

Page 1

Unpublished Opinion

Angelica Papastavros v. Carmine Corbo

No. FA01 07 56 60

Superior Court of Connecticut

Judicial District of Ansonia-Milford at Milford

December 23, 2004

**MEMORANDUM OF DECISION RE: MOTION TO
RECONSIDER AND VACATE**

PETRONI, JUDGE TRIAL REFEREE.

The Court held a hearing on the above motion on December 22, 2004.

On that date, the Court received the results of a urinalysis of the defendant's urine from Scientific Testing Laboratories, Inc. of Richmond, Virginia referred to them by Court Support Services Division of Northwest Region, in Waterbury, Connecticut. The report stated the defendant's urine was collected on December 14, 2004, reported on December 17, 2004 as ordered by the Court. The report was filed in the Milford Court Clerk's Office on December 22, 2004, the date of this hearing. At the beginning of the hearing, the Court distributed this report to both parties and plaintiff's counsel. The report states defendant's urine specimen was negative for all drugs.

Both parties testified at the hearing, two exhibits were entered in evidence including a video which the plaintiff believed was pornographic and showing the defendant's son from a prior marriage and a nephew naked. (Plaintiff's Exhibit 1.) The defendant testified he never saw the video and did not remember taking it, although it may have been possible he did. The defendant also testified he believed this video was taken about ten years ago or approximately three years prior to the marriage. The court believed this testimony that the video was taken prior to the marriage. The court watched the video tape and finds it is not relevant or probative as to this court's decision dated December 10, 2004 relative to the issue of visitation.

In the decision, the court also found the plaintiff paid \$598.50 for after-school care expenses and the defendant was ordered to reimburse her for one-half of this amount in accordance with their separation agreement incorporated into the divorce judgment dated May 12, 2003. The defendant testified he sent a check for the amount he owed by certified mail but the green card which indicates the plaintiff's receipt of the check was never returned to him. The Court orders him to personally give a check for these expenses directly to the plaintiff or mail the check to her Attorney, John J. Kelly, Esquire. P.O. Box 966, Orange, Connecticut.

At this hearing, the plaintiff requested she be allowed to have the minor daughter on Christmas Eve in that this Court's previous order had the minor daughter with the defendant from 3:00 p.m. to 7:00 p.m. The plaintiff stated that a family party had been planned some time ago, and the minor daughter was looking forward to attending. The defendant orally agreed to waive his Christmas Eve visitation to allow the child to be with the plaintiff mother. The court approved the plaintiff's request but only for the current year.

The plaintiff's attorney cited Crockett v. Pastore, 259 Conn. 240 (2002) and *Roth v. Weston*, 259 Conn. 202 (2002), in which the Supreme Court reversed the trial court decisions relative to visitation granted to a third party in *Pastore* and to a grandmother and aunt in *Roth*. The facts in those cases are distinguishable from this case which involved visitation with the defendant father following a divorce.

The Court considered the testimony of both parties, the exhibits in evidence, the legal arguments of plaintiff's counsel and the defendant and denies the plaintiff's motion to reconsider and vacate the decision of this court dated December 10, 2004.

Romeo G. Petroni, J.T.R.