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| DISTRICT COURT, WELD COUNTY, COLORADO 901 9TH AVENUE, P.O. BOX 2038  GREELEY, COLORADO 80631  TELEPHONE: (970) 475-2400 |  |
| **The People of the State of Colorado**  In the Interest of:  **N&K** Children;  And concerning,  R&D, Respondents,  And concerning,  A&J, Special Respondents. | ▲**COURT USE ONLY▲** |
| **Jennifer L. Hill, #37995**  Attorney at Law  P.O. Box 336486  Greeley, CO 80633  Phone: (970) 324-1200  Email: Jennifer.L.Hill@hotmail.com | Case Numbers:  **2017-JV**  Division: |
| RESPONDENT FATHER’S MOTION TO  FREE EXERCISE OF HIS FIRST AMENDMENT RELIGIOUS FREEDOM | |

Comes now Jennifer L. Hill, the attorney for the Respondent Father, and respectfully requests the Court rescind a prior Order which infringes upon Respondent Father’s First Amendment right to the Free Exercise of Religion. As grounds, Counsel states the following:

FACTUAL BACKGROUND

1. The Court continues to have jurisdiction over the parties and the subject matter.
2. At the Emergency Shelter Hearing held on December 27, 2017, the Court issued a verbal Order that Respondent Father was not to attend church at the same time as the minor Child. The Court further issued a verbal Order that Respondent Father and the Respondent Mother were not allowed to be present in the church at the same time. It was not specified at the time which church(es) were being referenced.

PROHIBITING RESPONDENT FATHER FROM ATTENDING CHURCH, ANY CHURCH, IS A DIRECT VIOLATION OF HIS FIRST AMENDMENT RIGHT TO FREE EXERCISE OF RELIGION

1. The right of all citizens freely to pursue their religious beliefs is guaranteed by the Free Exercise Clause of the First Amendment to the United States Constitution, as applied to the states through the Due Process Clause of the Fourteenth Amendment, and by Colo. Const. art. II, § 4. *In re Marriage of McSoud*, 131 P.3d 1208, 1211 (Colo. App. 2006).
2. The United States Supreme Court “has long held the Free Exercise Clause of the First Amendment an absolute prohibition against governmental regulation of religious beliefs,” *Bob Jones Univ. v. United States*, 461 U.S. 574, 103 S. Ct. 2017, 76 L. Ed. 2d 157 (1983)
3. *(citing Wisconsin v. Yoder,* 406 U.S. 205, 219, (1972); *Sherbert v. Verner,* 374 U.S. 398, 402, (1963); *Cantwell v. Connecticut,* 310 U.S. 296, 303 (1940)). “As interpreted by this Court, moreover, the Free Exercise Clause provides substantial protection for lawful conduct grounded in religious belief.” *Id.*
4. “[T]he Free Exercise Clause … recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state. This the Free Exercise Clause guarantees.” *Sch. Dist. of Abington Twp., Pa. v. Schempp,* 374 U.S. 203, 222, 83 S. Ct. 1560, 1571 (1963).
5. “[N]o showing merely of a rational relationship to some colorable state interest” will suffice to justify an infringement upon an individual’s First Amendment right. *Sherbert v. Verner*, 374 U.S. 398, 406, 83 S. Ct. 1790, 1795 (1963).
6. “’[O]nly the gravest abuses … give occasion for permissible limitation.’” *Id.,* (citing *Thomas v. Collins*, 323 U.S. 516, 530, 65 S.Ct. 315, 323 (19??)).
7. Unless there is a substantial showing that the Child’s best interests can only be furthered by an infringement upon Respondent Father’s religious freedoms, the Court must rescind its prior order.
8. There is no evidence of grave abuse or danger from Respondent Father in the context of attending church services or activities where the Child is or may be in the present case. Neither is it within the authority of the Department of Humans Services or the Guardian ad Litem to dictate when or where Respondent Father can attend church.
9. Respondent Father is actively engaged with his church, which provides him with a strong, extensive support system. He attends Waypoints Faith Community Church and Tower 21 Fellowship on a regular basis throughout the week, and also attends Christ Community Church. He has strong ties with the Pastors and Youth Pastors at both locations, as well as ties with the Youth Pastor at C-3, where the Child used to attend his own separate youth ministry. Prior to the advent of this case, Respondent Father would regularly attend church, church activities, and volunteer activities with the Child.
10. That the Child would come to any harm at the hands of Respondent Father in the environs of any of the churches and affiliated fellowships is purely speculative.
11. With its Oder of December 27, 2017, the Court effectively prohibited Respondent Father from attending many services or activities at any of these places of worship. These services, times of fellowship, and activities were and continue to be a mainstay in Respondent Father’s life and recovery. Not only has the Court cut Respondent Father off from much of his support system, it has potentially hindered his ability to stay on the healthy path he has developed in the past several years to address his mental health.
12. There are sufficient safeguards within any of these places - Waypoints Faith Community Church, the Tower 21 Fellowship, and Christ Community Church – through the presence of parishioners, pastors, and other individuals at church services and events to ensure that the Child is not at risk of any harm.
13. The opportunity to be heard, an inherent element of due process, must be granted at a meaningful time and in a meaningful manner. *In re Marriage of Finer*, 893 P.2d 1381, 1383 (Colo. App. 1995).

Duty to confer: Counsel for Respondent Father emailed the counsel for the Respondent Mother, Guardian ad litem (for both Children) and the County Attorney.

* The County Attorney responded “We don’t object to Respondent Father being at church at the same time as The Child so long as there is no unsupervised contact.”
* GAL #1 responded: “I would be fine with language that says something to the effect that David may attend the church services while The Child is present, or engage in church-related activities with The Child, as agreed to by the Caseworker and GAL.”
* GAL #2 takes no position.
* Counsel for the Respondent Mother takes no position until he has received a copy of the Motion.

WHEREFORE, Respondent Father, respectfully requests the Court rescind its previous Order of December 27, 2017, prohibiting Respondent Father from attending church when the minor Child may be present.

Date: February 23, 2018

Respectfully Submitted,

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

Jennifer L. Hill, #37995

Respondent Parent Counsel

Certificate of service

On February 23, 2018, a true and accurate copy of the foregoing pleading was emailed to:

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| District Court, Weld County, Colorado  901 9th Avenue, PO Box 2038  Greeley, CO 80631  970-475-2400 | 🟂COURT USE ONLY🟂 |
| People of the State of Colorado  In the Interest of:  **N&K,** Children;  And concerning,  R&D, Respondents,  And concerning,  A&J, Special Respondents. |
| Case Number: 2017-JV  Division: |
| ORDER: RESPONDENT FATHER’S MOTION  FREE EXERCISE OF HIS FIRST AMENDMENT RELIGIOUS FREEDOM | |

This matter is before the Court on the Respondent Father’s Motion: Free Exercise of His First Amendment Religions Freedom, and after thorough consideration, the Court finds:

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SO ORDERED on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Weld County District Court