

COMMONWEALTH OF KENTUCKY
BULLITT CIRCUIT COURT
DIVISION (3)
FAMILY COURT
CIVIL ACTION NO. : 21-CI-00358

IN RE THE MARRIAGE OF:

DOUGLAS E. POTTS

PETITIONER

VS.

ORDER FOR COUNSELING

NICOLE W. POTTS

RESPONDENT

* * * * *

This matter came before the Court Thursday, August 12, 2021 on the Respondent's Motion for Permission to relocate and for a final trial on the dissolution of the parties' marriage. The Court heard the testimony of the parties and reviewed the record of these proceedings including the record as it was transferred from the Spencer Circuit Court where this action was initiated.

Based upon the record and the testimony, the Court observes that these parties worked together extraordinarily well historically and have continued to do so, for the most part, as regards their child. As an example, both parties testified to having formed long-term goals for themselves and their child to include considering to whom would be entrusted the care and nurture of their child if they both were taken before the child is an adult. While this is planning which ideally all parents would undertake, it is actually rare. Additionally, the Court notes that these parties have weathered the stresses of being a military family for a long term. These are remarkable and telling achievements. The Court also observed the emotional responses the parties had toward one another. While there was some hint of discord, overall the parties were respectful and courteous toward one another and both held themselves in dignified and mature composure. Divorce court does not typically bring that

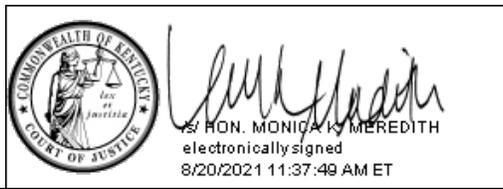
demeanor out in its participants. Before entering a decree of dissolution, the Court is **required** by KRS 403.170 to make a finding that the marriage is irretrievably broken and in the Commonwealth of Kentucky such irretrievable break down is the sole basis for dissolution. However, KRS 403.110 also compels the Court to liberally construe all chapters of KRS 403 so as to “strengthen and preserve the integrity of marriage and to safeguard family relationships”. While it is highly unusual, in this instance, the Court cannot make the finding at this time that **this marriage** is irretrievably broken based upon the testimony and evidence before it. Frankly, the Court observes these parties to be two people who have lost the ability to communicate with one another about their emotional relationship and, perhaps, have let their pride become a wall between them.

Further, the Respondent is seeking permission from the Court to relocate to another state and at such a distance that a shared parenting time schedule is near impossible to equalize as is required by the presumptions of KRS 403.270. Nothing the Court has taken into evidence clearly overcomes the presumption. The Respondent testified that if she is not granted primary residency of the child she will not relocate. The Petitioner has testified that if he is not granted primary residency of the child but the Court permits the Respondent to do so with the child he will not relocate to be nearer the child. She further testified that she does not intend to relocate (if the Court grants her primary residency) until the end of the current school year. Thus there is no immediate detriment to the parties for the Court to hold in abeyance a decision on the Respondent’s Motion and additional effort by the parties to address the underlying causes of the separation will certainly safeguard the family relationships as between parents and child.

The Court being sufficiently advised;

IT IS HEREBY ORDERED pursuant to KRS 403.170 that this matter be and is continued to Monday, October 18, 2021 at 10:30 AM for a Case Management Conference. In the interim, the Court suggests to the parties that they seek counseling to determine if the issues that motivated the filing of the Petition for Dissolution may be resolved without ending the marriage. The Court orders that the parties shall each file into the record of this action, no later than October 14, 2021, an affidavit which states whether or not the party cooperated to seek counseling, participated openly and honestly in counseling to determine whether reconciliation of the marriage is achievable, and whether the party is willing to continue in counseling. Given the time frame and the dearth of counseling resources the Court suggests the parties explore on-line resources in addition to traditional counseling resources.

IT IS FURTHER ORDERED that neither party shall introduce the child to any dating interest until this action is finalized or speak to the child about such person or relationship or permit any third party to do so. If the child has already been introduced to such person(s), going forward from the date of this order until the matter is finally resolved any contact between the child and such person(s) shall cease. The Court notes that these parties give the impression that each is devoted to working through their personal conflict in ways that reduce the negative effects of the situation on the child. The Court respects the effort the parties have demonstrated in that regard and encourages the parties to continue to do so.



HON. MONICA K. MEREDITH, JUDGE
 BULLITT CIRCUIT COURT, DIVISION 3
 FAMILY COURT

DISTRIBUTION:

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___ Hon. Sidney Vieck, 917 Lily Creek Road, Louisville, KY 40223

Paulita A. Keith, Bullitt Circuit Court Clerk

By: _____, D.C.

Date: _____

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