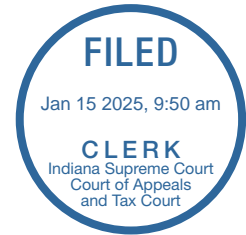


MEMORANDUM DECISION

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 Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.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

In the Matter of the Paternity of L.L.M.,
Brandi L. Vincent,
Appellant-Petitioner

v.

Glenn A. Moslander,
Appellee-Respondent

January 15, 2025

Court of Appeals Case No.
24A-JP-1541

Appeal from the Vanderburgh Superior Court
The Honorable Thomas A. Massey, Judge

Trial Court Cause No.
82D07-2302-JP-129

Memorandum Decision by Judge Foley
Judges Bailey and Bradford concur.

Foley, Judge.

- [1] Brandi L. Vincent (“Mother”) appeals the trial court’s order granting Glenn A. Moslander’s (“Father”) request to modify his parenting time with L.L.M. (“Child”), the child they share together. Mother raises one issue for our review: whether the trial court abused its discretion when it modified Father’s parenting time and allowed for unsupervised parenting time. We affirm.

Facts and Procedural History

- [2] Child was born on February 12, 2021, to Mother and Father. On February 13, 2021, both parents filed a paternity affidavit acknowledging Father’s paternity. On February 6, 2023, Mother filed a Verified Petition to Establish Paternity of Child, identifying Father as the biological father of Child. Paternity was established via the paternity affidavit on March 8, 2023, after a hearing.
- [3] On June 30, 2023, the trial court issued an order addressing issues of custody, parenting time, and child support. The trial court awarded sole physical and legal custody of Child to Mother. The trial court noted Father’s criminal history, including a 2015 conviction from Oklahoma for domestic violence and 2018 convictions from Oklahoma for kidnapping and domestic violence by strangulation against another victim. The trial court found that Father’s probation for his convictions had been transferred to Vanderburgh County from

Oklahoma, and such probationary period would run until 2041. The court also referenced an incident where Father had broken down a bathroom door behind which Mother and Child were sheltering, leading to a protective order for Mother. Due to these concerns, the trial court ordered that Father's parenting time be supervised, finding that unsupervised visits would "currently endanger [Child's] physical health/well being and impair [Child's] emotional development within the meaning of the statute." Appellant's App. Vol. II p. 25. The trial court's order stated that Father would have up to two hours of supervised parenting time with Child per week. The order went on to state, "After . . . Father has exercised [fifteen] supervised visits with [parenting coordinator] . . . without incident or concerns noted by [parenting coordinator], the parties['] counsel should contact the [c]ourt and the [c]ourt will set a [two] hour hearing on expanding/unsupervising Father's parenting time." *Id.*

[4] Between June 30, 2023, and June 6, 2024, Father participated in supervised visitation, completing twenty-eight visits with parenting coordinator, Mike Jones ("Jones"), and fifteen to nineteen visits at a parenting time center. On April 19, 2024, Father filed a motion for a hearing on parenting time in accordance with the trial court's previous order. In his motion, Father stated that he had completed over the required fifteen supervised visits with Child and that "[i]t is in [Child's] best interest to modify parenting time and remove any supervision requirement." *Id.* at 30.

[5] A hearing was held on Father's motion on June 13, 2024. Jones testified that, while Child was initially hesitant during visits, she developed a good

relationship with Father, and at the time of the modification hearing, Jones had no safety concerns. Jones stated that Father always acted appropriately with both him and Child, and he never had to correct Father not to do things during the visits. Father always communicated with Jones when he had to cancel visits with Child, and Jones testified that Father had approximately six cancellations over the course of time he supervised visits. Father testified that, at the time of the hearing, he had maintained sobriety for four years, was in a twelve-step program with a sponsor, was participating in therapy, and was taking co-parenting classes. Father also testified that he had a “very loving relationship” with Child, and she was “very comfortable around [him]” and that he wished to be able to spend more time with her. Tr. Vol. II p. 20. Mother testified that she opposed unsupervised parenting time, citing the seriousness of Father’s previous crimes and her concern that Child was only three years old and too young to “have a voice.” *Id.* at 46.

- [6] On June 24, 2024, the trial court issued its order, modifying the prior parenting time order and granting Father one weeknight with three hours of unsupervised visitation per week, alternating Saturdays with five hours of unsupervised visitation time, and five hours of unsupervised parenting time on holidays per the Indiana Parenting Time Guidelines. The trial court found that Father had made significant progress since the trial court’s previous order from June 30, 2023, citing Father’s maintained sobriety, his participation in a twelve-step program with a sponsor, and the parenting classes he was taking. The trial court also noted Father’s gainful employment as a painter, that his residence

was appropriate for his unsupervised parenting time with Child, and that he had a valid driver's license and insurance on his vehicle. The trial court found that Father regularly exercised parenting time with Child with thirty-two visits supervised by Jones, who stated that Child had a very good relationship with Father, that there were no safety concerns with Father, and that Father was always appropriate with Child. The trial court found that the five or six supervised visits cancelled by Father over the year time period were for "vehicle problems, lack of money to pay the supervisor, etc. [and] were not excessive or irresponsible as claimed by Mother." Appellant's App. Vol. II p. 10. The trial court also found that Father had exercised an additional fifteen to nineteen supervised visits with Child at a parenting time center. Although the trial court modified Father's parenting time to allow longer unsupervised parenting time with Child, it denied Father's request for overnight visitation.

- [7] On June 27, 2024, Mother filed a motion to stay the order pending her appeal, which the court denied. Mother now appeals.

Discussion and Decision

- [8] "Indiana has a legislatively-expressed presumption in favor of parenting time with the noncustodial parent." *S.M. v. A.A.*, 136 N.E.3d 227, 230 (Ind. Ct. App. 2019) (citing *Perkinson v. Perkinson*, 989 N.E.2d 758, 765 (Ind. 2013)). "Decisions involving parenting time rights under the paternity statutes are committed to the sound discretion of the trial court." *In re Paternity of J.K.*, 184 N.E.3d 658, 663 (Ind. Ct. App. 2022) (citation omitted). We will only reverse

the trial court's decision for an abuse of that discretion. *Id.* When reviewing the trial court's decision, we neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* Further, we have a “preference for granting latitude and deference to our trial judges in family law matters.” *Walker v. Nelson*, 911 N.E.2d 124, 127 (Ind. Ct. App. 2009) (quoting *Kirk v. Kirk*, 770 N.E.2d 304, 307 (Ind. 2002)).

[9] Indiana Code section 31-14-14-1(a), which outlines the parenting time rights of a noncustodial parent in a paternity action, provides that “[a] noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might: (1) endanger the child’s physical health and well-being; or (2) significantly impair the child’s emotional development.” Indiana Code section 31-14-14-2 states that “[t]he court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child.”

[10] Where—as here—the trial court’s judgment included sua sponte findings and conclusions, “the findings shall control . . . as to the issues they cover[.]” Ind. Trial Rule 52(C). We look to whether the evidence supported the findings, and the findings supported the judgment. *In re Paternity of W.M.T.*, 180 N.E.3d 290, 296 (Ind. Ct. App. 2021), *trans. denied*. Pursuant to Trial Rule 52(A), we “shall not set aside the findings or judgment unless clearly erroneous,” and “shall give . . . due regard to the opportunity of the trial court to judge the credibility of the witnesses.” A finding is clearly erroneous if there is no evidence supporting the finding. *Montgomery v. Montgomery*, 59 N.E.3d 343, 349 (Ind. Ct. App. 2016),

trans. denied. Moreover, a judgment is clearly erroneous if the court applied the wrong legal standard to properly found facts. *Yanoff v. Muncy*, 688 N.E.2d 1259, 1262 (Ind. 1997). Under this standard, we will reverse the trial court's judgment only if we are left with a definite and firm conviction that a mistake has been made. *Id.*

- [11] Mother argues that the trial court's order modifying Father's parenting time was an abuse of discretion because she claims that there were no findings addressing the best interests of the Child, particularly the factors under Indiana Code section 31-17-2-8. However, that code section pertains to the consideration of a child's best interests when determining custody in dissolution proceedings. *See* I.C. § 31-17-2-8 (setting out the factors to consider when determining the best interests of the child in a determination of custody in dissolution proceedings). Although the article of the Indiana Code dealing with paternity proceedings also contains a section listing factors to be considered when determining whether custody with a parent is in the child's best interests, this section only refers to custody determinations and not parenting time determinations. *See* I.C. § 31-14-13-2 (setting out factors to consider when determining the best interests of the child in a determination of custody in paternity proceedings). However, the statute which governs the modification of parenting time in paternity proceedings only states that "[t]he court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child." I.C. § 31-14-14-2. In looking at this statute, there are no factors delineated to consider when ascertaining the best

interests of the child nor is there any reference to section 31-14-13-2, which sets out, in paternity proceedings, the identical factors that Mother claims should have been applied. Therefore, the trial court was not required to address these factors in determining whether modification of parenting time was in Child's best interests.

[12] In determining that the modification of parenting time was in the best interests of Child, the trial court made several findings. Specifically, it found that Father had made significant progress since the trial court's order on June 20, 2023, including that Father had maintained his sobriety, was in a twelve-step program, had a sponsor, and attended meetings two to three times a week. Additionally, the trial court found that Father had regularly exercised parenting time with Child, attending over thirty supervised visits with Jones, the parenting time supervisor, and an additional fifteen to nineteen visits at the parenting time center. This was well above the threshold number of visits of "[fifteen] supervised visits with [parenting coordinator] . . . without incident or concerns noted by [parenting coordinator]" that the trial court had included in its previous order for when Father could seek modification and "expanding/unsupervising Father's parenting time." Appellant's App. Vol. II p. 25. The trial court also found that Jones stated that Father had a "very good relationship with [Child]" and "had no safety concerns," and "was always appropriate with [Child]." *Id.* at 10.

[13] Additionally, the trial court noted that, although Father had cancelled five to six visits with Child, this was "not excessive or irresponsible." *Id.* Further, the

court found that Father had taken a parenting course, was gainfully employed, had appropriate housing, and had a valid driver's license and insurance. All of these findings were supported by evidence presented at the hearing. Moreover, these findings supported the trial court's determination that modifying Father's parenting time was in Child's best interests. Mother's arguments to the contrary are merely requests for us to reweigh the evidence, which we do not do. *In re Paternity of W.M.T.*, 180 N.E.3d at 296. As we are not left with a definite and firm conviction that a mistake has been made, *see Yanoff*, 688 N.E.2d at 1262, we decline to reverse the trial court and conclude that the trial court was within its discretion to modify Father's parenting time by increasing the length of Father's parenting time and allowing unsupervised parenting time with Child.

[14] Affirmed.

Bailey, J. and Bradford, J., concur.

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