

4/18/95

5-i-1,137

N6. j 16,680

/i/721/

GERALDINE (SMART) GREENFIELD,
Appellant,

IN THE DISTRICT COURT OF (Y a

v.

JASPER COUNTY, TEXAS

DENNIS K. SMART,
Appellee.

_____ JUDICIAL DISTRICT

PETITION FOR WRIT OF ERROR

TO THE HONORABLE CLERK OF SAID COURT:

GERALDINE (SMART) GREENFIELD, Appellant, in the above-entitled and numbered cause, files this petition for writ of error from the district court, and in support of this petition shows:

I.

On the 09 day of January, 1995, in the above-entitled and numbered cause, a default judgment without notice to appellant pursuant to Rule 245 of the Rules of Texas Civil Procedure was rendered as attached to this writ as Exhibit "A" and incorporated herein by reference the same as if fully copied and set forth at length. GERALDINE (SMART) GREENFIELD, appellant against whom the judgment was rendered, did not participate in the trial of the cause, either in person or by attorney.

II.

Appellant desires to remove the judgment to the Court of Appeals for the 9th Court of Appeals District of Texas for revision and correction.

III.

The names and addresses of the parties adversely interested in the attached judgment are as follows

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APR 18 %

NELL POWERS, District Clerk
JacanrC: ouni v. Texas

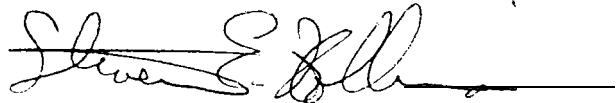
DENNIS K. SMART, Appellee
P.O. Box 1072
Buna, Jasper County, Texas

IV.

Appellant, **GERALDINE (SMART) GREENFIELD**, has filed with the clerk an affidavit of inability to pay costs, as provided by the Texas Rules of Appellate Procedure.

WHEREFORE, appellant requests that the clerk notify the adverse party above designated by mailing a copy of this petition and affidavit of inability to pay costs and take such other steps as required by law.

Respectfully submitted,



STEVEN E. HOLLIMON
State Bar Id. No. 098 78 100

EAST TEXAS LEGAL SERVICES, INC.
527 Forsythe Street
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Beaumont, Texas 77704-2552
(409) 835-4971/ Telephone
(409) 835-5783/ Facsimile

IN THE DISTRICT OF JASPER COUNTY
STATE OF TEXAS

IN THE INTEREST OF *
*
JAMES EDWARD SMART * CAUSE NO. 16,680
*
MINOR CHILD *

ORDER ON PETITION ON SUIT AFFECTING
TRE PARERT-CHILD RELATIONSHIP

Appearances

On December 16, 1994, hearing was had on the Petitioner's Original Petition On Suit Affecting The Parent-Child Relationship.

The Petitioner, DENNIS K. SMART, Social Security Number 433-60-9544, appeared in person and through attorney of record, Michael S. Ratcliff, and announced ready.

The Respondent, GERALDINE D.(SMART) GREENFIELD, Social Security Number 434-86-3440, although duly and properly notified . did not appear and wholly made default.

Jurisdiction

The court, having examined the pleadings and heard the evidence and argument of counsel, finds that is has jurisdiction of this cause and of all the parties and that no other court has continuing, exclusive juri.sdition of this cause. All persons entitled to citation were properly cited.

Jury

A jury was waived, and all questions of fact and of law were submitted to the Court.

Record

The making of a record of testimony was waived by the parties

with the consent of the Court.

Child

The Court finds that the following child is the subject of this suit:

NAME: JAMES EDWARD SMART SEX: Male
BIRTHPLACE: DeRidder, Louisiana
BIRTHDATE: July 16, 1985
SOCIAL SECURITY NO.: 438-57-8578
HOME STATE: Texas
ADDRESS: P-0. Box 1072, Buna, Jasper County, Texas 77612

Conservatorship

The Court finds that the following orders are in the best interest of the child:

IT IS ORDERED AND DECREED that DENNIS K. SMART is appointed the Sole Managing Conservator of the child.

IT IS ORDERED AND DECREED that DENNIS K. SMART the Sole Managing Conservator of the child shall have the, following exclusive rights, duties and powers:

1. The right to establish the primary residence of the child;
2. The power to consent to medical, dental and surgical treatment involving and invasive procedure and to the psychiatric and psychological treatment of the child;
2. The power to receive and give receipts for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child;
4. The power to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
5. The power to consent to marriage and enlistment in the armed forces of the United States;
6. The rights to the services and earnings of the child;
7. Except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child the power, as agent of the child to act in relation to the

child's estate if the child's action is required by a state, the United States, or a foreign government;

8. The right to make educational decisions on behalf of the child;

9. The right to manage the estate of the child to the extent the estate have been created by the joint property of the parties.

IT IS ORDERED AND DECREED that GERALDINE D. (SMART) GREENFIELD is appointed the Dossessory Conservator of the child.

IT IS ORDERED AND DECREED that each conservator named above shall retain the following rights:

1. To have access to the medical, dental and psychological and education records of the child;
2. To consult with any physician, dentist or psychiatrist of the child;
3. To consult with school officials concerning the child's welfare and educational status including school activities;
4. To attend school activities;
5. To be designated on any records as a person to be notified in case of emergency;
6. To manage the estate of the child to the extent that the child's estate has ,been created by that respective conservator.

IT IS FURTHER ORDERED AND DECREED that during the respective periods of possession each conservator shall retain the following rights, privileges, duties or powers:

1. The right to the physical possession of the child as provided for below and to direct the moral and religious training of the child during periods of possession;
2. The duty of care, control, protection and reasonable discipline of the child during periods of possession;
3. The duty of to support the child including providing the child with clothing, food, shelter and medical and dental care not involving an invasive procedure;
4. The power to consent to medical, dental and surgical

treatment during an emergency involving an immediate danger to the health and safety of the child.

IT IS ORDERED AND DECREED that each conservator shall keep the other party fully and promptly informed of his or her current street address, residence, home telephone number, name of employer, place of employment and work telephone number and the address of the child's school or day care facility.

IT IS ORDERED AND DECREED that the party who intends to change place of residence to give written notice of the intended date of change, new telephone number and new street address of the residence to the Clerk of this Court and to every other party who is in possession of or has access to the child on or before the sixtieth day before the change of residence or, if the party did not know and could have not known of the change or if the required information is not available within the sixty day period, on or before the fifth day after the date the party knew or should have known of the change or of the related information.

Notice is to be given to the other party by delivery of a copy of the notice to the party either in person, by registered or certified mail, return receipt requested to the parties' last known address.

Notice may be given to the Court by delivering a copy of the notice either in person to the Clerk of this Court or by registered or certified mail, return receipt requested addressed to the Clerk of this Court.

IT IS ORDERED AND DECREED that each party is to inform the other party from within 24 hours of any medical condition of the child requiring surgical intervention or hospitalization.

Access

IT IS ORDERED AND DECREED that GERALDINE D. (SMART) GREENFIELD shall be entitled to have access to the child as follows:

1. At reasonable times under the ,direct supervision and in the home of DENNIS K. SMART;
2. Such visitations are to be set by DENNIS K. SMART taking into consideration the desires of the child; the psychological and emotional needs of the child.

Child Support

The Collrt finds that th.e Possessory Conservator, GERALDINE D. (S&MART) Grainfield, has a duty by law to support the child in accordance with her ability to support the child. The Court makes specific court order of child support in this order but shall require the Possessory Conservator to contribute to the support of the child in accordance on her ability to support the child on a monthly basis.

WARNINGS TO PARTIES

FAILURE TO OBEY A COURT ORDER FOR THE SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500.00 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO 14AKi-Z A CHILD SUPPORT PAYMENT TO THE PLACE PSI'D IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT -ORDERED POSSESSION OF OR THE ISSUANCE OF A CAPIAS FOR THE ARREST OF THE PARTY IF THAT PARTY CANNOT BE PERSONALLY SERVED WITH NOTICE OF A HEARING AT AN ADDRESS OF RECORD.

costs of court

All costs of court incurred in this cause are taxed against

Respondent, GERALDINE D. (SMART) GRAINFIELD, for which let
execution issue.

SIGNED on this the & S t 2 day of January
1995.

 /s/ JOE BOB GOLDEN
JOE BOB GOLDEK, JUDGE PRESIDING

COPY
ORIGINAL FILED

JAN 9 1995

NELL POWERS, Oistrct Clerk
Jasper Csunt-, Texas