

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

MATTHEW D. CHRIST, Former
Husband,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D06-1343

KATHRYN K. CHRIST, Former
Wife,

Appellee.

_____ /

Opinion filed October 18, 2006.

An appeal from the Circuit Court for Duval County.
David C. Wiggins, Judge.

Matthew D. Christ, pro se, Appellant.

No appearance for Appellee.

WOLF, J.

This is an appeal from an order of the circuit court adopting and ratifying the Second Amended Order of the general magistrate and denying the husband's supplemental petition for modification of visitation. Appellant, former husband,

raises a number of issues on appeal, one of which we find dispositive: whether the trial court erred in denying the former husband's objection to the order of referral to the general master.

A referral to the general master requires the consent of all parties; and without this consent, the trial court lacks discretion to refer the matter to a general master.

Swezy v. Bart-Swezy, 866 So. 2d 1248 (Fla. 4th DCA 2004).

Florida Family Law Rule 12.490(b) provides in part:

- (1) No matter shall be heard by a general master without an appropriate order of reference and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or may be implied in accordance with the requirements of this rule.
 - (A) A written objection to the referral to a general master must be filed within 10 days of the service of the order of referral.

In the instant case, the former husband's objection to referral was timely filed and acknowledged by the general master who relinquished jurisdiction back to the trial court pursuant to rule 12.490(b). However, upon receiving notice of the timely objection, the trial court denied the former husband's objection and sent the matter back to the general master. The rule is clearly stated. Where a party withholds consent and files a timely objection to the referral to a magistrate, that party is entitled to further proceedings in the circuit court. Swezy, 866 So. 2d at 1249. Although this

issue may be raised through a writ of mandamus or a writ of prohibition, the matter is also properly reviewed on appeal of a final order adopting the general master's recommendations. Young v. Young, 816 So. 2d 1267 (Fla. 3d DCA 2002). Thus, we are constrained to reverse the trial court's order adopting the Second Amended Report and Recommendation and denying the former husband's Supplemental Petition for Modification of Visitation.

PADOVANO and THOMAS, JJ., CONCUR.