SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY DIVISION
DOMESTIC RELATIONS BRANCH

ROCHELLE N. THOMAS,   **:**
    Plaintiff,   **:**
                           :   Case No. 2022 DRB 000920
    v.   **:**   Judge Deborah J. Israel
                           :   **Next Date: September 21, 2022**
NYLA THOMAS and   **:**
MARTY JOHNSON,   **:**
    Defendants.   **:**
                           :

TEMPORARY CUSTODY ORDER
AND ORDER GRANTING ORAL MOTION FOR CONSTRUCTIVE SERVICE

This matter came before the Court for a remote Initial Hearing on May 31, 2022 and concerns the custody of minor child Ja'Syah Thomas, born December 24, 2021. Plaintiff Rochelle N. Thomas is the minor child's maternal grandmother; Defendant Nyla Thomas is the minor child's mother and Defendant Marty Johnson is the minor child's father. Plaintiff and Defendant Nyla Thompson appeared, *pro se.* Defendant Marty Johnson did not appear and was not served.[1]

Pending before the Court is Plaintiff's Complaint for Third Party Custody ("Complaint"), filed March 24, 2022, and Plaintiff's Emergency Motion for *Pendente Lite* Custody ("Emergency Motion"), filed March 24, 2022. At the Initial Hearing, Plaintiff testified that she has a written agreement of a custodial arrangement for the minor child signed by both Defendants when all

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[1] Plaintiff and Defendant Thomas testified that they could not contact Defendant Johnson because they and third parties (including Plaintiff's husband, Plaintiff's other daughter, the minor child's god-mother) were blocked on his phone and social media. Plaintiff had Googled him, and no address appeared. Plaintiff also searched through Court records in Maryland, but found no indication that Defendant Johnson is incarcerated. The Court then called the Defendant Johnson's two phone numbers that Plaintiff provided, but the calls went to voicemail. Based on the testimony and efforts to reach Defendant Johnson, the Court will permit constructive service by posting under *Bearstop v. Bearstop,* 377 A.2d 405 (D.C. 1997). In *Bearstop*, the D.C. Court of appeals permitted constructive service in family-law cases if plaintiffs in such matters pursue "all the channels of available information" in order to locate and serve a party. See *Bearstop,* 377 A.2d at 409. In this case, Plaintiff and Defendant Thomas have utilized all potential available avenues in order to find and serve Defendant, and to no avail.

parties and the minor child resided in her home from December 2021 to January 31, 2022. She stated that she did not have the chance to notarize the agreement because she was in the hospital and when she returned home, Defendant Johnson had left, and furthermore, Defendant Thomas did not have an ID. Defendant Thomas further testified that Defendant Johnson is the father of the minor child. She also asserted that Plaintiff should take care of the minor child until she is able to secure her own place and live independently, which she plans to do by the end of 2022. She states that she will graduate high school in August 2022 and is currently looking for a night job.

Based on the pleadings, sworn testimony, and records in this case, and pursuant to D.C. Code § 16-831.02(a)(1)(B), the Court finds that Plaintiff has standing to pursue custody of this minor child. In addition, the Court finds that it has jurisdiction pursuant to D.C. Code § 16-4602.01. Finally, in consideration of the best interest of the minor child, the Court finds it appropriate to issue a Temporary Custody Order with the arrangement described below. However, Plaintiff must properly serve Defendant Johnson by posting. The Court will treat Plaintiff's testimony as an oral request for an extension of time to serve and grant the oral motion. In consideration of *Bearstop v. Bearstop,* 377 A.2d 405 (D.C. 1977), the Court will permit service by posting under D.C. Code § 13-340(a) (authorizing service by posting in lieu of publication) because of the parties' sworn testimony and efforts to reach Defendant Johnson. The Court will direct the Clerk's Office to post the notice below.

In addition, prior to the next hearing, Plaintiff must file an Affidavit in Compliance with the Servicemembers Civil Relief Act ("SCRA Affidavit"). If Plaintiff has questions about how to meet this requirement, she may contact the Family Court Self-Help Center by calling telephone number 202- 879-0096. The Court cannot grant a judgment until the SCRA Affidavit is docketed with the Court.

WHEREFORE, it is, this 10th day of June 2022, hereby

ORDERED, that Plaintiff Rochelle N. Thomas's oral request for an extension of time to serve by posting is **GRANTED**. The Court requests that the Clerk's office re-issue the Summons in this matter. It is further

ORDERED, that the Clerk's Office of the Family Court of the Superior Court of the District of Columbia shall post the following notice on the Court's website for a period of twenty-one calendar days.

Superior Court of the District of Columbia

Case No. 2022 DRB 000920

Rochelle N. Thomas, Plaintiff,

versus

Nyla Thomas and Marty Johnson, Defendants.

Plaintiff Rochelle N. Thomas has filed a Complaint for Third-Party Custody.

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The Court will hold a remote Status Hearing on this request on September 21, 2022 at 10:00 AM. If Defendant Marty Johnson does not appear at the hearing or otherwise respond to the Complaint, the Court may enter default against Defendant and thereafter proceed without him.

So ordered on June 10, 2022.
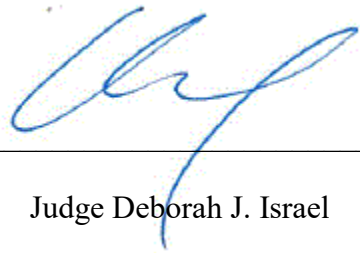Judge Deborah J. Israel, Superior Court of the District of Columbia.

It is further

ORDERED, that Plaintiff shall file by August 21, 2022 an Affidavit in Compliance with the Servicemembers Civil Relief Act. It is further

ORDERED, that Plaintiff Rochelle N. Thomas and Defendant Nyla Thomas will share **TEMPORARY JOINT LEGAL CUSTODY** and **TEMPORARY JOINT PHYSICAL CUSTODY** of the minor child Ja'Syah Thomas, born December 24, 2021. Plaintiff shall have primary residential custody. It is further

ORDERED, that the parties shall appear for a <u>**Status Hearing on September 21, 2022 at 10:00 AM.**</u> All parties must appear.

IT IS SO ORDERED.

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Judge Deborah J. Israel

Copies to:

Rochelle N. Thomas
Johndozier55@gmail.com
Via Email
Plaintiff

Nyla Thomas
Danuyblue45@gmail.com
Via Email
Defendant