

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Family Division**

**Stanley Mosk Dept. - 65**

**BD602801**

**JEAN PIERRE GUY GILLAIN VS ZOE DORAN MCLELLAN**

**July 22, 2020**

**8:30 AM**

Honorable Lynn H. Scaduto, Judge

Sergio Esparza, Judicial Assistant  
Rochelle Williams, Court Services Assistant

Not Reported, Court Reporter

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**NATURE OF PROCEEDINGS:** Non-Appearance Case Review

The following parties are present for the aforementioned proceeding:

No Appearances

The matter is not called for hearing, out of the presence of the Court Reporter:

On July 17, 2020, the court dissolved the July 9, 2019, temporary restraining order pending the hearing on the underlying application that is scheduled for September 10, 2020, at 8:30am. The court's reasons for doing so are set forth below:

The court had initially denied respondent's request for a restraining order. See June 20, 2019, Notice of Court Hearing (court's reason for denial stated as "[a]pplication appears to be based on long-standing allegations of sexual abuse currently under law enforcement investigation. Restraining order may issue according to proof following a hearing with minor's counsel participating."). Respondent filed another restraining order application on July 9, 2019. At that time, minor's counsel weighed in, advising the court that, based on information provided to her by a mental health professional who had seen the minor child and "in an abundance of caution, [minor's counsel] ask[s] that the court issue protective orders for [her] client pending a full hearing on these issues." See Minor's Counsel's July 9, 2019, Response to Request for Domestic Violence Restraining Order at 5. The court issued the temporary restraining order and set a hearing on respondent's application for July 30, 2019. See July 9, 2019, Temporary Restraining Order.

On the initial hearing date of July 30, 2019, the court, on its own motion, continued the restraining order to August 26, 2019. It was continued to that date to meet the already-scheduled long-cause hearing date on respondent's February 14, 2019, request for order seeking a modification of custody based on alleged sexual abuse of the minor child by petitioner. See April 26, 2019, Notice of Long Cause Hearing. Respondent's February 14, 2019, request for order was similar to one she had filed on October 26, 2018, which the court had set for hearing on January 31, 2019. That request for order hearing had come off the court's calendar because there was an open Dependency Court case from December 11, 2018, until February 13, 2019. It appears that respondent filed the February 14, 2019, request for order the day after the Dependency Court relinquished jurisdiction. Petitioner filed a response on April 15, 2019, where he opposed the modifications urged by respondent and offered his own proposed modifications.

On August 20, 2019, just days before the hearings on respondent's February 14, 2019, request for order and her July 9, 2019, restraining order application were scheduled to begin on August 26, an Assistant United States

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Attorney filed an emergency request to intervene in the case and for a stay of the case based on a pending investigation into father. Respondent filed a companion request for a continuance of the August 26 hearings due to the pending investigation. The court ultimately declined to allow the United States to intervene in the case. But the court granted respondent's request for a continuance of the August 26 hearings. The court set a status conference for November 19, 2019.

On November 19, 2019, the same Assistant United States Attorney appeared and informed the court that the federal investigation was over. The court proceeded to initiate the rescheduling of the hearings on the two pending matters -- namely, mother's February 14, 2019, request for modification of custody and her July 9, 2019, restraining order application. See November 19, 2019, Minute Order (referring the case to Department 2 "for a long-cause setting" "as to Respondent's Request for Order filed on 2/14/19 and Respondent's Domestic Violence Restraining Order filed on 7/9/19"). The court eventually re-set the long-cause proceeding for January 27, 2020.

Petitioner did not appear that day, seemingly because he had been arrested at the courthouse on or about January 22, 2020, on an arrest warrant from the Parish of Jefferson in the State of Louisiana that included charges of first degree rape and aggravated crime against nature. See May 28, 2020, Letter from the Office of Paul D. Connick, Jr., District Attorney. In his absence, the court continued the hearings from January 27 until April 6, 2020. On April 6, petitioner was still incarcerated in Louisiana. The court continued the matters again, scheduling them for September 10, 2020, at 8:30am.

On June 2, 2020, petitioner filed a notice with the court that he had been released on or about May 8, 2020, after the District Attorney refused the charges against him. On July 7, 2020, petitioner filed an ex parte application seeking, among other things, an emergency modification of custody. The court set a hearing on the ex parte for July 17, 2020, as well as an order to show cause why the court should not dissolve the July 9, 2019, temporary restraining order pending the September 10 hearing. Respondent filed a written response on July 13. But she did not appear for the hearing in person or telephonically, as the court had authorized in its July 7, 2020, orders. Respondent also failed to comply with the court's July 7 order that she arrange for the minor child to be present at the courthouse at the time of the July 17 hearing.

After hearing argument from the petitioner, the court dissolved the July 9, 2019, temporary restraining order pending the September 10 hearing. The court noted that respondent, who stated in her written response that she had been living with the minor child in Louisiana for months, appeared to be in violation of the term of the temporary restraining order that required that "[t]he parent with temporary custody of the child must not remove the child from California unless the court allows it after a noticed hearing." See July 9, 2019, Temporary Restraining Order at Paragraph 12 (citing Family Code section 3063). The court further noted that the temporary restraining order was initially denied and then granted only, to paraphrase minor's counsel's position, "in an abundance of caution" based on then-pending investigations into the alleged abuse, all of which appeared to have been resolved. The court also noted that having a temporary restraining order in place for more than a year without a hearing and without a time waiver by the restrained party is at odds with the time provisions of the Domestic Violence Prevention Act. See Family Code sections 242 through 245.

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The hearing on respondent's July 9, 2019, restraining order application remains scheduled for September 10, 2020, at 8:30am. Respondent's February 14, 2019, request for modification of custody, to which petitioner had filed a response on April 15, 2019, is also pending.

Clerk is to give notice.

**CLERK'S CERTIFICATE OF MAILING/  
NOTICE OF ENTRY OF ORDER**

I, Sherri R. Carter, Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of the above minute order of July 22, 2020 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: July 22, 2020

By: /s/ Sergio Esparza

Sergio Esparza, Deputy Clerk

Michelle Dean  
24520 Hawthorne Blvd., Ste. 210  
Torrance, CA 90505

Zoe McLellan  
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Los Angeles, CA 90036