

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA IN RE:

THE FORMER MARRIAGE OF:

BRIAN C. BOONE,

Petitioner,

CASE NO 017-DR-16600-C Div-31

And

SARAH K. BOONE,

Respondent.

RESPONDENT'S WRITTEN CLOSING ARGUMENT

Respondent Sarah K Boone and in her best representation and efforts submits her closing arguments in opposition of the Petitioners parenting plan, amended and support orders and all other requests the petitioner is attempting.

Opposition states as follows,

To begin, the Respondent would like to address the section of alimony and the Petitioners motion for Modification of Alimony ( filed April 12 2022).. Respectfully, before this honorable Court considers this request, the Respondent asks that judicial notice be taken of her pending motion for contempt, filed (April 11 2023) against the petitioner, whom has willfully failed to comply with court ordered alimony obligations by neglecting to pay ordered alimony to the Respondent prior to filing this petition to modify.

Under Florida law, alimony obligations are court-enforceable and cannot be ignored without consequence. Section 61.08, Florida Statutes, governs the award of alimony, and when such an

obligation is established, the paying spouse must comply absent modification by the Court. Further, Section 61.14, Florida Statutes, explicitly allows for enforcement actions and contempt proceedings when alimony remains unpaid. Florida courts have consistently held that failure to pay court-ordered alimony constitutes grounds for contempt, as these obligations are not optional they are legally binding.

It is important to take note, that the former husband, Brian C Boone, was employed full time during the entire two (2) years that he did meet the requirements of his court ordered alimony payments. The Petitioner cannot, in good faith, request a downward modification while simultaneously standing in violation of the very court order they now seek to alter. Equity demands that one must come before this Court with clean hands, and the Petitioner's noncompliance bars them from the relief they request until such arrears are addressed.

In the second portion of the Petitioner's request he asks this court to impute income to the Respondent for purposes of calculating child support obligations, respectively this is improper to do under both Florida law and authority from other jurisdictions. This issue has been addressed in *Department of Revenue v. Llamas*, 196 So. 3d 1267 (Fla. 1st DCA 2016), where the court held that trial courts cannot impute income to an incarcerated individual absent a showing of the ability to pay. The *Llamas* decision aligns with persuasive authority such as *Lambert v. Lambert*, 861 N.E.2d 1176, 1180 (Ind. 2007), where the Indiana Supreme Court concluded that imputing income to an incarcerated individual is improper because such individuals lack the present ability to earn income.

The Respondent in this case is serving a life sentence. There is no evidence of present or future ability to generate income. Florida law on child support recognizes that obligations must be based on actual ability to pay, not speculative or nonexistent income. To impute income here would not only contradict established law, it would create an artificial support order that the Respondent has no capacity to ever be able to fulfill.

With respect to the nature and purpose of child support, it is important to emphasize that child support exists for the best interest of the child, not as a punitive measure against the parent. Section 61.30, Florida Statutes, establishes the child support guidelines and sets forth that child support is always designed to meet the needs of the minor child. The Florida Supreme Court has repeatedly underscored that the focus of child support orders must remain on the child's welfare, not on creating financial leverage between parents.

The Petitioner further requests that if the Respondent is awarded any monetary relief, such relief should be retroactively offset against alleged back child support obligations. Respectfully, this position is legally and equitably unsound. To allow such an offset would defeat the entire purpose of child support. Child support is a vested right belonging to the child -not the parent- and Florida courts have long held that these rights cannot be waived, bargained away, or retroactively manipulated to serve the financial interests of one parent over the child.

Your Honor, even if this Court were to accept the Petitioner's request to impute income to the Respondent and allow any relief owed to her to be offset against alleged arrears, the outcome would still provide no monetary support to the minor child. Instead of benefiting the child as

Florida law requires-the result would simply "call it even," erasing the Petitioner's arrears while simultaneously depriving the Respondent of funds she is legally entitled to receive. In effect, this approach would punish her for the Petitioner's past noncompliance and reward the Petitioner by relieving him of obligations already legally established under Florida law.

The controlling principle is clear: child support exists for the benefit of the child, not as a financial tool for either parent. To permit such an offset would shift the focus away from the child's welfare and toward the Petitioner's personal gain, undermining both the purpose of child support and the equitable enforcement of court orders.

For these reasons, the Respondent respectfully requests that this honorable Court deny the Petitioner's Motion for Modification of Alimony, deny the request to impute income, and deny this request to retroactively offset any potential relief against alleged child support obligations.

The Petitioner's parenting plan suggestion's the Respondent in opposition requests the follow's.

Respondent does not agree with the Petitioner's Amended Parenting Plan due to it not being in the best interests of the child.. The Respondent is avidly seeking to be included in her son's life in every aspect possible, and in accordance with Florida law, Respondent should not automatically have her inclusion as a parent to continue to raise, contact, and participate in his life, removed, deterred, or reduced due to incarceration. Location differences do not suffice exclusion, nor does one unfortunate event define her as a human being and Mother to her son.

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Hunter v. Hunter, 540 So. 2d 235 (Fla, 3d DCA 1989) states the court ruled that shared parental responsibility must be honored unless proven harmful to the child. The Respondent is emphatically asking for this responsibility to utilize in her greatest capacities currently available, regardless of location differences, which she can fully be successful in and continue to enrich her son's life even more, ceaselessly upholding his rights as a child even while at DOC, and in which he avidly invites and welcomes everyday she is in communication with him.

Florida Statute 61.13 affirms both parents have equal rights to participate in their child's life unless clear and convincing evidence proves harm to the child. The primary reason for the request of a Guardian ad Litem the Respondent was repeatedly denied to emphatically prove there is no such evidence. The child also could have reaffirmed his praise for their relationship which he knows will grow to another positive level once applications for his visitation are finally received where both Mother and son can be reunited in person.

For major decisions in the child's life, the Respondent should be included in his growth as a young adult which can help shape him into being even greater, more open minded, loving, and successful. In Lamb v. Lamb, 418 So. 2d 1113 (Fla. 1st DCA 1982), both parents must be consulted on major decisions unless an emergency arises.

The Respondent's mind, heart, soul and overall being which lives for her son, still computes love, understanding, compassion, knowledge, wisdom, goodness to provide to her son's life, no matter where she is. She desperately wants to be included and has not been since her incarceration, where withholding of such redeeming qualities to their son from the Respondent have been due to Petitioner's ongoing decision to alienate her.

**-additional page according to Nicole (via [Classified Crime](#) )-**

Per the Petitioner's Amended Parenting Plan, "The Father shall maintain open access and contact between the minor child and the Mother and to foster a feeling of affection between the minor child and the Mother."

The child will be a legal adult in only three (3) years and Respondent questions why Petitioner would attempt now to deplete the communication and comfort already established and the relationship between Mother and son. This would not, and is not in the best interest of the child. What the Respondent is proposing will deepen the relationship and truly foster feelings of affection.

One 30 minute phone call per week will not achieve their proposed "feeling of affection," nor "the Father ensuring one monthly visit" if football games don't take priority he stated in trial.

In continued elevation of the relationship with her son and in his best interests, and in accordance with *Perez v. Perez*, 769 So. 2d 389 (Fla. 3d DCA 2000), stating restriction on parenting time must serve the child's best interests, not the parent's convenience or preference, Respondent requests this Honourable Court to order:

a. Respondent to be included in all aspects, including major decisions (unless emergency), proposed vacations, appointments, meetings, everything pertaining to her son's life so she is aware what his status is overall and continually.

Petitioner to communicate and cooperate properly and regularly with Respondent via telephone and tablet messages to have any questions answered or concerns addressed about her son, or to update Petitioner about changes in her life they both need to be made aware of.

b. Regular open communication and telephone calls between Mother and son (answered upon child's availability and desire).

c. Regular open communication between Mother and son in tablet messages (with credits to utilise features to send pictures and as an alternative to telephone calls).

d. In-person visits 1-2 times per month with maximum allowable time permitted by the facility.

e. Petitioner to complete a co-parenting class and attend counselling of his choice focused on parental alienation and communication strategies to promote a positive future as parents to their son, and in his best interests.

Lastly the Respondent wishes to address the Petitioners request for Attorneys fees and for the fees to be retroactively offset against his alimony arrears.

The Respondent respectfully requests that this Court deny the Petitioner's Motion for Attorney's Fees. Under *Rosen v. Rosen*, 696 So. 2d 697 (Fla. 1997), the Court must consider not only the parties' relative financial resources but also the scope and history of the litigation, including whether one party's actions unnecessarily prolonged or

complicated proceedings. Here, the Petitioner has wilfully failed to comply with prior court-ordered obligations and has initiated this action despite being in contempt of court. As held in *Canakaris v. Canakaris*, 382 So. 2d 1197 (Fla. 1980), fee awards are intended to ensure equity

**-end of missing portion-**

between parties, not to reward a party acting in bad faith. The Respondent additionally asks this Court to strike or dismiss the Petitioner's request as nothing more than another improper attempt to evade his obligation to pay longstanding alimony arrears.

Further more The Petitioner has alleged that the Respondent, is the party who has "caused chaos" and delayed these proceedings. Respectfully, this assertion is contradicted by the record. On April 18, 2023, it was the Petitioner himself who filed a Motion for Continuance, despite the fact that the Respondent was prepared to have all pending motions heard more than two and a half years ago. The Respondent firmly rejects the Petitioner's baseless allegations that she is the cause of delay. Moreover, the choice to retain private counsel is just that a choice. This is a civil matter, and no party is compelled to hire an attorney; thus, the Petitioner's voluntary decision to incur legal fees should not be shifted onto the Respondent, particularly when he is already delinquent in meeting his court-ordered support obligations. To award fees in this context would effectively reward the Petitioner for noncompliance and penalise the Respondent, an outcome that is wholly inconsistent with principles of equity and fairness under Florida law.

The Respondent wishes to remind the court that the Petitioner alleges to have paid for a storage unit for two years, but has failed to provide any evidence of this, therefore his request to have this deducted from any monetary relief I may be awarded should be dismissed.

For all foregoing reasons the Respondent Sarah K Boone respectfully requests this the court  
a Find the Petitioner in civil contempt for violating the court ordered payments he was ordered to pay while he was employed and order the Petitioner to pay \$26,000 in alimony and \$2314 in interest payable under Florida law.

b Deny the Petitioners request that he " calls even " that imputes an income to the respondent for child support,

c Deny the Petitioners proposed parenting plan and grant the respondents in place of.

Respectfully submitted on this 2nd day of September, 2025, and in all gratitude of this Honorable Court's patience,,

SARAH K. BOONE

Pro Se Respondent