

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA

FAMILY DIVISION

Sharon Ann Cabana, n/k/a Sharon Mayo,
Petitioner/Former Wife,

and

CASE NO. CD 1971 DR 004137 FD

William A. Cabana,
Respondent/Former Husband

**ORDER DENYING MOTION FOR COMMITMENT,
DEFERRING RULING ON MOTION FOR PROTECTIVE
ORDER AND DENYING STAY OF PURGE REQUIREMENT**

This cause came before Magistrate Joy B. Shearer on February 3, 2009, for a Commitment hearing which was set by the Court in its Order entered December 18, 2008. The Order adjudicated the Former Husband in contempt and required a monthly payment of \$250.00 toward the outstanding alimony arrearage, to commence January 1, 2009. The Former Husband appeared by telephone and the Former Wife was present. The Court took judicial notice of the Clerk's ledger which reflected the January 1, 2009, payment of \$250.00 was posted on January 9, 2009. The Former Husband testified he had mailed the February 1, 2009, payment to the State Disbursement Unit but it was not posted at the time of the hearing. The payment was received and posted to the ledger on February 9, 2009.

The parties agreed to address two other pending matters: the Former Wife's Motion for Protective Order and the Former Husband's Motion to Stay Proceedings. The Magistrate issued a Report which recommends that ruling on the Motion for Protective Order be deferred because the Former Husband requested time to submit a memorandum of law on the issue of whether the Court has jurisdiction to entertain his Petition for Modification of Alimony. The Report recommends that the Motion to Stay be denied.

IT IS THEREUPON ORDERED THAT:

1. The Report and Recommendation of the Magistrate is accepted and incorporated by reference.
2. Commitment is DENIED because the Former Husband has made the January and February 2009 purge payments of \$250.00 per month toward the alimony arrearage as ordered by the Court on December 18, 2008.

3. The Former Husband is directed to continue to comply with the December 18, 2008, Contempt Order, and his Motion to Stay is DENIED.

4. The Former Wife's Motion for Protective Order from Mandatory Disclosure is deferred. No disclosure shall be required of her pending receipt and review by the Court of the Former Husband's memorandum in support of his Petition for Modification of Alimony which requests that the Court award alimony to him. The Court seriously questions whether it has jurisdiction to grant such relief, but will give the Former Husband an opportunity to address the issue as he has requested.

Jurisdiction of this cause and of the parties is hereby retained for the purpose of entering such further orders as this Court may seem necessary.

ORDERED at West Palm Beach, Florida, this _____ day of _____, 2009.

CIRCUIT JUDGE, ELIZABETH T. MAASS

SIGNED & DATED
MAR 30 2009
JUDGE ELIZABETH T. MAASS

Copies to:

Sharon Ann Mayo, 220 Almeria Road, West Palm Beach, Fl. 33405

William A. Cabana, 1050 Capri Isles Blvd., #F105, Venice, Fl. 34292