
IN THE

APPELLATE COURT OF MARYLAND

ACM-REG-0424-2023

LAURENT J. LA BRIE

Appellant

v.

AURELIA LA BRIE

Appellee

Appeal from the Circuit Court for Baltimore County
(The Honorable Keith R. Truffer)

REPLY BRIEF & APPENDIX OF

APPELLANT LAURENT J. LA BRIE

Laurent J. La Brie
11 Northwest Lane
Sunapee, NH 03782

Appellant

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ARGUMENT

In response to the Informal Response Brief of the Appellee of August 31, 2023, hereinafter "Appellee Brief", Appellant provides this Reply.

Section 1

REGARDING APPELLANT'S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT WHEN IT HELD THE APPELLANT IN CONSTRUCTIVE CIVIL CONTEMPT AND DID NOT PRODUCE A WRITTEN ORDER WITH A SANCTION, A PURGE PROVISION, OR A DESIGN FOR COERCING FUTURE COMPLIANCE.

The Appellee Brief does not contest the Appellant's contention that there was no written order, no sanction and no purge provision connected with the Court's ruling of contempt on December 14, 2021.

The Appellee Brief does not contest the Appellant's contention that the Court never tried to coerce the Appellant to obey the court order regarding relocation or "effects" (which is the purpose of a purge provision), not in the hearing that it had scheduled for September 2021 but cancelled, not in the hearing on December 14, 2021, and not in the hearing of March 3, 2022.

Appellee cites no rule or case law which would have "justified" this deviation from Maryland case law. She simply states that the Court "explained and justified" by his statement "*I'm **not sure** there is any measure or sanction that really works that doesn't work to the disadvantage of the two children.*" (E.083, lines 4-6, emphasis added)

Furthermore, both the Appellee and the Appellant cited his very next statement that show that a financial penalty occurred to him. "*That doesn't exclude any of the requests for financial, either attorney's fees or other issues related to that.*" (E.083, lines 14-16) Obviously, the Court considered a financial sanction or purge provision but, at the end of the day, decided not to follow the requirements of Maryland Rule 15-207(d)(2).

Appellee Brief states that there was an "already-concluded agreement between the counsels." The Appellee and the Court state when the agreement was concluded. In Appellee's *Response to Motion to Reconsider Monetary Assessment of March 3, 2022*, she gave the date that the agreement was made. "*1. On March 3, 2022, the parties reached an agreement to resolve this Court's Contempt Finding*" (A.1 para. #1). She doesn't deny that the counsels were arguing before the judge from 9:00 until 11:50 about this matter: "*We have spent a good bit of time this morning. We have spoken to counsel in chambers concerning all of the matters I just addressed except for the international Order.*" (E.087 lines 5-8) The swearing in of the interpreter interrupts his statement when he says that those "matters" were contempt and child support. *"All right, following that, we have discussed with counsel all of these issues. And I am told there is a resolution as to the first two. The contempt issue as well as the child support.*" (E.087 lines 21-24)

The Appellee doesn't address Appellant's contention that the Court made the whole contempt moot by ordering the children to move to New Hampshire a couple of minutes after it had issued the contempt ruling. Instead, she created a "relocation-equals-

purge provision" straw-man out of the Appellant's contention[1]. Whether this is called "purge", "making moot", "cleansing", or "removing an unwanted condition of conflict or contempt", there was existing no violation or condition of contempt.

A purge provision is to "be designed to coerce the contemnors future compliance with a valid legal requirement". After the Court's December 14, 2021 ruling to relocate the children to New Hampshire, the Court no longer coerced the Appellant to live in Maryland nor to maintain the children's school, pediatrician, or therapist in Maryland.

Section 2

REGARDING APPELLANT'S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT ON DECEMBER 14, 2021, WHEN IT HELD THE APPELLANT IN CONSTRUCTIVE CIVIL CONTEMPT FOR A PAST ACTION, THE APPELLANT'S MOVING TO NEW HAMPSHIRE.

The Appellee Brief does not contest the Appellant's contentions. Thus, the parties agree that the Court was not legally correct on December 14, 2021, when it held the Appellant in constructive civil contempt for a past action.

Article 12, §1 of the *International Covenant on Civil and Political Rights* states*:* "*Everyone lawfully within the territory of a State shall, within that territory, have the*

[1] "Purge" in English translates to the same word "purge" in the Appellee's native Romanian and she could have informed the author of the Appellee Brief that it means "clean" or "make free of something unwanted" (Webster). Since the Appellee announced to the court that she was unrepresented by counsel, the Appellant avoided legal terms in favor of English more familiar to her. The Appellant didn't know that the Appellee would use a writer who would know and use the legal terms "inter-alia" and "strawman" but not know the common usage of the term "purge".

right to liberty of movement and freedom to choose his residence."

Throughout her brief, Appellee has argued that the contempt wasn't the Appellant's relocation but the effects thereof. This topic is addressed in Section 5, but it isn't supported by the transcript, where it is clear that the primary motive for the ruling of contempt is relocation. The Court does not mention the "effects" without mentioning the relocation but it mentions relocation without mentioning the effects, such as on p. 285.

> "*All of the motions the Court has heard today were initiated by Mr. LaBrie's move from Maryland to New Hampshire in October of 2019. And I have already addressed how I view whether those, that conduct is violative of the May 14th consent order.*" (E.083 lines 23-27)

Appellee Brief did not deny that relocating was Appellant's Constitutional right or that her lawyer testified against holding him in contempt for it. Instead, the Appellee introduces "order-defying effects"[2] (addressed in Section 5), which resulted from the Appellant exercising his relocation right provided by the US Constitution and International Covenant signed by the United States, a right which he never relinquished in any settlement order.

The Appellee's term "order-defying effects" has never been used as a defense in any cited case. In fact, the term is so patently obscure that searching "order-defying effects" on Google to determine its meaning gives a grand total of zero (0) results.

The contemnor cannot be held in contempt for the "effects" from a lawful action any more than a person lawfully driving the speed limit can be held liable for the

[2] Appellee doesn't explain how effects can be "order-defying".

"effects" of a driver who rear ends him.

Maryland Law allows for contempt only based on actions, not "effects". This not only is reinforced by US law, but international law. Article 15, §1 of the International Covenant on Civil and Political Rights states:

> *"No one shall be held guilty of any criminal offence on account of any* ***act*** *or omission* ***which did not constitute a criminal offence****, under national or international law, at the time when it was committed." (Emphasis added)*

Thus, the Court was not legally correct on December 14, 2021, when it held the Appellant in constructive civil contempt for a past legal action, the Appellant's moving to New Hampshire.

Section 3

REGARDING THE APPELLANT'S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT ON DECEMBER 14, 2021 WHEN IT HELD THE APPELLANT IN CONSTRUCTIVE CIVIL CONTEMPT WHEN THE APPELLANT HADN'T BEEN GIVEN THE REQUIRED 20 DAYS' NOTICE OF THE CHARGES AGAINST HIM, DEPRIVING HIM OF HIS OPPORTUNITY TO DEFEND HIMSELF.

The Appellee states,

> '*The primary thrust of the rule [*15-206 (c)(2)*] is that there should be "a reasonable time for the preparation of a defense," and this was provided in the time between the Appellee's November 12, 2021 Amended Petition for Contempt and the December 14, 2021 hearing.*' (Appellee Brief, para. #10) [3]

[3] In fact, Appellee doesn't explain how the Court would be able to schedule a pre-hearing on charges 20 days before a hearing, if a Petition outlining the essential facts for the contempt are not filed 20 days before a hearing. Any Petition would have to be filed before a pre-hearing.

Yet, this is a Red Herring Logical Fallacy because Appellee doesn't cite any paragraph of that Petition which presented **any** the charges **for which the Appellant was convicted**, namely #1.) his relocating to New Hampshire or #2.) the hypothetical future "order-defying effects" of the Court having to change the children's school, pediatrician, or therapists.

Appellee Brief claims there was "no need" to present the essential facts for #1 (relocating) because the contempt was based only on #2, the "order-defying effects". (This is debunked in Section 2, above; E.082, line 2; and E.083, lines 23-27.) However, Appellee doesn't explain why she also didn't present the essential facts around #2 the "order-defying effects" of the contempt.

Appellee Brief doesn't cite any authority for not presenting the essential facts constituting the contempt charged, while Appellant presented Maryland Rule 15-206 (b)(2) and Maryland Rule 15-206 (c)(2) and State v. Roll and Scholl, 267 Md. 714, (Md. 1973) pp. 731-732 stating that:

> *"Under Maryland Rule P4, An Alleged Contemnor Proceeded Against For Constructive Contempt Is Entitled To Receive Service Of A Show Cause Order Issued By The Court Stating The Time And Place Of Hearing, Allowing A Reasonable Time For The Preparation Of The Defense, And* ***The Essential Facts Constituting The Contempt Charged****."*

Article 14, §3 of the International Covenant on Civil and Political Rights states:

> *"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*
> *"(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;*
> *"(b) To have adequate time and facilities for the preparation of his defence"*

It is not lawful to list in a Show Cause/Petition for Contempt seven (7) charges to

be presented at the hearing and after the contemnor has successfully refuted those seven, to convict him of two (2) different ones in Court.

Thus, considering not only Maryland law and the US Constitution, but also this International Covenant entered into force by the United States on September 8,1992, the Court was not legally correct on December 14, 2021 when it held the Appellant in constructive civil contempt when the Appellant hadn't been given **any** notice before the hearing of the charges against him, depriving him of his opportunity to prepare his defense.

Section 4

REGARDING THE APPELLANT'S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT ON DECEMBER 14, 2021, WHEN IT HELD THE APPELLANT IN CONSTRUCTIVE CONTEMPT WHILE, ACCORDING TO MARYLAND RULE 15-206, FOR A FINDING OF CONTEMPT, THERE MUST BE A VIOLATION OF A CLEAR ORDER REQUIRING THE OTHER PARTY'S ACTION.

The Appellee Brief does not contradict Appellant's point that the only **action** of the Appellant was relocating to New Hampshire. The Appellee agreed that no court order prohibited this, thereby disqualifying it as a basis for contempt per Maryland Rule 15-206.

The Appellee Brief does not contradict Appellant's contention that no **action** of the Appellant removed the children from their school, therapists, or pediatrician. The Appellant charged the Appellant with this in her Petition and in court but the Court

rejected this accusation. Even **after** the Court's ruling of contempt, the children were (per the testimony of the Appellee's own attorney – See E.139, line 14 -E.140, line 3 and E.140 line 20) still sitting in their chairs in their Baltimore County school, with the same therapists and pediatrician.

The question of whether it is legally right to base a contempt on future "effects" instead of actions is addressed in Appellant's Section 5.

Thus, the Court was not legally correct on December 14, 2021, when it ruled "*Mr. LaBrie by moving to New Hampshire has violated the Court's order, consent order dated May 14th, 2021.*" (E.082, line 2)

Section 5

REGARDING THE APPELLANT'S CONTENTION THAT IT IS UNLAWFUL THAT THE COURT HELD THE APPELLANT IN CONTEMPT FOR AN ACTION OF THE COURT AND WITHOUT DUE PROCESS OF LAW AS REQUIRED BY THE 14TH AMENDMENT OF THE US CONSTITUTION.

The Appellee Brief does not challenge the Appellant's assertion that he was not given due process of law by not being allowed to testify or being informed of the charges against him. It is thereby accepted.

Appellant is a United States citizen, entitled to all the rights to a fair trial under rule of law.

Appellee Brief does not challenge the Appellant's assertion that Maryland Rule 15-206 says: "*(b) Who May Initiate: (2) Any party to an **action** in which an alleged*

contempt occurred" and not "effects" of an action.

By calling the Appellant's narrative "some fantastical lines of reasoning" instead of addressing the issues, Appellee resorts to trying to distract the issue with an Appeal to Ridicule Logical Fallacy.

Appellant fails to see how the logic here can be "fantastical". Let's take this simply step by step. Both the Appellant and the Appellee agree that the Appellant's move to New Hampshire was not in violation of any order. So, at the beginning of the hearing of December 14, 2021, no court order had been violated.

- The Appellant had relocated to New Hampshire, and both parties agree that this was no violation of a court order.
- The children were sitting in their chairs in Baltimore County schools in accordance with their registration there, with no prospect of future change of schools. Both parties agree that this condition complied with all court orders.
- The children were still registered with their present therapists with no prospect of future change. Both parties agree that this condition complied with all court orders.
- The children were still registered with their pediatrician with no prospect of future change. Both parties agree that this condition complied with all court orders.

At the time of the contempt ruling on page 285 of the transcript (E.083), the aforementioned conditions had not changed and there was no contempt.

The Court authorized the children's school, therapists, and pediatrician to change

on page 293, (what the Appellee calls "order-defying effects") when the Court ruled "*that it is in their best interests for the reasons I have gone over to be in Mr. LaBrie's custody, the primary custody, in New Hampshire.*" (A.11, line 5-8)

Within seconds, the contempt is made moot when the Court orders the "order-defying effect" that the children change schools (A.11, line 10-11).

The "effects" of the Court weren't even direct effects of the Appellant but indirect ones. The Court stated that the change in custody was the direct effect of the best interest of the children. It wasn't a consequence until the Court made it a consequence. Without the Court's decision, there would have been no "order-defying effects".

Appellee Brief disingenuously stated that the Court agreed with "*several, clearly enumerated violations of the May 14, 2021 Consent Order described in Appellee's Amended Petition for Contempt*" without giving any examples or documentation. In fact, none of the Appellee's accusations were listed in the Court's ruling.

Appellee Brief does not cite case law or Maryland Rule which contradict the Appellant's contention that effects which are out of control of the alleged contemnor (such as the Court's ruling to relocate the children) cannot be the grounds for contempt.

Appellee Brief does not contest Appellant's statement that "*the Court did not advise the Appellant what the charges would be and did not allow him to testify in his defense.*"

Section 6

REGARDING THE APPELLANT'S CONTENTION THAT THE COURT WAS

NOT LEGALLY CORRECT IN HOLDING THE APPELLANT IN CONSTRUCTIVE CIVIL CONTEMPT WHEN THE COURT DIDN'T FOLLOW MARYLAND STATUTE FAMILY LAW ARTICLE §9-106 (A)(4) TO SET A HEARING ON AN EXPEDITED BASIS, BUT INSTEAD CANCELED A HEARING WHICH HAD ALREADY BEEN SCHEDULED WITH BOTH PARTIES.

In the first "flaw" cited by the Appellee, she attacks a straw man. At the Court-cancelled hearing, the Parties and the Court would have addressed not only the move to New Hampshire **but also** the future "effects" of that move.

Regarding the second "flaw", regardless of whether or not Article 9-106 (a)(4) is used as the authority to convene an expedited hearing, holding the hearing that was already on the Court's schedule would have avoided "order-defying effects", and thereby any condition of contempt.

Regarding the third "flaw", Appellee writes "*the only way to understand a Court decision is to hear it clearly stated in a hearing or to see it clearly documented in a written order or decision*" (Appellee's Brief paragraph #20), yet she maintains that canceling the hearing was lawful. Thus, the Appellant was deprived of the "only way" to know that Court would find that he would be violating *"the Court's order, consent order dated May 14th, 2021" "by moving to New Hampshire"* (E.082, line 2) especially in light of her admission that relocation had never been forbidden in any previous "written order or decision." Furthermore, not only is contempt over "order-defying effects" never mentioned in a hearing or order, it isn't mentioned in any Rule or United States case law.

Thus, the Appellee Brief agrees with the Appellant's point that the Court should

have “clearly stated” its decision in a hearing or order.

Section 7

REGARDING THE APPELLANT’S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT ON MARCH 3, 2022 WHEN IT IMPOSED A PURGE PROVISION, SINCE THE COURT HAD MADE THE CONTEMPT MOOT BY ORDERING THE APPELLANT TO RELOCATE THE CHILDREN TO NEW HAMPSHIRE AND TO TRANSFER TO NEW A NEW SCHOOL, PEDIATRICIAN, AND THERAPISTS, AND THESE WERE ACCOMPLISHED.

The Appellee creates a Ignoratio Elenchi Logical Fallacy by attempting to divert the reader’s attention to a discussion of purge provisions instead of addressing the Appellant’s argument that the **contempt** had become moot or purged clean. The Appellant Brief invariably maintains (and Appellee agrees) that no purge provision was created until March 3, 2022 which (as argued in Section 1) makes the Courts ruling of contempt not legally correct.

The Appellee Brief does not dispute the Appellant’s contention that the contempt had become moot (in legal terms, or “purged clean” in layman’s terms) by the Court “ordering the Appellant to relocate the children to New Hampshire and to transfer to new a new school, pediatrician, and therapists, and this was accomplished” three (3) months prior to March 3, 2022. Thus, the Court was not legally correct on March 3, 2022 when it imposed a purge provision.

Section 8

REGARDING THE APPELLANT'S CONTENTION THAT THE COURT WAS NOT LEGALLY CORRECT IN HOLDING THE APPELLANT IN CONSTRUCTIVE CIVIL CONTEMPT FOR PUTTING THE COURT IN A POSITION THAT WOULD NECESSITATE A MODIFICATION OF THE ORDER.

The Appellee states that "There is no statement of the Court to support Appellant's contention" (Appellee Brief, p. 10 para. #24) that the "order-defying effects" were due to the Court's modifying the orders in force. As explained in Section 5 (above), there was no violation until the Court modified the orders, which simultaneously made the violation moot.

The Appellee Brief doesn't dispute the Appellant's argument that the change to sole custody was in the best interest of the children.

Appellee Brief doesn't dispute that the Parties were under order from July 2022 to "*advance the interests of the Minor Children.*" (E.185 para. 3)

Thus, the Appellant's relocation to New Hampshire advanced the best interest of the children, as he was under order to do.

CONCLUSION

The Appellee Brief does not contest the following contentions of the Appellant. The ruling of contempt is not legal if any one of them is true:

1. The Court never tried to coerce the Appellant to obey the court order regarding relocation or "order-defying effects" (which is the purpose of a purge provision), not in the hearing that it had scheduled for September 2021 but cancelled, not in the hearing on December 14, 2021, and not in the hearing of March 3, 2022.
2. On December 14, 2021, the Court made the whole contempt moot by ordering the children to move to New Hampshire within minutes of its issuing the contempt ruling. (Section 1)
3. The contempt was moot (in legal terms, or "purged" in layman's terms) by the date of the March 3, 2022 hearing because the Appellant had accomplished the Court's order to relocate the children to New Hampshire and to transfer to new a new school, pediatrician, and therapists. (Section 7)
4. There was no written order, no sanction and no purge provision connected with the Court's ruling of contempt on December 14, 2021; (Section 1)
5. That there is no case law or Maryland Rule supporting contempt for actions of the Court or "effects" out of control of the alleged contemnor. (Section 5)
6. That Maryland Rule 15-206 says: "*(b) Who May Initiate: (2) Any party to an* ***action*** *in which an alleged contempt occurred*." (Section 5)
7. It isn't legal to base contempt on a past action. (Section 2)

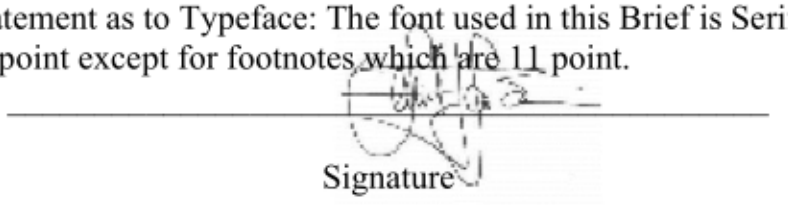
8. The only **action** of "contempt" of the Appellant was relocating to New Hampshire which was accomplished before the December 14, 2021 hearing. (Section 4)
9. Relocating was Appellant's Constitutional right. (Section 3)
10. Prior to the hearing, Appellee never charged the Appellant for being in contempt (nor the "essential facts constituting that charge") due to 1.) his relocating to New Hampshire or 2.) the hypothetical future "effects" of the Court having to change the children's school, pediatrician, or therapists. (Section 2)
11. The Court did not advise the Appellant what the charges against him would be and did not allow him to testify in his defense." (Section 5)
12. The change to sole custody was in the best interest of the children and the Parties were under order from July 2022 to "advance the interests of the Minor Children." (E.185 para. 3) (Section 8)

Disagreement between the parties is that the Appellee contends, since the parties agreed to not change the children's schools or pediatrician five years before, that the Appellant:

1. can be held in contempt for the Court's action of removing the children from schools within 35 miles of Reisterstown and changing their pediatrician and therapists;
2. did not need to be informed of the essential facts constituting the contempt charged before the hearing so that he had time to prepare his defense; and
3. had no right to due process in court.

CERTIFICATION OF WORD COUNT AND COMPLIANCE
WITH RULE 8-112

1. This brief contains 3689 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements state in Rule 8-112. Statement as to Typeface: The font used in this Brief is Serif and the type size is 13 point except for footnotes which are 11 point.



Signature

TEXT OF CITED STATUTES AND RULES

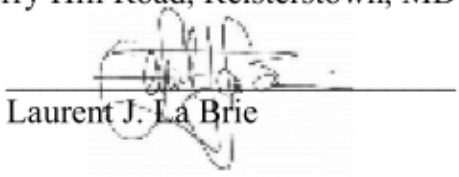
International Covenant on Civil and Political Rights* Article 12, §1*:
"*Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*"

International Covenant on Civil and Political Rights Article 14, §3.
"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
"(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
"(b) To have adequate time and facilities for the preparation of his defence"

International Covenant on Civil and Political Rights Article 15, §1.
"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _19th_ day of September, 2023, two copies of the foregoing Reply Brief of Laurent J. La Brie, the Appellant, were mailed, postage pre-paid to: Aurelia La Brie, Appellee, 21 E. Cherry Hill Road, Reisterstown, MD 21136



Laurent J. La Brie

APPENDIX

These documents were added to clarify a statement of the Appellee and her introduction of a term "order-defying effects"