

STATE OF MICHIGAN
IN THE FAMILY COURT FOR THE COUNTY OF ALLEGAN

In the matter of

ZANDER EATON, a minor child.
_____ /

File No. 11-48906-NA

EMERGENCY MOTION TO REVIEW PLACEMENT
BEFORE THE HONORABLE MICHAEL L. BUCK, FAMILY COURT JUDGE

Allegan, Michigan – Tuesday, September 24, [current year]

APPEARANCES:

For the People:

MS. AMY C. CLAPP (P67451)
Assistant Prosecuting Attorney
Allegan County Prosecutor's Office
113 Chestnut Street
Allegan, Michigan 49010
(269) 673-0280

Guardian Ad Litem Attorney
for the Juvenile:

MR. FREDRICK WALTER JENSEN, JR. (P63945)
Allegan Law Offices PC
327 Water Street
Allegan, Michigan 49010
(269) 673-8133

For the Father, Sean Eaton:

MR. CHRISTOPHER ELTON BURNETT (P00000)
Burnett & Kastran PC
313 Hubbard Street
Allegan, Michigan 49010
(269) 673-8407

TRANSCRIBED BY:

[name and CER number]
Certified Electronic Recorder
[phone number]

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Allegan, Michigan

Tuesday, September 24, [current year or last year] – 3:13 p.m.

THE COURT: This is a session of the Family Division of the Allegan County Circuit Court. Today is the 24th day of September, and it's about 13 minutes after three^{or 3} o'clock o'clock in the afternoon. We're here on File Number 11-48906. At this time I'd like to identify those who are here. We'll start with you, Mr. Jensen.

MR. JENSEN: I'm Fredrick Jensen, guardian ad litem attorney.

THE COURT: And, Mr. Jensen, have you had an opportunity to fulfill your responsibilities under Michigan statute?

MR. JENSEN: The child is here in the courtroom today, and I've had a chance to see him.

THE COURT: Have you talked to him, too?

MR. JENSEN: I said hello to him, but then it looked like you were getting ready to get on the bench.

THE COURT: I understand. This is an emergency hearing. You are not required to do so, but it's always nice if you can meet with the child.

MS. WIERENGA: Your Honor, Pam Wierenga from the Department of Human Services.

THE COURT: Thank you.

MS. CLAPP: Hello, your Honor. Amy C. Clapp, Prosecuting Attorney's Office.

THE COURT: Thank you.

MR. BURNETT: Chris Burnett, your Honor. I represent the father, Sean Eaton, who is notably absent.

THE COURT: And do you expect him to be here today?

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MR. BURNETT: Your Honor, I was notified of this hearing late yesterday afternoon after speaking to Ms. Wierenga. She informed me that he was not able to be present. In that regard, I contacted him by phone, left a message, and have not heard from him. I will be requesting an adjournment in this matter.

THE COURT: Ms. Clapp, Mr. Burnett is requesting an adjournment. Your position is what?

MS. CLAPP: Your Honor, it's my understanding that Ms. Wierenga actually got ahold of the father and he would be available by telephone. I believe the reason why he is not present today is because he currently has an outstanding warrant for his arrest.

THE COURT: Okay. I believe that Mr. Burnett was trying to use the phone back in chambers to call. Is that correct, Mr. Burnett?

MR. BURNETT: That's correct, your Honor. I called two times. One was about ten to three, and the other was shortly after three o'clock.

THE COURT: What is your position, Mr. Jensen?

MR. JENSEN: Well, it seems important, you know, for the child's safety that we have a hearing today. I believe that the father was made aware of today's hearing. I prefer to have the hearing today and not have it adjourned.

THE COURT: It sounds like we need to address the issue today. So with that in mind, Ms. Wierenga, will you come up to the witness stand?

Do you solemnly swear or affirm that the answers you are about to give in this matter are true?

MS. WIERENGA: Yes.

THE COURT: Okay. Please be seated.

PAM WIERENGA

(At 3:15 p.m., called and sworn by the Court, testified as follows)

1 EXAMINATION

2 BY THE COURT:

3 Q. Please state your name again for the record.

4 A. Pam Wierenga.

5 Q. You filed a petition asking for emergency removal. Is that correct?

6 A. Yes. I filed that yesterday.

7 Q. Okay. What was your concern? What's happened?

8 A. Last week I was made aware that Nicole, Sean's girlfriend, had moved out of the home. She
9 had called a co-worker of mine and warned her of what was going on, and she had some
10 significant concerns for Zander.

11 Q. Did she elaborate on the concerns?

12 A. Yes. Nicole was the primary caretaker for Zander. If the school had an issue where he
13 needed to be picked up, she was the one to go get him. She was the one to help him with
14 homework after school. She is the one who monitors the Type1 diabetes, as Zander has a
15 tendency to become hyperglycemic. So she was concerned who would be caring for Zander.

16 Q. All right. Is that the extent of the information you received?

17 A. My co-worker filled me in on some things that had been happening. She said --

18 MR. BURNETT: Objection, your Honor, I believe what the caseworker said
19 is hearsay testimony.

20 THE COURT: I believe it is as well, but this is a dispositional phase and it's
21 also an emergency removal hearing, so I will allow it. Objection overruled.

22 BY THE COURT:

23 Q. Go ahead.

24 A. Nicole said to me, "I found Sean in the field in the middle of the night. He was intoxicated."
25 Everything else I confirmed through Sean.

1 Q. What information did you receive from Sean?
2 A. He said he had been served an eviction notice. They had to be out of the home by September
3 19th.
4 Q. How did you confirm that?
5 A. I spoke with Sean yesterday.
6 Q. Okay. Go ahead.
7 A. Sean told me he was in a bad situation with Nicole and that he felt that the eviction was a
8 positive thing. He said that it was his way to get out of this relationship.
9 Q. Did he give you information on where he planned to live?
10 A. When I asked him about his current housing, he told me he is staying with some friends.
11 Q. Did you follow up on his housing situation?
12 A. My co-worker, Brenda Kemp, went out to his home Friday of last week. I was out of the
13 office. She did view the home where he is currently residing.
14 Q. Did she get any information on his friends who were living there?
15 A. She got information on his two roommates so I could run criminal background checks.
16 Q. Did you run the background checks?
17 A. Yes. I did that yesterday morning. One of those roommates does have a significant criminal
18 history. There were a couple felonies.
19 THE COURT: Just a second. My secretary handed me a note that the father
20 is calling in, so we're going to transfer his call in here momentarily.
21 MR. BURNETT: Your Honor, could I have a moment to speak to him to find
22 out his position on this matter?
23 THE COURT: Okay. To make it easier, let's go ahead and clear the
24 courtroom. We'll take a brief recess and let Mr. Burnett talk on this phone to his client.
25 (At 3:20 p.m., court recessed)

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(At 3:31 p.m., court reconvened)

THE COURT: Okay. We're back on the record. We still have Ms. Wierenga on the stand. We took a brief recess. The father has called in and he is on the speaker phone in the courtroom. He has been given an opportunity to talk with his attorney. What's your client's position here today?

MR. BURNETT: Your Honor, it's my understanding, after speaking to Sean Eaton, the father in this matter, that at this time we're not going to contest the temporary placement of the minor child with DHS, but we do wish to revisit this issue when we come back to court on October 8th for our scheduled progress review hearing that's set at 10:00 a.m.

THE COURT: Okay. As I mentioned earlier, when there's a removal like this, we are supposed to revisit the matter in a short time period. That would appear to be an appropriate time to have that done.

MR. BURNETT: Thank you, your Honor.

THE COURT: I still need to take some more basic testimony. Ms. Wierenga, you are still under oath.

BY THE COURT:

Q. Ms. Wierenga, are you concerned about the current emotional and physical welfare of Zander if we didn't do a placement at this point in time?

A. Yes. I would be concerned.

Q. Have there been ongoing reasonable efforts to try to remedy these concerns or work on these concerns?

A. Definitely. Zander's been in care for quite some time.

Q. And what efforts did you make here most recently with regard to this situation? You said there were interviews and a home visit. Is that correct?

1 A. Yes. Brenda Kemp went out to the home last Friday. I spoke with Sean yesterday. I spoke
2 with Zander's grandmother yesterday. I spoke with Zander today. And I have also spoken
3 with Amy Wiersma, the previous case worker.

4 Q. In your opinion, are there any remedies or changes you could put in place immediately,
5 especially in light of that arrest warrant, to solve the problem and make the home safe
6 emotionally and physically?

7 A. I don't believe so.

8 Q. Do you have an appropriate, safe, family-like home for Zander at this time?

9 A. Yes. Zander would be with his grandmother.

10 THE COURT: Thank you. Do you have any questions for the witness, Ms.
11 Clapp?

12 MS. CLAPP: Yes, I do. Thank you, your Honor.

13 EXAMINATION

14 BY MS. CLAPP:

15 Q. Is it your understanding that the father has at least one warrant out for his arrest, but possibly
16 two?

17 A. Sean confirmed to me yesterday that he does have one. It's rumored that he has two.

18 Q. Do you have any documentation for the warrants?

19 A. Not yet. I requested documentation, but I had not received it at the time of this hearing.

20 MS. CLAPP: Thank you. I have nothing further.

21 THE COURT: Mr. Jensen.

22 MR. JENSON: I have no questions.

23 THE COURT: Mr. Burnett.

24 MR. BURNETT: Thank you, your Honor.

25 EXAMINATION

1 BY MR. BURNETT:

2 Q. Will you be able to offer my client any assistance with seeking housing?

3 A. There might be some possibilities. I would have to confirm his income.

4 Q. Did he tell you about his recent employment?

5 A. Yes. He recently started a new job. I believe he possibly even started today.

6 Q. Did he tell you about his housing situation?

7 A. Yes. He was evicted from his previous home. Part of my job is to make sure that he would
8 be able to pay for his future home, if that would be the case.

9 Q. Does Zander receive social security benefits?

10 A. Yes. I would also want to be sure that he can keep up with his housing expenses even if it
11 weren't for Zander's social security income.

12 Q. Now the last court order indicated that there was to be participation in family team meetings
13 and family counseling.

14 A. Yes, that's right.

15 Q. Could you obtain those reports and provide them to all parties prior to the October 8th
16 hearing?

17 A. Absolutely. I do actually have them with me. I just didn't have a chance to get them to
18 everybody. This hearing was scheduled pretty quickly. I will get them to everyone within
19 the week.

20 MS. CLAPP: Your Honor, could we have the reports prepared by the witness
21 marked as Exhibit 1?

22 THE COURT: Certainly. The court recorder is marking the report prepared
23 by Ms. Wierenga as Exhibit 1.

24 (At 3:35 p.m., Exhibit 1 marked)

25 MS. CLAPP: I would ask that it be admitted into evidence.

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THE COURT: Any objections?

MR. JENSEN: No, your Honor.

MR. BURNETT: No, your Honor.

THE COURT: It is received into evidence. I will ask my secretary to make copies for all the parties.

(At 3:35 p.m., Exhibit 1 admitted into evidence)

MS. CLAPP: Thank you.

THE COURT: Any further questions for the witness?

MS. CLAPP: No. Thank you, your Honor.

THE COURT: Okay. Thank you. You may step down.

(At 3:36 p.m., witness excused)

THE COURT: Any further proofs at this time? Ms. Clapp?

MS. CLAPP: No further proofs.

THE COURT: Mr. Jensen?

MR. JENSEN: No proofs.

THE COURT: Mr. Burnett, I understand you have evidence you want to present. We're going to revisit all this at our next hearing. Do you have anything additional for today?

MR. BURNETT: No, your Honor.

THE COURT: Okay. Mr. Jensen, does Zander wish to say anything since he's here today?

MR. JENSEN: No, sir. He does not. He did tell me he was very glad to be with his grandmother now.

THE COURT: All right. Again, the issue today was temporary placement, and I do find that it's necessary based upon the testimony and the allegations and the

1 concerns. They are serious at this point in time. The eviction, the lack of proper housing, the
2 pending arrest warrants would certainly put a father in a position where he could not provide
3 a proper home and be there for the child. The main caretaker is out of the home as well.

4 The allegations regarding the substance abuse are also serious and a concern
5 that we'll look into further. Certainly for today the Court does believe that there are
6 reasonable services we could put into place to remedy the situation.

7 Fortunately, we have a home that Zander is very familiar with and very happy
8 with, and it's nice to have him in that location so it is not a traumatic move for him. It's a
9 place he knows and loves. That's very fortunate for him and for us at this point.

10 So, Ms. Wierenga, what are you recommending at this point as far as
11 visitation?

12 MS. WIERENGA: I would recommend supervised parenting time at this
13 point. We could work something out either through me or through Brenda.

14 THE COURT: Okay. Supervised parenting time then as approved by the
15 Department of Human Services, with the appropriate supervisor, whoever you determine that
16 to be.

17 MS. WIERENGA: That would be great. Thank you.

18 THE COURT: Okay. We've already got a date to come back. We'll come
19 back on that date, and we'll relook at the whole issue of placement and where we're going
20 from here.

21 Dad, thank you for calling in. Good luck to you with what's in front of you. I
22 will see you at the next hearing, October 8th at ten o'clock.

23 If there's nothing further, we are in recess. Thank you, everyone.

24 MS. CLAPP: Thank you.

25 MR. BURNETT: Thank you.

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MR. JENSEN: Thank you
(At 3:38 p.m., proceedings concluded)

I certify that this transcript, consisting of 12 pages, is a complete, true, and correct transcript of the Matter of Zander Eaton and testimony taken in this case as recorded on September 24, [insert this year or last year].

Date:

[Your name and CER number]

[Your business address]

[City, state, and zip]