

**Anthony J. Zandoni, Esquire**  
**Attorney At Law**

**Benton Building**  
**513 Allegheny Street**  
**Hollidaysburg, PA 16648**  
**(814) 696-3232 fax (814) 696-8235**

May 10, 2001

Robert G. Kearns, Jr.  
R.R. 3, Box 254A1  
Hollidaysburg, PA 16648

In re: Custody

Dear Mr. Kearns:

I have been utilizing the time since we last spoke to invoke the support of Beverly Mears, Esquire, the child's guardian ad litem, for your request to resume a more normal custody schedule. It is my opinion that the court's position will be greatly influenced by the guardian ad litem's position. Although the court has clearly demonstrated a bias against you, I believe that to avert additional inquiries the court will follow any recommendation made by Attorney Mears.

In that respect, I have been able to convince Attorney Mears of the proposition that you should resume a more normal custody schedule, sort of along the lines of the previous agreement. No specifics were discussed, but I did indicate that you expected the custody schedule to require supervision and provide only for the normal provisions relative to best interests of the child, no parental alienation and communication regarding legal custody issues. She has accepted the prospect of you assuming such a role, and also indicated a willingness to scrutinize carefully any allegations that the child's mother may raise against you during custody periods. In other words, Attorney Mears acknowledged that mother may attempt to sabotage your custody, as you have alleged occurred in the past, and that Attorney Mears will scrutinize any allegation with an ever mindful eye on this possibility.

However, Attorney Mears was reluctant to petition the court for the immediate resumption of such a custody schedule. She expressed concern about the nature of the communications between you and the child. Attorney Mears suggested that the testimony supported allegations that your communications with the child were against the child's best interests. She pointed to discussions with the child about medication, the marital relationship and the purported demonstration of negative emotions as being of primary concern. Accordingly, Attorney Mears is requesting that you make arrangements and appear at two (2) supervised sessions, and if no problematic conduct occurs, she will apply for the resumption of a more normal custody schedule.

In light of our mutual suspicion, I inquired with her as to the benchmark or level of expectation she has with respect to appropriate conduct versus inappropriate conduct during the visits. She indicated that medications should not be discussed. Rather, inquiries can be made in general questions about how the child is doing, without commenting upon the effectiveness (or lack thereof) of the medication. She anticipates that the contact will be emotional, since there has been nothing since last year. However, she does not want the emotion to spill into statements about fighting to get custody. Rather, she expects the emotion to be expressed in terms of regretting the lack of contact, the joy of seeing each other and the expectation that more regular contact will be the norm. There should be no discussion about the custody action, only to indicate that she should not worry about the custody case, but only look forward to spending good time together. Things will work out for themselves in the end.

That is the nature of the contact that Attorney Mears is hoping occurs during the two (2) supervised visits. They can occur within a week or so of each other. With the summer upon us and you having some flexibility in your schedule, we may be able to effect a resumption of a more normal schedule no later than midway through the summer. By resisting her position, thus requiring a petition to go through the Intake Conference and the Conciliation Conference, then to an evidentiary hearing with the guardian ad litem requesting supervised at first, and the court's likely endorsement of the recommendation, you will be spending money and wasting valuable time fighting against the most likely outcome.

I inquired about the possibility of retaining an independent monitor, such as a relative or some family friend to supervise the visits. However, she indicated that the supervision would have to occur in the program monitored by Sandy Fluke at the Lutheran Church facilities. I am sure that you are aware of this program, probably without fond thoughts. I suspect that the court feel more comfortable with those reports, and that this "independent" observation would nullify any concerns that mother would express against initiating the contact.

It is my opinion that you should accept Attorney Mears' terms for her cooperation in obtaining a resumption of a more normal custody schedule. Her requirement is minimal in terms of what the court may impose, especially if the proceedings add months to the time you and the child remain separated in all respects. I am willing to attend the sessions with you, if you believe that an observer with your interests at heart is necessary. The visits amount to a two (2) hour commitment to avoid litigation and delay in resuming the close relationship with your daughter. Efforts to obtain primary physical custody will be made in due course, should the circumstances warrant. However, successfully pursuing primary physical custody must be preceded by a period of partial custody, which can only be facilitated most expeditiously by consenting to Attorney Mears' terms.

Please consider the foregoing and contact my office to advise as to your position, or to arrange an appointment to discuss matters further. Thank you for your patience and thoughtful consideration to these matters.

Sincerely,



Anthony J. Zaroni

AJZ/sec