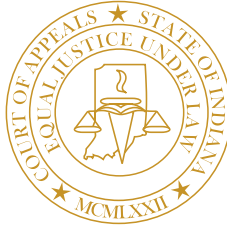
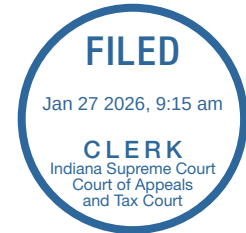


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Kane Francis,
Appellant-Petitioner,

v.

Krista Minardo,
Appellee-Respondent

January 27, 2026

Court of Appeals Case No.
25A-JP-1283

Appeal from the Tippecanoe Circuit Court

The Honorable Sean M. Persin, Judge

Trial Court Cause No.
79C01-2106-JP-50

Memorandum Decision by Judge Altice
Judges May and Foley concur.

Altice, Judge.

Case Summary

[1] Kane Francis (Father) appeals a custody order in favor of Krista Minardo (Mother) regarding their minor child, I.M. (Child). Father claims that the order awarding sole custody of Child to Mother must be set aside because the trial court violated his due process rights by permitting witnesses to testify “out of order” and refusing to allow his witnesses to testify. *Appellant’s Brief* at 12. Thus, Father contends that the trial court could not have made a proper custody determination from the evidence presented at the hearing.

[2] We affirm.

Facts and Procedural History

[3] Child was born on April 18, 2021. On June 16, 2021, Father initiated a paternity action to establish custody, parenting time, and child support. Mother and Father—who are no longer together—currently reside a few blocks from each other in Lafayette, and both desire sole physical custody of Child.

[4] Father has two other children who live with him and his significant other, Myra Medrano. Mother has two other children who reside with her. Mother’s oldest child “suffers from an emotional regulation disorder and has frequent outbursts.” *Appellant’s Appendix Vol. 2* at 112.

[5] The trial court approved a partial mediated settlement agreement on December 17, 2021, that established a temporary parenting time schedule. The agreement

provided Mother with primary physical custody of Child and Father with parenting time. Thereafter, on July 29, 2024, Father filed a motion to modify the settlement agreement. Following several continuances and an unsuccessful mediation, an evidentiary hearing was conducted on February 19, 2025, before the same trial judge who has presided over the case since its inception.

[6] Father testified first at the hearing and at some point early in his direct examination, Mother objected to a partial 2022 tax return that Father's counsel sought to admit into evidence. Father's counsel did not offer the full return to Mother's counsel until the morning of the hearing. Father thereafter admitted that he had a "whole stack of exhibits" that he had not shared with Mother's counsel. *Transcript Vol. 2* at 35-36. The trial court instructed the parties to briefly recess and review the undisclosed exhibits before proceeding. Following a ten-minute recess, the hearing resumed.

[7] Father continued to testify that on occasion, Mother requests Medrano to babysit Child. He also testified that different vehicles were frequently parked outside of Mother's home, and that Child arrived at his residence for parenting time on several occasions with bruises and scratches. Additionally, Father testified that Child's clothing smelled of marijuana once when he was dropped off for parenting time.

[8] At some point, the trial court commented about the duration of Father's testimony and advised Father's counsel to have Mother testify about statements she made during a prior deposition, rather than attempting to admit her

statements through Father’s testimony. The trial court again cautioned Father about his lengthy testimony when Father was testifying about a protective order that had already been litigated.

[9] Father completed his direct examination, and Mother began cross-examining Father just prior to the lunch recess. When the parties returned shortly after 1:00 p.m., Mother’s cross-examination of Father continued, followed by redirect and re-cross examination.

[10] Following Father’s testimony, the trial court—with no objection—directed Mother to testify next so both parties could testify by the end of the day. Although Father had additional witnesses to present, the judge made it clear that he “need[ed] to get mom and dad in.” *Id.* Mother’s direct examination proceeded, followed by a twenty-minute recess. Father was then afforded the opportunity to cross-examine Mother, which was shortened when the trial court issued another warning about timing: “Just a quick note on timing. We’re at 4:20 now . . . we are done at 4:30.” *Transcript Vol. 3* at 16. The trial court further commented that because “so much redundant evidence” had been heard, there would be no extension of the hearing. *Id.* Father’s counsel immediately rested on cross-examination, and the trial court warned Mother’s counsel not to “use the rest of the time” and to “[b]e quick” on redirect. *Id.* at 17.

[11] After Mother’s brief redirect examination, Father called a rebuttal witness, Lafayette Police Officer Caleb Bray. Officer Bray testified that on September

25, 2023, he responded to Mother's request for assistance at her residence regarding a report that her seven-year-old child was armed with a knife and "acting out of control." *Id.* at 21. During Officer Bray's direct examination, the trial court sustained several objections on foundational and hearsay grounds but permitted testimony that established the incident. Mother asked Officer Bray one question on cross-examination where he admitted that he never saw Mother's child with a knife. *Id.* at 27.

[12] Following Officer Bray's testimony, the trial court concluded the hearing at its previously announced 4:30 p.m. cutoff. Father was, however, permitted to make an oral offer of proof regarding Mother's report of an alleged theft of her diamond ring by a house cleaning employee in 2023. Father maintained that presenting the incident report through rebuttal testimony would have shown that Mother presented "false testimony" on direct examination that she "never had any problems with any of her housecleaners." *Appellant's Appendix Vol. 2* at 53. Father also submitted several written offers of proof that involved Medrano's testimony, the written incident report of the alleged theft, and testimony of other Lafayette police officers who responded to the September 2023 incident involving Mother's oldest child.

[13] More particularly, Medrano's proffered testimony would have established her long-standing relationship with Father, that they resided near Mother, and that she had observed multiple vehicles at Mother's home. Her proposed testimony was also that Mother had asked her to babysit Child on occasion, that Child had arrived at Father's residence with an odor of marijuana on his shirt, and

that she had concerns about Child's bruises and scratches. Father maintained that the above evidence was relevant "to a determination as to which parent is best equipped to be entrusted with physical custody of . . . [Child]." *Id.* at 106.

[14] On April 23, 2025, the trial court issued a Final Paternity Order (the Order). *See id.* at 110. After considering the evidence at the hearing and considering the statutory factors set forth in I.C. § 31-14-13-2 that include the age and sex of Child, both parents' wishes, the interactions and interrelationships of Child with parents, siblings and others, Child's adjustment to home, school and community, the mental and physical health of all individuals, and noting that Child is too young to voice an opinion about physical custody, the trial court awarded joint legal custody to Mother and Father and primary physical custody to Mother. The court allotted Father 145 overnight visits with Child per year, recognizing that "Father should not be exercising the minimum amount of parenting time under the [Indiana Parenting Time Guidelines]." *Id.* at 113.

[15] The Order addressed Father's concerns about the behavior of Mother's oldest son during the September 2023 incident. The trial court cited the testimony that related to that child's frequent outbursts and his mental disabilities, and that Mother had minimized her son's behavior. The trial court concluded that Mother should have spoken with Father about the episode.

[16] The Order also pointed to Mother's concern about Father driving unnecessarily by her home to spy on her and her allegation that Father takes photos of vehicles parked at Mother's residence. The trial court further noted that Father

had hired a private investigator to follow Mother, and that Father has a prior arrest for domestic battery.

[17] Father now appeals. Additional facts will be provided below as needed.

Discussion and Decision

[18] In addressing Father’s contention that his due process rights were violated because the trial court permitted witnesses to testify out of order and that he was denied a full opportunity to present his case at the hearing, we note that trial courts have broad discretion in the management and conduct of trial proceedings. *Abed v. ElSharif*, 234 N.E.3d 890, 901–02 (Ind. Ct. App. 2024). The process of examining witnesses is subject to the control of the trial court, which has wide discretion therein. *S.E. v. Ind. Dept. of Child Servs.*, 15 N.E.3d 37, 44 (Ind. Ct. App. 2014), *trans. denied*. Phases of examination, “such as the length and time that a witness shall be examined, and the manner and mode of [] examination, are under the control of, and within the discretion of, the trial court.” *Id.* Ind. Evidence Rule 611(a) provides that “[t]he court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to: (1) make those procedures effective for determining the truth; (2) avoid wasting time; and (3) protect witnesses from harassment or undue embarrassment.”

[19] *Hoagland Fam. Ltd. P’ship v. Town of Clear Lake*, 257 N.E.3d 830 (Ind. Ct. App. 2025), *trans. denied*, is particularly illustrative of the principles that pertain to a trial court’s discretion to limit the conduct of proceedings and explains why

exercising that discretion does not automatically amount to a due process violation. In *Hoagland*, the appellant claimed that its right to due process was violated because a contempt hearing was limited to only thirty minutes, which allegedly was “not sufficient given the potentially conflicting evidence.” *Id.* at 842. On appeal, this court determined that there was no due process violation and observed that “[t]he trial court was well aware of the history of the case,” as the same judge who heard the contempt proceeding had been presiding over the case from the beginning. *Id.* at 842. The *Hoagland* court noted that the trial court’s familiarity with the case was a considerable factor in finding that there was no due process violation despite the petitioner’s inability to present extensive evidence at the contempt hearing. *Id.* Moreover, it was determined that the petitioner failed to demonstrate how a lengthier hearing “would have cured any alleged prejudice.” *Id.*

[20] Similarly here, the same trial judge presided over the paternity case since its inception in June 2021. Father nonetheless maintains that his due process rights were violated because the trial court’s decision to allow testimony out of order prevented him from calling all of his witnesses to testify. Father, however, did not object at the hearing to permitting Mother to testify immediately following Father’s testimony. Thus, Father cannot raise this issue for the first time on appeal, and it is waived. *See S.E.*, 15 N.E.3d at 44.

[21] Waiver notwithstanding, because the trial court may control the examination of witnesses and the presentation of evidence, it is apparent that the trial court merely desired to have the parties testify within the time limits set for the

hearing. In short, Father has failed to establish how his due process rights were violated or that the trial court abused its discretion in permitting Mother to testify immediately after he testified. *See* Evid. R. 611(a)(1) (the court shall exercise control over the order of witnesses and order of interrogating witnesses so as to make the interrogation and presentation effective for the ascertainment of the truth).

[22] Father directs us to this court’s opinion in *Walker v. Kelley*, 819 N.E.2d 832 (Ind. Ct. App. 2004) in support of his contention that the trial court should have set an additional hearing to permit his other witnesses to testify. In *Walker*, it was determined that the trial court properly granted mother’s request for a new custody hearing when she failed to appear at the original hearing because she misread the court’s order and mistakenly believed that the hearing had been set for a different date. The *Walker* court observed that scheduling a new hearing aligned with the trial court’s duty “to consider *all relevant factors* regarding the best interests of the child” as the statute requires. *Id.* at 837 (emphasis added). More particularly, the best interest of the children could not be ascertained “without a hearing that affords both parents the opportunity to present evidence and cross-examine witnesses.” *Id.* In *Walker*, the mother had *no* opportunity to present evidence at the original hearing in light of her failure to appear.

[23] Unlike *Walker*, Father was present at the custody hearing, and the trial court allotted a full day for the parties’ presentation of evidence. While Father contends that there was not sufficient time to call all of his witnesses, he testified extensively at the February 19 hearing. He knew of the time limits at

the beginning of the hearing *and* the trial court expressed concern about the duration of his testimony. It was incumbent on Father to prioritize his presentation of evidence. When the trial court called Mother to testify following Father's testimony, the judge specifically stated that additional witnesses could be called later "*if we have time.*" *Id.* at 159 (emphasis added).

[24] Father had several opportunities to reconsider the presentation of his case, and he chose not to do so. Throughout his direct examination, Father testified about matters that Medrano would have spoken about. He also made the decision to focus on the merits of a protective order that had already been litigated. Further, Father spent his remaining time trying to admit "successfully objected to" impermissible hearsay and testimony lacking foundation through Officer Bray. *See Transcript Vol. 3* at 21–25. Father should have reevaluated once it became clear that time was running short, especially if the "excluded evidence was highly relevant to the custody determination," as he contends. *Appellant's Brief* at 21.

[25] Additionally, Father's offers of proof show that his proposed additional testimony is cumulative and/or irrelevant. To be sure, Medrano's testimony would have mirrored Father's testimony, and the other Lafayette police officers' testimony would have been cumulative of Officer Bray's. And the offers of proof regarding the alleged theft of Mother's diamond ring by a house cleaner is irrelevant, in that such evidence would have no bearing on the outcome of this matter. In short, additional proceedings to permit Father's

additional witnesses to testify would serve no purpose. *See Hoagland*, 257 N.E.3d at 842.

- [26] Finally, while Father contends that it was not possible for the trial court to have made a meaningful custody determination from the evidence presented at the hearing, the record demonstrates that the trial judge was familiar with the parties and the circumstances, as he had been presiding over the case for nearly four years. In light of that familiarity, the judge determined that he did not need additional evidence to rule on the pending matter.
- [27] Additionally, the Order sets forth the provisions of Ind. Code § 31-14-13-2.3 regarding the requirements that the trial court must consider when determining the best interests of Child as they relate to custody. The trial court acknowledged those factors including the “age and sex of the child, the wishes of the parents, the interactions and interrelationships of the child with parents, siblings and others, the child’s adjustment to home, school and community, the mental and physical health of all individuals.” *Appellant’s Appendix Vol. 2* at 111. Several paragraphs in the Order specifically address these factors and point to the relevant evidence that was presented in determining the best interest of Child when the trial court decided to award primary physical custody of Child to Mother. Thus, Father’s contention that the custody order must be set aside because there was not sufficient evidence for the trial court to make a proper custody determination fails.

Conclusion

[28] In sum, because trial courts are afforded broad discretion in managing the proceedings, including the timing and presentation of testimony, and Father had ample opportunity to present his case, we conclude that Father's due process rights were not violated when the trial court permitted Mother to testify immediately after Father's testimony and when it did not set an additional hearing to allow additional witnesses to testify. The trial court also had sufficient evidence before it to award primary physical custody of Child to mother.

[29] Judgment affirmed.

May, J., and Foley, J., concur.

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