



November 2, 2018

Judicial Merit Selection Commission
Post Office Box 142
Columbia, SC 29202

Re: Affidavit of Mr. Ginter

Dear Chairman Rankin and Commission Members:

Please accept my response to Mr. Ginter's Affidavit. In preparation for this response, I reviewed the Affidavit filed by Mr. Ginter and I reviewed the entire original court file.

I presided over the first temporary hearing in docket number 14-DR-40-1658, *Michelle Heinzelman v. Nathan Ginter* on May 28, 2014. The procedural history shows that the parties were subject to a Final Order from December 2012. Subsequent to that Order, the parties were involved in a contested child related action initiated in 2013 wherein Attorney Daniel Kienker was appointed as the Guardian for the minor child. That case was dismissed pursuant to the Supreme Court's 365 day rule shortly before the 2014 action was filed. The action I presided over was initiated on April 28, 2014 by Ms. Heinzelman [REDACTED].

Present at the temporary hearing were the parties, their counsel of record and the Guardian, Mr. Kienker, who had investigated the matter for more than one (1) year during the 2013 action. The hearing was scheduled for the standard fifteen (15) minutes; however, I spent forty-eight (48) minutes on the matter on the record. Prior to ruling on the temporary issues, while sitting on the bench, I reviewed all the prior orders, the pleadings, all of the documents and affidavits submitted by counsel and the Guardian, and [REDACTED]. The stack of documents I reviewed on the bench was voluminous and measures over an inch thick. After review of the documents, I also allowed oral arguments from counsel and heard from the Guardian. As the Commission can tell from the transcript, I did not rush the attorneys and gave them ample time to make their arguments and confer with their clients as needed before issuing my ruling.

I issued a Temporary Order on June 18, 2014 based on all of the information that was presented to me, after much deliberation, and after hearing from the Guardian. I issued an order I believed was in the best interest of the minor child. I want to note that my ruling was not contrary to the Guardian's recommendation for the best interest of the child based on his lengthy investigation. Mr. Ginter did not file a Rule 59 or 60 motion asking me to reconsider, alter or amend my order. Mr. Ginter did not appeal my order. This is the only way for a party that is aggrieved by an order to seek relief from the order. Unfortunately, Mr. Ginter did not avail himself of these rights.

A further review of the file shows that after I issued my Temporary Order, Mr. Ginter filed a subsequent motion asking that [REDACTED]. A Supplemental Temporary Order was issued on August 25, 2014 [REDACTED].

[REDACTED] In that order, the presiding judge went into great detail about the pending matters, found that Mr. Ginter, among other things, was [REDACTED] to make his case, found Mr. Ginter's motion to be [REDACTED], found Mr. Ginter was [REDACTED]. I believe it's important to show the Commission that even though Mr. Ginter did not avail himself of his rights to file a Motion to Reconsider or appeal my order, he was able to have a second judge look at all his documents again and hear his concerns a second time.

The case concluded after a three (3) day trial by Final Order dated February 12, 2016 issued by a third judge. After trying the case and hearing from Mr. Kienker, the Guardian, the trial judge found that the [REDACTED]

[REDACTED] I point this out only to show that Mr. Ginter had a third, independent judge grant [REDACTED]. I believe this is important because even though Mr. Ginter was dissatisfied with my order and thought I ruled incorrectly, and even though he did not appeal my order or ask me to reconsider it, he was able to have two other judges review the matter.

The court file also shows that Mr. Ginter appealed the Final Order in his case, but his appeal was dismissed on October 5, 2017 because he failed to serve and file his brief and designation of matter as ordered by the Court of Appeals.

As to Mr. Ginter's incarceration during the litigation referenced in his Affidavit, an Order Concerning [REDACTED]

[REDACTED] Another Civil [REDACTED]

[REDACTED] Mr. Ginter was [REDACTED]

To conclude, I want to address some specific allegations made against me by Mr. Ginter. I deny acting with malice, neglect or acting on emotional urges. Cases are assigned to judges randomly. I had and have no personal knowledge of the parties and had no malice toward them or their child. Likewise, I had no malice toward counsel of record or the Guardian. They are all respected attorneys that still practice family law and appear before me regularly.

Mr. Ginter also alleged that my order contained multiple factual errors which later led to his incarceration. My written order appears to conform to the ruling I gave from the bench as set out in the transcript. If Mr. Ginter believed I signed an order containing errors, he had the right to ask me to reconsider my order. Had he done that, I might have been able to address his concerns during the case.

With regard to the allegations that I acted with discrimination and for favors, I deny that I acted in such a manner. Finally, I deny that I acted outside of my judicial discretion. I made a ruling that fell within the relief requested (by the opposing party), was supported by the documents, and that was not contrary to the Guardian's recommendation based on his lengthy investigation.



I understand Mr. Ginter's dissatisfaction with my Temporary Order. I wish he had availed himself of the remedies available to him for my order to be reviewed. Nevertheless, Mr. Ginter had the benefit of at least [REDACTED] to present his evidence and voice his concerns. He had four (4) different family court judges, other than me, preside over various parts of the litigation. He also had the right to appeal the Final Order but unfortunately his appeal was dismissed. I am truly sympathetic to Mr. Ginter's situation as family court litigation can be extremely difficult on the litigants and the children involved but I strongly disagree with Mr. Ginter's characterization of me as a Family Court Judge:

If I can provide the Commission with any additional information or documents, please let me know.

With Highest Regards,

Monet S. Pincus