

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D17-1002

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NATASHA DUCALI,

Appellant,

v.

HUMBERTO DUCALI,

Appellee.

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On appeal from the Circuit Court for Duval County.  
John I. Guy, Judge.

July 9, 2019

PER CURIAM.

The former wife appeals the trial court's orders on the former husband's motion for contempt and enforcement and its denial of her motions for rehearing. We write only to address the trial court's decision to award the former husband sole parental responsibility over educational and health care decisions for the two children. At no time did the former husband plead for a change in parental responsibility, and the issue was not tried by consent. Accordingly, the trial court abused its discretion in awarding unpled relief to the former husband. *See Russell v. Russell*, 240 So. 3d 890 (Fla. 1st DCA 2018) (reversing portion of the final judgment awarding the mother sole authority over daycare decisions when the mother never requested such a modification); *Abbott v. Abbott*, 98 So. 3d 616, 617-18 (Fla. 2d DCA 2012) (noting

to grant unrequested relief is an abuse of discretion and reversible error). We reverse the portion of the order awarding the former husband unpled relief. We affirm in all other respects.

AFFIRMED in part, REVERSED in part, and REMANDED.

B.L. THOMAS, ROBERTS, and OSTERHAUS, JJ., concur.

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*Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.*

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Robert J. Slama of Robert J. Slama, P.A., Jacksonville, for Appellant.

Michael L. Duncan of Duncan Trial & Family Law, Jacksonville; Diane L. Paull, Jacksonville Beach, for Appellee.