July 19, 2015

Hello Governor Haley and her Office,

My name is Joanna Paszek, I am 17 years old, moving into my senior year at Hilton Head Preparatory School. I contacted you through email in May about a research paper/report that I wrote for my AP Language and Composition class. The paper includes my research on the topic of child custody decisions within the overall Federal Court System. My position within the paper redirected my focus onto the South Carolina Family Court System. In this report, I outlined my interpretation of the laws regarding the "child's best interest," factor and why it is corrupt. I strongly believe that this topic needs attention and I would appreciate an overlook of my work.

With college approaching, I've been told by my college advisor to go after what I want. I want to change the current court system. My interest in Family Court is just the beginning, and I look forward to pursuing my opportunities once I graduate high school. I hope that you give my paper and position the thought and consideration that it deserves. Thank you for inviting me to send you this, and also for your time!

With kind regards,

Joanna Paszek

Hilton Head Island, SC

Joanna Paszek

AP Language & Composition 4A

Final Draft of Argument

"We Have Your Best Interest at Heart"

We live in a country of law and order. Our court system has shown an increase in family courts cases, especially centered on child custody arrangements between divorced parents. In this system of law and order, there is corruption within the family court in terms of decisions based off of "the child's best interest." Overall, the "child's best interest," is invalid due to lack of definition, irrelevant decision-making, and inefficient policy. Policies and laws are in place for the child's protection, however most cases are situational and flexible. The flexibility of child custody is where loop holes arise, and the child's "best interest," is compromised. Most of the time, being that the children being discussed are under 18, they barely have a voice within the custody process. The only mere representation they are granted is what is called a Guardian Ad Litem, an advocate for the child's safety.

Child custody cases are among the most complex. There are several factors to consider, some of the most substantial being "legal, social, cultural, economic, mental health, and related issues of concern." Each case is unique and requires an extreme amount of time and attention in order to arrive at a trustworthy conclusion. Some cases continue on for the remainder of the child's young adulthood, causing "stress and additional mental problems." Judges are encouraged to "analyze the child's current situation, determine a solution, and make sure the solution will be long-lasting." The court normally uses that element as a basis for decision, but

Joanna Paszek

AP Language & Composition 4A

Final Draft of Argument

"We Have Your Best Interest at Heart"

We live in a country of law and order. Our court system has shown an increase in family courts cases, especially centered on child custody arrangements between divorced parents. In this system of law and order, there is corruption within the family court in terms of decisions based off of "the child's best interest." Overall, the "child's best interest," is invalid due to lack of definition, irrelevant decision-making, and inefficient policy. Policies and laws are in place for the child's protection, however most cases are situational and flexible. The flexibility of child custody is where loop holes arise, and the child's "best interest," is compromised. Most of the time, being that the children being discussed are under 18, they barely have a voice within the custody process. The only mere representation they are granted is what is called a Guardian Ad Litem, an advocate for the child's safety.

Child custody cases are among the most complex. There are several factors to consider, some of the most substantial being "legal, social, cultural, economic, mental health, and related issues of concern." Each case is unique and requires an extreme amount of time and attention in order to arrive at a trustworthy conclusion. Some cases continue on for the remainder of the child's young adulthood, causing "stress and additional mental problems." Judges are encouraged to "analyze the child's current situation, determine a solution, and make sure the solution will be long-lasting." The court normally uses that element as a basis for decision, but

Joanna Paszek

AP Language & Composition 4A

Final Draft of Argument

"We Have Your Best Interest at Heart"

We live in a country of law and order. Our court system has shown an increase in family courts cases, especially centered on child custody arrangements between divorced parents. In this system of law and order, there is corruption within the family court in terms of decisions based off of "the child's best interest." Overall, the "child's best interest," is invalid due to lack of definition, irrelevant decision-making, and inefficient policy. Policies and laws are in place for the child's protection, however most cases are situational and flexible. The flexibility of child custody is where loop holes arise, and the child's "best interest," is compromised. Most of the time, being that the children being discussed are under 18, they barely have a voice within the custody process. The only mere representation they are granted is what is called a Guardian Ad Litem, an advocate for the child's safety.

Child custody cases are among the most complex. There are several factors to consider, some of the most substantial being "legal, social, cultural, economic, mental health, and related issues of concern." Each case is unique and requires an extreme amount of time and attention in order to arrive at a trustworthy conclusion. Some cases continue on for the remainder of the child's young adulthood, causing "stress and additional mental problems." Judges are encouraged to "analyze the child's current situation, determine a solution, and make sure the solution will be long-lasting." The court normally uses that element as a basis for decision, but

each factor isn't always looked into as carefully as it should be. It is only in complex cases when each element of a child's life is truly picked apart, validating and substantiating the argument.

"In determining the best interest of the child, the court must consider the child's reasonable preference for custody. The court shall place weight upon the preference based upon the child's age, experience, maturity, judgement, and ability to express a preference," is the South Carolina provision in the chapter of Child Custody and Visitation, in the section regarding "Child's preference." This is the only evident statement of this nature, and is full of loopholes. Stated in various additional statutes, the South Carolina court rarely looks at child preference under the age of 12. The factors associated with determining "maturity, judgement," are not outlined, therefore subject to bias by each party in each case.

Hypothetically, a young female, 8 years old, has lived in primary custody with her mother since her parent's divorce at 3 years old. She has always been attached to her father, and has had substantial negative emotions towards returning home to her mother after each visit. The 8 year old has told her father of these feelings, and he decided to consult a longtime friend who is a lawyer. The lawyer, who personally advocates for the daughter, quickly dismisses the father and daughter's request, under the reasoning that "the court will never consider an 8 year old's opinion." The child remained partial to her father until she was 12, and then again waited until 14 for the court to appoint a Guardian Ad Litem. By this time, emotional damage and abuse was inflicted on the child by her mother, which could have been prevented 6 years prior.

The "maturity," aspect of the provision has good intentions, however should be carefully determined by interview of the child immediately after a custody change is first addressed by the

child. It is argued that biologically, children cannot make "sound decisions," until they are twenty plus years old. Sometimes despite age, "natural instinct has shown early concern regarding a child's home environment." The "12 year old," requirement is immature in itself and should be revised, changed to analyze requests at any age. Better yet, a Guardian ad Litem should be appointed to serve as a bridge between the child, and the decision to validate the request for custody change. The GAL is already a "bridge between the child and court," however this new extra step would eliminate wasted time and provide quicker feedback.

Previous to 2008, the South Carolina Custody laws included a clause, the "Tender Years Doctrine." This Doctrine explained the courts preference for awarding a mother custody of a child of "tender years." The mother was essentially immediately granted custody upon divorce. Minimal factors were analyzed, and the decision resided in the fact of the mother being child bearing as appose to the father. The current policy now calls for "analysis of both parents, including parent skills and mental health." Despite analysis being the underlying determination of facts and opinions, the court's analysis skills have proven to be lacking. Analysis is about detail, and it seems that the detail is more than often overlooked.

A case was presented in Ohio regarding a 3 year old named Grayson. After his third birthday, the Ohio courts granted Grayson's biological father custody. Grayson had no prior relations other than a phone call with his father, and had lived with his mother entirely up until that point. It is unknown why the child was ripped from his mother so suddenly. Being separated from his lifelong guardian in itself serves as ground to question the decision. It was later discovered that the Court denied approval of the GAL to repeal custody, essentially disregarding

her expertise that they originally requested. Also, a background search was never performed on the father, which would have reveal his several encounters with the law. If done correctly, the father would've been deemed dangerous to his child, and custody would've never been altered. This case proves clear neglect of the court to perform necessary steps in the process of hearings. In order to carry out a proper investigation, mandatory precedents need to be established in a solidly sealed form.

In order to create a very strong case on behalf of the child, there are several layers beyond just having a GAL. Expert, educated opinions must be arrived upon by professionals. A forensic child custody evaluation is the perfect piece to the puzzle. Conducted by a forensic psychologist, the practitioner's goal is to "uncover the true intentions of each member of the party involved." A successful evaluation contains several steps and typically lasts a long time. Currently, the family court approaches situations in a way that prolongs the already long process. There is so much unnecessary time wasted. Especially in the forensic component, time is of the essence and should be cut as efficiently as possible. It would make more sense to start treating every case the same in terms of initial approach. As of now, forensic evaluation is towards the end of a case only when necessary, whereas it should be at the beginning of every case along with appointing a GAL.

The several steps of forensic evaluation include "life history, psychological testing, assessing academic achievement, objective personality tests, projective personality tests, parenting assessment tasks, language preferences, interviewing children, and completing a summary/recommendation based off of the findings." Obviously, the process is strenuous and extremely detail oriented. The psychologist is literally determined to find out exactly who

everyone is, and gain insight as to what is occurring at home for a child. Their role is easily up in the ranks with, if not more important than, the GAL. These two voices are the only ones that the child has, as children are not allowed to step foot in the courtroom themselves. It is vital for each professional to be introduced to the case from the initial custody change request, and have both follow the child throughout the remainder of the case.

There is a huge gap of time wasted which can easily be fixed. Most cases begin with a "request for custody change, followed by an initial hearing with a judge." Mediation between the parties of both parents occurs to arrive at some form of agreement. Then the judge decides upon a "temporary," custody arrangement for the child during the time of the case, which proves unhelpful if the child is put into an uncomfortable situation. "A GAL is then appointed, who gets the background of the case and an overall summary of the child's life. The GAL then goes back to the judge and explains the best interests of the child. Next, the judge appoints the forensic psychologist," because he wants to substantiate the opinion of the GAL even though that is the opinion he requested.

If there is so much leeway time in between presenting and closing the case, why not combine it all? It is better to introduce the GAL and forensic psychologist earlier on, so that they can follow the child's mental and emotional states throughout the case, to determine the right decision in the end of it all. If the court truly wants to achieve the child's "best interests," then they need to make the case about the child. Spending time in court trying to see if divorced parents will ever agree is a waste of precious time, and only adds to the child's messy situation.

To anyone that says the court truly cares about the child, take a look at the current structure of family court. Loopholes need to be sealed and children's voices need to be relevant.

Works Cited

"Code of Laws - Title 63 - Chapter 15 - Child Custody And Visitation." Code of Laws - Title 63 - Chapter 15 - Child Custody And Visitation. SC State House, n.d. Web. 20 May 2015.

Edition, Second. "A Judge's Guide to Making Child Centered Decisions in Custody." A Judge's Guide (n.d.): n. pag. American Bar Association. Web.

"Law Trends & News." Essentials of a Forensic Child Custody Evaluation. American Bar Association, n.d. Web. 20 May 2015.

"Grayson Vaughn: A Case of Child's Best Interest Gone Wrong." *Psychology Today*. Psychology Today, n.d. Web. 20 May 2015.