MEMORANDUM DECISION

APPELLANT PRO SE

Ryan M. Rankert
Kokomo, Indiana

IN THE COURT OF APPEALS OF INDIANA

In Re the Paternity of Z.S.;
Ryan M. Rankert,
Appellant,

v.

Julie D. Storm,
Appellee.

August 27, 2021

Court of Appeals Case No. 20A-JP-02301

Appeal from the Bartholomew Circuit Court

The Honorable Mary Wertz, Special Judge

Trial Court Cause No. 03C01-0805-JP-001243

Tavitas, Judge.

Case Summary

[1] In this appeal, Ryan Rankert ("Father") contends that the trial court erred in two of its orders: first, when the trial court denied Father's motion to correct error with respect to a ruling that Father's parenting time for Z.S. ("Child")

should be suspended; and second, when the trial court ruled that Father had failed to rectify the behaviors resulting in the suspension and denied his petitions for a modification of parenting time. With respect to the first order, the appeal is untimely, and the issue is waived. With respect to the second, Father's arguments, such as they are, are waived for failing to be cogent and for his failure to provide citation to any authority. Waiver notwithstanding, however, we find that the trial court did not abuse its discretion. Accordingly, we affirm.

Issue[1]

[2] The issue is whether the trial court abused its discretion when it suspended Father's parenting time and denied Father's petitions to modify parenting time.

Facts[2]

[3] Child's mother is Julie Storm ("Mother"). The record does not reveal the age of the Child, though this case began with a petition to establish paternity in May 2008. On September 17, 2018, the trial court issued an order suspending Father's parenting time and ordering him to undergo a full psychological

---

[1] Father's brief makes no mention of the attorney's fees in the amount of $7,096.30 that he has been ordered to pay. Any issues arising from that portion of the trial court's order are waived. We also note that Father appears to be $15,348.64 in arrears with respect to child support. Ex. Vol I. p. 6.

[2] The chronological case summary in this case runs forty-three pages, though the copy provided by Father is distorted to the point of unreadability. The rest of Father's appendix, however, contains very little usable information. Despite the violations of Indiana Rule of Appellate Procedure 50(A), particularly subsection (h) which requires the inclusion in the appendix of "any record material relied on in the brief . . . ", we attempt here to piece together sufficient facts upon which to base an analysis.

evaluation. Child was apparently already seeing a therapist at that time, and the trial court ordered continued counseling. The trial court further ordered that Father have no contact with the Child or Child's school.

[4] Father subsequently filed a "Motion for Relief from Judgment" on November 20, 2018. On February 24, 2019, the trial court—treating it as a motion to correct error in its September 17, 2018 order—denied Father's motion. The February 24, 2019 order contained findings of fact, including an unfortunate representative sampling as follows:

> f. [Child] is fearful that Father will show up to soccer games and make a scene, or take him, and is intimidated by Father's statements and behaviors. Father has shown up at [Child's] soccer games and engaged in angry outbursts. On one occasion in [S]pring 2017, police had to be called at a soccer game as Father (who was there to observe) refused to allow [Child] to be taken home by a person Mother designated. [Child] ran from Father and Father chased after [Child]. Father swore and yelled and made a scene due to Mother's friends being present, all which occurred in front of [Child]. [Child] was uncomfortable with language used by Father and was traumatized by the incident. Father becomes so angry during these occasions, he shakes. Mother ceased taking her other children to [Child's] soccer games in fear of Father's outbursts.
>
> * * * * *
>
> j. If exchanges occur at Mother's home, Father will make inappropriate comments to Mother in front of [Child], including commenting on the inappropriateness of Mother wearing shorts or a tank top. Father further demands that Mother come to the

front door when he picks up [Child], and will be angry if she does not.

* * * * *

r. [Child] cries when he knows parenting time with Father is coming up, and cries to the point of heaving and having problems breathing. [Child] then also refuses to eat. [Child] further has problems urinating at night when he had to spend a night with Father. At times, [Child] would hide in Mother's closet, not wanting to go with Father. Since [Child] has not spent nights with Father, and has not seen him, these emotional distresses have not occurred.

* * * * *

s. During parenting time, Father would take [Child] with him to work, which includes delivering food around the Indianapolis area, an area [Child] is unfamiliar with. Father yells at [Child] if he starts to fall asleep as Father requires he stay awake for hours at a time. [Child] is not given anything to occupy his time. At certain stops, Father leaves [Child] in the car alone to make a delivery. [Child] feels alone and isolated during these times.

* * * * *

cc. If there is any parenting time for Father at this time, a skilled licensed therapist should conduct supervised visits between Father and [Child] in a clinical setting. Psychological examination of Father should occur before such parenting time.

> At 10 years old, a Father should be a "hero" for a child. That is not so in this case.[3]

Appellant's App. Vol. IV pp. 4-9.

[5] Father moved to certify the order for interlocutory appeal on March 27, 2019, which the trial court denied on April 4, 2019.[4] On July 31, 2019, the trial court once again ordered Father to complete a full psychological evaluation and sign releases to have the evaluation released to the courts. A report from Hamilton Center was filed with the trial court on August 30, 2019.[5] On January 11, 2020, Father filed a petition to reinstate parenting time. On May 6, 2020, before his petition had been ruled upon, Father filed a "verified petition for modification of parenting time visitation." After a series of meandering filings, many of which appeared to be focused on a change of judge, a bench trial was held before a special judge.

[6] On November 12, 2020, the trial court denied Father's petitions for modification of parenting time. The trial court found that Father "failed to provide the Court with evidence showing that he has taken the necessary steps

---

[3] Father seems to take particular issue with this finding, apparently imagining that it is a court-ordered mandate to be a hero that is impossible to satisfy. We view this finding as an innocuous interjection of the trial court's personal opinion and not a directive.

[4] Father's brief repeatedly and inaccurately states that this case is an interlocutory appeal.

[5] The report is not in the record.

to address the issue which gave rise to the Court's prior orders." Appellant's App. Vol. III p. 3. Father now appeals.

Analysis

[7] Father purports to be appealing both the trial court's February 24, 2019 order and the trial court's November 12, 2020 order. To the extent that Father attempts to appeal the trial court's February 24, 2019 order, the issue is waived as untimely; the date for filing an appeal of that order expired well over two years ago. *See* Ind. Appellate Rule 9(A)(1).

[8] As for the trial court's November 12, 2020 order, Father contends that the trial court erred in denying his petitions to modify parenting time. We note two important aspects of this appeal at the outset. First, Father proceeds pro se, and we, therefore, reiterate that "a pro se litigant is held to the same standards as a trained attorney and is afforded no inherent leniency simply by virtue of being self-represented." *Zavodnik v. Harper*, 17 N.E.3d 259, 266 (Ind. 2014). "This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so." *Picket Fence Prop. Co. v. Davis*, 109 N.E.3d 1021, 1029 (Ind. Ct. App. 2018) (citing *Basic v. Amouri*, 58 N.E.3d 980, 983-84 (Ind. Ct. App. 2016)), *trans. denied*. Although we prefer to decide cases on their merits, arguments are waived where an appellant's noncompliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors. *Id.*

[9] Indiana Appellate Rule 46(A)(8)(a) requires that the argument section of a brief "contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on . . . ." We will not consider an assertion on appeal when there is no cogent argument supported by authority and there are no references to the record as required by the rules. *Id.* "'We will not become an advocate for a party or address arguments that are inappropriate or too poorly developed or expressed to be understood.'" *Picket Fence*, 109 N.E.3d at 1029 (quoting *Basic*, 58 N.E.3d at 984).

[10] Second, Mother did not file an appellee's brief. "[W]here, as here, the appellee [ ] do[es] not submit a brief on appeal, the appellate court need not develop an argument for the appellee[ ] but instead will 'reverse the trial court's judgment if the appellant's brief presents a case of prima facie error.'" *Salyer v. Washington Regular Baptist Church Cemetery*, 141 N.E.3d 384, 386 (Ind. 2020) (quoting *Front Row Motors, LLC v. Jones*, 5 N.E.3d 753, 758 (Ind. 2014)). "Prima facie error in this context means 'at first sight, on first appearance, or on the face of it.'" *Id*. This less stringent standard of review "relieves [us] of the burden of controverting arguments advanced in favor of reversal where that burden properly rests with the appellee." *Jenkins v. Jenkins*, 17 N.E.3d 350, 352 (Ind. Ct. App. 2014) (citing *Wright v. Wright*, 782 N.E.2d 363, 366 (Ind. Ct. App. 2002)). We are obligated, however, to correctly apply the law to the facts in the

record in order to determine whether reversal is required. *Id*. (citing *Trinity Homes, LLC v. Fang*, 848 N.E.2d 1065, 1068 (Ind. 2006)).

[11] With those oft-cited axioms in mind, we do our best to turn to Father's arguments that the trial court erred in denying his petitions to modify parenting time.

> This is ultimately a decision about parenting time, which requires us 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*. Parenting time decisions are reviewed for an abuse of discretion.[6] *Id*. Judgments in custody matters typically turn on the facts and will be set aside only when they are clearly erroneous. *Baxendale v. Raich*, 878 N.E.2d 1252, 1257 (Ind. 2008). "We will not substitute our own judgment if any evidence or legitimate inferences support the trial court's judgment." *Id*. 1257-58.

Perkinson v. Perkinson, 989 N.E.2d 758, 761 (Ind. 2013).

[12] Father's brief is devoid of the components we usually associate with arguments: premises, conclusions, and logical relationships between the two. We are disinclined to wade into the scattered jigsaw pieces that comprise the record and attempt to make some sense of the case before us. Father's arguments are waived because they lack cogency and cite no authority. *See* Ind. App. R. 46(A).

---

[6] Father erroneously informs us that the standard of review for the case at bar is de novo.

[13] Waiver notwithstanding, Father contends that his "mental health" is "no longer in question by the [S]tate." Appellant's Br. p. 10. What import this allegation is supposed to have with respect to this appeal, however, Father does not indicate. There is no mental health evaluation included in the record. Moreover, Father appears to fundamentally misunderstand what the trial court required. The trial court required Father to undergo a full psychological evaluation, but that requirement is not a precondition for automatic reinstatement of Father's parenting time.

[14] This issue is governed by Indiana Code Section 31-17-4-2, which provides:

> The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child. However, the court shall not restrict a parent's parenting time rights unless the court finds that the parenting time might endanger the child's physical health or significantly impair the child's emotional development.

"Although the statute uses the word 'might,' this Court has previously interpreted the language to mean that a court may not restrict parenting time unless that parenting time 'would' endanger the child's physical health or emotional development." *S.M. v. A.A.*, 136 N.E.3d 227, 230 (Ind. Ct. App. 2019) (citing *Stewart v. Stewart*, 521 N.E.2d 956, 960 n.3 (Ind. Ct. App. 1988), *trans. denied*).

[15] The trial court was bound to contemplate the best interests of the Child when determining whether to allow Father to enjoy parenting time. The trial court's prior findings of fact support the contention that time spent with Father will

harm the child. Father has offered no evidence to contradict that contention. We cannot say the trial court abused its discretion when it denied Father's petitions.

Conclusion

[16] Father's arguments pertaining to the February 4, 2019 order are untimely and are, thus, waived. Father's arguments pertaining to the November 12, 2020 order are incoherent and unfounded. Those arguments are also waived. Waivers notwithstanding, the trial court did not abuse its discretion. We affirm.

[17] Affirmed.

Mathias, J., and Weissmann, J., concur.