

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2012

JONATHAN DIAMENT,

Appellant,

v.

Case No. 5D11-1495

MONICA DIAMENT,

Appellee.

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Opinion filed April 13, 2012

Non Final Appeal from the Circuit
Court for Orange County,
Robert M. Evans, Judge.

Jonathan Diament, Bushnell, pro se.

No Appearance for Appellee.

MONACO, J.

Mr. Diament appeals the March 24, 2011 order adopting the general magistrate's report dated February 28, 2011, in which the general magistrate recommended that Mr. Diament's Emergency Petition To Modify Parental Responsibility and Visitation be denied. Mr. Diament contends that he was not allowed to attend the hearing on his petition in violation of his right to due process.

We reverse the trial court's order and remand for further proceedings to allow Mr. Diament the opportunity to prove that he attempted to attend the relevant hearing by phone, but was prevented from doing so by DOC. In the event that Mr. Diament is

successful and a new hearing is granted, the issues should be limited to the issues resolved at the hearing in question. These issues include phone contact between Mr. Diament and child, and modification of visitation based on the fact that Sumter County Correctional Institution is closer to the child's residence.

LAWSON and COHEN, JJ., concur.