

**IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA**

**CASE NO: 07-0824**

**FEBRUARY 22, 2007**

**DIRECT EXAMINATION OF MR. SMITH BY MR. O'QUINN:**

THE COURT: I knew you might get surprised here and we talked about it. Next witness. Do you any other witnesses?

MR. PIRTLE: Yes, I'm going to call Daniel's father, Mr. Smith.

THE COURT: Over the phone?

MR. PIRTLE: Over the phone from Texas.

MS. BARTH: Objection.

MR. PIRTLE: I'd like to make a proffer first.

THE COURT: I will allow you to proffer it.

MR. PIRTLE: I'll proffer--

THE COURT: Is that your last witness?

MR. PIRTLE: Yes, sir. I'll proffer this proof to you --

THE COURT: I'm going to allow it. You object. I'm going to allow it.

MS. BARTH: Strenuously. Telephonic, no opportunity to cross examine.

THE COURT: How do we know if it's him?

MS. BARTH: I don't know if it's him. I have never met this man. He had no relationship with his son.

THE COURT: Was he here at all during the court proceedings? Was he here.

MR. PIRTLE: No, he wasn't. He's in La Mexia, Texas.

THE COURT: Here is what I'm going to do.

MS. BARTH: He hasn't seen him since he was an infant, Your Honor, an infant.

THE COURT: I'll allow you to call this man. We'll proffer it and then I'll decide whether or not it's admitted into evidence. That handles that. What's the phone number? Go slow, Texas. I want to keep you around.

MR. PIRTLE: Mr. O'Quinn is going to handle this witness.

THE COURT: That is your last witness and that wraps it all up. All the live witnesses. And you're done with your proposed final orders because I'm writing mine.

(Discussion between The Court and the attorneys)

THE COURT: I'm comfortable. I made a ruling.

MR. O'QUINN: You want him on my phone or your phone?

THE COURT: Can we hear him?

MR. O'QUINN: I got him on speaker phone.

THE COURT: State your name for the record.

MS. BARTH: May we approach so we can hear him?

THE COURT: Yes.

MR. O'QUINN: I got you on speaker phone. You may not be able to hear but the Judge just asked you --

THE COURT: Let me call him.

MS. BARTH: Your Honor, how do we even know it's him?  
MR. O'QUINN: It's him.  
MS. BARTH: Because you say so?  
MR. O'QUINN: Billy Smith, Your Honor. His phone is busy. Here he is, Billy Smith.  
MR. SMITH: Hello.  
THE COURT: Billy?  
MR. SMITH: Yes.  
THE COURT: You're in Judge Seidlin's courtroom. How are you doing today?  
MR. SMITH: Pretty good.  
THE COURT: Would you raise your right hand. Madam Clerk.

(Billy Smith is sworn in by the Clerk)

MR. SMITH: Yes.  
THE COURT: Billy?  
MR. SMITH: Yes.  
THE COURT: How do I know you're Billy Smith?  
MR. SMITH: Pardon me?  
THE COURT: How do I know who you are?  
MR. SMITH: Well, I'm Billy Smith, believe me.  
THE COURT: Are you wearing boots today?  
MR. SMITH: I didn't understand you.  
THE COURT: I was just trying to be – take the tension out for a minute. Where do you live in Texas?  
MR. SMITH: La Maxia.  
THE COURT: Are you in your home now or at work?  
MR. SMITH: I'm at home.  
THE COURT: How old are you?  
MR. SMITH: I'm 38.  
THE COURT: What kind of work do you do?  
MR. SMITH: I run a farm.  
THE COURT: What work do you do when you're working it?  
MR. SMITH: Labor.  
THE COURT: A physical laborer?  
MR. SMITH: Yes, sir.  
THE COURT: Times are tough in that spot now?  
MR. SMITH: Not really.  
MR. O'QUINN: How come you're not working today?  
MR. SMITH: I don't know. I don't know.  
THE COURT: They asked you to be available?  
MR. SMITH: Yes.

THE COURT: Now, you object to the identity of the father.  
MS. BARTH: I object to everything, on every possible ground under the sun that he's not here in person.  
THE COURT: I'm with you.

MS. BARTH: No opportunity to cross examine him in person and that he hasn't seen this child since he's been an infant.

THE COURT: That's key, isn't it?

MS. BARTH: And does this go to the issue of exhumation. Because the Court has already said he does not have jurisdiction over that and therefore I object on that basis.

THE COURT: You have your proposed order ready?

MR. MILSTEIN: It's getting ready.

THE COURT: And you, you submitted yours?

MR. O'QUINN: Yes.

THE COURT: You have yours?

MR. RALE: It's going to be walking in any minute.

THE COURT: You have yours?

MS. BROWN: Waling in any minute.

DIRECT EXAMINATION OF MR. SMITH BY MR. O'QUINN:

Q Mr. Smith, may I call you Billy?

A Yes.

Q This is John O'Quinn, sir. Billy, were you ever married to a woman named Anna Nicole Smith?

A Yes, I was. We got married in 1990 - '85. Sorry. '84, April 3<sup>rd</sup>.

THE COURT: What kind of work were you doing in those days?

MR. SMITH: I was a cook at a chicken place.

THE COURT: Is it still in business?

MR. SMITH: Yes.

THE COURT: What's the name of it?

MR. SMITH: Crispy Fried Chicken.

THE COURT: That's what you guys were talking about earlier.

MR. O'QUINN: Billy --

THE COURT: Take you time. Don't be under strain.

MR. O'QUINN: Thank you very much.

QUESTIONS OF MR. SMITH BY MR. O'QUINN:

Q Billy, did you and Anna Nicole have a boy child together.

A Yes, we did.

Q What did you all name that boy child?

A Daniel Wayne Smith.

Q Daniel Wayne Smith; is that correct?

A Yes.

THE COURT: When was the last time you saw him? What year?

MR. SMITH: '88.

THE COURT: What happened? Why haven't you seen him since?

MR. SMITH: Well, she didn't – they got in the movies and stuff and we didn't really communicate.

THE COURT: Did you speak to them over the phone at all from that year forward?

MR. SMITH: I called him.

THE COURT: Did you have a conversation with him?

MR. SMITH: Yes.

THE COURT: How long did it last?

MR. SMITH: About twenty minutes.

THE COURT: Did you or him indicate would physically have contact again?

MR. SMITH: No. No.

THE COURT: Anything else you want to ask him?

MR. O'QUINN: Yes.

THE COURT: You want to ask him the ultimate question?

MR. O'QUINN: Getting right to it.

QUESTIONS OF MR. SMITH BY MR. O'QUINN:

Q Billy, do you know if your boy is presently buried in the country of the Bahamas.

A Yes, I do. I wish that he was buried in Texas.

Q You wish that he was buried in Texas?

THE COURT: Are you prepared to have a court somewhere in this world exhume his body and bring him to Texas?

MR. SMITH: No. No.

THE COURT: So what should I do with his body? If I was a judge who had jurisdiction over that – over this boy's body – what's that?

MR. SMITH: I just wish that they be buried side by side.

THE COURT: The mother and the son?

MR. SMITH: Yes.

QUESTIONS OF MR. SMITH BY MR. O'QUINN:

Q Billy, Billy, you and I talked at the lunch hour, didn't we.

A Pardon me?

Q You and I, John O'Quinn, talked at the lunch hour, didn't we.

A Yes.

Q If you hand the money to do it, didn't you say you'd have your son brought back to Texas?

A Yes.

Q Is that where you'd want him to ultimately be?

MR. RALE: Leading.

THE COURT: All right. We had enough. Thank you, Billy Smith. Thank you.

(Speech by the judge. Renders his decision)



*Transcribed by Cmy*