IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

FLOYD H. GRANT III,

Petitioner Appellee,

COURT OF APPEALS OF NEW MEXICO
ALBUQUERQUE
FILED
DEC 28 2004

Court of Appeals Number: 24445

vs.

District Court Number: DR 95-2675

LESLIE D. CUMIFORD
(f/k/a Leslie D. Interrante)

Respondent Appellant.

MOTION TO CONSIDER NEWLY-DISCOVERED EVIDENCE REGARDING UNDISCLOSED CONFLICT OF INTEREST BETWEEN GUARDIAN *AD LITEM* AND OPPOSING COUNSEL IN THIS CASE

COMES NOW Respondent Appellant, Leslie D. Cumiford, Pro Se, and states:

1. Attorney Sandra Morgan Little has been counsel of record for the Petitioner in the case appealed from, DR 95-2675, since June 25, 2002.
2. Attorney Frank L. Spring was the Guardian *ad Litem* for case DR 95-2675 from June 29, 2002 to August 25, 2003. Mr. Spring formally withdrew from the case in his closing argument of August 25, 2003 after the trial.
3. Much of the contention of the case up to and including the August 2003 trial involved Mr. Spring and Ms. Morgan Little's opposition to the outcome of the initial custody evaluation as reported in Dr. Zieman's March 14, 2003 Family Psychological Evaluation and Parenting Plan provided as evidence at the trial on the merits in case DR 95-2675. Both counsel refused to concur with Respondent's Motion to Adopt the Parenting Plan, filed on April 7, 2003, necessitating two additional custody evaluations and a trial, all of which greatly drove up the expense of the proceedings. However, even prior to that time, Mr. Spring displayed his dislike of Respondent through his Motion to Authorize Guardian ad Litem to Arbitrate, filed

on February 6, 2003. Respondent's concerns regarding bias of the Guardian were recited in pleadings of February 11, 2003 and August 19, 2003 asking for the Guardian's removal from the case.

4. A major issue to be decided by the Court in this appeal is fees and costs for the case.
5. New evidence has come to the attention of Respondent regarding an unreported conflict of interest between opposing counsel, Ms. Morgan Little, and the Guardian ad Litem, Mr. Spring in the underlying case DR 95-2675 that may have influenced all proceedings, recommendations, and decisions in which the Guardian *ad Litem* took part.
6. Ms. Morgan Little, Esquire, had only one partner in her office during the time Mr. Spring was the Guardian: Ms. Jan Gilman-Tepper. Ms. Tepper was married to Brad Tepper during this time period (Attachment A). Brad Tepper is the principal of Tepper LLC, a New Mexico Corporation (Attachment B).
7. Respondent Appellant recently discovered that Bernalillo County real estate records (Attachment C) demonstrate a relationship between Tepper LLC, Gilman Law Firm Trust, Gilman Law Firm Pension, James K. Gilman, and Elizabeth S. Gilman, James W. Gilman, Harriet K. Gilman, and Frank Spring involving millions of dollars of property in Bernalillo County. Such property includes, but is not limited to: Cavan Sunport Centre, Meridian Business Park, Atrisco Grant, Clifford West Business Park, and NMPM Port.
8. This conflict of interest is in violation of the Rules of Professional Regulation.
9. This conflict of interest and both counsels' failure to report it is unconscionable, particularly since complaints regarding the bias of Frank Spring in favoring Petitioner are evident throughout the pleadings, correspondence, and trial record of this case.

10. Ms. Morgan Little failed to report her conflict of interest with Frank Spring, even after receiving this information as part of Respondent's evidence packet for a hearing in the underlying case, DR 95-2675, in September 2004. Ms. Morgan Little and Mr. Spring had knowledge of the conflict of interest and the laws concerning attorneys on cases with conflicts and willfully violated them.
11. Given this gross violation of the Rules of Professional Regulation, neither party should be required to pay for any fees or any costs incurred after the hearing of April 29, 2004 to consider Respondent's Motion to Adopt the Parenting Plan. During this hearing, the opposing counsel, Sandra Morgan Little, and the Guardian Frank Spring insisted that the case go to trial even though Judge Walker questioned on the record why there was a need for such a course of action.
12. All of Sandra Morgan Little and Frank Spring's fees should be reversed and the parties should be reimbursed by these attorneys for all money they received on the case. Both attorneys should be required to pay all costs and fees from May 1, 2003 through trial.
13. Opposing counsel does not concur with this Motion.

WHEREFORE, for all the reasons stated above, Respondent respectfully requests that the Court:

A. Sanction Sandra Morgan Little, Esquire, by denying her any remuneration regarding DR 95-2675 from her entry of appearance to October 9, 2003 and ordering her to reimburse both parties for any fees she received with regard to the case.
B. Sanction Frank Spring, Esquire, by denying him any remuneration regarding DR 95-2675 and ordering him to reimburse both parties for any fees he received with regard to the case. (Mr. Spring withdrew from the case at the end of trial.)

C. Order both attorneys to pay all costs and fees on the case from April 29, 2003 to October 9, 2003.

D. Turn both attorneys, Ms. Morgan Little and Mr. Spring, over to the State Bar Disciplinary Board for investigation of their willful violation of the Rules of Professional Regulation.

E. For such other relief that the Court deems appropriate.

Respectfully submitted,

Leslie D. Cumiford

LESLIE D. CUMIFORD
Respondent Appellant Pro Se
4427 Sherre Dr, NE
Albuquerque, NM 87111
Ph: (505) 401-1565