

# Dwyane Wade's Ex-Wife Won't Have To Undergo Psychological Examination

A state appeals court is siding with the ex-wife of Miami Heat star Dwyane Wade, reversing an order requiring her to undergo a psychological exam as part of a child custody battle.

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The attorney for Dwyane Wade's ex-wife said Wednesday that the Miami Heat star is using his children and the courts to try to silence her client.

Boca Raton attorney Lisa Marie Macci commented after the Third District Court of Appeal ruled Sihvaughn Fuches-Wade does not have to undergo a court-ordered psychological evaluation, reversing Miami-Dade Circuit Judge Antonio Marin. The appeals court also ordered him off the case, citing examples of bias.

Wade tried unsuccessfully to sever visitation rights of the mother with their two children. His attorneys played a video of an upset Fuches-Wade outside the Richard J. Daley Center in Chicago, denouncing the divorce agreement after a July hearing. Marin ordered the psychological examination without taking testimony and over her objections.

Macci told the Daily Business Review that the NBA star's motions were an attempt to silence her client. Fuches-Wade is challenging a gag order and the \$5 million settlement approved by a Chicago judge in 2011.

"Just because she was exercising her First Amendment rights, a judge doesn't have a right to order her to undergo a psychological examination," Macci said.

The video of Fuches-Wade was posted on YouTube and picked up by news media nationally. She said Wade didn't pay child support, refused to purchase school uniforms and sent the boys to basketball camp during her allotted time with them.

"I sit here today with nothing left, and the judge is saying, 'Well, if you want any money, Mr. Wade is offering it in exchange for your voice, make sure you don't tell anybody what happened,'" a visibly angry Fuches-Wade said on the video.

Wade immediately filed for an emergency hearing to sever Fuches-Wade's visitation rights. At the July hearing, the only testimony came from attorney Howard Rosenberg, the court-appointed parent coordinator from Chicago. He told Marin he was concerned about Fuches-Wade's behavior outside the courthouse.

The Third District panel noted Rosenberg acknowledged he did not witness Fuches-Wade's speech and only saw an edited YouTube version.

## Disqualification

The Third District opinion on the examination, written by Judge Leslie B. Rothenberg, said Wade failed to show why it would be necessary. Judges Ivan Fernandez and Thomas Logue concurred.

"While the father may disapprove of this behavior, he has not properly alleged or explained how this behavior makes the mother unfit to exercise her parenting time with the children," Rothenberg wrote in the 16-page order. She said Florida law requires good cause to order a compulsory psychological exam "with a focus on anger control."

Dwyane Wade's attorney, Evan R. Marks, a partner at Marks & West in Miami, did not comment on the ruling.

Macci said psychological exams in divorce and child custody cases are repeatedly abused. "There is a long history with these psych evaluations being misused and causing irreparable harm," she said.

The Third District also reversed Marin's refusal to recuse himself. A separate unsigned opinion said Marin adopted a recommendation from one of Dwyane Wade's witnesses before the mother had an opportunity to cross-examine or present evidence on the issue.

Macci said she had a psychiatrist in court ready to testify when the issue of an evaluation came up. "I asked five times to present his testimony on the issue at the hearing. My requests were denied," she said.

Stopping short of issuing a writ requiring Marin to step down from the case, the panel said it was "confident that the trial judge will promptly issue an order of disqualification." The disqualification was heard by Chief Judge Frank Shepherd and Judges Kevin Emas and Fernandez.