

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE

Phillip Grigalanz
Taylorville, IL

IN THE COURT OF APPEALS OF INDIANA

Phillip Scott Grigalanz,
Appellant-Respondent,

v.

Kristi Lynn Grigalanz n/k/a
Kristi Lynn Evans,
Appellee-Petitioner

July 8, 2022

Court of Appeals Case No.
22A-DR-574

Appeal from the Porter Superior
Court

The Honorable Ana Patricia Osan,
Magistrate

Trial Court Cause No.
64D01-1508-DR-6999

Crone, Judge.

[1] Phillip Scott Grigalanz (Husband), an inmate at the Taylorville Correctional Center in Illinois, filed a pro se petition in January 2022 seeking modification of the May 2016 decree dissolving his marriage to Kristi Lynn Grigalanz n/k/a Kristi Lynn Evans (Wife) because the dissolution decree did not address custody, parenting time, and/or child support regarding Wife’s child from a prior relationship. In short, Husband wants visitation with his former stepdaughter.¹ The trial court issued an order determining that Husband’s pro se petition presented “no matter requiring court attention” and stating that all “prior Court Orders” remained in “full force and effect.” Appealed Order at 1. Husband filed a motion to correct error, which was denied by the trial court.

[2] On appeal, Husband argues that the trial court abused its discretion by “failing to advance the issue of visitation” and to allow him to present evidence as to why he is entitled to visitation with his stepdaughter. Appellant’s Br. at 8. However, Husband has already raised the visitation issue to the trial court through motions for modification of custody filed both before and after the entry of a final dissolution decree, as well as through subsequent motions to reconsider and to correct error. Husband’s final motion to correct error

¹ In 2016 and early 2017, Husband filed numerous motions, affidavits, and other requests with the trial court attempting to relitigate the dissolution decree, and specifically the visitation issue, which were all denied. Our review of the chronological case summary reveals that Husband was bombarding the trial court with filings. In April 2017, the trial court entered an order that “no further filings will be accepted.” Appellant’s App. Vol. 2 at 8. However, Husband continued to send documents to the trial court. On November 27, 2019, the trial court issued an order, stating: “The Court returns [Husband’s] filings to him without review as this Cause is closed.” *Grigalanz v. Grigalanz*, No. 19A-DR-3054, 2020 WL 4249418, at *1 (Ind. Ct. App. July 24, 2020), *trans. denied, cert. denied* (2021). Husband appealed that order to this Court. We affirmed that order after concluding that Husband failed to present an adequate record on appeal. *Id.* at *2.

regarding the dissolution proceedings was denied in November of 2016. He appealed to this Court, and that appeal was dismissed with prejudice in March of 2017. The dismissal of an appeal with prejudice constitutes a “dismissal on the merits” and “is conclusive of the rights of the parties and is res judicata as to any questions that might have been litigated.” *Fox v. Nichter Constr. Co.*, 978 N.E.2d 1171, 1180 (Ind. Ct. App. 2012). Accordingly, Husband is precluded from relitigating the visitation issue in this appeal.² The trial court’s order is affirmed.

[3] Affirmed.

Vaidik, J., and Altice, J., concur.

² We emphasize that Husband was within his rights to seek visitation with stepdaughter in conjunction with the dissolution of his marriage to Wife. Indeed, this Court has recognized that stepparents have standing to seek visitation rights and that a trial court has authority to grant the same. *Richardson v. Richardson*, 34 N.E.3d 696, 701 (Ind. Ct. App. 2015). However, a stepparent may be granted visitation only upon establishing the existence of a custodial and parental relationship and that visitation is in the child’s best interests. *Id.* Those matters are now precluded from consideration due to the dismissal of his prior appeal with prejudice.