

NO. 2017-CI-05643

IN THE INTEREST OF

V.A.K.

A CHILD

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§
§
§

IN THE DISTRICT COURT

150TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**MOTION FOR ENFORCEMENT OF POSSESSION OR ACCESS AND
ORDER TO APPEAR**

This Motion for Enforcement of Possession or Access is brought by TANICHA R. CUEVAS (known at the time of divorce as TANICHA R. KING), Petitioner/Movant and mother of the subject child. The last three numbers of Movant's Social Security number are 769.

1. Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. Movant objects to the assignment of this matter to an associate judge for a trial on the merits or presiding at a jury trial.

3. Movant is a joint managing conservator.

4. The child the subject of this suit is:

Name: VICTOR ALI KING (V.A.K.)

Sex: Male

Birth date: February 21, 2006

5. This Court has continuing, exclusive jurisdiction of this case as a result of prior proceedings.

6. The parties entitled to notice are as follows:

- a. Respondent, XAVIER J. KING, who is a joint managing conservator and the father of the subject child.

Process should be served at **108 Richardson Dr., Schertz, Texas 78154**, or wherever he

may be found.

7. On December 14, 2017 this Court pronounced and rendered an Agreed Final Decree of Divorce that appears in the minutes of this Court at Volume 4840, Page 3602 (39 pages) and states in relevant part as follows:

... [on page 3]

“IT IS ORDERED that XAVIER J. KING and TANICA R. KING are appointed Joint Managing Conservators of the following children: M.A.K. [who has since emancipated and is not part of this motion] and V.A.K.”

...[then on page 8]

“...IT IS ORDERED that the primary residence of the children shall be Northside Independent School District or Medina Valley School District, unless otherwise agreed in writing by the parent conservators...”

...[then continuing on page 8]

“Possession and Access

1. Custom Possession Order

IT IS ORDERED that each conservator shall comply with all terms and conditions of this Custom Possession Order (hereafter, and for brevity, “Possession Order”). IT IS ORDERED that this Possession Order is effective immediately and applies to all periods of possession occurring on and after the date the Court signs this Possession Order”

...[then on page 9]

“(c) Possession Absent Agreement Regardless of Distance Between Residences of the Parents.

IT IS ORDERED that the parents shall have Week-on, Wee-off rotation of

possession of the children between the parents' home. IT IS FURTHER ORDERED that this Week-on, Week-off rotation runs continuously and notwithstanding the holiday and extended summer possession provisions set forth below.

IT IS FURTHER ORDERED that all exchanges of possession when school is in session occurs Monday at the time school regularly resumes after the weekend.

IT IS FURTHER ORDERED that when school is not in session, exchange of possession shall occur on Sunday at 6 p.m. IT IS FURTHER ORDERED that the parent taking possession shall travel to the parent relinquishing possession's home.

IT IS FURTHER ORDERED that Mother's initial Week-on shall commence on Monday, December 4, 2017, and Father's initial Week-on shall commence on Monday, December 11, 2017. IT IS FURTHER ORDERED that the Week-on, Week-off shall run continuously thereafter, SUBJECT TO the holiday and extended summer possession provisions set forth below."

Movant was the Petitioner and Respondent was the Respondent in the prior proceedings.

The subject child's school is not in session but conducting classes virtually.

8. Respondent has failed to comply with the order described above as follows:

Violation 1. On or about Sunday, April 5, 2020 at 6:00 p.m. Respondent failed to relinquish possession of child V.A.K. to Petitioner despite Petitioner's request to take possession for what was to be the start of her Week-on possession.

Violation 2. On or about Monday, April 6, 2020, at the time the child's school regularly resumes, Respondent failed to relinquish possession of

child V.A.K. to Petitioner despite Petitioner's request to take possession for what was to be the start of Petitioner's Week-on possession.

Violation 3. On or about Monday, April 6, 2020, at approximately 6:37 p.m., Respondent texted to Petitioner, that "I have made a decision that Victor [V.A.K.] is going to stay here with me until this [pandemic] is over with. He needs to finish the school year. I cannot have him going back and forth between two places while all this uncertainty about a virus and it's [sic] spreading is going on." Respondent has declared his intent to continue his disregard for the possession order.

9. Movant requests that Respondent be held in civil contempt and jailed immediately until such time that Respondent returns, or causes to be returned, to Petitioner the child V.A.K.

10. Movant requests that, after Respondent is released from jail for his civil contempt, he be jailed for criminal contempt for a period of not more than 60 days for each alleged violation for which the Court finds him in contempt, with all criminal contempt sentences to run concurrently.

11. Movant requests that Respondent's confinement for criminal contempt be suspended on condition that Respondent not repeat his contemptible acts. Movant requests that if Respondent engages in conduct for which he was found in contempt, that on motion of movant, Respondent's suspended commitment be vacated and Respondent immediately jailed to serve the full time of concurrent criminal contempt jail sentences ordered by the Court.

12. Movant requests the Court order compensatory possession time with child V.A.K.

equal to each day possession of the child has been withheld wrongfully by Respondent, with the date or dates of compensatory possession to be determined by Movant on written notice to Respondent (to include text message) SUBJECT ONLY to no conflict with Respondent's holiday possession or Father's Day possession.

13. Movant requests that, if the Court finds that any part of the order sought to be enforced is not specific enough to be enforced by contempt, the Court enter a clarifying order more clearly specifying the duties imposed on Respondent and giving Respondent a reasonable time within which to comply.

14. It was necessary to secure the services of JAMES G. CRAMP, a licensed attorney, to enforce and protect the rights of TANICHA R. CUEVAS and the child the subject of this suit. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs, and a judgment should be rendered in favor of the attorney and against Respondent and be ordered paid directly to the undersigned attorney, who may enforce the judgment in the attorney's own name. Enforcement of the order is necessary to ensure the child's physical or emotional health or welfare. The attorney's fees and costs should be enforced by any means available for the enforcement of child support including contempt but not including income withholding. Movant requests postjudgment interest as allowed by law.

15. **Required Setting Information.**

- a. Time announcement is 1 hour and 30 minutes.
- b. Telephone number for Attorney Cramp is (210) 832-8064 (office) and (210) 846-4218 (cell).
- c. Telephone number for Respondent XAVIER J. KING is (210) 417-3365.

- d. Attorney Cramp's email address is jim@cramplawfirm.com.
- e. Respondent XAVIER J. KING's email address is billydeez@hotmail.com.
- f. No interpreter is required.
- g. Attorney Cramp plans to call two witnesses, Petitioner and Respondent.
- h. Attorney Cramp plans 3 participants (Attorney Cramp, Petitioner and Respondent) unless Respondent hire counsel, which would make 4 participants.
- i. A record of the proceeding is required.

Prayer

Movant prays that Respondent be held in civil and criminal contempt as requested, that the Court order compensatory possession as requested, that the Court clarify any part of its prior order found not to be specific enough to be enforced by contempt, for attorney's fees, expenses, costs, and interest, and for all further relief authorized by law.

Respectfully submitted,

Cramp Law Firm, PLLC
901 N.E. Loop 410 - Ste 800
SAN ANTONIO, TX 78209
Tel: (210) 832-8064
Fax: (210) 598-7227

By: _____


JAMES G. CRAMP
State Bar No. 24076209
jim@cramplawfirm.com
Attorney for Tanicha R. Cuevas

Order to Appear

Respondent, XAVIER J. KING, is ORDERED to appear and respond to this Motion for Enforcement by appearing virtually in **PRESIDING DISTRICT COURT, ROOM 1.09, BEXAR COUNTY COURTHOUSE, 100 DOLOROSA, SAN ANTONIO, TEXAS 78205** on **Thursday, May 14, 2020 at 9:00 a.m.** All persons, appropriately attired, shall appear by ZOOM; the link for Presiding District Court is <https://zoom.us/my/bexarpresidingcourtroomzoom>. Information will also be available on YouTube; the Presiding District Court link is <https://www.youtube.com/watch?v=ljERoVIGR2Q>. The Zoom access telephone number for Presiding District Court is 1-336-248-7799. The Presiding District Court telephone access code is: 917-895-6796. The purpose of this hearing is to determine whether the relief requested in this motion should be granted.

SIGNED on 04/09/20.

KAREN H. POZZA

JUDGE, 407TH DISTRICT COURT

JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

Cramp Law Firm, PLLC
901 N.E. Loop 410 - Ste 800
SAN ANTONIO, TX 78209
Tel: (210) 832-8064
Fax: (210) 598-7227

By: 

JAMES G. CRAMP
State Bar No. 24076209
jim@cramplawfirm.com
Attorney for Tanicha R. Cuevas