

SUMMARY OF TESTIMONY

My name is Tucker S. Player and I intend to provide testimony concerning the candidacy of Jan Bromelle Holmes for a position on the South Carolina Appeals. I am the attorney for John Gallman and I wish to provide a legal perspective of Judge Holmes' actions in the custody action involving my client in 2019.

In September 2019, John Gallman noticed bruising on the inside of his 10 year old daughter's legs. These bruises raised a concern that John immediately addressed with his family counsellor and his family court attorney. Both told him to immediately take his daughter to the Medical University of South Carolina. Upon arrival, Mr. Gallman made no allegations against anyone, merely addressed his concern about the bruises and their location. At that point, the DSS worker and the Horry County Police Department made statutorily mandated reports of potential abuse and referred the daughter to the Children's Recovery Center (CRC) in Myrtle Beach. John Gallman never requested the forensic examination by the CRC, nor did he accuse his ex-wife or her husband of anything while he was at MUSC. Both the DSS reporter and law enforcement instructed John Gallman not to return the children to the mother's custody until the forensic examination was done at the CRC. Rhett Khok immediately notified opposing counsel and the GAL of the MUSC visit, the mandatory reports, and the directive from law enforcement not to return the child to the mother's custody. An *ex parte* Order was issued suspending custody, without a hearing, which was immediately vacated upon the issuing judge learning the actual facts surrounding the MUSC visit. However, the ex-wife persisted and obtained a second hearing with Judge Holmes.

It is a fundamental precept of the domestic laws in South Carolina that the best interests of the child trump all other concerns. The actions of the parents, whether offending the opposing party or the court, is never a consideration that overcomes what is in the best interests of the child nor should such considerations affect visitation issues. Judge Holmes does not seem to understand this.

One only needs to review the actual Order issued by Judge Holmes to understand the reason why she should not be considered for the Court of Appeals. It is attached hereto for your review as Exhibit A. Paragraph 8 not only prohibited John Gallman from visiting his children, he was prohibited from having any *communication* with his children. The father who, up to that point, shared equal time in housing and caring for the children. His 9 year old son and 10 year old daughter were forced to transition from living with their father for 15 out of every 30 days to not being able to speak with him on the phone or have him attend a single extra curricular activity. Judge Holmes unilaterally created the belief in John Gallman's children that he abandoned them. It is impossible to construe this as being in the "best interests of the child."

This prohibition continued for more than 350 days. Despite not one, but two motions to reconsider and obtain relief during those 350 days. Both were denied by Judge Holmes. That makes a grand total of three separate occasions in which Judge Holmes ruled that it was in the

best interests of two pre-teenage children to have no contact with their father. This alone should disqualify her from any position on the Court of Appeals.

In the Order Judge Holmes cites four grounds for her ultimate conclusion to prohibit the father from all communication with his underage children. Considering the draconian and counterproductive prohibition of a father speaking to his children, one would assume there were serious allegations of abuse or danger to the children. Nothing could be further from the truth.

The first reason Judge Holmes cited taking John Gallman's children away was the fact that he took his daughter to a government medical facility to examine bruising on her inner thighs. Bruising which, according to the medical records and Judge Holmes' own recitation during the hearing, the daughter could not explain. More importantly, it demonstrates Judge Holmes complete ignorance of the mandatory reporting system in place in South Carolina for child abuse. The moment the bruising was discovered in the location it existed, unless the daughter could provide a rational and believable excuse to its origin, the providers were required to report it to DSS and law enforcement. Here is the statute:

SECTION 63-7-310. Persons required to report.

(A) The following persons must report in accordance with this section when, *in such person's professional capacity, he has received information that gives him reason to believe that a child has been or may be abused or neglected* as defined in Section 63-7-20: a physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, clerical or nonclerical religious counselor who charges for services, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, and a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA.
[*Emphasis Added*]

Judge Holmes blamed John Gallman for the issuance of a mandatory report that he had no control over. By the very definition of the statute, the provider must have, in their professional capacity, reason to believe that neglect or abuse occurred. Judge Holmes ruling shows a fundamental misunderstanding of the law with regard to these statutory mandatory

reporting requirements. More importantly, it shows a lack of proper temperament as Judge Holmes is chilling any reports of potential abuse in her custody cases because she openly stated she will use such reports to justify banning the reporter from seeing or talking his/her children. The statutory scheme provides remedies for frivolous and/or malicious reports. No such finding was ever made with regard to the mandatory reports made by DSS and law enforcement with regards to John Gallman's children.

The second reason cited by Judge Holmes was the forensic interview at the CRC. Again, John Gallman played no role in the mandatory reports made by MUSC, DSS and law enforcement. It was the mandatory reports issued by those agencies that required, as a matter of law, for the CRC evaluation to occur. Yet, that did not stop Judge Holmes from using it to punish John Gallman. The true hypocrisy of paragraph two is the mention of the child's statement that John Gallman "threw her on the bed." This was a previous instance in which the ex-wife attempted to involve DSS in the custody dispute by making allegations of abuse which were unfounded. This is the exact behavior Holmes declares "will not be tolerated" in Paragraph 3. The final sentence of the paragraph 2 is as telling as it is prophetic: "no findings of abuse or neglect." Yet, John Gallman cannot so much as speak to his children for nearly a year.

The final reason for prohibiting a father of two young children from having any contact with them for more than 350 days is the true travesty of this Order. S.C Code Section 40-75-90 governs the complaint process involving professional counselors. It is very clear in its prohibitions and protections. Section (D) of that statute reads as follows:

(D) No person connected with any complaint, investigation, or other proceeding before the board, including, but not limited to, any witness, counsel, counsel's secretary, board member, board employee, court reporter, or investigator may mention the existence of the complaint, investigation, or other proceeding or disclose any information pertaining to the complaint, investigation, or proceeding, except to persons involved and having a direct interest in the complaint, investigation, or other proceeding and then only to the extent necessary for the proper disposition of the complaint, investigation, or other proceeding. However, if the board receives information in any complaint, investigation, or other proceeding before it indicating a violation of a state or federal law, the board may provide that information, to the extent the board considers necessary, to the appropriate state or federal law enforcement agency or regulatory body. Nothing contained in this section may be construed so as to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

There is no ambiguity in this statute. Complaints against counselors are confidential. Period. Yet, Judge Holmes wrote the following in her order, justifying her prohibition of a father speaking to his two young children for nearly a year:

4. That Defendant-Father has filed/made a complaint against the minor children's therapist/counselor, Roberta Bogle, that have[sic] been dismissed. Further, anyone involved with this case or individuals who have filed affidavits in support of the Mother as Father perceives it have been harassed, intimidated or ridiculed by the Father or others acting on his behalf as being untruthful or biased towards the Mother. This court will not be intimidated and will do what is in the best interest of the children.

Not only did Judge Holmes allow a therapist to violate the statutory law of South Carolina, she violated it herself by reiterating the illegal disclosures in her order. This is truly remarkable. This committee should know that I represented John Gallman in a lawsuit against that therapist for her actions in the family court matter, which settled for a confidential amount earlier this year.

The final report from MUSC, which cost my client nearly \$50,000.00, exonerated John Gallman and found no reason he should be prohibited from having custody of his children. The final Order from Judge Timothy Pogue found that there was "no evidence" of abuse by either party. If there was no threat from John Gallman according to MUSC, and "no evidence" of neglect or abuse according to the final factfinder, what legitimate basis existed to prohibit all communication between a father and his children? More importantly, the \$50,000.00 MUSC report¹ found that the separation from John Gallman caused harm to the children that required reunification therapy before normal visitation could resume. This harm was only caused by one person and that person should not be elevated for failing in the single most important job for a family court judge: protecting children.

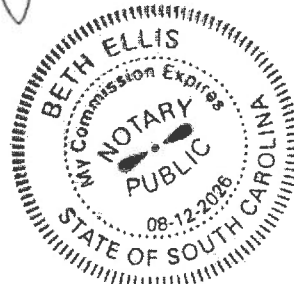
I HEREBY AFFIRM UNDER OATH:

Tucker S. Player

Sworn before me, this 20th day of
October 2023

South Carolina Notary

My commission expires 9/12/26



Which John Gallman had to pay before MUSC would issue the report, which Judge Holmes required before even considering lifting her prohibition of communication.

State of South Carolina

County of Horry

Sarah Price,

Plaintiff,

vs.

John Gallman,

Defendant.

In the Family Court
of the
15th Judicial Circuit

Case Number: 2018-DR-26-3013

**TEMPORARY ORDER
(Not Ending Action)**

Hearing Date:	September 23, 2019
Presiding Judge:	Jan Bromell Holmes
Court Reporter:	Natalie Dahl
Plaintiff's Attorney:	Ryan A. Stampfle, Esq.
Defendant's Attorney:	Rhett Klok, Esq.
Guardian ad Litem:	Russel Hall, Esq.

THIS MATTER was scheduled to be heard by the court on September 23, 2019 on Plaintiff-Mother's Motion for Notice of Motion, Motion for Expedited Hearing and Ex-Parte Order filed on September 9, 2019. Pursuant to the Motion, an Ex-Parte Order was signed by the Judge Ronald R. Norton and an Expedited Temporary Hearing was scheduled for September 23, 2019. Subsequent to the Ex-Parte Order being issued, Defendant-Father filed a Notice of Hearing, Motion for Relief of Judgment and challenge to Ex-Parte Order on September 12, 2019. On September 12, 2019 Judge Ronald R. Norton signed an Order rescinding the Ex-Parte Order signed on September 9, 2019 but ordered that the hearing scheduled for September 23, 2019 go forward as a Temporary Hearing

Present at this hearing was the Plaintiff-Mother and her attorney, Ryan A. Stampfle Defendant-Father with his attorney, Rhett Klok, and the Guardian ad Litem, Russell Hall.

Based upon the Pleadings, filings contained in the Court record, assertions and arguments of counsel and independent confirmations of the Court, this Court makes the



following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That on September 3, 2019 Defendant-Father took the minor child, RGG, to The Medical University of South Carolina (MUSC) for an evaluation, without first consulting Plaintiff-Mother. That Defendant-Father made allegations at MUSC that he believed that RGG may have been physically and sexually abused.
2. That pursuant to the allegations made at MUSC, an evaluation of the minor child RGG was scheduled at the Children's Recovery Center (CRC) in Horry County, South Carolina. Two neutral individuals, selected by the parties, took the minor child, RGG to the Children's Recover Center for an evaluation based upon Defendant-Father's allegations. That the CRC evaluation conducted by Dr. Carol Rahter was consistent with the child's statements at MUSC. The minor child denied any abuse or neglect while with Plaintiff-Mother and Stepfather. The only statement regarding neglect or abuse was the minor child's statement about an incident where Defendant-Father threw her on the bed in an attempt to retrieve her phone as she describes it to prevent her from contacting her mother. The allegation was investigated by the SCDSS and no findings were issued as to abuse or neglect.
3. That this court finds that it is convenient to allege abuse in a pending contested custody action. The Court frowns upon such behavior as it is never in the children's best interest.
4. That Defendant-Father has filed/made a complaint against the minor children's therapist/counselor, Roberta Bogle, that have been dismissed. Further, anyone involved with this case or individuals who have filed affidavits in support of the Mother as Father perceives it have been harassed, intimidated or ridiculed by the Father or

others acting on his behalf as being untruthful or biased towards the Mother. This court will not be intimidated and will do what is in the best interest of the children.

5. Based upon the actions of the parties as well as their stated positions in the affidavits, this is not a joint custody action. The custodial arrangements outlined in the parties prior Order are no longer in the best interest of the minor children. Until further Order of this Court, Plaintiff-Mother is the sole legal and physical custodian of the parties' minor children RGG (female age 10) and GRG (male age 9). All decisions regarding the minor children, including but not limited to educational, religious, extracurricular, and medical decisions are to be made by the Plaintiff-Mother. Plaintiff-Mother shall within 24 hours notify Defendant-Father of all appointments, activities, any major decisions and updates regarding the minor children utilizing Our Family Wizard.
6. Both parties have requested evaluations of each other with respect to custody of the minor children.
7. The Court is concerned that the minor daughter has been subjected to ridicule by a paternal relative for not substantiating the alleged abuse as stated by the Father. The Court is further concerned about the minor daughter's alleged sucking of the thumb as stated by the Father. The minor daughter has expressed discontent with the Father as to his actions. The minor son needs counseling for anxiety/stress.
8. That Defendant-Father is to have no visitation with the minor children, no telephonic contact or electronic contact with the children, and will not participate or attend any of the children's extracurricular activities, appointments or events.
9. That the parties shall participate in a psychological custodial evaluation that will be submitted to the court prior to Defendant-Father having any visitation addressed with the minor children. The Children's Counselor, Roberta Bogle, shall also inform the

Court as to status of the children's therapy. The individuals the parties request to conduct the evaluations will decide who the proper evaluator is to be for the parties. The Defendant shall be responsible for the costs of the psychological custody evaluation. The issue of costs may be re-addressed at the Merits hearing in this matter. Upon completion of the evaluations, the Court will schedule an additional hearing, if it deems necessary.

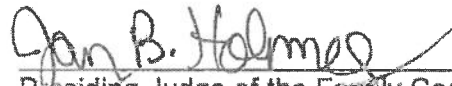
10. To avoid any intimidation or ridicule of the children by any party or anyone acting on a party's behalf, the therapist's records shall only be reviewed by the children's Guardian ad litem and shall be released to the parents 60 days prior to the trial in this matter. This is in the best interest of the children as they need to be able to express themselves to the therapist without fear that they will be punished for their feelings or what they express to the counselor by any parent. The point of counseling is that these children fully deal and cope with their emotions, anxiety/stress related issues and that they are able to function and develop into confident and well-rounded adults.
11. During periods of custody or interaction with the children, they are to be in a safe, moral, and wholesome environment at all times. The children shall not be exposed to the excessive use of alcohol, any use of any illegal drugs, or abuse of any prescription drugs. Disparaging or demeaning language or comments about the other parent or other parent's family members/friends or allowing any third person to do so in the presence of the children is prohibited. The use or allowance of use of vulgar, profane, demeaning or violent language in the presence of the children is prohibited. Exposing the children to confrontations concerning the parents is prohibited.
12. That Defendant-Father is to pay to Plaintiff-Mother's attorney the sum of \$6,427.00 on or by November 15, 2019. Payment is to be made to Plaintiff-Mother's attorney's office



located at 2055 Glens Bay Road, Surfside Beach, South Carolina 29575.

IT IS HEREBY ORDERED:

1. This order has no precedential value at the final hearing of this matter; and
2. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT, AND MAY BE PUNISHABLE BY A FINE, A PUBLIC WORK SENTENCE , OR BY IMPRISONMENT, OR ANY COMBINATION THEREOF, AT THE DISCRETION OF THE COURT, BUT NOT TO EXCEED IMPRISONMENT FOR ONE (1) YEAR, A FINE OF \$1,500, A PUBLIC WORK SENTENCE NOT TO EXCEED THREE HUNDRED (300) HOURS, OR ANY COMBINATION THEREOF, AS PROVIDED BY SOUTH CAROLINA CODE ANNOTATED SECTION 20-7-1350.



Presiding Judge of the Family Court
Fifteenth Judicial Circuit

October 11, 2019

Conway, South Carolina