

Question:

My boyfriend and I are having trouble with his wife, she has a restraining order against him and custody of their 4 year old daughter. She refuses to let him see his daughter unless he stays with her. They had a terrible marriage and she has taken the child and left the state once before. He is afraid to file for custody or even divorce for fear that she will disappear again and never let him see his daughter again. Do you have any advice for us?

Answer:

It is unclear from the facts presented how long your boyfriend and his wife have been separated. If he is still married your presence in the situation is not going to help in a custody dispute and could be harmful. The terms "my boyfriend", "his wife" and "custody" are not a good combination of phrases to begin a conversation. If he is interested in custody he needs to establish a custody time. Her denial of any custody or visitation will be viewed negatively with the court. However, if he delays too long in seeking relief from the court it opens up the argument that he has acquiesced to the arrangement. He needs to file for divorce, seek a temporary order if NJ allows such relief and begin seeing his daughter. If the mother then fails to follow a court ordered custody plan her actions should be used against her in court. Should the mother flee the State it would make it much easier for your boyfriend to get a full custody order and perhaps even only supervised visitation with mother. He needs to look at the long term, not at the short term problems. Finally, he needs to keep a custody journal or calendar recording his attempts to contact his child and any visitations that he does receive.