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IN THE COURT OF APPEALS OF INDIANA

Ashley D. (Ramey) Day-Ping,
Appellant-Petitioner,

v.

Charles T. Ramey, III,
Appellee-Respondent

August 20, 2021

Court of Appeals Case No. 21A-DR-295

Appeal from the Johnson Circuit Court

The Honorable R. Kent Apsley, Judge

Trial Court Cause No. 41C01-1607-DR-00432

May, Judge.

[1] Ashley D. (Ramey) Day-Ping ("Mother") appeals the trial court's order granting a petition from Charles T. Ramey III ("Father") for modification of custody of the parties' child, P.R. ("Child"). Mother presents multiple issues for our review, one of which we find dispositive: Whether the trial court abused

its discretion when it granted Father primary physical and sole legal custody of Child. We reverse and remand.

Facts and Procedural History

[2] Mother and Father were married April 25, 2014. Child was born November 13, 2014. Mother filed for dissolution on July 18, 2016. On September 28, 2016, the Department of Child Services ("DCS") received a report that Mother was neglecting Child by allowing him to wander around Mother's hair salon and play with a bottle of hair dye. DCS investigated and found the report to be unsubstantiated. On January 17, 2017, the trial court accepted the parties' settlement agreement and granted dissolution of the marriage. As it pertained to Child's custody, the parties' settlement agreement provided, in relevant part:

> The parties agree that [Mother] shall have sole legal and physical custody of [Child]. [Father] shall have parenting time the week of January 16, 2017 for two hours on Tuesday from 5:30 p.m. to 7:30 p.m. and two hours on Saturday from 12:00 noon to 2:00 p.m. Thereafter, [Father] shall have parenting time for two hours on Tuesday from 5:30 p.m. to 7:30 p.m. and six hours on Saturday from 12:00 noon to 6:00 p.m. for a period of six weeks ("The Phase-in Period"). Thereafter, [Father] shall have parenting time in accordance with Indiana Parenting Guidelines, including but not limited to the holiday schedule and ancillary provisions, with the exception that [Father's] overnights with [Child] shall not commence until [Child's] fourth birth date. The Indiana Parenting Guidelines, unless otherwise deviated from herein, are adopted in entirely [sic] by the parties. If [Father] does not exercise his parenting time, the schedule shall not progress. However, if [Mother] prevents [Father] from exercising his parenting time as set out herein, the schedule shall progress.

> During the Phase-in Period, [Father] shall provide direct eyesight supervision and care for [Child] during his parenting time and may not delegate this task to anyone else. [Father] shall not consume alcohol during his parenting time. [Father] shall not exercise his parenting time in any location where anyone present is engaging in illegal activity. [Father] shall not have unrelated third parties present during his parenting time. [Father] shall provide all transportation for his parenting time, which must comply with all legal requirements, including proper child restraints.

(Mother's App. Vol. II at 73.) The parties also agreed Father would pay Mother $119 per week in child support.

[3] On July 27, 2017, Mother reported to DCS[1] that Father had physically abused her and Child on multiple occasions in the past. On the same date, Mother reported to DCS that Child had returned from Father's care with injuries to his genitals. On August 5, 2017, Mother reported to DCS that she suspected Father had molested Child based on alleged injuries in Child's genital area. On August 6, 2017, Mother contacted DCS to report additional injuries in Child's genital area that she had discovered after Father's parenting time the previous day. On August 21, 2017, Mother contacted DCS to again report that Child returned from Father's care with injuries to his genital area. On August 28,

[1] Much of this information is contained in the record of the civil case filed by Mother against Father and Father's girlfriend, Jordan McHenry ("Girlfriend"), alleging malicious prosecution and intentional infliction of emotional distress. The trial court ultimately awarded Mother damages based on Father and Girlfriend's violation of Indiana Code section 31-33-22-3(b), which prohibits false reporting of neglect or abuse to DCS. We take judicial notice of that case, 41D01-1908-CT-122, as permitted under Indiana Evidence Rule 201.

2017, DCS received a report that Mother was abusing Child based on a blister found in his genital area that was allegedly not present during Father's last exercise of parenting time.[2] Following that report, DCS removed Child from Mother's care on an emergency basis and placed him with Father.

[4] DCS filed a petition alleging Child was a Child in Need of Services ("CHINS") based on Mother's neglect. The juvenile court held fact finding hearings on October 3 and 7, 2017. It ultimately denied the CHINS petition and ordered Child returned to Mother's care. Subsequently, Mother filed an action in federal court pursuant to 42 U.S.C. § 1983 claiming the two DCS family case managers who investigated the CHINS allegations against her violated her civil rights. The claim settled out of court and Mother received a settlement in her favor for $988,000.00.

[5] From November 2017 through August 20, 2019, the parties filed numerous petitions and reports related to parenting time that are not relevant to the matter before us. On August 20, 2019, Mother filed a petition requesting modification of Father's parenting time and asked that Father's parenting time be supervised because Child was "very resistant" to going with Father when dropped off for Father's parenting time and Mother "opine[d] that [Child's] resistance to his Father is due to things that are said and done to [Child] during [Father's] parenting time." (Father's App. Vol. II at 7.) On December 11, 2019, the trial

[2] As we will discuss infra, this report by Father and Girlfriend was eventually determined to be false.

court held a hearing on Mother's petition to modify Father's parenting time. On December 14, 2019, Father filed a motion to, in relevant part, modify custody, parenting time, and child support.

[6] On December 26, 2019, the trial court ordered Father's parenting time, which consisted of two midweek visits lasting two hours each and one four-hour visit on alternating weekends, supervised by Youth Connections.[3] The trial court ordered Mother to "leave the visitation site, including the building and parking lot, after she drops off [Child]. Mother shall not return to the visitation site until the end of Father's parenting time." (Mother's App. Vol. II at 86.) Further, the trial court ordered Mother to ensure Child does not "wear any smart watch or similar device to Father's parenting time or during Father's parenting time." (*Id.*) The order also required Mother, Father, and Child to submit to mental health and custody evaluations conducted by Dr. Linda McIntire.

[7] On January 10, 2020, Father filed a motion to modify the parenting time supervisor because Youth Connections was "unable to accommodate the requested visitation schedule." (*Id.* at 11.) Father asked the court to change the parenting time supervisor to Mending Fences and requested that "the court order the parties [to] contact Mending Fences within 24 hours to schedule intake and complete their intake within 2 business days." (*Id.*) On January 24,

[3] Youth Connections is a facility that provides a supervisor for supervised parenting time.

2020, the trial court granted Father's request and changed the parenting time supervisor from Youth Connections to Mending Fences.[4] The trial court ordered Mother and Father "to contact Mending Fences within 24 hours to schedule their intake and complete said intake within 2 business days." (*Id.* at 13.) Mother never completed the intake with Mending Fences "for reasons that were disputed including the effects of the pandemic that started a few weeks later." (Br. of Mother at 6.)

[8] On June 23, 2020, Father filed a motion to hold Mother in contempt, alleging, in relevant part:

> 3. [Mother] to date has failed to complete the intake per the order.
>
> 4. [Mother] changed her phone number on or about February 21, 2020. Mending Fences contacted [Mother's] counsel requesting [Mother] setup her intake.
>
> 5. [Mother] called Mending Fences with her new telephone number on February 26, 2020. [Mother's] intake was scheduled for March 4, 2020. [Mother] arrived at her intake with her husband. [Mother] was previously advised via telephone that third parties were not permitted to attend the intake.
>
> 6. [Mother] refused to sign the intake form and the intake was rescheduled for March 16, 2020.

[4] Like Youth Connections, Mending Fences also provides a supervisor for supervised parenting time.

> 7. Mending Fences has reached out to [Mother] several times and [Mother] still has not scheduled her intake.
>
> 8. At this point, Mending Fences is doubtful that visitations can occur in its facility.
>
> 9. [Father] has not had parenting time with [Child] since November 12, 2019.

(Father's App. Vol. II at 16-7.) On the same day, Father filed a motion to modify parenting time and a request for an expedited hearing.

[9] The trial court held hearings on Father's contempt motion on July 29 and August 3, 2020. On August 4, 2020, the trial court entered an order finding, in relevant part:

> 1. In the January 24, 2020 Order, both parties were ordered to: ". . . to contact Mending Fences within 24 hours to schedule their intake and complete said intake within 2 business days". [sic]
>
> 2. As of the August 3, 2020 hearing, [Mother] has still not completed the intake process. The service provider reported to the Court that they had "never had a case like this before". [sic] Further, they had wasted so much time and effort without even completing the intake process, that they would no longer be willing to accept the case for supervision.
>
> 3. Mother's obstinance effectively eliminated this service provider as a means to accommodate Father's court-ordered opportunity to visit with [Child].

4. [Mother] has engaged in a pattern of behavior clearly intended to frustrate this Court's Order, as well as the Court's efforts to reinitiate parenting time between Child and [Father].

5. Father has had no parenting time with [Child] since November 2019.

6. The Court, therefore, finds that [Mother] is in willful contempt of this Court's order.

7. The Court notes that previously, on June 6, 2017, [Mother] was strongly admonished by Judge Marla Clark that ". . . *The Court reminds Mother that it expects Father's parenting time to take place as ordered and that she faces potentially serious sanctions for denying parenting time*". [sic]

8. Father is no closer today to having regular (or any) parenting time with his son than he was in June of 2017.

9. [Mother] is hereby sentenced to serve thirty (30) actual days in the Johnson County Jail for her contempt.

10. The Court stays imposition of the sentence and will allow [Mother] the opportunity to purge her contempt. [Mother] may purge her contempt by henceforth abiding by the strict terms of this Court's parenting time order, without exception, excuse or subversion.

(Mother's App. Vol. II at 89-90) (emphases in original). The trial court further ordered Father to have parenting time pursuant to the Indiana Parenting Time Guidelines, with Mother arranging transportation to and from Father's residence for the first ninety days. The trial court also ordered Mother to pay

$1,000.00 of Father's attorney's fees and ordered Mother to refrain from sending Child to Father's house with a "'smart watch' or any other GPS device capable of tracking [Child] during Father's parenting time." (*Id.* at 91.)

[10] On December 1, 2020, Dr. Linda McIntire submitted her custody evaluation to the trial court. On January 6, 2021, Mother made a motion for specific findings by the court pursuant to Indiana Trial Rule 52. On January 12 and January 15, 2021, the trial court heard evidence on Father's motion for modification of custody. On February 15, 2021, the trial court issued its order, which transferred sole legal and primary physical custody of Child from Mother to Father; ordered Mother to pay $137 in child support per week; ordered Mother to pay $9,000.00 of Father's attorney's fees; and appointed Father's girlfriend, Jordan McHenry ("Girlfriend"), as Child's temporary custodian in the event of Father's death.

Discussion and Decision

[11] When reviewing cases involving the modification of child custody, especially one as contentious as the one before us,

> [w]e acknowledge the well-established preference in Indiana "'for granting latitude and deference to our trial judges in family law matters.'" *Steele-Giri v. Steele*, 51 N.E.3d 119, 124 (Ind. 2016) (quoting *In re Marriage of Richardson*, 622 N.E.2d 178 (Ind. 1993)). "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*. (quoting *Kirk v. Kirk*, 770 N.E.2d 304, 307 (Ind. 2002)). In order to reverse a trial court's ruling, it is not enough that the evidence might have supported a different conclusion. *Id*. Rather, the evidence must positively require the conclusion contended for by appellant [before] we may reverse. *Id*. We may not reweigh the evidence or reassess witness credibility, and the evidence should be viewed in a light most favorable to the judgment. *Id*. (quoting *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011)). Still, although we must be highly deferential to trial courts in cases such as this, that deference is not absolute. *See Kirk*, 770 N.E.2d at 307 n.5 ("This is not to say that the circumstances of a custody or visitation case will never warrant reversal.").

Montgomery v. Montgomery, 59 N.E.3d 343, 349-50 (Ind. Ct. App. 2016), *trans. denied*.

[12] To modify a child custody order, the court must find modification is in the best interest of the child and there is "a substantial change in one (1) or more of the factors that the court may consider under section 8 and, if applicable, section 8.5 of this chapter." Ind. Code § 31-17-2-21. The factors to be considered by the trial court are:

> (1) The age and sex of the child.
>
> (2) The wishes of the child's parent or 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 parent or 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:

(A) home;

(B) school; and

(C) community.

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

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

Ind. Code § 31-17-2-8.

[13] The party requesting the custody modification bears the burden of proving the existing custody order should be changed. *Montgomery*, 59 N.E.3d at 350. "Indeed, this 'more stringent standard' is required to support a change in custody, as opposed to an initial custody determination where there is no presumption for either parent because 'permanence and stability are considered best for the welfare and happiness of the child.'" *Steele-Giri*, 51 N.E.3d at 124 (quoting *Lamb v. Wenning*, 600 N.E.2d 96, 98 (Ind. 1992)).

> When evaluating whether a change of circumstances has occurred that is substantial enough to warrant a modification of custody, the context of the whole environment must be judged, "'and the effect on the child is what renders a change substantial or inconsequential.'" [*In re Marriage of*] *Sutton*, 16 N.E.3d [481,] 485 [(Ind. Ct. App. 2014)] (quoting *Jarrell v. Jarrell*, 5 N.E.3d 1186, 1193 (Ind. Ct. App. 2014), *trans. denied*). Generally, cooperation or lack thereof with custody and parenting time orders is not an appropriate basis for modifying custody. It is improper to utilize a custody modification to punish a parent for noncompliance with a custody order. *In re Paternity of M.P.M. W.*, 908 N.E.2d 1205, 1208 (Ind. Ct. App. 2009). "However, '[i]f one parent can demonstrate that the other has committed misconduct so egregious that it places a child's mental and physical welfare at stake, the trial court may modify the custody order.'" *Maddux v. Maddux*, 40 N.E.3d 971, 979 (Ind. Ct. App. 2015) (quoting *Hanson v. Spolnik*, 685 N.E.2d 71, 78 (Ind. Ct. App. 1997), *trans. denied*).

Montgomery, 59 N.E.3d at 350-1.

[14] At Mother's request, the trial court entered findings of fact and conclusions of law pursuant to Indiana Trial Rule 52(A).

> The conclusions of law are reviewed de novo. But pursuant to Trial Rule 52(A), we shall not set aside the findings or judgment unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. Factual findings are only clearly erroneous where there is no support for them in the record, either directly or by inference; a judgment is only clearly erroneous when it applies an improper legal standard to proper facts. In either case, we must be left with the firm conviction that a mistake has been made.

Johnson v. Johnson, 999 N.E.2d 56, 59 (Ind. 2013) (internal citations and quotations omitted). The trial court made extensive findings outlining the acrimonious relationship between the parties and the observations of Dr. McIntire, the custody evaluator. These findings, in combination with details of proceedings involving the same parties and similar issues, have caused this court pause.

[15] Prior to, during, and subsequent to the matter before us, Mother, Father, and Girlfriend were involved in two cases that we believe call into question the veracity of the information given to Dr. McIntire and the court by Father and Girlfriend. These cases arise out of a 2017 DCS incident in which, upon receiving Child for Father's parenting time, Girlfriend sent a DCS employee a text message with a picture of Child's genitals and indicated the blister in the picture was not present during Father's prior parenting time. Based on this information, DCS removed Child from Mother's care on an emergency basis and placed Child with Father for forty-four days. After a fact-finding hearing on the matter,[5] the juvenile court determined Child was not a CHINS and dismissed the case.

[16] After the dismissal of the CHINS matter, Mother filed a claim in federal district court against the two DCS employees who investigated Girlfriend's report. Mother alleged the DCS employees impinged on her civil rights. The case did

[5] The CHINS matter was filed under cause number 41C01-1708-JC-83.

not go to trial, and the parties settled for $988,000.00. During the pendency of the proceedings before us, Mother filed a complaint in Johnson Superior Court against Father and Girlfriend for malicious prosecution and intentional infliction of emotional distress. Subsequent to the judgment before us, the Johnson Superior Court held a five-day jury trial on Mother's complaint against Father and Girlfriend under Indiana Code section 31-33-22-3(b), which states:

> (b) A person who intentionally communicates to:
>
> (1) a law enforcement agency; or
>
> (2) the department [of child services];
>
> a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

The jury in that case awarded Mother $90,750.00 each from Father and Girlfriend in compensatory damages, and $10,000 each from Father and Girlfriend in punitive damages. (Order, 41D01-1908-CT-122, June 19, 2021.)

[17] During the modification proceedings, the trial court ordered Dr. McIntire to complete a custody evaluation. Mother presented two experts to review Dr.

McIntire's report, Dr. Michael Jenuwine and Dr. Randall Krupsaw.[6] Regarding these experts, the trial court found, "[a]s between the report and findings of the Court's appointed evaluator, Dr. Linda McIntire, and those of Mother's experts, Dr. Jenuwine and Dr. Krupsaw, the Court finds Dr. McIntire's findings to be the more compelling, reasonable and consistent with the evidence." (Mother's App. Vol. II at 56.) While it is not out of the ordinary for a trial court to believe one expert instead of another, the experts' criticisms of portions of Dr. McIntire's report, when viewed in light of Father and Girlfriend's fraudulent behaviors in related matters, prompt us to encourage the trial court to reexamine the evidence in this case.

[18] For example, in his report, Dr. Jenuwine mentions multiple instances in Dr. McIntire's report in which he "observed evidence of potential bias" in favor of Father. (Exhibit Vol. V at 22.) Specifically, he notes that Dr. McIntire's report shows a "Primacy Bias" in favor of Father based on the fact that Dr. McIntire

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[6] Dr. Krupsaw's analysis focused on Child's condition, specifically that he suffered from separation anxiety. Dr. Krupsaw stated Child's separation anxiety began prior to the original custody order, "at least to 12/27/16, as evidenced by the videos of parental exchanges as well as Mother and Father's reports." (Ex. Vol. V at 5.) Dr. Krupsaw did not review Dr. McIntire's report. Dr. Krupsaw formed his opinion through reviewing the depositions of the DCS staff members who removed Child from Mother's care in August 2017, Mother's psychiatric records, Child's medical and mental health records, videos of parental exchanges, and the custody evaluation report from Youth Connections, where Father was originally ordered to participate in supervised visitation. In his report, Dr. Krupsaw opined:

> It is possible that [Child] has suffered some degree of brain damage and heightened vulnerability to behavioral disorders due to the cumulative effect of the stress of his removal from [Mother] by DCS and prior stressful events during his infancy and early childhood. This is based on extensive medical and psychological research literature regarding the effects of early life stress and adverse childhood experiences.

(*Id*. at 6.)

did not interview Mother and Father in a joint interview and, instead, seemed to accept Father's version of the events before considering Mother's point of view. (*Id*. at 24.) Dr. Jenuwine takes issue with Dr. McIntire's apparent dismissal of Mother's allegations of domestic violence as "problematic" and "irresponsible" because Dr. McIntire's acceptance of Father's denial of any instances of domestic violence are incompatible with other tests Dr. McIntire conducted in which Father displayed "ample evidence of impression management with validity scales on all measures show[ing] efforts to portray himself in any overly favorable light ('fake good' profile)." (*Id*. at 26-7.) Additionally, Dr. Jenuwine noted Dr. McIntire "did not use any psychological instruments designed for directly assessing domestic violence" and that Mother's behaviors described by Dr. McIntire as "alienating" may also be explained as protective behaviors as a result of domestic violence. (*Id*. at 28.)

[19] Additionally, Dr. Jenuwine highlights the incongruency in Dr. McIntire's reporting, specifically as it relates to the change in custody. Dr. McIntire noted in her report that Child's separation anxiety would make a change in custody "stressful" for the Child but then recommended primary physical custody be granted to Father despite the "negative impact that a change in custody would have on [Child] based on his strong attachment to [Mother.]" (*Id*. at 30.) He also notes that Dr. McIntire did not perform any accepted tests to assess the possible effects of a custody modification on Child. Specifically, Dr. Jenuwine stated:

> Testing data do not provide sufficient evidence to support that [Father] being awarded sole legal and physical custody would be in the best interests of [Child]. A review of the testing results in this case suggest that [Father] was defensive and resistant to efforts to collect data concerning his current psychological and personality functioning, making the veracity of his self-reported information during interviews similarly limited. A review of the professional literature resulted in no support for Dr. McIntire's recommendation concerning a change in custody based on any reliable data collected in the current evaluation.

(*Id*. at 31.)

[20] We repeat for emphasis that it is not our role to reweigh evidence or judge the credibility of witnesses. *Montgomery*, 59 N.E.3d at 350. Nonetheless, even though we must be highly deferential to trial courts in cases such as this, "that deference is not absolute." *Id*. While it is rare, "[t]his is not to say that the circumstances of a custody or visitation case will never warrant reversal." *Kirk*, 770 N.E.2d at 307 n.5. This is such a situation. The trial court's order heavily favors Father's evidence, and the order relies on Dr. McIntire's custody evaluation without acknowledging or appearing to weigh the substantial criticisms of her report lodged by Dr. Jenuwine. For instance, he pointed out accepted psychological practices that were not followed, and he called into question Dr. McIntire's neutrality when interacting with the parties. The ancillary court proceedings concerning the August 2017 DCS case also call into question the veracity of Father and Girlfriend, at the very minimum. Based on the weight the trial court gave to Father's evidence and Dr. McIntire's report, especially in light of the fact that a jury determined Father and Girlfriend

committed fraud when reporting Mother to DCS, we would like the trial court to reexamine the evidence considering the entirety[7] of the circumstances.[8] Accordingly, we reverse and remand.[9]

Conclusion

[7] Additionally, the trial court's findings do not demonstrate it considered all of the factors in Indiana Code section 31-17-2-8. There are no findings regarding Child's relationship with Mother's subsequent-born child and Mother's husband, nor are there findings regarding Child's adjustment to home, school, and community prior to modification, despite the fact that Mother provided copious documentation thereof. While the trial court did make findings regarding mental health, all of those findings were about Mother's mental health and the affect it may have on Child. There are no findings regarding Father's mental health and very few regarding his relationship with Child. Finally, Mother presented evidence to Dr. McIntire that there had existed domestic violence between the parties, and the trial court did not mention those allegations, or Father's response thereto, in its findings.

[8] The trial court erred when it designated Girlfriend as "temporary custodian" of Child in the event of Father's death. Pursuant to Indiana Code section 31-17-2-11, the trial court shall enter a conditional order naming temporary custodian for a child when the trial court's order "requires supervision during the noncustodial parent's parenting time privileges." "A mere restriction does not, according to the plain language of the statute, support the appointment of a temporary custodian other than the parent." *Barger v. Pate*, 831 N.E.2d 758, 764 (Ind. Ct. App. 2005). In the trial court's order, Mother's parenting time is "restricted" based on certain conditions such as compliance with therapy recommendations. (Mother's App. Vol. II at 59-60.) Further, Mother's "reasonable phone contact" with Child "shall" be supervised by Father "as he feels is appropriate so that Mother does not engage in conversation that increases [Child's] anxiety." (*Id*. at 60.) As the trial court did not order Mother's parenting time privileges supervised, it abused its discretion when it named Girlfriend as Child's temporary guardian upon Father's death. We instruct the trial court to correct this error when it enters a new order.

[9] Mother also appeals the trial court's order that she pay $9,000.00 of Father's attorney fees. As we reverse the entire modification order, we need not address this issue directly, however, we note that the parties do not direct us to the portions in the record where the trial court received evidence regarding "the resources of the parties, their economic condition, the ability of the parties to engage in gainful employment and to earn adequate income, and such other factors as bear on the reasonableness of the award." *Bertholet v. Bertholet*, 725 N.E.2d 487, 501 (Ind. Ct. App. 2000) (quoting *Barnett v. Barnett*, 447 N.E.2d 1172, 1176 (Ind. Ct. App. 1983)). It is an abuse of discretion to award attorney fees without completing this analysis. *See Montgomery*, 59 N.E.3d at 354 (finding abuse of discretion without analysis into those factors). Further, we are appalled by Father's argument on appeal that Mother's assets to pay his attorney fees should come from the $988,000.00 settlement Mother received from DCS in a case that arose from what was later determined to be false reporting by Father and Girlfriend.

[21] We reverse the trial court's decision and remand for reconsideration of the evidence based on the entirety of the circumstances concerning these parties. Absent exigent circumstances, the court shall order the parties to revert to the terms of the original Settlement Agreement, entered into on January 16, 2017, and approved by the court on January 17, 2017, upon receipt of this opinion. This reversion shall remain in effect pending the outcome of a new hearing, which shall be conducted within thirty days from the date of this opinion.

[22] Reversed and Remanded.

Bailey, J., and Robb, J., concur.