IN THE THIRD CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

ADAM CHRISTOPHER REJBA,	)	
Petitioner-Father.	)	
	)	
v.	)	
	)	**CASE NO.: 18D865**
SARAH CHAPEL DRUMMOND,	)	
Respondent-Mother,	)	

.

ORDER

This cause came to be heard on February 6, 2024, before the Hon. Phillip Robinson, Judge for the Third Circuit Court of Davidson County, Tennessee, upon Petitioner's *Petition to Modify the Permanent Parenting Plan and to Immediately Allow the Minor Children to Be Vaccinated for COVID-19,* (hereinafter "Petition" and "Father's Petition"), filed with this Court on May 13, 2022. Present before the Court were Father, ADAM CHRISTOPHER REJBA (hereinafter "Father"), John Everett Roach, Counsel for Father, Mother, SARAH CHAPEL DRUMMOND (hereinafter "Mother"), and John Drummond, Counsel for Mother.

In previous hearings, on November 28 and December 13 of 2023, and January 3 of 2024, the Court heard testimony from Father and Mother, their minor children, and three expert witnesses: Dr. Frank Y. Han, M.D. (for Father), and Dr. Andrew G Bostom, M.D., and Dr. Denise Sibley, M.D. (for Mother).

After hearing testimony from witnesses and argument of counsel, and review of the record as a whole, the Court makes the following findings:

1. The parties were divorced on April 24, 2019 pursuant to this Court's *Final Decree of Divorce*, which incorporated the parties' Marital Dissolution Agreement and Permanent Parenting Plan Order, both of which were signed under oath by Father and Mother;

2. The parties are parents of two (2) minor children, CHRISTOPHER KING REJBA, (DOB:

07/23/2007) and ORION CHAPEL REJBA (DOB: 01/20/2009), (hereinafter collectively ("Minor Children" and "[the] Children") .

3. Father is a resident of Hendersonville, in Sumner County, Tennessee;

4. Mother is a resident of Nashville, in Davidson County, Tennessee;

5. In keeping with their Permanent Parenting Plan Order, the parties have continually exercised joint custody of their Minor Children, with alternating weeks of parenting time with their children at the parties' residences in Wilson County and Davidson County;

6. In keeping with their Permanent Parenting Plan Order, the parties have consistently and effectively cooperated with one another in joint decision-making for their children's non-emergency healthcare needs, until the present dispute arose which brought the parties before the Court;

7. According to Father's sworn Petition, "a material change of circumstances has occurred since the parties' divorce, which makes the non-emergency healthcare decision-making provision in the Permanent Parenting Plan Order no longer in the Minor Children's best interests;"

8. According to Father's sworn Petition, despite their history of cooperation and agreement in most matters affecting their children's welfare, the parties have "diametrically differing stances" on having the children vaccinated for COVID-19;

9. Father's sworn Petition seeks to modify only the provision in the Permanent Parenting Plan Order that gives both parents joint decision-making authority in the area of the children's non-emergency healthcare;

10. Father's proposed modification of the Permanent Parenting Plan Order Father would vest Father with exclusive decision-making authority in all non-emergency healthcare issues directly affecting the children, including but not limited to vaccinations;

11. In keeping with Father's expressed desire that his children continue to have a strong bond with both parents, the Petition does not request a change in the parties' agreed-to residential day-to-day parenting schedule, or any other change in the Permanent Parenting Plan Order other than for Father to be granted sole decision-making authority in non-emergency healthcare for the children;[1]

12. Father, through Counsel, argues that TCA 36-6-101 applies to this case, that if the Court finds a material change of circumstances as alleged in the Petition, the Court has discretion to make changes in the Permanent Parenting Plan Order which the Court deems to be in the best interests of the children;

13. Mother, through Counsel, argues that TCA 36-6-101 does not apply in this case, that any abridgement of her constitutionally protected parental rights to care for and protect her children requires a showing of serious harm,[2] which, she alleges, Father has not sufficiently proven;

14. The Court disagrees with Mother, and finds that TCA 36-6-101(a)(1)(B) is indeed applicable to this case,[3] and that it provides relevant guidance to the Court in reaching its decision;

---

[1] This assertion, at ¶ 19 of the Petition, is consistent with this Court's long-held concern that under normal circumstances, (absent factors which would require restrictions in temporary or permanent parenting plans, as set forth in TCA 36-6-406), children of divorced parents should continue to experience a strong bond with both of their parents until they reach legal adulthood. Notwithstanding the parents' disagreement over the narrow issue in this case, the Court acknowledges, with Father, as evidenced in his Petition, the "fundamental importance of the parent-child relationship to the welfare of the child, and [that] the relationship between the child in each parent should be fostered unless inconsistent with the child's best interests." See, TCA 36-6-401(a).

[2] Mother relies on Hawk v. Hawk, 855 S.W.2d 573 (Tenn. 1993) and its progeny for this proposition, a reliance the Court finds to be misplaced in the case at bar.

[3] See, TCA 36-6-101(a)(1)(B)(I), which states: If the issue before the court is a modification of the court's prior decree pertaining to custody, the petitioner must prove by a preponderance of the evidence a material change in circumstance. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance may include, but is not limited to, failures to adhere to the parenting plan or an order of custody and visitation or circumstances that make the parenting plan no longer in the best interest of the child.

15. The threshold issue to be decided by the Court, then, is whether there has been a material change of circumstance, as required by applicable law;

16. More specifically, the real issue is whether Father has proven by a preponderance of the evidence "circumstances that make the parenting plan no longer in the best interest of the [children];"

17. If the Court finds a material change of circumstance, consideration must be given to the 15 factors listed in TCA 36-6-106(a), on the basis of which the Court may adjust custody, parenting arrangements, residential schedule, and decision-making authority, as set forth in the Permanent Parenting Plan Order;

18. The facts presented in this case reflect the situation these parents and their children, like practically everyone else across the country, confronted with the onset of the COVID pandemic;

19. Both parents, responding to the pandemic from different perspectives and with different concerns, acted in good faith and with good intentions for their children;

20. Father, like most everyone else, was primarily concerned with the threat posed by the virus itself, probably more than with the potential adverse effects of COVID-19 vaccines;

21. Mother, on the other hand, was always skeptical about the vaccines, because she did not see a significant threat to her children from the virus, and because she believed the vaccines were novel, not like vaccines prior to COVID, and because they were rushed and had not been subjected to sufficient testing;

22. Father and Mother strongly disagreed about various issues: the threat of the virus to their children, the pros and cons of masking and masking requirements, the safety and therapeutic value

of drugs such as hydroxychloroquine and ivermectin,[4] and, most important for this case, the comparative risk and benefit of the vaccines;

23. Throughout the COVID-19 pandemic, the Minor Children were never vaccinated for COVID-19, because Mother withheld her consent, as was her right under the joint decision-making provisions of the Permanent Parenting Plan Order;

24. Both Minor Children experienced symptomatic infections of the COVID-19 virus, the with the eldest child getting sick twice, during different variant periods.

25. Despite their having been infected, and having missed some school days because of their illness, neither child apparently has experienced any persisting symptoms, including those associated with "Long COVID;"[5]

26. The Court, like these parents and the rest of the country, has the benefit of hindsight as it considers now if anything should have been done differently in the past, and what is in the children's best interest going forward;

27. At the early stages of this pandemic, people were not given sufficient, and sufficiently reliable information to support the best decisions for themselves or their children;

28. Parents were led to believe that if they let the outside air into their homes they would catch the virus, which we now know was highly unlikely;

29. Parents were led to believe that the vaccine would prevent infection, and transmission of the virus to others, but we now know better, that neither of these predictions proved true;

---

[4] The Court acknowledges that for many years these drugs have apparently been FDA-approved for specific applications and have proven to be beneficial for certain purposes and indications, but their benefit and safety for treatment of COVID-19 have been the subject of significant controversy. The Court makes no further findings one way or another on that issue.

[5] See Footnote 7 below.

30. Not only do we all know better than we did then; this Court has the added benefit of robust opinion and fact testimony from three qualified medical experts;

31. Dr. Frank Han, a pediatric cardiologist from Peoria , Illinois, testified that COVID-19 is and has always been a disease that can cause serious illness, even death, to children;

32. Dr. Han testified that the then current iteration of the vaccine[6] would benefit the Minor Children, primarily by mitigating the effects of "long COVID"[7] and, secondarily, by reducing the risk of hospitalization in the event of a future infection with a variant of the COVID-19 virus;

33. Dr. Han also testified that the risk of "long COVID" is itself contingent on subsequent infection, and on the infection being serious enough to produce the long term symptoms he described in his definition;

34. Dr. Andrew Bostom, from Rhode Island, testified as an expert in epidemiology and clinical trials; his testimony focused on the lack or insufficiency of evidence for vaccine efficacy, masking requirements, and CDC recommendations of vaccination for children;

35. Dr. Bostom also provided age-stratified data consistently showing relatively low infection fatality rates ("IFRs") for persons under 70, even at the worst stages of the pandemic, and especially low rates for young persons in the age group of the Minor Children in this case;

36. Dr. Denise Sibley, from Johnson City, Tennessee, testified as an expert in internal medicine and therapeutic treatment of persons suffering from COVID-19 infection and COVID-19 vaccine injuries;

---

[6] Dr. Han testified on November 28, 2023.

[7] Dr. Han defined "long COVID" generally as "a consummation of symptoms in multiple organ systems that essentially make the person feel sick after -- even after they recover from the initial infection," and, for children, "some of the more common symptoms are shortness of breath, difficulty doing exercise, and brain fog." Dr. Han, trial testimony, 11/28/2023.

37. Dr. Sibley, who assisted the Tennessee General Assembly in legislation providing access to ivermectin without a prescription in selected pharmacies across the state, testified that she herself used ivermectin regularly in her treatment protocols, in conjunction with other medications and natural supplements, in successfully treating over 8000 patients for COVID-19.

38. Dr. Sibley testified also that recent data from the Tennessee Department of Health suggested that most parents in Tennessee simply were not buying the current iterations of the vaccine, that they were effectively "voting with their feet" on that issue;

39. All three experts agreed that there is some evidence that the vaccines contributed to reduction of deaths and hospitalizations during the early days of the pandemic, especially among the elderly and immunocompromised;

40. All three experts agreed that the COVID-19 vaccines have not successfully prevented infection or transmission of the virus to others;

41. All three experts agreed that the vaccines have been causally related to various risks and harms, including heart damage to young persons like the Minor Children.

42. Dr. Sibley suggested that the new method of creating the vaccines is problematic;

43. Dr. Bostom testified that data show that natural immunity is more durable and robust than vaccine immunity;

44. Dr. Han opined that the likely benefit of the vaccines for children outweighs the risks;

45. The areas of disagreement and agreement among the experts in this case reflect those experienced by Father and Mother, and probably many other parents in Tennessee and across the nation;

46. The Court does not presume to know enough to resolve all these questions and disagreements, but it finds that whatever serious threat the virus ever posed to children, (which,

according to all three experts, was low to minimal), that threat has steadily diminished since the initial, and most deadly, phase of the pandemic,[8] to the point that it now appears almost negligible.

47. The Court somewhat agrees with Father, that if ever there was a time to vaccinate these children it was in the past, in the early period when the virus was most virulent;

48. Nevertheless, considering all that we know now, the Court cannot find that Mother's actions, including her refusal to ever consent to her children's vaccination for COVID-19, were unreasonable under the circumstances;

49. What Mother did, because of her persistent questioning and concerns about the vaccines, was to delay her children being exposed to any potential harm from the inoculation that Father wanted her, and ultimately this Court, to agree to, in order to protect his children from the virus;

50. While Father acted in good faith and with good intentions, and, (in all candor, as the Court probably would have done also if faced with the same circumstances), the Court finds that Mother did what moms are supposed to do;

51. These children will soon be legal adults, and then they will be able to decide for themselves whether or not to be inoculated with any iteration of the COVID-19 vaccines;

52. The Court anticipates that by the time they are grown these children may see no need to get any special inoculation against the COVID virus; however, irrespective of whatever mistake they may make in that regard, they will decide for themselves;

53. The Court finds, and Father apparently agrees, that it is reasonable for the parents to leave this decision to their children when they are grown and no longer subject to this Court's oversight;

---

[8] According to Dr. Bostom's testimony and data he presented, at its most virulent phase, the mortality rate for persons age 19 and younger was .0003% , and it has declined steadily during all subsequent variant periods.

54. Accordingly, the Court finds that there has been no material change of circumstances that would justify the Court's review of the issue of custody authority and decision-making authority;

55. The Court therefore finds that the Permanent Parenting Plan Order will remain in effect, as written, and will not be modified in this proceeding;

56. The Court finds that pursuant to the non-emergency decision-making provisions of the Permanent Parenting Plan Order, the Minor Children shall not be vaccinated for COVID-19, unless Father and Mother each provide informed consent as required by current law;[9]

57. Finally, the Court commends Father and Mother for caring and advocating for what they both sincerely believed was best for their children;

58. The Court finds that because of the combined action of these parents these children may never have to take this vaccine, and, unless it is necessary to their health and well-being, they may also be able to avoid putting other foreign things into their bodies;

59. Accordingly, Father's Petition is respectfully dismissed.

60. Because the Court finds that both parents acted in good faith, the parties shall be responsible to pay their own attorney fees, and to split court costs.

It is so ORDERED, this the _____ day of _____, 2024.

_____
HON. PHILLIP ROBINSON

[9] Pursuant to the Mature Minor Clarification Act of 2023, "A healthcare provider shall not provide a vaccination to a minor unless the healthcare provider first receives informed consent from a parent or legal guardian of the minor. The healthcare provider shall document receipt of, and include in the minor's medical record proof of, such prior parental or guardian informed consent." See, Chapter 477, SB 1111 Public Health (Tennessee Private Acts (2023 Edition)).

APPROVED FOR ENTRY:

w/ perm.(JD)

John Drummond

John Drummond, BPR # 013776
Attorney for Respondent-Mother
1015 Paris Avenue
Nashville, Tennessee 37204
Phone: 931-505-3849 / 615-785-5583
johncdrummond@gmail.com

John (Rett) Roach

John (Rett) Roach, BPR # 38607
Attorney for Petitioner-Father
The Fleming & Wilmoth Law Firm
409 N. Locust Street, Springfield, TN 37172
Phone: 615-384-7750 Fax: 615-384-4871
rett@wilmoth.law

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been delivered by electronic transmission the email address, rett@wilmoth.law, to John E. Roach, BOPR #38607, Attorney for Father, at the Fleming and Wilmoth Law Firm, 409 N. Locust St., Springfield, TN 37172, on this date: February 15, 2024.

John Drummond
John Drummond