

FILED

Theresa Chang
District Clerk

FEB 19 2008

Time: 36
Harris County, Texas

By _____
Deputy

IN THE INTEREST OF

NIKOLA KAE KACHAR,

A CHILD

NO. 1992-28718

NO. 2007-50084

FILED

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District Clerk

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Harris County, Texas

By _____
Deputy

ORDER

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

257th JUDICIAL DISTRICT

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On this date the Court considered Harris County's Motion to Determine Plaintiff a Vexatious Litigant and Request for Security. After hearing the testimony, reviewing the evidence presented, and hearing arguments, the Court finds as follows:

1. On August 22, 2006, this Court rendered judgment terminating the parental rights of Karen Ann Kachar (Kachar) to the minor child, Nikola Kae Kachar. On December 5, 2006, this Court denied Karen Kachar's *pro se* motion for new trial. On February 27, 2007, this Court entered a Judgment Nunc Pro Tunc.
2. The First Court of Appeals dismissed Kachar's *pro se* appeal from this judgment for want of prosecution on May 25, 2007.
3. On October 17, 2007, the First Court of Appeals issued mandate in trial court cause number 1992-28718, appellate cause number 01-06-1127-CV, making the August 22, 2006 judgment terminating Karen Ann Kachar's parental rights final.
4. On August 22, 2007, Kachar filed a *pro se* document purporting to be a Bill of Review that attacked the August 22, 2006 judgment and then filed a Motion to Modify on December 10, 2007. Kachar filed her Bill of Review under the original case number of 1992-28718, but the case was assigned a new cause number of 2007-50084.
5. On October 31, 2006, Kachar filed a Motion for Contempt for Violations of Mutual Permanent Injunctions and Motion for Sanctions in the 80th District

Court naming 10 individuals and 2 entities in a 12 page pro se complaint alleging conspiracy among the various defendants to deprive Kachar of her rights and “destroy her life”. She repeated this filing on November 14, 2006.

6. On November 20, 2006, Kachar filed a Motion for Contempt and Motion for Sanctions in the 257th court against ten separate individuals, including court personnel and 2 separate entities. She never perfected service on that Motion.
7. On September 17, 2007, Kachar filed a *pro se* petition complaining of Lisa Starkey Sloan and Sloan’s husband, Joseph Marin Stone. This case, trial court cause number 2007-56658, was originally filed in the 189th District Court of Harris County, but on September 24, 2007, the cause was administratively transferred to the 80th District Court. In her petition, Kachar claimed that her causes of action against the Sloans included “1) conspiracy to violate mutual permanent injunction; 2) conspiracy, 3) conspiracy to interfere with child custody, 4) fraud, 5) invasion of privacy, 6) intentional infliction of emotional distress and mental anguish, 7) obstruction of justice, 8) violation of permanent injunction, 9) gross negligence, and 10) malice.” In brief, Kachar’s petition complains that Lisa Starkey Sloan colluded with CPS, the ad litem Terry Elizondo, and the Harris County Attorney, Brian Quintero, to interfere with Kachar’s relationship with her daughter Nikola Kachar. Kachar further claims that Starkey’s custody of her half-sister, Nikola Kachar, was illegal because it violated the terms of a mutual injunction signed in the 80th District Court in August of 1997. The 80th District Court signed an order dismissing the cause for want of prosecution on December 11, 2007.
8. On September 17, 2007, Kachar filed a petition in the 269th District Court of Harris County, trial court cause number 2007-756659, complaining of Stephanie Little and Daniel Winkleman, individuals who had sublet a bedroom to Kachar’s daughter, Kori Kachar in 2005. In her petition, Kachar claimed, among other things, that Little and Winkleman 1) had stolen Kori’s animals; 2) had stolen Nikola’s toys, 3) conspired to interfere with child custody; and 4) violated the

August 1997 Mutual Permanent Injunction entered in trial court cause number 1997-21210. The basis of her claim that the terms of the Mutual Permanent Injunction were violated is that CPS attempted to place Nikola in the care of her older half-sister, Lisa Starkey Sloan. This case is still pending.

KACHAR'S BILL OF REVIEW

Among the many claims set forth in Kachar's pro se Bill of Review are allegations that the August 22, 2006 and February 27, 2007 judgments were rendered as the result of fraud and / or wrongful acts of Child Protective Services (CPS) and the Harris County Attorney's Office.

As a bill of review petitioner, Kachar bears a heavy burden and the grounds on which a bill of review may be granted are narrow and restricted. See *Transworld Fin. Servs. Corp. v. Briscoe*, 722 S.W.2d 407 (Tex. 1987). Before a court may consider setting aside a judgment by bill of review, she must strictly comply with the rules for providing such relief. See *Falsetti v. Lowman*, 405 S.W. 2d 796, 799 (Tex. Civ. App. – Eastland 1966, writ ref'd n.r.e.) To invoke the equitable powers of the court, Kachar's bill of review must allege and present *prima facie* proof: 1) that she has a meritorious claim or defense, 2) that she was prevented from asserting by fraud, accident, or wrongful act of the opposite party or official mistake, and 3) without any fault or negligence of her own. *In re T.R.R.*, 986 S.W.2d 31, 35 (Tex. App. – Corpus Christi, no pet.).

A review of the clerk and reporter's records indicates that, despite her claims to the contrary, Kachar routinely received notice of all hearings before this court. The record also shows that she filed a motion for new trial and appealed the judgment at issue. Accordingly, Kachar cannot claim that she was denied notice of the proceedings that resulted in termination of her parental rights.

Kachar's pleadings contain only bare allegations of fraud, unsupported by any credible evidence. In short, Kachar presents no *prima facie* proof of any fraud and / or wrongful acts on the part of CPS or the Harris County's Attorney's Office, but

merely repeats the same arguments that have been previously litigated in 1992-28718, and raised again, but dismissed for want of prosecution in 2007-56658.

Accordingly, the Court **FINDS**:

1) There is not a reasonable probability that Kachar will prevail in this litigation.

2) Kachar's Bill of Review is an attempt to relitigate the issues that were previously decided against her in trial court cause 1992-28718 when her parental rights were terminated.

3) Kachar's 2007 suits against Lisa Starkey Sloan and Little are in part, attempts to relitigate issues previously decided against her in 1992-28718.

4) Kachar continues to file numerous meritless, harassing pleadings in this case and demands that she be given access to confidential information concerning Nikola Kae Kachar.

5) Kachar's parental rights were terminated in August of 2006 in trial court cause number 1992-28718, and she has no right to access to confidential information concerning Nikola Kae Kachar.

6) In the past, Kachar has used information in the court's files to harass and threaten many of the individuals involved in this case.

7) Permitting Kachar access to such information puts the child and others in jeopardy and risk of harm.

Accordingly, this Court **FINDS** Karen Kachar meets the criteria of a vexatious litigant as set forth in Chapter 11 of the Texas Civil Practice and Remedies Code. See **TEX. CIVIL PRAC. & REM. Code § 11.054(2)**.

The Court, therefore, **ORDERS, ADJUDGES, AND DECREES**, that Karen Kachar, is a vexatious litigant.

Accordingly, the Court Orders Karen Kachar to post a bond in the amount of \$25,000.00 in favor of Harris County if she files or causes to be filed any pleadings or other documents seeking relief from or naming any current or former employees of the Harris County Attorney's Office, the Texas Department of Family and Protective

Services, or the employees of the 257th District Court as a party or a defendant. On or before 4:00 p.m. on March 31, 2008, Kachar is to file evidence (e.g. a receipt) with the clerk of this Court proving that she has posted the ordered security with the Harris County District Clerk.

The Court Further Orders Karen Kachar to post a bond in the amount of \$15,000.00 in favor of Terry Elizondo if she files or cause to be filed any pleadings or other documents seeking relief from or naming Terry Elizondo as a party or defendant. On or before 4:00 p.m. on March 31, 2008, Kachar is to file evidence (e.g. a receipt) with the clerk of this Court proving that she has posted the ordered security with the Harris County District Clerk. See TEX. CIVIL PRAC. & REM. CODE § 11.055.

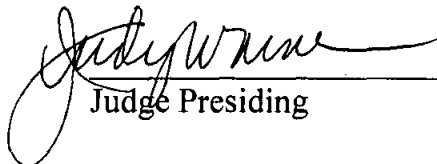
Kachar shall provide this security to assure payment to the defendants of their reasonable expenses incurred in or in connection with this litigation, including costs and attorney's fees. If Kachar fails to furnish the security as ordered by this Court on or before March 31, 2008, the Court shall dismiss cause number 2007-50084. See TEX. CIV. PRAC. & REM. CODE §§ 11.055, 11.056.

The Court **ORDERS** that Karen Kachar shall not have access to the confidential file without a written order from this Court or the local administrative judge authorizing Kachar to have such access.

The Court **FURTHER ORDERS**, Karen Kachar prohibited from filing, in *propria persona*, any new litigation in a court in this state without first seeking permission from the local administrative judge of the court in which she intends to file litigation.

The Court **ORDERS** that copies of this Order be sent to the Harris County District Clerk, the Local Administrative Judge of Harris County, and the Office of Court Administration.

February 19, 2008 (date signed).



Judge Presiding