ATTORNEY FOR APPELLANT

George A. Lohmeier
Allen Wellman McNew Harvey, LLP
Greenfield, Indiana

ATTORNEY FOR APPELLEE

Denise F. Hayden
Lacy Law Office, LLC
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Brandon Darrell Hurst,
Appellant-Petitioner

and

Shawna Smith,
Respondent,

v.

Renee A. Smith and Daniel M. Chubb,
Appellees-Co-Intervenors.

July 29, 2022

Court of Appeals Case No. 21A-JP-1719

Appeal from the Hendricks Superior Court

The Honorable Robert W. Freese, Judge

Trial Court Cause No. 32D01-2001-JP-8

Pyle, Judge.

Statement of the Case

[1] In this paternity action, Brandon Hurst ("Father") appeals the trial court's order that awarded custody of his daughter, S.H. ("S.H."), to maternal grandparents,

Renee Smith ("Maternal Grandmother") and Daniel Chubb ("Maternal Grandfather") (collectively, "Maternal Grandparents"), awarded Father parenting time with S.H., and ordered Father to pay $141 per week in child support. Father specifically argues that the trial court abused its discretion when it awarded custody of S.H. to Maternal Grandparents, awarded him less parenting time than contemplated by the Indiana Parenting Time Guidelines ("the IPTG") without a written explanation for the deviation, and ordered him to pay $141 per week in child support.

[2] Concluding that the trial court did not abuse its discretion in awarding Maternal Grandparents custody of S.H., we affirm that portion of the trial court's order. However, we conclude that the trial court abused its discretion in: (1) awarding Father less parenting time than contemplated by the IPTG without a written explanation for the deviation; and (2) ordering Father to pay $141 per week in child support where the parties did not submit child support worksheets or testify regarding their gross incomes. We, therefore, affirm in part, reverse in part, and remand with instructions for the trial court to: (1) either issue a written explanation for its deviation from the IPTG or award Father parenting time consistent with the IPTG; and (2) obtain child support

worksheets signed by all parties and to recalculate Father's child support obligation accordingly.[1]

[3] We affirm in part, reverse in part, and remand with instructions.

Issues

1. Whether the trial court abused its discretion when it awarded custody of S.H. to Maternal Grandparents.
2. Whether the trial court abused its discretion when it awarded Father less parenting time than contemplated by the IPTG without a written explanation for its deviation.
3. Whether the trial court abused its discretion when it ordered Father to pay $141 per week in child support.

Facts

[4] Father and Mother (collectively "Parents"), who were never married, are the parents of S.H., who was born in September 2015. Father signed a paternity affidavit at the time of S.H.'s birth. Following S.H.'s birth, Mother and S.H. stayed with Maternal Grandparents in Brownsburg for a few weeks and then moved in with Father at his house in Indianapolis. Maternal Grandparents, paternal grandmother ("Paternal Grandmother"), and paternal great-

[1] S.H.'s mother ("Mother"), who suffers from mental health and substance abuse issues, is not participating in this appeal. Mother did not attend the hearing in this matter, and as the trial court noted in its order, "Mother's current address/whereabouts are unknown to any party." (App. Vol. 2 at 18).

grandparents ("Paternal Great-Grandparents") provided childcare for S.H. while Parents worked.

[5] In June 2016, Father lost his house in foreclosure after he lost his job. At that time, Mother and S.H. moved back in with Maternal Grandparents, and Father moved in with Paternal Great-Grandparents. One month later, Maternal Grandparents asked Mother to leave their home because of her drug use. Mother moved out, but S.H. remained with Maternal Grandparents. In October 2017, Father rented a home on Collier Street ("the Collier Street home") in Indianapolis. Mother moved into the Collier Street home with Father. Although S.H. visited Parents at the Collier Street home, Parents allowed S.H. to live with Maternal Grandparents in Brownsburg.

[6] Parents' relationship ended in April 2018. Although Father believed that Mother had returned to Maternal Grandparents' home, Mother had moved in with a boyfriend. S.H. remained with Maternal Grandparents and sometimes visited Paternal Great-Grandparents. Father occasionally saw S.H. at Paternal Great-Grandparents' home but did not contact Maternal Grandparents to request visits with S.H. or inquire about her well-being.

[7] In August 2019, Maternal Grandparents filed a petition for appointment as temporary co-guardians of S.H. so that they could enroll her in preschool. In the petition, Maternal Grandparents explained that S.H. had lived with them since June 2016. Maternal Grandparents also asked the trial court to appoint a guardian ad litem to investigate the facts and circumstances of the case and to

provide a report and recommendation to the trial court. The trial court immediately entered an order of emergency temporary guardianship and appointed Rebecca Eimerman as the guardian ad litem ("GAL Eimerman").

[8] In October 2019, Maternal Grandparents filed a petition asking the trial court to appoint them as S.H.'s permanent guardians. The trial court scheduled the petition for a hearing and ordered that Maternal Grandparents' temporary guardianship would remain in effect pending the hearing on their permanent guardianship petition. In December 2019, GAL Eimerman filed her report recommending that the trial court grant Maternal Grandparents' petition for permanent guardianship. GAL Eimerman also recommended that Father have supervised parenting time with S.H.

[9] The following month, January 2020, Father filed a petition to establish his paternity of S.H. Father's petition acknowledged the Maternal Grandparents' pending guardianship petition and asked the trial court to establish S.H.'s paternity and determine issues of custody, parenting time, and child support. The following day, the trial court held a hearing on Maternal Grandparents' petition for permanent guardianship. Father's counsel informed the trial court that Father had just filed the petition to establish paternity. During the hearing, the parties agreed that, pending a further hearing in the matter, Maternal Grandparents would have guardianship of S.H. and Father would have supervised parenting time with S.H. Specifically, the parties agreed that Father would have midweek parenting time with S.H. on Tuesdays or Wednesdays from 5:00 p.m. until 7:00 p.m. at Maternal Grandparents' home. In addition,

the parties agreed that Father would have parenting time every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m. This parenting time would be supervised by Paternal Great-Grandparents at their home. The trial court also ordered Father to submit to a drug screen, which was negative.

[10] In February 2020, Maternal Grandparents filed a motion to intervene in the paternity action, which the trial court granted. In May 2020, Father filed notice of a DNA test, which confirmed that he was S.H.'s natural father. At the same time, Father filed a motion to terminate Maternal Grandparents' guardianship and requested a hearing on his paternity petition.

[11] In August 2020, Maternal Grandparents, as intervenors in the paternity action, filed a petition asking the trial court to grant them custody of S.H. In the petition, Maternal Grandparents alleged that S.H. had resided with them for the past four years and that Father had only sporadically exercised parenting time with S.H. when she had visited Paternal Great-Grandparents. Maternal Grandparents further alleged that they had provided for S.H. financially for the previous four years without assistance from Father. In addition, according to Maternal Grandparents, they were S.H.'s de facto custodians, and "it would be in [S.H.]'s best interest that [they] be granted custody of [S.H.]" (App. Vol. 2 at 36).

[12] In October 2020, GAL Eimerman filed a supplemental report, wherein she reported that she had visited Father's home. According to GAL Eimerman, Father's home was clean and included a bedroom for S.H. GAL Eimerman

noted that S.H.'s room was decorated in age-appropriate décor and included age-appropriate toys and clothing. GAL Eimerman further noted that Father worked as a machine operator and that he worked Monday through Friday from 7 a.m. until 7 p.m.

[13] Based on the information that GAL Eimerman received from Father, Paternal Grandmother, and paternal great-grandmother, GAL Eimerman concluded that Father had acquiesced to S.H. residing with Maternal Grandparents since 2016. GAL Eimerman further concluded that S.H. "ha[d] become intertwined into her life with [Maternal Grandparents] and untangling her from that family unit would not be in her best interest." (App. Vol. 3 at 15). GAL Eimerman recommended that Maternal Grandparents be granted third-party custody of S.H. and that the guardianship be terminated.

[14] GAL Eimerman also recommended that Father have parenting time with S.H. every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m. and on holidays and special days designated to the non-custodial parents for a period of twenty-four hours. Further, GAL Eimerman recommended that if Father intended to exercise parenting time on a holiday or special day, Father would have to notify Maternal Grandparents of his intent seven days in advance. GAL Eimerman's supplemental report further provided that "[n]o extended parenting time [was] recommended at th[at] time." (App. Vol. 3 at 16-17). GAL Eimerman's report did not include an explanation for her parenting time recommendations.

[15] The trial court held a two-day hearing on Father's paternity petition in March and June 2021. At the beginning of the hearing, the trial court told the parties that it would proceed on Father's paternity petition and determine custody, parenting time, and child support issues. According to the trial court, once it had entered its order on those issues, Maternal Grandparents' guardianship would, in all likelihood, be terminated.

[16] At the end of the first day of the hearing, the trial court awarded Father unsupervised parenting time with S.H. Further, based on Father's new work schedule, the trial court modified Father's parenting time to include "alternating Thursdays after Pre-K to 7 [p.m.]. [Father] will pick [S.H.] up from Pre-K and drop [her] off at [Maternal Grandparents' home] and then beginning [the] following Thursday, [Father] shall pick [S.H.] up from Pre-K at the end of . . . the Pre-K time . . . take her back to Pre-K on Fridays, pick her up from Pre-K and have her until 7 [p.m.] on Saturdays." (Tr. Vol. 2 at 52).

[17] During the hearing, the trial court heard the facts as set forth above. In addition, Maternal Grandmother testified that she and S.H. had a mother and daughter relationship and that they were "very close." (Tr. Vol. 2 at 76). Maternal Grandmother further testified that she was a registered nurse and worked Monday through Thursday from 6:00 or 6:30 a.m. until 2:30 or 3:00 p.m. However, Maternal Grandmother did not submit a child support worksheet or testify regarding her gross income. In addition, Maternal Grandmother testified that S.H. attended Liberty Baptist Pre-School. According to Maternal Grandmother, she and Maternal Grandfather paid the

pre-school tuition, which was $110 per week. Maternal Grandmother also testified that she and Maternal Grandfather paid $31 per week for S.H.'s medical insurance. In addition, according to Maternal Grandmother, S.H. had participated in dance and gymnastics classes. Maternal Grandmother also testified that Father had never provided financial support for S.H. Maternal Grandmother further testified that S.H., who had tested positive for marijuana at birth, had recently been diagnosed with sensory issues. According to Maternal Grandmother, S.H. "needed more sensory input into her body in order to keep her calm." (Tr. Vol. 2 at 72). Maternal Grandmother further testified that S.H. "tend[ed] to be hyper" and "like[d] deep pressure such as hard hugs." (Tr. Vol. 2 at 72). Maternal Grandmother also testified that S.H had attended weekly occupational therapy sessions and that S.H.'s sensory issues had been improving. In addition, Maternal Grandmother testified that although the trial court had awarded Father mid-week parenting time, as well as overnight weekend parenting time, in January 2020, Father had not exercised the mid-week parenting time at Maternal Grandparents' home.

[18] Maternal Grandfather testified that he had been an emergency room nurse for the previous three years. Like Maternal Grandmother, Maternal Grandfather did not submit a child support worksheet or testify regarding his gross income. Before becoming a nurse, Maternal Grandfather had been a firefighter and paramedic with the Brownsburg Fire Department. According to Maternal Grandfather, he scheduled his twelve-hour nursing shifts around Maternal Grandmother's work schedule so that one of them would always be available

for S.H. According to Maternal Grandfather, he and S.H. had a father and daughter relationship and S.H. was "by [his] hip all the time." (Tr. Vol. 2 at 119). Maternal Grandfather further testified that Father had not had contact with Maternal Grandparents from 2016 until 2019, when Maternal Grandparents had filed their initial guardianship petition.

[19] In addition, GAL Eimerman testified that S.H. was "extremely intertwined" with Maternal Grandparents and considered Maternal Grandparents to be "her family unit." (Tr. Vol. 2 at 10). GAL Eimerman recommended that Maternal Grandparents be awarded custody of S.H. GAL Eimerman also testified that she was recommending Father have parenting time with S.H. as set forth in her October 2020 supplemental report. GAL Eimerman further testified that she had based those parenting time recommendations, which did not include extended parenting time, on several factors. First, GAL Eimerman did not think that Father's work schedule in October 2020, which was Monday through Friday from 7 a.m. until 7 p.m., would "allow for him to have like extended parenting time for summer, extended parenting time for . . . school breaks[.]" (Tr. Vol. 2 at 13). Further, according to GAL Eimerman, S.H.'s daycare provided her with stability during the summer months. In addition, GAL Eimerman noted that S.H. had been exhibiting behavioral issues and that stability was important for her.

[20] Lastly, Father testified that he worked for Amazon and that his work schedule was Sunday through Wednesday from 5:45 a.m. until 4:15 p.m. Father did not submit a child support worksheet or testify regarding his gross income. Father

testified that he and S.H. had a "good relationship" and that S.H. called him "[d]ad." (Tr. Vol 2 at 182). Father further testified that, at the time of the hearing, he had been picking S.H. up from preschool every Thursday. Pursuant to the trial court's March 2020 order, it appears that in alternating weeks, Father either returned S.H. to Maternal Grandparents on Thursday evening or had overnight parenting time with her from Thursday until Saturday evening.

[21] Following the hearing, in July 2021, the trial court issued a detailed fourteen-page order, which provides, in relevant part, as follows:

> 5. Specifically, the Court finds that:
>
> a. [S.H.] has and continues to reside in Maternal Grandparents' home in Brownsburg, Indiana since on or about June, 2016 and Maternal Grandparents have been her primary caregivers. Both parents acquiesced to [S.H.] residing with Maternal Grandparents and being in their primary care;
>
> b. Maternal Grandparents are both gainfully employed full-time as registered nurses and have financially supported [S.H.] without any child support from either Mother or Father since on or about June, 2016 including, but not limited to, providing her with food, clothing, stable housing, medical care, health insurance, her day-to-day living expenses/utilities, and preschool and daycare expenses;
>
> c. The Court appointed Rebecca Eimerman as Guardian Ad Litem to represent [S.H.]'s best interests. The GAL filed two (2) reports to the Court (Exhibits "32" and "33") of which the Court took judicial notice, and testified at the hearing on March 4, 2021;

d. The GAL recommended the Court award third party custody of [S.H.] to Maternal Grandparents because they have had de facto custody of [S.H.] for greater than a year and she found through her investigation that Mother and Father rarely saw [S.H.] and that the parents had acquiesced to [S.H.] residing with Maternal Grandparents. She further found through her investigation that [S.H.] has become "intertwined into her life with Guardians (Maternal Grandparents) and untangling her from that family unit would not be in her best interest."

e. The GAL recommended Father have every other weekend parenting time with [S.H.] which she believes would give Father quality time with [S.H.] when he is off work. The GAL did not recommend holidays or extended parenting time for Father because his work schedule does not allow for it[;]

* * *

vv. Maternal Grandparents have been the primary caregivers of [S.H.] since on or about June, 2016 and desire to and are capable of continuing to do so. [S.H.] is fully integrated into Maternal Grandparent's home and Maternal Grandparents have arranged their work schedules and obligations so they can be available to care for [S.H.] when she is not in school;

ww. Maternal Grandparents have provided health insurance for [S.H.] since obtaining guardianship of her at a cost of $31.00 per week;

xx. Maternal Grandparents have solely paid for [S.H.]'s work-related childcare and preschool costs since she has resided with them at a rate of $110.00 per week;

* * *

7. Where the trial court finds that there is evidence that the child was left with a nonparent for long periods of time, the child was bonded to the nonparent, the placement with the nonparent was voluntary, and the lives and affection of the child and the nonparent are completely interwoven, awarding custody to the nonparent is proper. *A.J.L. v D.A.L.*, 912 N.E.2d 866 (Ind. Ct. App. 2009).

* * *

9. After having considered the factors under I.C. 31-14-13-2 and I.C. 31-14-13-2.5, the Court finds that it is in the best interests of the child and hereby awards custody of [S.H.] to Maternal Grandparents/Intervenors . . . and they shall have legal custody of the child pursuant to I.C. 31-14-13-2.5(e).

10. The Court finds that it is in the best interests of [S.H.] that Father should be granted parenting time in accordance with the recommendations of the GAL, namely:

> a. Father shall have parenting time with [S.H.] every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m. and on all holidays/special days designated to the non-custodial parent for a period of twenty-four (24) hours. In the event that Father intends to exercise a holiday/special day, he shall notify Maternal Grandparents in writing seven (7) days in advance. Father shall have no extended parenting time at this time[.]

* * *

13. The Court finds that Father is employed and is capable of supporting his child[.] Maternal Grandparents pay $110.00 per week in pre-school/work-related childcare costs. Maternal Grandparents pay $31.00 per week for health insurance for [S.H.]. The Court orders that Father is to pay $141.00 per week in child support for the benefit of [S.H.] through income withholding order which shall be prepared by Father's attorney. Maternal Grandparents shall continue to carry [S.H.] on their

employer-sponsored health insurance and pay her pre-school and work-related daycare costs[.]

(App. Vol. 2 at 8-20).

[22] Father now appeals.

Decision

[23] At the outset, we note that there is a well-established preference in Indiana for granting latitude and deference to the trial court in family law matters. *Steele-Giri v. Steele*, 51 N.E.3d 119, 124 (Ind. 2016). Appellate courts "are in a poor position to look at a cold transcript of the record, and conclude that the trial judge, who saw the witnesses, observed their demeanor, and scrutinized their testimony as it came from the witness stand, did not properly understand the significance of the evidence." *Id.* (cleaned up). "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." *Id.* (cleaned up). "Appellate judges are not to reweigh the evidence nor reassess witness credibility, and the evidence should be viewed most favorably to the judgment." *Id.* (cleaned up).

[24] We further note that Father requested specific findings and conclusions pursuant to Indiana Trial Rule 52. The purpose of Trial Rule 52(A) is to provide the parties and the reviewing court with the theory upon which the trial court decided the case in order that the right of review for error may be effectively preserved. *In re Paternity of S.A.M.*, 85 N.E.3d 879, 885 (Ind. Ct.

App. 2017). When a trial court enters findings of fact and conclusions of law pursuant to Trial Rule 52, we apply the following two-tiered standard of review: (1) whether the evidence supports the findings; and (2) whether the findings support the judgment. *Hazelett v. Hazelett*, 119 N.E.3d 153, 157 (Ind. Ct. App. 2019). The trial court's findings and conclusions will be set aside only if they are clearly erroneous, that is, if the record contains no facts or inferences supporting the judgment. *Id.* A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made. *Id.* We neither reweigh the evidence nor assess the credibility of the witnesses but consider only the evidence most favorable to the judgment. *Id.* We further note that because Father does not challenge any of the trial court's specific findings, we "must accept them as true." *M.M. v. A.C.*, 160 N.E.3d 1133, 1135 (Ind. Ct. App. 2020).

[25] We now turn to the issues in this case. Father argues that the trial court abused its discretion when it: (1) awarded custody of S.H. to Maternal Grandparents; (2) awarded him parenting time less than that contemplated by the IPTG without a written explanation for the deviation; and (3) ordered him to pay $141 per week in child support. We address each of his contentions in turn.

1. Custody

[26] Father first argues that the trial court abused its discretion when it awarded custody of S.H. to Maternal Grandparents. Specifically, Father contends that

Maternal Grandparents have not rebutted the presumption that favors awarding custody of a child to the natural parent.

[27] "Child custody determinations fall squarely within the discretion of the trial court and will not be disturbed except for an abuse of discretion," which occurs when the trial court's decision is against the logic and effect of the facts and circumstances before it, or the reasonable inferences to be drawn therefrom. *In re B.H.*, 770 N.E.2d 283, 288 (Ind. 2002) (cleaned up). In a custody dispute between a natural parent and a third party, there is a presumption that the natural parent should have custody of his child. *A.J.L. v. D.A.L*, 912 N.E.2d 866, 871 (Ind. Ct. App. 2009). The third party bears the burden of overcoming this presumption by clear and convincing evidence. *Paternity of W.M.T.*, 180 N.E.3d 290, 297 (Ind. Ct. App. 2021), *trans. denied*. Evidence sufficient to rebut the presumption may, but need not necessarily, establish the natural parent's unfitness or acquiescence or demonstrate that a strong bond has formed between the child and the third party. *Id.* Evidence sufficient to rebut the presumption may also "consist of the parent's . . . past abandonment of the child such that the affections of the child and the third party have become so interwoven that to sever them would seriously mar and endanger the future happiness of the child." *A.J.L.*, 912 N.E.3d at 872.

> The issue is not merely the "fault" of the natural parent. Rather, it is whether the important and strong presumption that a child's best interests are served by placement with the natural parents is clearly and convincingly overcome by evidence proving that the child's best interests are substantially and significantly served by placement with another person. This determination falls within

> the sound discretion of our trial courts, and their judgments must be afforded deferential review. A generalized finding that a placement other than with the natural parent is in a child's best interests, however, will not be adequate to support such a determination, and detailed specific findings are required[.]

Paternity of W.M.T., 180 N.E.3d at 297 (cleaned up).

[28] If the third party rebuts this presumption by clear and convincing evidence, then the trial court engages in a general best interests analysis. *A.J.L.*, 912 N.E.2d at 872. INDIANA CODE § 31-14-13-2, which governs custody following a paternity determination, provides:

> The court shall determine custody in accordance with the best interests of the child. In determining the child's best interests, there is no presumption favoring either parent. The court shall consider all relevant factors, including the following:
>
> (1) The age and sex of the child.
>
> (2) The wishes of the child's parents.
>
> (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
>
> (4) The interaction and interrelationship of the child with:
>
> (A) the child's parents;
>
> (B) the child's sibling; and
>
> (C) any other person who may significantly affect the child's best interests.

(5) The child's adjustment to the child's home, school, and community.

(6) The mental and physical health of all individuals involved.

(7) Evidence of a pattern of domestic or family violence by either parent.

(8) *Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 2.5(b) of this section.*

I.C. § 31-14-13-2 (emphasis added).

[29] Pursuant to INDIANA CODE § 31-14-13-2(8), where, as here, the trial court determines that de facto custodians have cared for the child, the trial court is also required to consider in determining the child's best interests the factors set forth in INDIANA CODE § 31-14-13-2.5(b).[2] Those factors are as follows:

(1) The wishes of the child's de facto custodian.

(2) The extent to which the child has been cared for, nurtured, and supported by the de facto custodian.

(3) The intent of the child's parent in placing the child with the de facto custodian.

(4) The circumstances under which the child was allowed to remain in the custody of the de facto custodian, including whether the child was placed with the de facto custodian to allow the parent seeking custody to:

---

[2] A de facto custodian is "a person who has been the primary caregiver for, and financial support of, a child who has resided with the person for at least: . . . one (1) year if the child is at least three (3) years of age." I.C. § 31-9-2-35.5.

(A) seek employment;

(B) work; or

(C) attend school.

I.C. § 31-14-13-2.5(b). "The court shall award custody of the child to the child's de facto custodian if the court determines that it is in the best interests of the child." I.C. § 31-14-13-2.5(d).

[30] "An appellate court should not disturb a trial court determination awarding child custody to a non-parent unless there is no evidence supporting the findings or the findings fail to support the judgment." *A.J.L.*, 912 N.E.2d at 872 (cleaned up). We consider only the evidence favorable to the trial court's judgment and do not reweigh the evidence. *Id.*

[31] Here, the trial court concluded that Father had voluntarily placed S.H. with Maternal Grandparents, S.H. had become fully integrated into Maternal Grandparents' home, the lives and affections of S.H. and Maternal Grandparents had become completely interwoven, and that awarding custody of S.H. to Maternal Grandparents was in S.H.'s best interests. The evidence in the record, as set forth in the trial court's findings, support these conclusions. Specifically, our review of the evidence reveals that Father acquiesced to S.H. living with Maternal Grandparents in June 2016 when he lost his home in foreclosure. He continued to acquiesce to S.H. living with Maternal Grandparents when Mother moved back in with him at the Collier Street home in October 2017. Father's acquiescence continued when he and Mother ended their relationship in April 2018. Indeed, from April 2018 until October 2019,

Father did not telephone Maternal Grandparents to request parenting time with S.H. or to inquire about her well-being. During those years, Maternal Grandparents financially supported S.H., including paying for her living expenses, pre-school tuition, gymnastics and dance classes, and medical insurance without any contribution from Father. In addition, over the years, S.H. has developed parent and child relationships with Maternal Grandparents, who have arranged their work schedules to accommodate S.H.'s needs. The trial court did not abuse its discretion in awarding custody of S.H. to Maternal Grandparents.

2. Parenting Time

[32] Father also argues that the trial court abused its discretion in awarding him less parenting time than contemplated by the IPTG without a written explanation for the deviation. A trial court's primary consideration in parenting time disputes is the child's best interests. *Hazelett*, 119 N.E.3d at 162. Parenting time decisions are generally committed to the sound discretion of the trial court. *In re B.J.N.*, 19 N.E.3d 765, 769 (Ind. Ct. App. 2014). We, therefore, review parenting time decisions for an abuse of discretion. *Id.* A trial court abuses its discretion when its decision is clearly against the logic and effect of the facts and circumstances before the court or the court has misinterpreted the law. *Id.* In reviewing the trial court's parenting time decision, we will not reweigh the evidence or judge the credibility of the witnesses. *Gomez v. Gomez*, 887 N.E.2d 977, 983 (Ind. Ct. App. 2008).

[33] INDIANA CODE § 31-14-14-1, which governs parenting time following a determination of paternity, provides that "[a] noncustodial parent is entitled to reasonable parenting time[.]" I.C. § 31-14-14-1(a). There is a presumption that the IPTG apply in all child custody cases. Ind. Parenting Time Guidelines Preamble (C)(3). The commentary to the IPTG explains that the IPTG "represent the minimum time a noncustodial parent should spend with the child when the parties are unable to reach their own agreement." Ind. Parenting Time Guidelines Preamble Commentary 2. "Deviations from [the IPTG] . . . by the court that result in parenting time less than the minimum set forth [in the IPTG] must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case." Ind. Parenting Time Guidelines Preamble (C)(3).

[34] Here, at the time of the June 2021 hearing on Father's paternity petition, S.H. was five, nearly six, years old. For a child three (3) years of age and older, the IPTG provide for regular parenting time on alternating weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.,[3] one evening per week for a period of up to four hours, and on all scheduled holidays. Ind. Parenting Time Guidelines 2(D)(3). In addition, for a child five (5) years of age and older, the IPTG also provide for extended parenting time for one-half of the child's summer vacation. Ind. Parenting Time Guidelines 2(D)(3). If the child attends a school that has a year-round or balanced calendar, the noncustodial parent's extended

[3] The IPTG provide that the times may change to fit the parties' schedules. *See* IPTG Section 2(d)(1)(a).

parenting time shall be one-half of the time for fall and spring school breaks. Ind. Parenting Time Guidelines 2(D)(3).

[35] Here, the trial court awarded Father parenting time with S.H. from Friday at 6:00 p.m. until Sunday at 6:00 p.m. and on all holidays designated to the non-custodial parent for a period of twenty-four hours. The trial court did not award Father the mid-week parenting time or the extended parenting time set forth in the IPTG. Furthermore, the trial court did not include a written explanation indicating why these deviations from the IPTG's minimum parenting time were necessary or appropriate in this case. Rather, the trial court simply stated that it was following GAL Eimerman's recommendations. Simply following a GAL's recommendations does not satisfy the requirement that the trial court include a written explanation for the deviations.

[36] We further note that the trial court found that the GAL Eimerman had not recommended holiday or extended parenting time for Father because Father's work schedule had not allowed for it. However, the GAL Eimerman's recommendation had been made nine months before the trial court issued its parenting time order and was based on Father's former work schedule. In addition, GAL Eimerman testified that she had also not recommended that Father have extended parenting time with S.H. because S.H.'s daycare offered S.H. stability during the summer months and that stability was important to S.H. because of her recent behavioral issues. However, at the time of the hearing, S.H. was ready to enter kindergarten and would no longer be attending daycare. Further, the GAL appeared to have been talking about S.H.'s sensory

issues, which had improved at the time of the hearing on Father's petition. The trial court abused its discretion in awarding Father less parenting time than contemplated by the IPTG without a written explanation for the deviation. We therefore remand with instructions for the trial court to either issue a written explanation for its deviation from the IPTG or award Father parenting time consistent with the IPTG.

3. Child Support

[37] Father also argues that the trial court abused its discretion when it ordered him to pay $141 per week in child support. "Decisions regarding child support are generally left to the discretion of the trial court." *Pryor v. Bostwick*, 818 N.E..2d 6, 11 (Ind. Ct. App. 2004). A trial court abuses its discretion when its decision is clearly against the logic and effect of the facts and circumstances before it. *Barber v. Henry*, 55 N.E.3d 844, 850 (Ind. Ct. App. 2016).

[38] Child support calculations are made utilizing the income shares model set forth in the Indiana Child Support Guidelines ("the ICSG"). *Salser v. Salser*, 75 N.E.3d 553, 558 (Ind. Ct. App. 2017). The ICSG apportion the cost of supporting a child between the parents according to the parents' means.[4] *Id.* The ICSG also require the filing of a child support worksheet when the trial

[4] As S.H.'s primary custodians, Maternal Grandparents are considered to be parents as contemplated by the ICSG. *See Roydes v. Cappy*, 762 N.E.2d 1268, 1277 (Ind. Ct. App. 2002).

court is asked to order support. *See* Ind. Child Support Guideline 3(B)(1) ("In all cases, a copy of the worksheet which accompanies these Guidelines *shall* be completed and filed with the court when the court is asked to order support[.] Worksheets *shall* be signed by both parties, not their counsel, under penalties for perjury.") (emphases added).

[39] Here, none of the parties submitted a child support worksheet or testified regarding their gross incomes. The trial court was, therefore, unable to apportion the cost of supporting S.H. between Maternal Grandparents and Father according to their means. Instead, the trial court based its child support calculation on the Maternal Grandparents' weekly expenses for S.H.'s preschool and medical insurance. This was an abuse of the trial court's discretion. Indeed, Maternal Grandparents "agree that a child support obligation worksheet should be completed." (Maternal Grandparents' Br. 16). We, therefore, reverse the trial court's child support calculation and remand with instructions for the trial court to obtain child support worksheets signed by all parties and to recalculate Father's child support obligation accordingly. *See Pryor*, 818 N.E.2d at 12.

[40] Affirmed in part, reversed in part, and remanded with instructions.

May, J., and Brown, J., concur.