

DIAMOND RAYMOND

NO. 25-C-498

VERSUS

FIFTH CIRCUIT

KERRY T. RAYMOND

COURT OF APPEAL

STATE OF LOUISIANA

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE FORTIETH
JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 82,232, DIVISION "A"
HONORABLE VERCELL FIFFIE, JUDGE PRESIDING

October 24, 2025

STEPHEN J. WINDHORST
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Stephen J. Windhorst, and Scott U. Schlegel

WRIT GRANTED

SJW

FHW

SUS

COUNSEL FOR PLAINTIFF/RELATOR,
DIAMOND RAYMOND

Rebecca A. Gilson

Justin P. LaFleur

COUNSEL FOR DEFENDANT/RESPONDENT,
KERRY RAYMOND

Charles Ayles

WINDHORST, J.

Relator, Diamond Raymond, seeks review of the trial court's October 14, 2025 *ex parte* order granting Kerry T. Raymond temporary care, custody, and control of the parties' minor child, Londyn S. Raymond. For the reasons stated below, we grant this writ and vacate the trial court's October 14, 2025 order.

BACKGROUND

The parties' have two minor children, Kerry Raymond, Jr. and Londyn. On October 13, 2025, Mr. Raymond filed a motion for modification of custody and enforcement of right of first refusal relative to Ms. Raymond's custody of Londyn. According to the motion, a February 2025 stipulated judgment establishes a split custody agreement for the minor children with Kerry residing exclusively with Mr. Raymond and Londyn residing exclusively with Ms. Raymond.¹ When one parent is unavailable, the other parent has the right of first refusal. A copy of the stipulated judgment was not attached to Mr. Raymond's motion or the writ application.

In the motion, Mr. Raymond stated that Ms. Raymond mentioned in open court that she is having major surgery on November 3, 2025 and will be unable to leave the home or lift more than 20 pounds for eight weeks. Mr. Raymond claimed this will create inconveniences for the minor child, who has a very active schedule. Based on this and his right of first refusal, Mr. Raymond sought temporary, care, custody, and control of Londyn. Mr. Raymond's counsel attached and signed a certificate of service dated October 13, 2025, representing that a copy of the motion was emailed to Ms. Raymond's counsel.

On October 14, 2025, the trial court signed an *ex parte* order granting the motion for modification of custody. The order states "the visitation/custodial rights of Diamond Raymond effected by this order shall be reviewed on November 25, 2025

¹ Pursuant to a May 2, 2025 modification, the children may visit with the parent with whom they do not reside upon request. In addition, when school is not in session, the parents alternate weekends.

at 9:00 A.M., after the initial 8 weeks of her incapacitation or until such date as determined by this court to show cause why Mr. Raymond should not continue to have temporary custody of the child.”

On October 17, 2025, Ms. Raymond filed this writ application, seeking review of the trial court’s October 14, 2025 order, alleging the issuance of the order did not comply with La. C.C.P. art. 3945.

LAW and ANALYSIS

La. C.C.P. art. 3945 B, C, and D mandate the fulfillment of several specific requirements which must be satisfied before a court may render an *ex parte* order or judgment setting or modifying temporary custody and/or visitation of a minor child.

La. C.C.P. art. 3945 B provides:

B. An *ex parte* order of temporary custody of a minor child shall not be granted unless:

(1) It clearly appears from specific facts shown by a verified petition or by supporting affidavit that immediate and irreparable injury will result to the child before the adverse party or his attorney can be heard in opposition.

(2) The applicant's attorney certifies to the court, in writing, either:

(a) The efforts which have been made to give the adverse party reasonable notice of the date and time such order is being presented to the court.

(b) The reasons supporting his claim that notice should not be required.

Further, a rule to show cause why the respondent should not be awarded the custody, joint custody, or visitation of the child shall be assigned for hearing not more than thirty days after signing of an *ex parte* order of temporary custody. La. C.C.P. art. 3945 D. Any *ex parte* order not in compliance with the provisions of Article 3945 is not enforceable, and is null and void. La. C.C.P. art. 3945 E.

Actions brought under La. C.C.P. art. 3945 typically involve allegations of abuse, addiction, mental health disorders, or neglect, which often necessitate expert testimony to assist the trial court in determining the best interest of the minor children. Fontenot v. Fontenot, 24-215 (La. App. 3 Cir. 12/11/24), 404 So.3d 42, 46, writ granted in part, denied in part, 25-48 (La. 2/25/25), 401 So.3d 650.

The provisions of La. C.C.P. art. 3945 B, C, and D are each mandatory, and all requirements listed therein must be strictly followed in order to obtain a valid and legally enforceable *ex parte* order of custody, whether the order is standing alone or within a judgment also dealing with other matters. Upon review of the writ application and exhibits, we find several of the La. C.C.P. art. 3945 requirements for issuance of an *ex parte* order of temporary custody are not satisfied.

First, Mr. Raymond did not show by a verified petition or by supporting affidavit that immediate and irreparable injury will result to the child before the adverse party or his attorney can be heard in opposition. Mr. Raymond did not attach a verified petition or affidavit stating facts that support a finding that immediate and irreparable injury will result to the child. Nor are there allegations in the motion which suggest irreparable injury. Because the referenced surgery is not scheduled to occur until November 3, 2025, Mr. Raymond has also not shown there was no time for the court to consider an opposition from Ms. Raymond. In addition, despite the certificate of service attached to the motion, according to Ms. Raymond's counsel, she did not receive notice of the motion until after the order was signed.

Second, Mr. Raymond failed to satisfy either of the requirements of La. C.C.P. art. 3945 B (2)(a) or (b) in that he did not state what efforts were made to give Ms. Raymond reasonable notice of the date and time his proposed order would be presented to the court, or reasons supporting his claim that notice should not be required. The certificate of service attached to the motion is wholly insufficient to satisfy La. C.C.P. art. 3945 B. To satisfy this requirement, the mover must reasonably inform the adverse party *in advance* of the date and time the mover intends to present the proposed order of temporary custody to the court. Ms. Raymond claims she did not receive any notice of the motion until after the order was signed. Although the certificate states that the motion and proposed order were e-mailed to opposing counsel the day before, it does not state the time. Even if Ms. Raymond received

the motion the day before the order was signed, we cannot say under these circumstances that one day constitutes reasonable notice of the motion to modify custody by *ex parte* order.

Third, the *ex parte* order does not provide for its expiration within thirty or fewer days, as provided in La. C.C.P. art. 3945 C, nor does it set a hearing within thirty days after the signing of the *ex parte* order of temporary custody, as required by La. C.C.P. art. 3945 D. The October 14, 2025 order set the hearing for November 25, 2025, more than thirty days after the date of the signing of the *ex parte* order.

A motion for an *ex parte* order granting or modifying temporary custody or visitation, and any *ex parte* order granting or modifying custody or visitation, must comply with all requirements of La. C.C.P. art. 3945 B, C, and D. Failure to comply with each renders such an order null, void, and unenforceable. La. C.C.P. art. 3945 E. The motion and order in this case failed to comply with all of those provisions and is therefore null, void, and unenforceable.

DECREE

Considering that the October 14, 2025 *ex parte* order fails to comply with the requirements of La. C.C.P. art 3945, we find the order to be null, void, and unenforceable. Accordingly, we grant this writ and vacate the trial court's October 14, 2025 *ex parte* order granting Mr. Raymond temporary custody.

WRIT GRANTED

JUDGES



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