Johnson's other daughter, Jada Kailani Curd, and custody of Jada and Lauryn was granted to Ms. Smart.

After 5 years of not being allowed to contact or see her daughter, Lauryn, in 2024, Ms. Johnson was awarded privilege to contact Lauryn once a month via phone calls supervised by Ms. Smart. Ms. Johnson's additional request for a parenting plan which included (1) therapeutic visitation and (2) involvement in Lauryn's education was denied by The Trial Court. To show reunification with her mother was in Lauryn's best interest, Ms. Johnson provided proof of ongoing child abuse and neglect inflicted on Lauryn by Mr. Curd and Ms. Smart. Ms. Johnson also provided proof of maternal alienation and called attention to Mr. Curd and Ms. Smart's failure to provide (1) a certificate of completion for the divorcing parent's and co-parenting class, (2) a clean drug test, and (3) a financial affidavit, as required by The Court. Nevertheless, The Trial Court allowed Ms. Smart to retain (1) sole guardianship and (2) decision-making authority over Lauryn's (1) welfare and (2) education. Ms. Johnson immediately and timely filed a Motion for Reconsideration which was subsequently denied by The Trial Court's Order file stamped on March 13, 2024.

In 2019, The Trial Court erred when giving Ms. Smart guardianship over Lauryn because (1) Ms. Johnson was the custodial parent, (2) Ms. Johnson's parental rights were not terminated, (3) Ms. Johnson did not consent to Ms. Smart

having custody of either of her two daughters, and (4) Ms. Johnson committed no crimes, harm, or neglect to Lauryn (or Jada) which could have been grounds for her custody over Lauryn (and Jada) to be removed from her.

Since divorcing Mr. Curd in 2011, certain Judges' actions against Ms. Johnson demonstrate (1) unfairness, (2) bias, and an (3) intention to alienate her from her child(ren)[1]. As a loving mother, since 2011, Ms. Johnson has met all demands placed upon her by The Trial Court and asks The Court of Appeals to concur. Second, Ms. Johnson asks This Court to acknowledge The Trial Court's failure to accept Ms. Johnson as a victim of domestic and family violence - outside of confidential shuttle mediation - denying her and her child(ren) the protection and support available to victims of family violence through the State of Georgia and nationally. Third, Ms. Johnson asks for The Trial Court's actions in 2012, 2018, 2019, and 2024 to be (1) deemed prejudice and, (2) with directions, for the most recent Order to be reversed, permanently returning child custody of Ms. Johnson's only minor child, Lauryn Grace Curd, to her, honoring the federal and state constitutional rights granted to her as Lauryn's natural and biological mother. Finally, Ms. Johnson asks for court fees, costs, and interest to be determined on remand.

[1] The original divorce proceedings involved the custody of two children, Jada Kailani Curd (born [redacted] 2005) and Lauryn Grace Curd (born [redacted] 2007). Jada is now almost 19 years old, and Lauryn is now the only minor child. See A24A1241-Record Volume 2 pg. 70.

JURISDICTIONAL STATEMENT

This court, rather than the Supreme Court, has jurisdiction of this case on appeal for the reason that, as set out in OCGA § 5-6-34 (a), the Court of Appeals can appeal all judgments or orders in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders. Thus, this case is directly appealable because authority to review this case is not exclusively reserved to the Supreme Court of Georgia. The Final Order from The Trial Court was signed on February 28, 2024 and stamped by the Clerk of Court on February 29, 2024. Appellant's Notice of Appeal was stamped by the Clerk of Court on March 21, 2024; thus, Ms. Johnson's Appeal is timely filed.

ENUMERATION OF ERRORS

Ms. Johnson includes in her argument each enumerated error citations to the essential parts of the record and detail the method by which each enumeration of error was preserved for consideration.

Enumeration of Error No. 1: In 2012[2], the Trial Court committed a reversible error when it untruthfully stated that it found Ms. Johnson, "admitted to hearing

[2] See A24A1241-Record Volume 2 pgs 70-72: please note the year listed in The Order in sentence one, the year listed in the case number (2010-RCD-1181), the year listed on the original file stamp, and the year listed in the date above the judge's signature on the last page of The Order are all different.

voices, communicating with these voices and not properly taking medication for her psychological condition."[3] Subsequently, despite Ms. Johnson's explanation of why she was seeking treatment and the fact that she hadn't been prescribed medication by the licensed medical professional she was voluntarily choosing to see, she was disgraced and diagnosed with a psychiatric disorder by the court judge, lost joint custody of her daughters, and ordered to have only supervised visitation. [4] Ms. Johnson had legal counsel at this time, and because she didn't tell the court she was, "hearing voices," she was not aware this was written in the court order or into the court record until after the final order was given to her. Ms. Johnson's attorney, Clayton L. Jolly III, failed to follow up with Ms. Johnson after the hearing to talk to her about options to appeal the court's finding or to discuss what the finding actually meant. Since this order was signed, Ms. Johnson has continuously tried to retrieve the court reporter's transcripts to possibly prove she did not tell the court she was, "hearing voices." However, even though she paid the court reporter's takedown fees, she has never been able to retrieve the records because the court has never given her access to them.

Enumeration of Error No 2: In 2012, The Trial Court committed a reversible error when, without consulting Ms. Johnson's therapist, the judge imposed an

[3] See A24A1241-Record Volume 2 pgs. 70, para 2, lines 1-3.
[4] See A24A1241-Record Volume 2 pgs. 70-71.

erroneous demand on Ms. Johnson by ordering that she obtain a document saying she met the requirements of her mental health treatment before coming back to court to request unsupervised visitation.[5] Since Ms. Johnson was voluntarily going to counseling, she was not required to seek mental health treatment and was under no psychiatric orders. This began the alienation of Ms. Johnson and her daughter(s) because, since there wasn't a mental health treatment requirement in place, it took Ms. Johnson three years to get a doctor at Serenity Behavioral Health, the counseling center she attended, to write a letter saying she met the requirements of her mental health treatment because the mental health treatment was voluntary and could be ongoing if that's what Ms. Johnson wanted for the healthy maintenance of her mental health. In 2015, Ms. Johnson provided the requested documentation of the court, and she received unsupervised visitation with her daughter.[6] In June 2018, Ms. Johnson was awarded joint legal custody of Lauryn, and again, Ms. Johnson was asked to prove her mental fitness by completing a mental evaluation.[7] In August 2018, Ms. Johnson provided a copy of her psychological evaluation as requested by the court.[8]

Enumeration of Error No. 3: In 2012, The Trial Court committed a reversible error when the responsibility of supervising visitation between Ms. Johnson and

[5] See A24A1241-Record Volume 2 pg 71, para 4.
[6] See A24A1241-Record Volume 2 pg 75
[7] See A24A1241-Record Volume 2 pgs 114-115, line item numbers 1 and 4.
[8] See A24A1241-Record Volume 2 pg 119, para 5.

her child(ren) was given to someone not present or involved in the court. At this hearing, Ms. Johnson told the judge she was living with her grandmother because she was no longer with Mr. Curd, and although Ms. Johnson's grandmother was not present, the judge ordered her to supervise visitations between Ms. Johnson and her child.[9] This decision would eventually become a problem, contributing to the alienation between Ms. Johnson and her child, because when Ms. Johnson was assaulted by her grandmother after a verbal altercation, Ms. Johnson moved out of her grandmother's home and ceased contact with her grandmother for several years.

Enumeration of Error No. 4: From 2012 to present, The Trial Court committed a reversible error on not providing a child support order was in place for the child. While not documented in these court records, without a court order, from 2015 to 2018, Ms. Johnson did give Mr. Curd $300 per month via check, and she purchased Jada and Lauryn's personal and school supplies. The guardian ad litem, Felecia Rhodes, was aware of this. Ms. Johnson stopped giving Mr. Curd child support money when she learned he was evicted from his own, personal residence (outside of his mom's home) and that he was on methamphetamine.[10] She

[9] See A24A1241-Record Volume 2 pg 71, para 4.
[10] See A24A1241-Record Volume 2 pg 92 line item 10 (please note that while Jada's name and case number is at the top of this document, Dana Niehus also represented Ms. Johnson in regard to Lauryn as noted in line item 3 of this document and in the separate document A24A1241-Record Volume 2 pg 105). See also A24A1241-Record Volume 2 pg 114 line item 2.

continued, however, to purchase (Jada and) Lauryn's personal and school supplies as permitted by The Trial Court[11] and up until The Trial Court made it illegal for Ms. Johnson to contact her children.[12] Recently, in 2024, after receiving a message from her adult child, Jada, which stated, "I thought you cared about my well-being," Ms. Johnson immediately sought counsel to go back to court and applied to put herself on child support to ensure her minor child, Lauryn, was receiving the care and support she needed.[13] Ms. Smart rejected the financial support stating she had so much money for herself she didn't need money for Lauryn.[14] Again, The Trial Court did not put an Order or recommendation in place to provide for Lauryn's financial support.[15]

Enumeration of Error No. 5: In 2018, The Trial Court committed a reversible error when leaving Lauryn dependent because it prohibited Ms. Johnson from retrieving Lauryn from the home of Ms. Smart after Mr. Curd was evicted from Ms. Smart's home. In the Temporary Order signed June 6, 2018, Ms. Johnson was granted Joint Legal Custody of Lauryn and Mr. Curd maintained primary physical custody but was ordered to have supervised visitation with Ms. Smart as the supervisor because he was living with her and because he tested positive for

[11] See A24A1241-Record Volume 2 pg 120. See also A24A1241-Record Volume 2 pg 123.
[12] See A24A1241-Record Volume 2 pg 9.
[13] See A24A1241-Record Volume 2 pgs 23-26. See also income information A24A1241-Record Volume 2 pgs 28-36 and pgs 43-44.
[14] See A24A1241-Transcript Volume 3 pg 13, lines 4-18.
[15] See A24A1241-Record Volume 2 pgs 51-54; See also A24A1241-Record Volume 2 pgs 134-136

methamphetamine and marijuana: Mr. Curd was ordered to take another hair follicle drug test.[16] Mr. Curd did not take the drug test and was evicted from Ms. Smart's home, leaving Lauryn alone and without a parent and without the opportunity to see either parent because, due to no fault of hers, Ms. Johnson's visitations were suspended pending changes in guardian ad litems and judges.[17]

Enumeration of Error No. 6: In 2018, The Trial Court committed reversible error when it granted Ms. Smart's Motion to Intervene, requesting custody of one of Ms. Johnson's children (Jada Curd), without notifying Ms. Johnson and without putting the burden of proof on Ms. Smart to show why Ms. Johnson should have her parental rights removed and communication and visitation with both of her children terminated.[18] When Ms. Johnson submitted the Motion for Recusal in August 2018[19], she also filed a Character Affidavit describing Ms. Smart and requesting that she not be allowed to participate in the hearings, although a copy of this was not recently provided to the court again (so, therefore, not in this record) because it was ignored by The Trial Court before.

[16] See A24A1241-Record Volume 2 pgs 114-115.
[17] See A24A1241-Record Volume 2 pgs 121-12; please also see A24A1241-Record Volume 2 pg 117 to review Ms. Johnson's Motion for Recusal, which the judge accepted. The judge accepted this motion for recusal because he said it was a conflict of interest to have his wife be the mediator in my case (see A24A1241-Record Volume 2 pg 80) and when he stepped down, he removed Cindy Elam as the guardian ad litem, appointing Evita Paschal in her place, and he appointed Amanda N. Heath to be the new judge on the case. While he did this, he suspended my visitation, also interrupting family counseling.
[18] See A24A1241-Record Volume 2 pg 52, line item 5. See also A24A1241-Record Volume 2 pgs 131-132.
[19] See A24A1241-Record Volume 2 pgs 117-118.

Enumeration of Error No. 7: In 2019, The Trial Court committed a reversible error in creating an erroneous, de facto termination of Ms. Johnson's parental rights without sufficient evidence and reason. Ms. Johnson attempted to preserve her parental rights by attending every court hearing, showing up for every visit with her children, and cooperating with all demands and requests of the court, as stated and thoroughly explained in the 2024 Motion For Reconsideration she timely filed with The Trial Court immediately following the February 2024 hearing.[20] Furthermore, Ms. Johnson has maintained the same cell phone number, made all of her social media pages public, and launched an educational consulting company with a public website (www.stepsacademicadvising.com) and a toll-free number 833-783-7712 (833-STEPS12), so both of her children could have any way to contact her.[21]

Enumeration of Error No. 8: In 2019 and in 2024, The Trial Court committed a reversible error in accepting Ms. Smart's false claim that Lauryn had been living with her since 2010[22] as a fact and as grounds for explaining why Ms. Johnson's child should live with her.[23] Lauryn was not living with Ms. Smart because Ms. Johnson lived with Mr. Curd and both daughters, Jada and Lauryn, until after filing

[20] See A24A1241-Record Volume 2 pgs 57-64.
[21] See A24A1241-Record Volume 2 pg 9, para 2.
[22] See A24A1241-Record Volume 2 pg 8, para 1.
[23] See A24A1241-Record Volume 2 pg 70; See also Reference Transcript pg 23 line 5 where judge is saying 2010, too.

for divorce in 2011.[24] Also, Lauryn was not living with Ms. Smart because Ms. Smart was living in another state with her fourth husband, while Mr. Curd, Ms. Johnson, and Lauryn (and Jada) all resided in the State of Georgia.[25] Also, because Ms. Smart did not live in the State of Georgia, it isn't until 2018 that she is listed in the records of the court (Ironically, when The Trial Court documents Ms. Johnson as having problem after problem when all was well with Ms. Johnson and her children[26]).[27]

Enumeration Error No. 9: In 2024, The Trial Court committed a reversible error and displayed prejudice because it essentially upheld the judgment from 2019 by again failing to implement a parenting plan[28] for Ms. Johnson and by implementing a self-executing communication plan which empowered Ms. Smart to continue alienating Ms. Johnson from her daughter. Even though Ms. Johnson has hired four separate attorneys since the divorce proceedings began over a decade ago, Ms. Johnson was never advised that she could ask The Trial Court to reconsider or appeal The Trial Court's decision to another court. Since 2019, Ms. Johnson has

[24] See A24A1241-Transcript Volume 3 pg 17, lines 6-8: please note and disregard the text listed here as the reporter's error because I did not say my daughter had been living with Ms. Smart since 2010. I would not give my daughter to Ms. Smart as a remedy to escape the abusive relationship because she was abusive, too, as I stated and as is captured in the transcript on pg 3, lines 14-16, from my opening statement. Please also see my opening statement in A24A1241-Record Volume 2 pgs 48-49. Please also see A24A1241-Transcript Volume 3 pg 5, line 23, and recognize the judge's error in referencing 2010 as the year when the divorce proceedings started.
[25] See A24A1241-Transcript Volume 3 pg 17, lines 18-20: please note no objection from Ms. Smart to this statement of fact.
[26] See A24A1241-Record Volume 2 pg 90, Item #6.
[27] See A24A1241-Record Volume 2 pg 111, para 1.
[28] See A24A1241-Transcript Volume 3 pg 27, lines 2-8.

learned about these options, and representing herself, in 2024, she timely filed both a Motion for Reconsideration[29], which was denied[30], and a Notice of Appeal[31].

PART II

STATEMENT OF THE PROCEEDINGS IN THE TRIAL COURT

On January 23, 2024, Ms. Johnson filed a petition for change of visitation against Elaine Smart and Jeremy Curd in the Superior Court of Burke County.[32] Prior to trial, on September 2, 2024, Ms. Johnson received a virtual message on LinkedIn from her adult child, Jada Curd, which raised concern and prompted her to immediately go back to court to inquire about the well-being of her sole minor child, Lauryn Grace Curd.[33] Ms. Johnson had not been in court or in contact with her children since the last court hearing in 2019. Also, prior to returning to court in January, Ms. Johnson hired counsel on September 22, 2024 for support with the case, but that attorney informed Ms. Johnson she could not represent her three months after being hired by Ms. Johnson. Subsequently, Ms. Johnson made the decision to represent herself pro se and filed the change of visitation, on her own, as soon as the attorney informed her she was not going to help.

[29] See A24A1241-Record Volume 2 pgs 57-64.
[30] See A24A1241-Record Volume 2 pgs 134-137.
[31] See A24A1241-Record Volume 2 pgs 1-3.
[32] See A24A1241- Record Volume 2 pgs 4-6.
[33] See A24A1241- Transcript Volume 3 pg, lines 15-23.

By order dated February 29, 2024, Ms. Johnson was granted supervised phone communication with Lauryn if Lauryn chose to communicate with Ms. Johnson, and The Trial Court used all caps to ensure Lauryn knew she did not have to speak to her mother, Ms. Johnson.[34] On March 1, 2024, Ms. Johnson timely filed a Motion for Reconsideration.[35] By order dated March 13, 2024, Ms. Johnson's Motion for Reconsideration was denied.[36] On March 21, 2024, Ms. Johnson timely filed a Notice of Appeal challenging (1) the March 13, 2024 and February 29, 2024 Orders, (2) the ongoing abuse of herself and her daughter by The Trial Court, Mr. Curd, and Ms. Smart, (3) the bias against Ms. Johnson, and (4) the ongoing conspiracy to publicly shame and alienate Ms. Johnson from her child.[37]

STATEMENT OF MATERIAL FACTS

1

It is a FACT that Ms. Johnson is the mother of the minor child, Lauryn Grace Curd, and has not had her parental rights terminated, has not abandoned her child, and has never consented to Ms. Smart having custody of her child.

[34] See A24A1241- Record Volume 2 pg 53, para 4.
[35] See A24A1241- Record Volume 2 pgs 57-64.
[36] See A24A1241- Record Volume 2 pgs 134-136.
[37] See A24A1241- Record Volume 2 pg 135, para 2. The judge has continued to force Ms. Johnson to stay in contact and under the control of her abusers, Mr. Curd and Ms. Smart, in order to have a relationship with her daughter, but pursuant to Ga. Code § 19-9-7, "The judge shall not order an adult who is a victim of family violence to attend joint counseling with the perpetrator of family violence as a condition of receiving custody of a child or as a condition of visitation or parenting time."

2

It is a FACT Ms. Johnson filed for divorce from Mr. Curd and the divorce proceedings concerning custody of Lauryn began in January 2012. The year printed on the court order above the judge's signature is incorrectly printed as 2011, but the Clerk of Court's File Stamp shows the correct year of the first custody proceeding: 2012. [38] OCGA § 15-6-61 ("When the clerk accepts an instrument or document for filing, the clerk shall note the date and time of receipt of such instrument or document on the instrument or document. ")

3

It is a FACT Ms. Johnson lost custody of her children and was granted only supervised visitation during the initial custody hearing in January 2012 because The Judge cited Ms. Johnson with a mental illness stating, she, "admitted to hearing voices."[39]

4

It is a FACT Ms. Smart did not have the minor child, Lauryn, living with her since 2010 because Ms. Johnson and Mr. Curd were still married and living together with their children in their own home.[40]

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[38] See A24A1241-Record Volume 2 pgs 70-72.
[39] See A24A1241-Record Volume 2 pgs 70, para 2
[40] See A24A1241-Transcript Volume 3 pg 17, lines 6-8: please note and disregard the text listed here as the reporter's error because I did not say my daughter had been living with Ms. Smart since 2010. I would not give my daughter to Ms. Smart as a remedy to escape the abusive relationship because she was abusive, too, as I stated and as is captured in the transcript on pg 3, lines 14-16, from my opening statement. Please also see my opening statement in A24A1241-Record Volume 2 pgs 48-49. Please also see A24A1241-Transcript Volume 3 pg 5, line 23, and recognize the judge's error in referencing 2010 as the year when the divorce proceedings started.

5

It is a FACT that in February 2015, Ms. Johnson received unsupervised visitation with Lauryn.[41]

6

It is a FACT that in June 2018 Ms. Johnson was granted joint legal custody of Lauryn.[42]

7

It is a FACT that in March 2019, Ms. Smart was given full legal and physical custody of Lauryn.[43]

8

It is a FACT that Ms. Johnson has completed mental health treatment[44] as required by the original divorce decree signed in 2012 and passed the additional psychological evaluation requested in 2019[45], provided a passing drug screen[46], completed the divorcing and co-parenting parent's course twice[47], successfully maintained visitation and family counseling with Lauryn for three years[48], and

[41] See A24A1241-Record Volume 2 pg 75, para 4.
[42] See A24A1241-Record Volume 2 pg 114, para 2.
[43] See A24A1241-Record Volume 2 pg 9, para 1.
[44] See A24A1241-Record Volume 2 pg 75, para 2.
[45] See A24A1241-Record Volume 2 pg 121, para 5.
[46] See A24A1241-Record Volume 2 pg 22.
[47] See A24A1241-Record Volume 2 pg 90 and pg 47; Ms. Johnson took this course twice – once in 2012 and most recently in 2024 to make sure she was informed with new developments and training to be a better parent; Ms. Smart and Mr. Curd have not taken this course once, and it's required.
[48] See A24A1241-Record Volume 2 pg 122; See A24A1241-Record Volume 2 pg 75; See A24A1241-Record Volume 2 pg 115 item #6.

when ordered by The Trial Court[49], refrained from contacting Lauryn from February 2019 until March 2024 when the Order signed on February 29, 2024 allowed Ms. Johnson to call Lauryn once a month[50].

9

It is a FACT The Trial Court did not remand the case to the child support office or put into a place an Order to ensure Lauryn was financially supported by both parents.[51]

10

It is a FACT that Ms. Johnson's visitations were suspended while the court made changes to their staff and, during that time, family counseling between Ms. Johnson and Lauryn was disrupted.[52]

11

It is a FACT that Ms. Johnson needed to call the police on her adult child, Jada Curd, at least three times because she began to act out after it was discovered Mr. Curd was on methamphetamine, after Mr. Curd was evicted[53], and during the time The Trial Court introduced new judges and guardian ad litems in the middle of the case, interrupting their ongoing counseling. The police came to provide friendly counsel to Jada, and she was calm and well-mannered afterward.

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[49] See A24A1241-Record Volume 2, pg 9, para 2.
[50] See A24A1241-Record Volume 2 pg 53, para 1 and 3.
[51] See A24A1241-Record Volume 2 pgs 51-54; See also A24A1241-Record Volume 2 pgs 134-136
[52] See A24A1241-Record Volume 2 pg 122
[53] See A24A1241-Record Volume 2 pg 91, Item #7.

12

It is a FACT that The Trial Court left Ms. Johnson's children without parental guidance when Mr. Curd was evicted from Ms. Smart's home, where he and the girls both lived, leaving both daughters without a parent in the home with them. And, at that time, Ms. Johnson asked the Burke County police to conduct welfare checks on her children at least twice because, although she was also a custodial parent, The Trial Court had suspended her visitation and would not allow her to pick up her children. Ms. Johnson also knew Lauryn wasn't receiving proper medical treatment prompting her – as she re-presented in court this year – to get orders to ensure her daughter received proper medical treatment.[54]

13

It is a FACT that the fourth - and newly assigned - guardian ad litem, Evita Paschal, never met with Ms. Johnson and her daughters together to observe their relationship as the first, second, and third guardian ad litems had[55].

[54] See A24A1241-Record Volume 2 pg 115, item #3. See also A24A1241-Record Volume 2 pgs 38-39. Lauryn kept saying she shouldn't see, and she was diagnosed with a stigmatism in both eyes. Mr. Curd and Ms. Smart ignored her and did not take her to the doctor, even though neither of them had jobs, they had transportation, and Lauryn had Medicaid. Ms. Johnson begged the court for authority to add Lauryn to her health insurance and to give her permission to take Lauryn to get an eye exam. Lauryn's sight was so bad that she couldn't read the third row on the eye exam chart.

[55] See A24A1241-Record Volume 2 pg 75, para 2.

14

It is a FACT that The Trial Court gave Ms. Johnson the details of someone else's paternal legitimacy and custody case on what should have been a Status Order concerning Lauryn.[56]

15

It is a FACT that during the hearing in February 2019, The Trial Court judge spoke to Ms. Johnson's children in her chamber without anyone present, the details of that conversation have never been provided, and immediately following, an Order was written discouraging the maintenance of the relationship between Ms. Johnson and her children. Thus Ms. Johnson did not speak to Lauryn for five years because Ms. Johnson could not contact Lauryn, and Lauryn never initiated communication with Ms. Johnson.

16

It is a FACT that Lauryn told Ms. Johnson Mr. Curd made her write that hate letter about Ms. Johnson and that Mr. Curd told her Ms. Johnson would never see it.[57]

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[56] See A24A1241-Record Volume 2 pg 108.

[57] See A24A1241-Record Volume 2 pgs 40-41; Lauryn had always been abused and neglected by Mr. Curd and Ms. Smart. See A24A1241-Record Volume 2 pg 37 – this is a picture of a burn Ms. Smart inflicted on Lauryn when she was 3 years old. For the story behind this burn, see See A24A1241-Transcript Volume 3 pg 19, lines 4-18. Ms. Johnson has tried to press charges on both Mr. Curd and Ms. Smart for charges including child abuse and cruelty to children to no avail. See A24A1241-Record Volume 2 pg 91, Item #9; See A24A1241-Record Volume 2 pg 110 (Ms. Johnson worked with a police officer to get enough evidence to file a warrant for harassment. First, Mr. Curd said he didn't get the notice of hearing because his address was off by one number, but the address was correct. In fact, this may be one reason why Cindy Elam was removed from the case. Ms. Johnson reported that Cindy Elam stole the original notice she had that showed the right address for Mr. Curd. Second, once Ms. Johnson got into court about the harassment, the judge told her he noticed she was in another court and he didn't want to tie up two courts, so he dropped the case saying the juvenile court would handle it, but they never did.; See A24A1241-Record Volume 2 pg 60, Item #12.

The mediator, and judge's wife, Helen Yu, gave Ms. Johnson a copy of the hate letter after Mr. Curd presented it to Ms. Yu during a shuttle mediation: a mediation type offered when domestic violence is an issue in the case. Thus, domestic violence was indeed a known issue, although The Trial Court ignored it.

17

It is a FACT that, at the time of the hearing in 2019, Ms. Johnson was living in the State of Georgia.[58]

18

It is a FACT that, when referencing the race of her children, Jada and Lauryn, Ms. Johnson states their race as mixed or biracial because they are biracial.[59]

19

It is a FACT that, to date, Ms. Johnson has hired four attorneys to help with the custody dispute over her children since divorcing Mr. Curd, and none of them informed Ms. Johnson of the option to appeal decisions made by The Court.[60]

PART III

ARGUMENT AND CITATION OF AUTHORITIES

[58] See A24A1241-Record Volume 2 pg 8, para 1.

[59] Ms. Johnson never called either one of her daughters, "white trash."(See A24A1241-Record Volume 2 pg 8, para 2.)

[60] The first attorney, Clayton Jolly III, didn't advocate for Ms. Johnson. The second attorney, Dana Niehus, began to slow down because she was friends with the judge and his wife. The third attorney, Barbara Claridge, decreased my visitation time because she said the judge called her cell phone pressuring her to make quick decisions about my case right after I hired her. Later, she would tell Ms. Johnson she was sorry, but she didn't want to be bullied. The fourth attorney(s), Laurie Thomas and Joi Reed, provided a refund, and quit after 3 months without helping Ms. Johnson see her daughter because Ms. Thomas told Ms. Johnson she couldn't represent her.

Standard of Review.

All questions of law shall be reviewed de novo, with The Court applying the plain legal error standard of review.

Point No. 1: In 2012, the Trial Court committed reversible error when it untruthfully stated that it found Ms. Johnson, "admitted to hearing voices, communicating with these voices and not properly taking medication for her psychological condition,"[61] deeming her to be mentally ill. This finding in the court was not honest or accurate. Additionally, Ms. Johnson's therapist was not consulted, nor was any other practitioner trained and licensed to diagnose psychiatric disorders present. Ms. Johnson initially and successfully completed all of the paperwork to file for the divorce on her own, and prior to hiring an attorney. She also appeared in court without any need for an accommodation (or being offered one), without appearing to be incapacitated, and without giving the impression that she was unable to take care of herself or her children. In the Interest of J. H, 210 Ga. App. 255, 256 (Ga. Ct. App. 1993) ("Appellant also testified at the termination hearing. Although appellant could at times respond appropriately to the questions posed to her, the transcript shows that appellant would quickly deviate from the subject at hand. A large part of appellant's

[61] See A24A1241-Record Volume 2 pgs. 70, para 2, lines 1-3.

testimony was unresponsive and "incredible," and gave striking insight into her obviously deeply entrenched delusional system. The juvenile judge repeatedly directed appellant to respond to the questions asked, and the judge also questioned appellant in an attempt to gain pertinent and relevant information from her. Appellant repeatedly indicated that she was not going to take medication for her mental illness, that she did not believe that she required such medication, and that in the past she had been poisoned by medication given to her while she was hospitalized because of her mental illness.")

Point No 2: In 2012, The Trial Court committed reversible error when, without consulting Ms. Johnson's therapist, the judge imposed an erroneous demand on Ms. Johnson by ordering that she obtain a document saying she met the requirements of her mental health treatment before coming back to court to request unsupervised visitation.[62] Since Ms. Johnson was voluntarily going to counseling, she was not required to seek mental health treatment and was under no psychiatric orders. In re C.J.V., 323 Ga. App. 283, 286 (Ga. Ct. App. 2013) ("And, importantly, there is no other evidence in the record to suggest that the mother suffered from any medically verifiable deficiency of a mental or emotional nature that would result in an inability to parent her children.").

[62] See A24A1241-Record Volume 2 pg 71, para 4.

Point No. 3: In 2012, The Trial Court committed a reversible error when the responsibility of supervising visitation between Ms. Johnson and her child(ren) was given to someone not present or involved in the court proceedings.[63] This decision by the court created a self-executing provision which did negatively impact Ms. Johnson's visitation with her daughter(s) early on, as outlined in *Weiss v. Grant*. Additionally, discretion was flawed because Ms. Johnson was not consulted about how she would feel having her ex-husband communicating with her family members about anything, including her children. Furthermore, Ms. Johnson was not in a guardianship situation with her grandmother and was more than capable of communicating for herself. See *Weiss v. Grant*, 346 Ga. App. 208, 215 (Ga. Ct. App. 2018) ("A review of the case law regarding prohibited self-executing provisions shows that they can generally be summarized as having one of two critical flaws. First, self-executing provisions that rely on a third-party's future exercise of discretion essentially delegate the trial court's judgment to that third party. And, second, self-executing provisions that execute at some uncertain date well into the future are not permitted because the trial court creating those provisions cannot know at the time of their creation what disposition at that future date would serve the best interests of the child; the passage of time and thus, likelihood of changed circumstances is just too great.")

[63] See A24A1241-Record Volume 2 pg 71, para 4.

Point No. 4: From 2012 to present, The Trial Court committed a reversible error on not providing for a child support order to be in place for Lauryn.[64] See Selvage v. Franklin, 350 Ga. App. 353, 359 (Ga. Ct. App. 2019) (“We also take this opportunity to remind the trial court that "[c]hild support is the right of the child and not of its custodian. ... The conduct of the custodian cannot deprive the child of this right to support, any more than the custodian can waive it for the child or contract it away." (Citations and punctuation omitted.) Dept. of Human Resources v. Prince , 198 Ga. App. 329, 331 (2), 401 S.E.2d 342 (1991).”)

Point No. 5: In 2018, The Trial Court committed a reversible error when it left Lauryn dependent because it prohibited Ms. Johnson, from retrieving Lauryn from the home of Ms. Smart after Mr. Curd was evicted from Ms. Smart’s home.[65]

Point No. 6: In 2018, The Trial Court committed reversible error when it allowed Ms. Smart to submit a Motion to Intervene, requesting custody of one of Ms. Johnson’s children without notifying Ms. Johnson and without putting the burden of proof on Ms. Smart to show why Ms. Johnson should have her parental rights removed and communication and visitation with her child(ren) terminated.[66] In

[64] See A24A1241-Transcript Volume 3 pg 13, lines 4-12.
[65] See A24A1241-Record Volume 2 pgs 114-115; See A24A1241-Record Volume 2 pgs 121-122.
[66] Mashburn v. Mashburn, 353 Ga. App. 31, 42-43 (Ga. Ct. App. 2019) (“Recognizing the significant constitutional interests at stake where a non-parent seeks to take custody from a child's parent, our Supreme Court has held that "the state may interfere with a parent's right to raise his or her child only when the state acts to protect the child's health or welfare and the parent's decision would result in harm to the child.""”) Despite Ms. Johnson’s pleas to provide for her daughter, The Trial Court never put a child support order in place, which was not protecting Lauryn’s health or welfare; See A24A1241-Record Volume 2 pgs 131-132.

regard to the 2019 final order (See A24A1241-Record Volume 2 pg 7, para 2) discussion of Ms. Johnson's visitation being suspended twice, Ms. Johnson has stated that she was blocked from picking up her children, but not because of anything she did to cause that. Based on the records provided, in August 2018, visitation was suspended because the court assigned a new guardian ad litem, Evita Paschal, and wanted to put everything on hold until she transitioned in (See A24A1241-Record Volume 2 pg.120). The final order taking custody from Ms. Johnson was signed in March 2019, and as is stated in the February 2024 court order (See A24A1241-Record Volume 2 pg. 53, para 1), supporting Ms. Johnson's claim of being alienated from her children, she had not spoken to Lauryn since before February 5, 2019, but Lauryn did come to court that day, and she spoke to the newly assigned judge on the case, Amanda N. Heath. Ms. Johnson addressed why she called the police, and she has spoken to the fact that Ms. Paschal was not supportive or helpful in the case. Ms. Paschal caused many problems for Ms. Johnson to include defaming her character by telling schools Ms. Johnson was, "dangerous," and Ms. Johnson was working in the school system as a substitute teacher. Also, Ms. Paschal, having recently been assigned to the case and not meeting with Ms. Johnson for at least a month after she was assigned, never met with Ms. Johnson and her children together to have any insight into the relationship the children had with their mother away from the conflict and drama

they experienced while with Ms. Smart and Mr. Curd, as is documented throughout the court orders.

Point No. 7: In 2019, The Trial Court committed a reversible error in creating a de facto termination of Ms. Johnson's parental rights without sufficient evidence and reason.[67] As opposed to what's stated in the 2019 court order[68], the standard for a change of custody isn't just about the best interest of the child. see Mashburn v. Mashburn, 353 Ga. App. 31, 43 (Ga. Ct. App. 2019) ("Thus, as used in OCGA § 19-7-1 (b.1), the best interest of the child standard means that "the third party must prove by clear and convincing evidence that the child will suffer physical or emotional harm if custody were awarded to the biological parent. Once this showing is made, the third party must then show that an award of custody to him or her will best promote the child's welfare and happiness." Clark , 273 Ga. at 599 (V), 544 S.E.2d 99. See also Strickland , 298 Ga. at 631 (1), 783 S.E.2d 606. In this context, emotional harm is defined as "significant, long-term emotional harm," Strickland , 298 Ga. at 631 (1), 783 S.E.2d 606, and does "not mean merely social or economic disadvantages." Clark , 273 Ga. at 598 (IV), 544 S.E.2d 99. Nor does

[67] Before terminating a parent's rights, a juvenile court must employ a two-prong test. In the first prong, the court must decide whether there is present clear and convincing evidence of parental misconduct or inability. OCGA § 15–11–94(a). Parental misconduct or inability, in turn, is proven by evidence showing: (1) that the child is deprived; (2) that lack of proper parental care or control is the cause of deprivation; (3) that the cause of deprivation is likely to continue or will not likely be remedied; and (4) that continued deprivation is likely to cause serious physical, mental, emotional, or moral harm to the child. OCGA § 15–11–94(b)(4)(A). In the second prong of the termination test, the juvenile court must consider whether termination of parental rights would be in the best interest of the child. In re C.J.V., 323 Ga. App. 283, (Ga. Ct. App. 2013)

[68] A24A1241-Record Volume 2 pg 8, para 2.

emotional harm refer to the stress and discomfort that naturally accompanies a change in home and/or school. See id. (noting that such changes "will often be difficult for a child, but some level of stress and discomfort may be warranted when the goal is reunification of the child with the parent"). Thus, in determining if a child will suffer harm in the custody of her parent, a court should focus on the parent's ability to provide for the children in a manner sufficient to preclude the need for an entity of the government to intervene and separate the children from the parent, and a court is not permitted to terminate a parent's natural right to custody merely because it believes that the child[ ] might have better financial, educational, or moral advantages elsewhere[.] [In other words,] the parent's ability to raise her children is not to be compared to the fitness of a third person."

Point No. 8: In 2019 and 2024, The Trial Court committed reversible error in accepting Ms. Smart's false claim that Lauryn had been living with her since 2010 as a fact and as grounds for explaining why Ms. Johnson's child should live with her.[69] Lauryn was not living with Ms. Smart because Ms. Johnson lived with Mr. Curd and both daughters, Jada and Lauryn, until after filing for divorce in 2011.[70] Also, Lauryn was not living with Ms. Smart because Ms. Smart was living in

[69] A24A1241-Record Volume 2 pg 70; See also Reference Transcript pg 23 line 5 where judge is saying 2010, too.
[70] A24A1241-Transcript Volume 3 pg 17, lines 6-8: please note and disregard the text listed here as the reporter's error because I did not say my daughter had been living with Ms. Smart since 2010. I would not give my daughter to Ms. Smart as a remedy to escape the abusive relationship because she was abusive, too, as I stated and as is captured in the transcript on pg 3, lines 14-16, from my opening statement. Please also see my opening statement in A24A1241-Record Volume 2 pgs 48-49. Please also see A24A1241-Transcript Volume 3 pg 5, line 23, and recognize the judge's error in referencing 2010 as the year when the divorce proceedings started.

another state with her fourth husband, while Mr. Curd, Ms. Johnson, and Lauryn (and Jada) all resided in the State of Georgia.[71] Additionally, because Ms. Smart did not live in the State of Georgia, it isn't until 2018 that she is listed in the records of the court.[72] Furthermore, in The Trial Court's acceptance of Ms. Smart's claim, it becomes apparent that Mr. Curd never supported his children, while Ms. Johnson, on the other hand, although alienated and blocked from providing for her children by her abusers, Mr. Curd and Ms. Smart, continued to show up for her children and is supported in her reasoning for divorcing Mr. Curd, especially as it related to the care and well-being of the children. The Trial Court should have shown deference to Ms. Johnson and supported her from day one.[73]

Point No. 9: In 2024, The Trial Court committed reversible error and displayed prejudice because it essentially upheld the judgment from 2019 by again failing to implement a parenting plan for Ms. Johnson and by implementing a self-executing communication plan which empowered Ms. Smart to continue alienating Ms. Johnson from her daughter.[74] Selvage v. Franklin, 350 Ga. App. 353, 359-60 (Ga. Ct. App. 2019) (" 210Finally, the father argues that the trial court erred in failing to incorporate a parenting plan into its order. Again, we agree. OCGA § 19-9-1 (a)

[71] See A24A1241-Transcript Volume 3 pg 17, lines 18-20: please note no objection from Ms. Smart to this statement of fact.
[72] See A24A1241-Record Volume 2 pg 111, para 1.
[73] See A24A1241-Record Volume 2 pgs 45-49
[74] See A24A1241-Record Volume 2 pgs 51-54; See A24A1241-Transcript Volume 3 pg 27, lines 2-8

provides, in part, that "[t]he final order in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan as further set forth in this Code section[.]" (Emphasis supplied.)

[T]he parenting plan must include several details beyond custody and visitation, including, among many things, the rights of both parents to access the child's records and information related to education, health, health insurance, extracurricular activities, and religious communications. OCGA § 19-9-1 (b) (1) (D).")

CONCLUSION

The Trial Court's Order was not supported by any evidence showing diligence by Mr. Curd and Ms. Smart to provide (1) a certificate of completion for the divorcing parent's and co-parenting class, (2) a clean drug test, (3) a financial affidavit (4) proof of efforts to preserve the maternal bond and relationship between the mother and child, or (5) evidence of the child's current state of well-being. Nor did Mr. Curd or Ms. Smart provide a strong reason as to why therapeutic visitation would not be in the best interest of Lauryn. Given the absence of record evidence on these crucial elements, The Trial Court's Order to allow monthly calls requiring supervision by Ms. Johnson's secondary abuser, Ms. Smart, but denying the establishment of a parenting or reunification plan via, at a

minimum, therapeutic visitation in a safe environment for both Ms. Johnson and Lauryn was an abuse of discretion.

As a loving mother, since 2011, Ms. Johnson has met all demands placed upon her by The Trial Court and asks The Court of Appeals to concur. Second, Ms. Johnson asks This Court to acknowledge The Trial Court's failure to accept Ms. Johnson as a victim of domestic and family violence - outside of confidential shuttle mediation - denying her and her child(ren) the protection and support available to victims of family violence through the State of Georgia and nationally. Third, Ms. Johnson asks for The Trial Court's actions in 2012, 2018, 2019, and 2024 to be (1) deemed prejudice and, (2) with directions, for the most recent Order to be reversed, permanently returning child custody of Ms. Johnson's only minor child, Lauryn Grace Curd, to her, honoring the federal and state constitutional rights granted to her as Lauryn's natural and biological mother. Finally, Ms. Johnson asks for court fees, costs, and interest to be determined on remand.

This submission does not exceed the word count limit imposed by Rule 24.

Lakievia Johnson, Appellant

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[redacted]

CERTIFICATE OF SERVICE

I certify that I have this day served Jeremy Curd with a copy of this Appellant's Brief through the U.S. mail with first class postage paid addressed to:

Jeremy Curd

[redacted]

[redacted]

Served by me on this the 19 Day of April, 2024.

Lakievia Johnson

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted] [redacted] [redacted]

CERTIFICATE OF SERVICE

I certify that I have this day served Barbara Elaine Smart with a copy of this Appellant's Brief through the U.S. mail with first class postage paid addressed to:

Barbara Elaine Smart

[redacted]

[redacted]

Served by me on this the 19 Day of April, 2024.

Lakievia Johnson

[redacted]

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