

# IN THE DISTRICT COURT IN AND FOR TULSA COUNTY STATE OF OKLAHOMA

In re the Marriage of:

Ciara K. Brown,

Petitioner,

Pand 
MAY 01 2024

DON NEWBERRY, Court Clerk

Responsible for Okla Till Sa courte.

PETITIONER'S MOTION FOR EMERGENCY EX PARTE CUSTODY

To ensure the safety of the minor children, Ciara Brown, the petitioner, through counsel, asks for emergency custody of the parties' minor children: G.P.O.D., born February 17, 2016; and A-G.C.N.D, born November 15, 2018, pursuant to Okla. Stat. tit. 43 § 107.4:

- 1. The parties share two minor children together, G.P.O.D., born February 17, 2016, age 8; and A-G.C.N.D, born November 15, 2018, age 5.
- 2. The parties are married and the children were born during the marriage.
- 3. Petitioner requests the Court exercise emergency jurisdiction pursuant to 43 O.S. 551-204. The children have resided in Arkansas, however, petitioner and the minor children are currently residing in Oklahoma as a result of acts of domestic violence committed by respondent against petitioner in the presence of the minor children.
- 4. Attached in compliance with Okla. Stat. tit. 43 § 107.4(A) is an affidavit from the petitioner.

- 5. Petitioner has filed a petition for protective order in Tulsa County case number PO 2024-1137. An emergency protective order was granted on April 18, 2024. The case is currently set for hearing on May 2, 2024, at 9:00 a.m.
- 6. As grounds for her emergency application, petitioner would state that she has been the victim of numerous acts of domestic violence. These acts include physical violence, financial abuse and control, and continued emotional abuse.
- 7. These acts of abuse have occurred in the presence of the minor children.
- 8. The respondent has physically harmed and threatened physical harm to G.P.O.D.
- 9. CPS and DHS in Oklahoma and Arkansas have both been notified and have open investigations pending.
- 10. Petitioner believes that a criminal investigation is ongoing in Washington County, AR. Respondent was arrested for domestic assault and battery on December 19, 2023. Criminal charges are currently pending in that county.
- 11. The petitioner believes that, absent an emergency custody order, the children will be in surroundings endangering their safety, and that if this motion is not granted irreparable harm to the children would likely result.
- 12. The undersigned counsel hereby certifies that she has been unable to give notice of this motion to the respondent, as there is an emergency protection order in effect and she does not have knowledge of his whereabouts.

#### **BRIEF**

a. Oklahoma law authorizes ex parte emergency requests in several circumstances.

The policy behind this is clear: "Courts have a duty to guard with jealous care the interests of minors and to protect infants' rights." *Skrapka v. Bonner*, 2008 OK 30, ¶ 17,187 P.3d 202, 210. "The interest of children in a wholesome environment has a constitutional dimension no less compelling than that the parents have in the preservation of family integrity. In the hierarchy of constitutionally protected values both interests rank as fundamental and must hence be shielded with equal vigor and solicitude." *In re T.H.L.*, 1981 OK 103, 13, 636 P.2d 330, 334. However,

children are not parties to their parents' divorce and the children do not have the right to select their own attorney to represent their interests in proceedings involving their parents' divorce. Wallis v. Wallis, 2003 OK CIV APP 77, 78 P.3d 562, 564. children lack party status to appeal the court's custody order in a divorce proceeding. Ihinger v. Ihinger, 175 Vt. 520, 824 A.2d 601, 603 (2003). Although minor children are affected by the decisions courts must make concerning parental rights and responsibilities in the course of divorce proceedings, divorce is a creature of statute and courts may adjudicate matters in a divorce only in accordance with the statute. Id.

Rowe v. Rowe, 2009 OK 66, ¶ 7, 218 P.3d 887. In other words, in custody cases, although each subject children is not a party, the children is certainly affected by the outcome, and the children still has rights and constitutional interests worthy of protection. This means that in some circumstances a parent must seek immediate court intervention to protect minor children, foregoing the typical delays associated with litigation.

Our statutes provide for at least three circumstances where, in an emergency situation, an *ex parte* motion may be made to the Court, and emergency orders entered. Okla. Stat. tit. 43 § 110(B)(2) authorizes a temporary restraining order,

If the court finds on the basis of a verified application and testimony of witnesses that irreparable harm will result to . . . a children of a party if no order is issued before the adverse party or attorney for the adverse party can be heard in opposition, the court may issue a temporary restraining order which shall become immediately effective and enforceable without requiring notice and opportunity to be heard to the other party.

Okla. Stat. tit. 43 § 107.4(A) says,

In a court proceeding concerning children custody or visitation, a motion for an emergency custody hearing shall include an independent report, if available, to include but not be limited to, a police report or a report from the Department of Human Services, that demonstrates that the children is in surroundings which endanger the safety of the children and that if such conditions continue, the children would likely be subject to irreparable harm. If there is no such report, the motion shall include a notarized affidavit from an individual with personal knowledge that the children is in surroundings which endanger the safety of the children and that not granting the motion would likely cause irreparable harm to the children. Upon receipt of the motion for emergency custody with supporting documentation, the court shall have seventy-two (72) hours to conduct a hearing.

Finally, Okla. Stat. tit. 30 § 30-3-115 authorizes a "special guardianship" being entered with no notice in circumstances where,

- 1. There is imminent danger that the health or safety of said person will be seriously impaired or that the financial resources of said person will be seriously damaged or dissipated unless immediate action is taken; and
- 2. No other person appears to have authority to act in the circumstances or the guardian previously appointed is unable to or refuses to take action.

As set out in these statutes, the legislature has recognized that there are sometimes emergency situations where the immediate safety and welfare of children takes precedence over the general notice rights of a parent in a custody case. The statutes set out specific criteria for orders entered based off *ex parte* motions, including requiring a hearing in a reasonably short amount of time.

b. This Court has authority to exercise emergency jurisdiction over the children.

The children currently reside in Oklahoma with petitioner. They have not resided in Oklahoma for the six month period necessary to establish home state jurisdiction. However, this Court may exercise jurisdiction under the UCCJEA, specifically 43 O.S. 551-204(A). Under that statute:

A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

There are no other custody proceedings on file in either Arkansas or Oklahoma and no court has entered any orders for custody concerning these children.

WHEREFORE, premises considered, the petitioner prays for an Order granting him emergency custody of the minor children, suspending the respondent's time and access to the children to professionally supervised visits, and for all other relief.

Respectfully submitted,

Amy Page, DBA 18877

Bundy Law Office

2200 Utica Place, Suite 222

Tulsa, Oklahoma 74114

Tel. (918) 208-0129

Fax (918) 512-4998

E. amy@bundy.law

Counsel for the petitioner

Additional authority: Okla. Stat. tit. 12 § 1331 et seq. (habeas corpus)

## **VERIFICATION**

STATE OF OKLAHOMA )
COUNTY OF TULSA ) ss.
Ciara Brown, of lawful age, being first duly sworn, upon oath deposes and states:
I am the above-named petitioner. I have read the above and foregoing document. Its contents, statements and allegations are all true and correct to the best of my knowledge and belief.  Ciara Brown
Subscribed and sworn to before me by Ciara Brown this 1st day of May, 2024.
Notary public
[Seal]

### **AFFIDAVIT**

STATE OF OKLAHOMA	)	
	)	ss
COUNTY OF TULSA	)	

Ciara Brown, of lawful age, and being first duly sworn, on oath states:

- 1. The respondent and I are married.
- 2. During our marriage, two children were born, A.D. (age 5) and G.D. (age 8).
- 3. My older child from a previous relationship, G.B. (age 10) also lived with us.
- 4. During our marriage, respondent has physically abused me. The most recent occurrences include:
  - a. September 2023: He pulled, pushed, and dragged me through the streets of Las Vegas, NV, in 5" high heels. Police intervened, gave him a verbal warning, and told him to "sleep on it." My feet were severely blistered and lacerated, to the point where I required antibiotics.
  - b. October 31, 2023: He attacked our 8 year old, kicking him across the room. When I intervened to protect my child, he threw me on the kitchen tile floor. This resulted in severe bruising and, I learned later, a hairline fracture of my elbow.
  - c. Thanksgiving 2023: He was accusing me of cheating on him. He attacked me and strangled me, resulting in bruising to my neck and throat. I asked him if he was going to kill me and he said he was. He kept me from leaving for a while, then I escaped out the window and picked up my children from school. The teachers were concerned and asked about it, but I deflected.
  - d. December 19, 2023: He attacked me again and kept me from leaving the home to pick up the children from school. I escaped and picked the children up, then he attacked and detained me again when I went back to pick up suitcases for a trip to my mother's house in Tulsa. Police were called and he was arrested and booked on Domestic Abuse Assault and Battery.
- 5. He also financially and emotionally abused me:
  - a. He had control of all our bank accounts. I did not have access to our bank accounts. This year, for the first time, he allowed me to have a debit card with a \$150 limit. I was required to give him receipts of all my spending.

- b. He opened credit cards in my name that he uses for his personal business. I don't have any access or control of these accounts. My credit is ruined because of this.
- c. He continually accuses me of cheating on him and goes through my phone regularly, forcibly, and without my permission, even going so far as to hit me with the phone. He calls me names and denigrates me.
- 6. This abuse often occurred in front of our children and G.B.
- 7. He regularly calls the children names and threatens them.
- 8. The most recent incident of domestic violence was on April 16, 2024. We were in the car returning to Arkansas from Tulsa. He again started accusing me of cheating on him, asking me about an address on my phone. He insisted on going to the address, which is the address of a friend. He started threatening me with the phone again. I asked him to pull over and let me drive. He refused and began driving, got on the highway, and was driving too fast, scaring me and the children. He stopped at the 61st street exit, and I started to get out. It ended up with him attacking me and me trying to defend myself. He threatened our child G.D., stating he would throw him out into traffic. He kept saying that it was all my fault and this was my doing. He finally dropped G.D. after G.D. thrashed and bit him. We both called 911 and the police arrived. They made a report.
- 9. A criminal case was filed against the respondent in Washington County, Arkansas. That case is ongoing.
- 10.I have filed a petition for a protective order in Tulsa County case PO 2024-1137. Respondent was served with the emergency protective order on April 27, 2024. We have a hearing set May 2, 2024, at 9:00 a.m.
- 11. DHS and CPS in Oklahoma and Arkansas are currently investigating. On April 29, 2024, Arkansas CPS worker Jasmine Miller visited the home in Arkansas and interviewed me and the children. To my knowledge, the DHS investigation is ongoing.

Further affiant says not.

Ciara Brown

Subscribed and sworn to before me by Ciara Brown this 15th day of May, 2024.

Notary public

[Seal]





#### TULSA POLICE DEPARTMENT INCIDENT REPORT

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## TULSA POLICE DEPARTMENT DOMESTIC VIOLENCE

2031

CRIMETYPE	industry Design		
Domestic Assault and Battery (Misdemeanor)	gun dan.		
VIСТІМ МАУБ #1: Brown, Clara Kalsha		6300 S Highway 169	
911 CALLER: Q VICTIM B	SUSPECT	C 🔅	
NAME Dalu, Obiora	6036 W HOMESF	PUN Drive, Fayette	
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### TULSA POLICE DEPARTMENT NARRATIVE

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CRIME TYPE

Domestic Assault and Battery (Misdemeanor)

#1: Brown, Ciara Kaisha

CRIME TYPE: Domestic

LOCATION: 6300 Nb S Highway 169

DATE: 04/16/2024 VICTIM: Brown, Ciara SUSPECT: Dalu, Obiora

On 04/16/2024 at approximately 1908 hours I was radio assigned to a Domestic at the above location. **ORIGIN OF CALL:** Upon arrival contact was made with all parties involved.

VICTIM/PERSON REPORTING:

Ciara stated that her husband Obi Dalu began an altercation with her regarding "not being satisfied" The victim stated that her husband is autistic and he denies his violent tendencies. The victim stated that they are currently dealing with a Domestic assault/battery case back in Arkanses. The victim stated that he became violent because he thinks she is cheating. The victim stated that she told her husband to pull the car over but he refused. Clara stated that he refused to pull over so she attempted to exit by pulling on the door. Ciara stated that the suspect then pulled the vehicle over. The vehicle was parked near the shoulder of highway 169 near the 61st street exit. The victim stated that the suspect then tried to push her out the vehicle into oncoming traffic. The victim stated that at some point she was across the suspect's lap. The victim stated that the suspect was grabbing her by the neck and attempting to throw her outside the vehicle. The victim stated that there were three children inside the car. The victim stated that her stated that her husband told her "this is your fault, and is this what you want?". The victim stated that she fears for her own safety, and the safety of their children. The victim stated that this is the 5th major incident of violence from her husband. The victim stated that she wants him to be helped. The victim stated that she loves but she cant make him step hurting her.

See attached witness statement.

VICTIM CONDITION:

The victim had redness on her chest.

SUSPECT INFORMATION:

Obiora Dalu

Obiora stated that they were on the way back from Oklahoma City where his permanent make up done. Suspect stated that Clara stopped by her moms he some cannable gummies. Suspect stated that after they departed Clare's more driving back to Fayetteville Arkansas. The suspect stated that they were having cheating in their marriage. The suspect stated that he asked his wife about an phone. The suspect stated that his wife has not mentioned who that unknown suspect stated that Clara then tried to open the door and tried to just motion. The suspect stated that he safely pulled the vehicle who the he told his wife that he was calling 911. The suspect stated that this is of a moving vehicle. The suspect stated that she tried to jump out the v Fayetteville. The suspect stated that after he pulled the vehic outside of the car. The suspect stated that he told their child to get back it

IS MILEER

Wheeler, Jaleel Officer

2716





### TULSA POLICE DEPARTMENT NARRATIVE

PAGE 5 OF 8

E TYPE

omestic Assault and Battery (Misdemeanor)

#1: Brown, Ciara Kaisha

REPORTED

2024 2031

stated that his wife then tried to drive off in the vehicle. The suspect stated that his wife then tried grabbing his cell phone. The suspect stated that he had multiple scratches on his head and hands. The suspect stated that he called 911 immediately to record the incident. The suspect stated that his wife has falsely accuses him of domestic violence in the past and they are currently in court for those incidents. The suspect stated that his wife is unstable and diagnosed with bipolar, deplession and she has tried to commit suicide multiple different times.

See attached statement.

CHILDREN PRESENT:

There were three children inside the vehicle during this incident. All three children are listed in the report.

INJURIES:

Both parties appeared to have some injuries. The victim had some redness near her chest area. The suspect had a scratch in his right ear.

There were no arrest made. The victim was given a victim right card. The victim participated in a OFFICER'S NOTES: lethality, the victim screened in. Pictures of the suspect and victim were taken and uploaded to letnainty, the violant suspet went back home to Arkansas. The victim and three children stayed in Tulsa Evidence.com. The suspet went back home to Arkansas. The victim and three children stayed in Tulsa at the victim's mother (Susan Brown) house.

INCIDENT NUMBER

IO NUMBER 2716

DIVISION MVD

BUPERVISOR

Meryhew, Jacob

ID NUMBER

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# TULSA POLICE DEPARTMEN

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