

No. 69757-9

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the Custody of:

Adyn Vonnaklee Xaykosy-Martin, Tayien Martin-Xaykosy,
Children,

JERRI LYNN MARTIN,
Respondent,

PHET XAYKOSY,
Appellant,

and

ADAM MARTIN
Respondent,

TAE SAVON XAYKOSY,
Respondent.

APPEAL FROM THE SUPERIOR COURT
FOR KING COUNTY
THE HONORABLE JEFFREY RAMSDELL

BRIEF OF RESPONDENT ADAM MARTIN

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COURT OF APPEALS, DIVISION I
STATE OF WASHINGTON
ll

By: Adam Martin
Pro Se

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I. INTRODUCTION

My name is Adam Martin and I am the “**father**” of Adyn (5/23/2007) and Tayien (12/24/2008). I live with my mother, Jerri L Martin who currently has custody of my sons. This is my response to the appeal filed by Phet Xaykosy in regards to her request for visitation of Adyn and Tayien.

STATEMENT OF THE CASE

Phet Xaykosy is the mother Tae Xaykosy. Tae abused me throughout our marriage of approximately 6 years as well as her mother, Phet Xaykosy (EX 27 at 4,5). Phet Xaykosy would participate in this abuse by making sure I did exactly what my wife wanted and during the time that my wife was in jail before her trial for stabbing me on August 13, 2011, Phet would not let me take my sons anywhere to protect them or myself. So I decided that I had to stay in the residence which cost me the custody of my sons to my mother.

Per Phet Xaykosy’s response, she stated that I was “forced by my mother to move to her home”. This statement is **INCORRECT** and **FALSE**. I moved out of the Seattle home in mid-May, 2012 after my car was totaled by a drunk driver (EX 26 at 12). I had no transportation to and from work and I had to find someone to pick me up every day. When I was getting a ride from my co-worker, I had them meet me at a

designated place away from my home so I was not followed by my step-daughter and her friends.

After a couple weeks of this, I asked my mother if she would let me use one of her vehicles so I could try to find a place to live. My mom had offered me a place to live but I did not want to move in with her. She told me that I could use one of her vehicles but that I could **NOT** take it to Seattle, and if I did, she would take it back and I would then be back to getting rides. I could not afford a new car. I had one vehicle repossessed from me shortly before that and now my other car, the one that my mom paid off for me over the last few years, was now totaled because of a drunk driver who slammed into it. So I borrowed the vehicle from my mom and never went back to the Seattle house, not even to get my belongings.

When I moved from Seattle, I did not tell the Xaykosy's where I went. I had my phone number changed so they could not contact me. I stayed with various friends until I could find an apartment to move into. In July, I moved into an apartment with the help of my mom (EX 26 at 3,4). I stayed in that apartment until September 2012 when I decided that I could not afford this apartment. I then took my mom up on her offer and I moved into her home the end of September, 2012.

Prior to moving in, I talked to Mary Erickson, G.A.L. and she agreed that this would be good for my sons for me to be closer to them.

Phet's claim that I was forced to move in with my mother IS JUST NOT TRUE.

After I moved away from Seattle, and I had time to feel the pressures go away from all the stress created by the Xaykosy's, I began to realize what the truth was and what was happening to me. I realized that I was possibly suffering from conditions caused by the abuse (EX 26 at 12). I talked to co-workers and to Adyn and Tayien's counselor. It was suggested that I may have been suffering from a condition called PTSD. After reading up on this, it was apparent that the way I had been treated over the last 6 years was something that I needed help with (EX 26 at 12).

I have been seeing two counselors, one at work and one for a neuro-psychological evaluation that I was required to take during the custody trial (EX 27 at 7). Phet Xaykosy tried to play up in the trial that I was "mentally crazy" but **I am not mentally crazy.**

During the six (6) years that I lived with the Xaykosy family, I was verbally and physically abused consistently. My wife and Phet used many techniques to get me to do what they wanted me to do, including brainwashing me. I was not allowed to see or talk to my mother or any of my friends. I know now that this was because they needed to control me. If my mother or friends were allowed to be near me, they may have been able to convince me to leave, and Tae and Phet did not want that to

happen. Both Tae and Phet are big gamblers and they drink a lot. My paychecks were too important to them to let me be convinced to go elsewhere.

My oldest son, Adyn has also endured some of this same type of abuse from my wife and Phet over his short life because he grew very close to my mother, Jerri. He **WAS** allowed to spend time with my mother, which was not often, but when he returned home, Tae and Phet would drill him over and over on what was said; what he and grandma did and they would convince him to dislike my mother.

It was heart-breaking to watch my son go through this mental stress but I was not allowed to stop it. The only thing I could do was to try to be there for him and to let him know how much I loved him. My son, Adyn and I are very close and my wife hated the fact that he loved me, possibly more than he loved her. I was not allowed a lot of time to bond with my youngest son Tayien, but now that I am living with my mother and my sons, Tayien and I are inseparable. Both my boys know how much I love them and how much I will protect them, now that I am not under the influence of the Xaykosy family.

I do not want my sons to be in this environment with Phet Xaykosy. When Phet was allowed unsupervised visits with my sons in 2012, she convinced my son Adyn that he was not to eat the food my mother made for them and that Adyn and Tayien did not have to listen to

my mother. They always talk to Adyn first because he is the oldest and they know he is the most impressionable one.

This information became available to me after I had moved out of the Xaykosy house in May, 2012 and when I had just rented an apartment of my own. After I got moved into my own apartment, my sons were over one day and Adyn said something to my mom in the car but he would not tell her the whole information, instead he said he wanted to tell his daddy. She told me that Adyn wanted to tell me something but did not want her near when he did. She left the vicinity so we could talk. (EX 27 at 3)

Adyn was scared to tell me but I told him that he would not get into trouble telling me anything he wanted to say. He then began to tell me about what Grandma Tau (this is what the children call Phet) had told him during his visits with her and that they were not supposed to eat the food that Grandma Jerri made. He said that Tau told them that they did not have to listen to Jerri and that they would be coming to live with her in a short while. They also told the boys that they were not to be talking to the counselor and they were not supposed to tell her anything.

This information was disturbing to me but not surprising because it felt like what I had been through. I immediately called Mary Erickson, the Guardian ad Litem to report what Adyn had told me. She informed me that she needed this information from Adyn and Tayien's counselor and

asked me if I could set up an appointment with Jo Jordan, their counselor, and see if Adyn would talk to Jo with me present in the room.

I was able to go to the scheduled counseling session with Adyn and Tayien. (EX 27 at 2) Adyn did open up to Jo Jordan and he told her what was happening to him and Tayien. It was hard for Jo to understand what Tayien was actually saying because at that time his speech was not good but Adyn was able to speak about what happened at their visits with Phet.

Jo Jordan then reported this information to Mary Erickson, the Guardian ad Litem, and it was Mary that stopped the unsupervised visits between Phet and the boys, and she required them to go back to supervised visits. Originally, the court had ordered that my mother pay for all these visits at the rate of \$300 per week but when the visits were re-instated back to Supervised in August, 2012, Phet was required to pay for them. When Phet had to pay for these visits, she never exercised her rights. She also had weekly telephonic visits available to her but she rarely exercised those either.

Phet Xaykosy is very deceiving (EX 26 at 12). She leads people to believe that she has no money. However, she owns a cleaning business where she cleans Red Robin restaurants and an office building in Tukwila. I know this because I have worked for her many times from 2006 to 2012 (EX 26 at 6). The money she makes is direct deposited into

her granddaughters account and then she uses it from there. This way she does not have to show that "she" has any income. She can bring in anywhere from \$8-10K a month.

She also owned and operated a store that sold miscellaneous items when she lived on S. Eddy Street until she moved from there around 2010 or 2011. She had the business in her daughter's name so she did not have to claim the income. But all the money generated from both of these businesses went to Phet, while at the same time; she would continue to collect Food Stamps from the Washington DSHS program. She still continues to collect Food Stamps and she still has the cleaning business, something that her family all stated in their declarations for the Custody Case.

Instead of using her food stamps, she would sell them to various people. Before Tae was put in jail for stabbing me in August 2011, Phet would sell her Food stamps to us. She would then take the money and go to the casinos and gamble. Phet is a big gambler and a heavy drinker and she gets crazy when she is drunk. It is not uncommon for her to call people in the middle of the night when she is drinking. She will use Thek, her 13 old granddaughter, , whom she takes care of to make these calls for her because Thek can speak English and Phet tries not to speak it. Phet knows English and she understands it, but she does not speak it well, while convincing people that she does not understand. Phet would

get Thek up in the late hours when she should be sleeping to make the calls for her, sometimes they were calls to the police.

It is not uncommon for Phet to call the Police on anyone (EX 26 at 3) . She and Tae would constantly be in an argument when one or the other was drinking (usually in front of the children) and she would call the Police on Tae. Prior to the Custody Case, Phet has even called my mother, Jerri Martin in the middle of the night asking her to call the Police on Tae for her. My mother would refuse and not answer the phone after the first time. I understand that she called Jerri in the middle of the night one time after the Custody Case started, sometime summer, 2012.

It is these behaviors that my sons do not need to be around. Adyn gets torn between Phet and Jerri. When he goes to visit Phet, she will put him up against Jerri, whom he loves very much. When Phet is telling Adyn not to eat or not to listen to Jerri, it bothers Adyn. When he was having unsupervised visits in 2012 with Phet, Adyn would have night terrors for a couple nights after he came back home. It is unfair for these boys to be subjected to these unfair requests and not right for them to go through what I have experienced over the last 6 years.

CONCLUSION

I, Adam Martin, respondent, respectfully request that this court:

1. Please, **DO NOT** reverse the trial court's finding and please, **DO NOT** allow Phet Xaykosy to have visitations with Adyn and Tayien. If you were to allow Phet to have visitations with Adyn and Tayien, when Tae is released from prison, she will not have to follow the court orders of supervised visits with the boys.
2. Please, **DO NOT** ask the trial court to have a residential schedule crafted for Phet Xaykosy and do not allow residential time between her and Adyn and Tayien. Per the report of Mary Erickson, G.A.L., "residential time" with the boys and Phet was **NOT** recommended.

Dated this 11th day of July, 2013.

By: 
Adam Martin
Pro Se

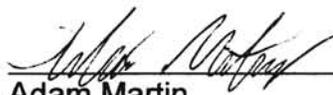
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on July 12, 2013, I arranged for service of the foregoing Brief of Respondent Adam Martin, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division I One Union Square 600 University Street Seattle, WA 98101	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail
Araceli Amaya Susan Millican O'Brian & Associates, P.S. 7525 166th Ave. NE, Ste. D320 Redmond, WA 98052-7828	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Ty Ho Ho & Associates 502 Rainier Ave. S., Suite 202 Seattle, WA 98144	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Tae Xaykosy, DOC 754456 WA Correction Center for Women 9601 Bujacich N.W. Gig Harbor, WA 98332	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail
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DATED at Seattle, Washington this 12th day of July, 2013.



Adam Martin