MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brandon Godsey,
Appellant-Petitioner,

v.

Amanda Bachmayer,
Appellee-Respondent

November 6, 2023

Court of Appeals Case No. 23A-DC-450

Appeal from the Hamilton Circuit Court

The Honorable Paul A. Felix, Judge

Trial Court Cause No. 29C01-1911-DC-10404

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

[1] Brandon Godsey (Father) appeals the trial court's orders adopting the recommendations of the parenting coordinator (PC) involving the child that he had with Amanda Bachmayer (Mother) during their marriage. Specifically, Father asserts that the trial court abused its discretion in choosing certain parenting exchange locations, setting the parties' video calls with Child at twice a week, and ordering him to pay a portion of Mother's fees. Finding no abuse of discretion, we affirm.

Facts and Procedural History

[2] Father and Mother were married and have one child, M.G. (Child), born in September 2018. In November 2019, Father petitioned for dissolution. In June 2020, the court appointed a PC to serve for a period of two years. In October 2021, the trial court issued the decree dissolving the parties' marriage. Mother was granted sole legal custody and primary physical custody of Child. Father was granted parenting time with Child pursuant to the Indiana Parenting Time Guidelines (IPTG) for Child's age where distance is a factor. Father lives in Noblesville, and Mother lives in Ohio. Father has many relatives in Ohio and often exercises his parenting time at one of his relatives' homes. In May 2022, Mother filed a motion to reappoint the PC for another term of two years, which the trial court granted.

[3] In September 2022, the PC filed recommendations (September Recommendations). She recommended six parenting time exchange locations,

one for each of the places where Father might exercise parenting time. Two of these locations, Locations One and Two, were at police departments. The PC explained that she chose Location One because "[m]ost parenting time exchanges at Police Departments go well because they are always open and have cameras[, which] gives both parents security." Appellant's App. Vol. 2 at 63. The PC acknowledged that there was a seventeen-mile difference between the parties' travel to Location One but believed that "seventeen (17) miles difference [is] not enough to fight over." *Id*. In addition, the PC explained that the fourth exchange location was farther for Mother to drive, which balanced out the extra distance that Father was required to travel to Location One and "again not worth arguing about." *Id*. a 65. As for Location Two, the PC explained that this location "has been working well[,]" is a "[s]hort distance for [Child,]" and has "[g]ood security." *Id*. at 64.

[4] Father filed objections to the PC's September Recommendations. He objected to Locations One and Two because they were at police departments and thus had the "potential to create and perpetuate a negative stigma for the Minor Child towards his parents in that Minor Child will believe that there is some serious issue that exists between the Parties which requires exchanges occur at a police station[.]" *Id*. at 67. Father also objected to Location One because it was 112 miles from him and ninety miles from Mother, which, according to Father, contradicted the court's prior order requiring exchanges to occur at a halfway point. The trial court issued an order setting a hearing on the September Recommendations and Father's objections and stating that it would "entertain

requests for either party to pay the other's attorney fees generated from hearings resulting in Objections to the PC's Recommendations." *Id*. at 71.

[5] In November 2022, Mother filed a motion for PC and attorney's fees and expenses. In her motion, she alleged that in addition to Father filing objections to the PC's September Recommendations, he had previously filed objections to the PC's June and August 2022 recommendations. She further alleged that due to Father's objections, she had incurred fees for the PC to appear in court as well as for her attorney to respond to the objections and appear in court.

[6] Also in November 2022, the PC filed recommendations regarding Christmas, clothing, video calls, and emails (November Recommendations). One of the PC's recommendations was to reduce both parents' video calls with Child from three fifteen-minute calls a week to two.[1] She recommended that the two calls take place on Monday and Thursday evenings. She also recommended that there would "be no calls on an evening when the parent who does not have [Child] overnight if that parent has seen [Child] anytime that day." *Id*. at 81-82. The PC reasoned that Monday and Thursday night video calls were preferable because both parents work and try to have activities with Child on the weekends, and the parents already travel and exchange Child on the weekends. She explained that due to these weekend activities and exchanges, weekend

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[1] In his appellant's brief, Father states that the PC recommended reducing *his* video calls and fails to mention that the PC recommended reducing *both* parents' video calls. While Father may believe that the reduction impacts his relationship with Child more than it does Mother's, that does not justify omitting this essential detail from his statement of the facts.

calls are likely to be missed, which "creates the necessity for these parents to have communications that are unnecessary, fraught with stress, and fueling acrimony to determine when and if make up calls should be had and when." *Id.* The PC further noted that the video calls "are to be short, happy connection calls and over the years a few are going to be missed but to have them during the week gives each parent a better chance of getting the call." *Id.* The PC recognized that the calls are important "to make sure [Child] is in frequent communication with both parents." *Id.* In December 2022, Father filed his objections to the November Recommendations, in which he objected to the reduction of his video calls from three times a week to two.

[7] On January 30, 2023, the trial court held a hearing on Father's objections to the PC's September and November Recommendations and Mother's request for PC and attorney fees. Father and Mother appeared in person and by counsel. Father testified. The PC also appeared and testified. Following the hearing, the trial court issued two orders: one adopting the PC's September Recommendations and the second granting the PC's November Recommendations and awarding Mother $500 in PC fees and $4,000 in attorney fees. This appeal ensued.

Discussion and Decision

Section 1 – The trial court did not abuse its discretion in adopting the PC's recommendations regarding exchange locations and video calls.

[8] We begin with Father's allegations that the trial court abused its discretion in designating parenting exchange locations and reducing his video calls with Child. "When reviewing a trial court's determination of a parenting time issue, we grant latitude and deference to the trial court and will reverse only when the trial court abuses its discretion." *In re Paternity of C.H.*, 936 N.E.2d 1270, 1273 (Ind. Ct. App. 2010), *trans. denied* (2011). "An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before the court or if the court misinterpreted the law." *Hazelett v. Hazelett*, 119 N.E.3d 153, 161 (Ind. Ct. App. 2019). "If there is a rational basis for the trial court's determination, then no abuse of discretion will be found." *C.H.*, 936 N.E.2d at 1273. "Therefore, on appeal, it is not enough that the evidence might support some other conclusion, but it must positively require the conclusion contended for by appellant before there is a basis for reversal." *Moorman v. Andrews*, 114 N.E.3d 859, 864 (Ind. Ct. App. 2018). "We will neither reweigh evidence nor judge the credibility of witnesses." *Id*. "In all visitation controversies, courts are required to give foremost consideration to the best interests of the child." *Marlow v. Marlow*, 702 N.E.2d 733, 735 (Ind. Ct. App. 1998), *trans. denied* (1999).

[9] Turning first to the designation of Locations One and Two for parenting exchanges, Father asserts that the trial court abused its discretion in choosing a location that is not halfway between the parties' residences and in choosing police stations. At the hearing, the PC testified that she tried to choose locations that were an equal distance from the parties' residences, and while some locations were farther for Mother and others were farther for Father, each party's driving distance was roughly equal overall. Tr. Vol. 2 at 26. We cannot conclude that the trial court abused its discretion because one location of six is farther from Father than Mother.

[10] As for the choice of police stations, Father directs us to the commentary of the IPTG, which provides that "[t]he use of a law enforcement facility for an exchange is an extreme measure which should only be considered" where there is a protective order or a history of physical violence. Ind. Parenting Time Guideline § I(B)(1), cmt. 3. The PC testified that she chose police departments "because of the language that [Father] regularly uses towards [Mother]" and the PC did not want that to occur in front of Child. Tr. Vol. 2 at 27. The PC testified that "there's so much tension here and so much anger" and she wanted to protect Child and prevent Father and Mother from having a confrontation and "doing something that will irrevocably hurt either of them." *Id*. The PC also testified that during her recent meeting with the parties, Father repeatedly accused Mother of alienating Child from him, being a liar, and harming Child mentally. The PC's concerns and reasons for recommending police stations

provide a rational basis for the trial court's decision to accept Locations One and Two as appropriate exchange locations under the circumstances.

[11] Next, we address Father's argument that the trial court abused its discretion in reducing his weekly video calls with Child from three to two. According to Father, two video calls a week is not consistent with the IPTG. IPTG Section I(A)(7) encourages parents "to promote a positive relationship between the children and the other parent" and states that "regular phone contact" is important in maintaining the parent/child relationship. Father also claims that the decision to reduce his video calls "has nothing to do with what is best" for Child and was made because make-up calls were "'too burdensome' for Mother." Appellant's Br. at 11 (citing Tr. Vol. 2 at 27-28).[2] We disagree.

[12] The PC testified that weekends are a bad time to have calls because that is when the parties are traveling or engaging in other activities. She reasoned that it was important to reduce the need for make-up calls because the parties "do not communicate well[,]"could not work together to reschedule calls, and "cannot flow with the punches … they need black and white." Tr. Vol. 2 at 28. She explained that Father was frequently requesting make-up calls for times when he saw Child that very day or when Child had fallen asleep.[3] The PC also

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[2] Although Father cites to the PC's testimony, she never testified that scheduling make-up calls was "too burdensome" for Mother. Rather, Father testified that "if a call is missed, it should not be overly burdensome to find 15 minutes over the course of the week." Tr. Vol. 2 at 18.

[3] Father asserts that he "routinely missed his scheduled calls as a result of Mother failing to make Minor Child available." Appellant's Br. at 11 (citing Tr. Vol. 2 at 27-28). There is no evidence supporting this assertion.

justified choosing Mondays and Thursdays because those are days when parent and Child are going to be home for dinner and the time for the calls is close to Child's bedtime. Given the anger permeating the parties' relationship and their inability to co-parent, we conclude that scheduling video calls to maximize their occurrence and reduce parental conflict is consistent with the IPTG and in Child's best interests. Thus, the trial court did not abuse its discretion in reducing video calls with Child.

Section 2 – The trial court did not abuse its discretion in ordering Father to pay a portion of Mother's fees.

[13] Father challenges the trial court's decision to order him to pay a portion of Mother's PC and attorney's fees. Trial courts are authorized to award attorney's fees in a variety of family law matters. *See, e.g.*, Ind. Code § 31-15-10-1 (dissolution of marriage); Ind. Code § 31-16-11-1 (child support); Ind. Code § 31-17-4-3 (parenting time). The decision whether to award such fees lies within the trial court's broad discretion. *Selke v. Selke*, 600 N.E.2d 100, 102 (Ind. 1992). A trial court abuses its discretion "only where the trial court's award is clearly against the logic and effect of the facts and circumstances before the court." *Id*.

[14] In the context of domestic relations proceedings, the trial court should consider all relevant factors, including "[t]he resources of the parties, their relative economic circumstances, and their ability to engage in gainful employment and earn adequate income[.]" *Masters v. Masters*, 43 N.E.3d 570, 576 n.8 (Ind. 2015). "This list is not exclusive, and other factors bearing on reasonableness may also be considered, for example, which party initiated the action, whether fees and

expenses were incurred due to a party's misconduct, and the ability of a party to pay." *Id*.

[15] Father claims that the trial court failed to consider any of the relevant factors and that there is no evidence that he "committed an improper act necessitating the incurrence of fees." Appellant's Br. at 16. The trial court heard Father's testimony that he made approximately $35,000 a year and that Mother earned approximately $75,000 a year. Father also testified that his mother is paying the majority of his attorney's fees. The trial court was also aware that Father had filed objections to the PC's June, August, September, and November recommendations. We conclude that the trial court's decision to award fees was not against the facts and circumstances before it. Based on the foregoing, we affirm the trial court in all respects.

[16] Affirmed.

Riley, J., and Mathias, J., concur.