

August 10, 2023 Hearing Transcript Summary

Gruffudd v. Evans, Hon. Josh Freeman Stinn

The judge calls the case and immediately goes off the record. Back on the record:

The parties state their appearances. Present was Anne Kiley (representing loan for the limited purpose of custody only), Peter Langlois, Bernal Ojeda, Elise Greenberg, and Alice (via Zoom).

The judge asks the parties where they are with regard to the requested evidentiary hearing, in light of the fact that the family court department is extremely busy. The judge says it is his understanding that the parties are contemplating a 2-day evidentiary hearing, perhaps a custody evaluation, or maybe they can have the hearing during an afternoon so they don't have to wait as long to get the hearing on calendar. The judge asks the attorneys for their perspectives.

Anne Kiley speaks up and disagrees slightly. She states that earlier in the year, the custody issue was bifurcated and set for trial in July of 2023. At that time, loan's RFO requests for custody and therapy were continued to the time of trial as well since the court felt that it was more efficient (and cheaper for all involved) to hear all the issues at the same time. However, when the parties convened once again due to Ella's request for a restraining order, the court vacated the trial dates in order to appoint Elise Greenberg as minor's counsel and allow her to get familiar with the issues in this case. Therefore, they now need to set a date for the hearing on the RFO for custody/visitation (which Anne Kiley estimates will take a half day). Because of the RFO hearing that will be heard in the future, Anne Kiley withdraws her request for an evidentiary hearing, with the exception of the parties being able to testify.

[Editor's note: This is why loan withdrew his request for the evidentiary hearing, as shown in the minute orders last week.]

Anne Kiley continues. She states that she, Bernal, and Elise Greenberg (the GAL) are all in agreement that the trial will take three days. Anne informs the court that they will be seeking an ex parte hearing for the appointment of a child custody evaluator. She states that Bernal Ojeda does not oppose the ex parte hearing. She is raising this issue because if the court grants the request for a child custody evaluator, that will affect the timing of setting the trial on custody. Anne Kiley stated that their chosen evaluator, Dr. Dupee, had a waiting list and fit them in for October. She also stated that, in her other cases seeking custody evaluations, most evaluators seem to have a backlog of 6 to 8 weeks from the date of appointment. The trial date for the 3-day trial will be set in 2023, but Anne is requesting that the half-day trial on loan's RFO on therapy be heard in 2023. The judge begins pulling up his notes and asks Anne Kiley to remind him what the RFO was for.

Anne Kiley responds that the RFO was for therapy for the children, which already had been ordered, and that loan was requesting time with the children. She states that right now, loan is not exercising his time with the children because of the "difficulties" in the case that are being addressed (the PA and restraining order requests by Ella). Anne informs the court that the children's individual and conjoint therapy sessions have not been started. Anne states that if there were a couple of months of therapy for this children, then if the parties were not able to reach an agreement, that they could seek a court order for the children to have custodial time with loan ahead of the trial.

The judge clarifies that the issues right now are making "sure that the therapy is on track and moving forward" and then figuring out what's appropriate in terms of visitation and time shared with the children pending the trial. The judge asks Bernal Ojeda if he agrees with Anne Kiley's assessment and Bernal responds, "I do, your Honor, one hundred percent."

Elise Greenberg asks the judge to ask Alice to turn her video camera on so they can make sure Alice is hearing all of this. The judge addresses Alice. "Ms. Evans?" Alice does not respond. The judge asks Bernal to text Alice. Alice finally turns on the camera. The judge asks Alice to mute one of her devices because there is some feedback and there may be 2 devices on. Alice says her internet glitched and fumbles trying to get rid of the echo. Failing that, the judge asks Alice to go on mute.

The judge asks Elise Greenberg for her thoughts on the RFO for loan's parenting time and visitation/therapy. Elise says that she agrees that the RFO should be set "at the court's earliest convenience." Elise says that they should have therapy orders and that therapy should start as soon as possible. Further, Elise says she filed a response concurring with Bernal that she has no objection to the ex parte hearing to address the custody evaluation issue.

The judge confirms that the RFO will be heard during a half-day court session, and asks the clerk to find the first available half-day so the hearing on custody and visitation can be set. He mentions that he has about 6 cases that may have trials vacated, so the court will set the earliest available time and, if any of his other cases have trials that are canceled, the court will contact the parties to see if they can have the hearing on an earlier date. Therefore, the date selected for the RFO trial is the afternoon of February 7, 2024, at 1:30 p.m. (subject to change if there is a cancellation for an earlier trial date). The parties all agree that February 7 works for them. Elise Greenberg asks the court to consider setting an earlier date for discovery (legal filings which ask for the other party to respond to questions and/or provide documents) if the February 7 hearing date is moved, and the judge agrees.

The judge starts dealing with the mechanics of setting the trial date. He then asks if there is any reason they can't just deal quickly with the custody evaluation that day and appoint Dr. Dupee as the custody evaluator. Bernal objects. The judge clarifies that Bernal is not opposed to the ex parte application but he is opposed to the custody evaluation. The judge asks how long the parties will argue at the ex parte hearing. Anne states she needs 10 minutes. Bernal states he needs 5 minutes. Elise Greenberg states she needs 5 minutes. The judge then says the ex parte hearing will last 30 minutes.

Anne Kiley suggests setting the trial setting conference on the same day that the ex parte hearing will be heard. The judge agrees.

The judge then goes off the record again.

Back on the record:

The judge states that the ex parte hearing will be held on August 17, 2023. He also states that the discussion they just had off the record was about Alice saying that she was not going to be available on August 17. In response, the judge said that there would not be an evidentiary hearing on August 17, but that the only issue to be heard that day was whether or not to appoint a child custody evaluator, in

addition to selecting trial dates for a 3-day trial. Alice agreed to that off the record, even though she was not going to be present. The judge asked Alice if he correctly characterized the discussion they had off the record.

Alice: "I am not sure I understand the question."

The judge repeats what will happen on August 17 and asks Alice, "with that context, are you agreeable to us going forward on the 17th, understanding your unavailability?"

Alice: "Yeah. I do as long as Mr. Ojeda agrees."

Bernal states that he agrees. The judge asks Alice to go back on mute again since he can hear feedback of his voice when Alice's Zoom call is not on mute.

The judge asks if anything else needs to be addressed with regard to the children. Anne and Bernal say no. Elise asks the judge to make an order that all individual and conjoint therapy forms and payments shall be completed and returned by noon on August 14, 2023, and that there needs to be a briefing schedule for the ex parte hearing. Bernal asks if he could have till Monday to submit something (Editor's note: August 14 was Monday so I'm not sure what Bernal was asking for!).

The judge asks everyone if there is any reason why he shouldn't make an order that the individual and conjoint therapy forms and payments shall be completed and returned by noon on August 14, 2023. Anne Kiley asks for a sooner date because loan has already submitted the forms and payments to the individual and conjoint therapists. They were waiting for Alice to complete the forms and payments as well.

The judge asks Bernal about this. Bernal tells the judge that it is his understanding that Alice has already completed the forms. The judge says that if Alice has already done the forms, then it shouldn't be a problem for him to order that all forms and payments should be submitted by noon on Friday, August 11, 2023.

The judge asks regarding the briefing schedule and whether all the information is in loan's petition. Anne Kiley says that it is, and she is fine with Bernal filing a response on Monday, August 14, 2023. The judge agrees and also states that loan's response to Bernal's filing will be due Wednesday, August 16, 2023. The judge also asks for a courtesy copy of all filings to be delivered to the court so he can immediately read the filings. He asks for a hard copy of all filings—"good old-fashioned, soles-of-your-shoes, walk-in and hand in a piece of paper, not electrons or megabytes, gigabytes or nanobytes."

The judge asks if anything else need be decided regarding the children that day. Anne Kiley says no and asks to be excused. Elise Greenberg also asks to be excused. The judge goes off the record.

Back on the record: The judge tells the court's bailiff to alert the media outside that they were just doing scheduling issues and they could come in if they wanted. The bailiff tells the judge that one of the members of the media was coming in to the courtroom.

The judge indicated that they had concluded the portion of the hearing that related to custody and

visitation, and would then address financial issues. Off the record, the parties indicated that they all agreed that the status conference on the financial issues could be continued to February 7, 2024, at which time they would set a trial date on the financial issues. Mr. Langlois and Mr. Ojeda agreed. The judge states that there should be updated Income and Expense Declarations and a declaration on the disputed and undisputed financial issues filed by both sides 10 court days before February 7. The judge tells Mr. Langlois and Mr. Ojeda that he is available for case management calls if they are only dealing with financial issues; the GAL does not need to be involved in the court proceedings regarding the financial issues. The hearing then concludes.

(End of summary)