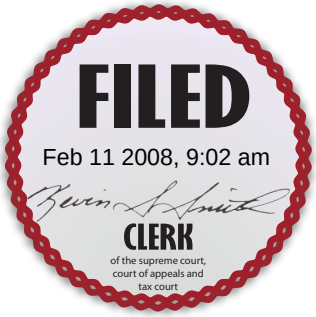

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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE PATERNITY OF I.M.A,	)	
K.A.	)	
Appellant-Petitioner,	)	
vs.	)	No. 49A02-0702-JV-164
J.T.,	)	
Appellee-Respondent,	)	

APPEAL FROM THE MARION CIRCUIT COURT
The Honorable Theodore Sosin, Judge
Cause No. 49C01-0211-JP-2517

February 11, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issues

In this consolidated appeal, K.A. challenges the trial court's order granting physical and legal custody of I.M.A., K.A.'s daughter, to I.M.A.'s father, J.T., and the trial court's subsequent order restricting K.A.'s parenting time. On appeal, K.A. raises three issues, which we consolidate and restate as whether the trial court abused its discretion 1) when it granted physical and legal custody of I.M.A. to J.T. and 2) when it restricted K.A.'s parenting time. We affirm, concluding the trial court acted within its discretion in both instances.

Facts and Procedural History

A. Events Before the Custody Modification Order

K.A. ("Mother") and J.T. ("Father") are the unmarried parents of I.M.A., who was born on May 6, 2002. On December 16, 2002, the trial court issued an order establishing Father's paternity, granting temporary custody of I.M.A. to Mother, granting Father parenting time, and requiring Father to pay child support. Shortly after the trial court issued its order, Mother and Father's relationship became strained. Mother denied Father parenting time from approximately late December 2002 to the early months of 2003 and, in February 2003, filed a complaint with Marion County Child Protective Services ("Marion County CPS") alleging Father had sexually abused I.M.A. These events resulted in Father filing a motion for contempt based on the denial of parenting time and Mother filing a motion for a permanent protective order alleging sexual abuse. Following a hearing on April 11, 2003, the trial court found that Mother had denied Father parenting time without cause and that the sexual abuse allegation was unfounded. As a result, the trial court granted Father's motion

and denied Mother's, ordering parenting time to continue and gradually increase to include overnight visits by mid-May 2003.

Although Mother complied with the trial court's order throughout the remainder of 2003, on April 25, 2003, following parenting time with Father, Mother took I.M.A. to Community North Hospital and reported I.M.A. had vaginal swelling. The hospital contacted Marion County CPS to investigate, but the investigation was discontinued after an examination indicated I.M.A.'s condition was normal. On June 22, 2003, Mother took I.M.A. to Wishard Hospital and reported I.M.A. had severe diaper rash. Mother also reported that she was "concerned about sexual abuse by [Father]" and that I.M.A. "has been with [Father] most of the week." Appellee's Appendix at 22. Mother's report on June 22, 2003, started a two-month "pattern of taking [I.M.A.] to be examined for alleged diaper rash before and after parenting time with [Father]." Id. From June 28 to August 26, 2003, Mother had I.M.A. examined thirteen times for what Mother described as "excessive diaper rash." Id. at 23. According to I.M.A.'s pediatrician, however, these examinations revealed four instances of mild diaper rash and one instance of infection. The infection was diagnosed on June 30, 2003, after I.M.A. had been in Mother's care for the majority of the previous three days. During the last diaper rash examination on August 26, 2003, I.M.A.'s pediatrician told Mother not to schedule an examination unless I.M.A.'s diaper rash was "possibly infected" and warned Mother that repeated visits to the pediatrician "could be detrimental to [I.M.A.]" Id. at 84.

Also during the summer of 2003, Mother and Father participated in a series of interviews with Dr. John Ehrmann, Psy.D., whom the trial court appointed to prepare a

custody evaluation. On January 13, 2004, Dr. Ehrmann finished his custody evaluation, recommending that Mother receive custody of I.M.A. and that Father receive parenting time consistent with the Indiana parenting time guidelines. Based primarily on the recommendations of Dr. Ehrmann, Mother and Father entered into a settlement agreement, which the trial court approved on June 21, 2004. Among other things, the settlement agreement granted Mother primary custody of I.M.A., required Mother to consult with Father before making major decisions such as those concerning I.M.A.'s education and medical care, granted Father more parenting time than is recommended under the guidelines, required Father to pay child support, and prevented Mother from moving out of state before May 2005.

For the next ten months, Mother and Father "entered a period of basic cooperation." Id. at 25. In May 2005, Mother notified Father that she intended to move to California with I.M.A. and did so shortly thereafter. On August 16, 2005, Mother took I.M.A. to her first appointment with her new pediatrician, but did not notify Father. Following parenting time with I.M.A. in late August 2005, Mother denied Father parenting time for a period of slightly over three months. On December 7, 2005, Father filed a motion for contempt based on Mother's denials of parenting time and her failure to provide information regarding I.M.A.'s enrollment in preschool and medical care.

After receiving the motion for contempt, Mother arranged for Father to have parenting time in Indiana from January 15 to 22, 2006. Two days before the visit, however, I.M.A. told her preschool teacher that Father "had hurt her privates with a blue needle and that she was afraid to go to Indiana." Id. at 27. I.M.A.'s teacher notified Mother of I.M.A.'s allegation.

On the same day, during an appointment that had been scheduled several days previously, Mother related the sexual abuse allegation to I.M.A.'s pediatrician, who in turn contacted the Los Angeles County Department of Children and Family Services ("Los Angeles County DCFS"). Because Mother and I.M.A. were scheduled to depart for Indiana on January 14, 2006, Los Angeles County DCFS referred the case to Marion County CPS. Marion County CPS interviewed I.M.A. on January 15, 2006, but she did not did not disclose Father's alleged sexual abuse. Mother did not tell Father about I.M.A.'s allegation or Marion County CPS's investigation. Instead, Father found out when a police officer came to his home during parenting time on January 20, 2006, and told Father about the investigation. The officer left after inspecting Father's home and observing I.M.A. while she slept.

On January 26, 2006, four days after her return from Indiana, Mother contacted Los Angeles County DCFS to again report I.M.A.'s sexual abuse allegation. Los Angeles County DCFS interviewed I.M.A. privately on January 31, 2006, but she did not disclose Father's alleged sexual abuse. Los Angeles County DCFS's records state that during the interview, I.M.A. "explained that she had told her teacher that [Father] had hurt her, but she stated that she was 'just teasing.'" Respondent's Exhibit J at 8 (October 12 and 18, 2006, hearings). On February 15, 2006, the Los Angeles County DCFS caseworker contacted Mother and told Mother the sexual abuse allegation was unfounded. On February 21, 2006, Father filed a motion for modification of custody, citing Mother's refusal to provide him with information regarding I.M.A. and false sexual abuse allegations.

On February 28, 2006, Mother enrolled I.M.A. in a series of counseling sessions for the purported reason of easing difficulties with parenting time transitions. On March 28,

2006, during a counseling session with Dr. Jennifer Turner, Psy.D., Mother related to Dr. Turner that I.M.A. told her Father "makes me touch his pee pee and then rinse off." Respondent's Exhibit A at 60 (June 7, 2006, hearing). Dr. Turner contacted Los Angeles County DCFS and reported I.M.A.'s sexual abuse allegation. Los Angeles County DCFS investigated the allegation, which included interviews with Mother, I.M.A., and Father,[1] and a medical examination of I.M.A., but concluded the allegation was unfounded. On May 9, 2006, Los Angeles County DCFS charged Mother with emotional abuse based on repeated false reports of sexual abuse and subjecting I.M.A. to repeated medical examinations. On August 8, 2006, however, Los Angeles County DCFS concluded its charge was unfounded.

On May 15, 2006, based on the Los Angeles County DCFS's charge against Mother, Father filed a motion for emergency custody of I.M.A. On June 7, 2006, the trial court conducted a hearing on the motion, during which it heard testimony from Mother and Father. On June 19, 2006, the trial court denied Father's motion, stating that although the motion was not frivolous, it was not prepared "to make [a] finding of irreparable harm/injury on evidence presented thus far." Appellee's App. at 12. The trial court noted it was concerned I.M.A. had been subjected to frequent medical examinations and interviews regarding sexual abuse allegations. The trial court also noted it was "troubled" by Mother's failure to comply with the terms of the court-approved settlement agreement, specifically that Mother had failed to promptly notify Father of medical appointments and I.M.A.'s sexual abuse allegations. Id. at 11. Based on these concerns, the trial court ordered that Mother keep Father advised of I.M.A.'s medical appointments, counseling sessions, and interactions with

[1] Father testified that his interview with Los Angeles County DCFS was the first time he learned about this

Marion County CPS or Los Angeles County DCFS.

Following the trial court's June 19, 2006, order, I.M.A. made two more allegations of sexual abuse. The first allegation occurred during a counseling session on July 18, 2006. On that occasion I.M.A. told Dr. Turner that during her most recent visit to Indiana, Father "put a pink ball in my pee pee and my bottom . . . ." Respondent's Exhibit E at 29 (October 12 and 18, 2006, hearings). Dr. Turner reported I.M.A.'s allegation to Los Angeles County DCFS, but it concluded the allegation was unfounded. Mother told Father about I.M.A.'s allegation on July 20, 2006.

The second allegation occurred toward the end of a counseling session on September 20, 2006. Several minutes after Mother returned from the restroom with I.M.A., I.MA. told Dr. Turner that Father "made me touch his pee pee," but later recanted. Id. at 8. After consulting with a colleague, Dr. Turner decided not to report I.M.A.'s sexual abuse allegation to Los Angeles County DCFS.

On September 25, 2006, Dr. Jonni Gonso, Ph.D., issued her court-ordered custody evaluation, having previously conducted a series of interviews with I.M.A., Mother, and Father, in individual and group settings during the spring and summer of 2006. Dr. Gonso's custody evaluation included the following observations: 1) Mother's behavior was consistent with a parent who perpetuates false allegations of sexual abuse against the other parent; 2) Mother was either intentionally or unintentionally programming I.M.A. to report allegations of sexual abuse; 3) Mother's behavior undermined I.M.A.'s relationship with Father and constituted emotional abuse of I.M.A.; and 4) if Mother's behavior continued, it could

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allegation and about Mother's decision to enroll I.M.A. in counseling sessions.

develop into a "loyalty bind," causing I.M.A. to "join[] her mother in vilifying her father and creating malevolent delusions about him and resisting visitation without intervention." Respondent's Exhibit B at 28 (October 12 and 18, 2006, hearings). Based on these observations and others, Dr. Gonso recommended that Father have sole legal and physical custody of I.M.A. Dr. Gonso recognized that a change in custody would be difficult for I.M.A., but noted that "[t]he risk of change is outweighed by the seriousness of the current problems and potential for greater emotional damage in the future without intervention. Risk due to placement change is ameliorated to some degree by the broader and deeper relationship between father and daughter." Id. at 29.

On October 12 and 18, 2006, the trial court conducted hearings on Father's December 7, 2005, motion for contempt, Father's February 21, 2006, motion for modification of custody, and Mother's August 3, 2006, motion for contempt.[2] On January 17, 2007, the trial court issued an order (the "Custody Modification Order") that included the following findings of fact:

> zzzz. The evidence before the Court demonstrates that [Mother] has engaged in a specific pattern of behaviors designed to undermine the relationship between [Father] and [I.M.A.] [Mother] has continued to do so despite the warning of harm to [I.M.A.] from medical professionals, as well as this Court's own finding of [Mother] in contempt for denying [Father] parenting time and the Court's expressed concerns regarding harm to [I.M.A.] There is specific evidence before the Court that [Mother] attempted to manipulate medical professionals to assist her in her allegations against [Father] and that [Mother] facilitated the making of false allegations of abuse against [Father]. Although [Mother] testified that her visits to medical professionals over the past three years were not about "making a case" against [Father], the evidence demonstrates otherwise.
>
> . . .

[2] Mother's motion for contempt was based on Father's failure to reimburse her for a portion of travel expenses she incurred in traveling with I.M.A. to Indiana for parenting time.

ggggg. There is no evidence before the Court that [Father] has failed to cooperate with medical professionals treating [I.M.A.] Rather, the evidence demonstrates that [Father] has followed the recommendations of [I.M.A.'s] doctors and has immediately informed [Mother] of all medical concerns related to [I.M.A.] In regards to [I.M.A.'s] specific issues with [Epidermolysis Bullosa],[3] [Father] has appropriately treated his daughter when she has suffered symptoms in his care.

iiiii. Even though [I.M.A.] has no extended family in California, [I.M.A.] is well adjusted to her preschool and community in California. [Mother] testified that [I.M.A.] transitioned well after her move to California in May 2005 and that [I.M.A.] makes friends easily and quickly.

jjjjj. Although [Mother] testified that it would be a tremendous shock to [I.M.A.] to move to Indiana, the Court does not find this statement credible. [I.M.A.] has extended family in Indiana, including [Mother's] father, mother, and sister. The evidence demonstrates that [Father] has facilitated a relationship between [I.M.A.] and [Mother's father] by allowing [him] to see [I.M.A.] when she is visiting in Indiana. In addition, [Father] testified that he has lived in the same home since [I.M.A.'s] birth and that [I.M.A.] has several friends in the neighborhood. There is no evidence to suggest that [I.M.A.] would not transition well to [Father's] home and community if custody was modified.

kkkkk. [Father] testified that [I.M.A.] would attend [preschool] near his home when he needed work related daycare if he were to receive custody of [I.M.A.] He also testified that he would allow [Mother] to care for [I.M.A.] during the day if she were to move back to Indiana from California. [Father] also has a fairly flexible work schedule that would allow him to meet [I.M.A.'s] needs.

llllll. Given [I.M.A.'s] age and demonstrated resilience, the Court reasonably believes she would transition well to a move back to Indiana with little or no ill effects.

mmmmm. [Mother's] mental health is such that it puts [I.M.A.'s] emotional health and well-being at risk. Despite telling Dr. Turner that she wanted psychotherapy, [Mother] has never pursued any mental health treatment.

nnnnn. At four years old, [I.M.A.'s] wishes are not considered to have significant weight.

ooooo. Both parents desire to have custody of [I.M.A.]

. . .

wwwww. After evaluating all of the evidence and testimony of the witnesses, the Court does not find [Mother] to be credible. The record is replete with examples of [Mother] manipulating the facts to her benefit, bending the truth or being downright untruthful.

[3] I.M.A. was diagnosed with Epidermolysis Bullosa shortly after her birth. It is a genetic condition that makes her more susceptible than usual to blistering.

Appellee's App. 36-39. Based on these findings, the trial court made the following conclusion:

> j. There has been a substantial change of circumstances warranting a modification of custody. Specifically, there has been a substantial change in the interaction of the child with both of her parents, as well as a substantial change in the mental health of both [I.M.A.] and [Mother].[4]

Id. at 41. Based on this conclusion, the trial court granted Father's motion for modification of custody, ordering that Father have sole legal and physical custody of I.M.A. and that the exchange of custody occur no later than January 24, 2007. The trial court also ordered that Mother receive parenting time, that she not contact Marion County CPS or Los Angeles County DCFS concerning a sexual abuse allegation without first notifying Father, that she participate in at least one year of mental health therapy with a psychologist or psychiatrist to address the concerns in Dr. Gonso's report regarding her behavior, and that she in enroll in a co-parenting class.

[4] The trial court also concluded Mother was in contempt and Father was not in contempt, but Mother does not challenge these conclusions on appeal.

B. Events After the Trial Court's Custody Modification Order

On January 24, 2007, Mother and Father arranged to exchange custody of I.M.A. at a police station near Mother's home. Several of I.M.A.'s friends and their parents accompanied Mother and I.M.A., and Mother wore a shirt that stated, "too many abusers get custody." Transcript at 108 (April 12, 2006, hearing). I.M.A. later told Father that "mommy made the shirt, and that it said why do the abusers always get custody. Mommy made the shirt with an iron." Id. at 173.

Mother moved back to Indiana shortly after the exchange of custody to be closer to I.M.A. and to begin mental health therapy sessions and co-parenting classes. In February 2007, Mother began mental health therapy sessions with Dr. Warren Palmer, Ph.D. Although the purpose of these sessions was to address the concerns in Dr. Gonso's report regarding Mother's behavior, an April 2007 letter Dr. Warren prepared summarizing Mother's sessions stated that "[t]he reason for your seeking mental health care was stress over the child custody proceedings regarding your 5 year old daughter" and that "[y]our reaction to the custody conflict is greater because you feel that if custody went to the father, it would be harmful to your daughter. Another unusual stress is that you feel that you have been falsely accused of fabricating information about the father's relationship with your daughter." Petitioner's Exhibit 7 at 1 (April 27, 2006, hearing).

On February 19, 2007, I.M.A. told her preschool teacher "she didn't like living with her daddy because he does bad things to her and her sister."[5] Tr. at 32 (April 12, 2006, hearing). After discussing the matter with her supervisor, I.M.A.'s teacher decided not to

report I.M.A.'s allegation to Marion County CPS. Although the next several weeks were without incident, on March 19, 2007, Mother arrived at Father's home to pick up I.M.A. despite Father's previous explanation to Mother that I.M.A. was sick and therefore would not be available for parenting time. This incident resulted in Father contacting the police when Mother remained in her car and refused to leave.

On March 30, 2007, Mother arrived to pick I.M.A. up for parenting time at Father's home, and Mother and Father began arguing in I.M.A.'s presence. While Mother was in the front passenger seat of the vehicle and attempting to close the door, Father grabbed the door and refused to let Mother shut it. As they struggled with the door, Father either released his grip or shut the door, causing it to hit Mother's elbow and knee. Mother filed a police report several hours later, which resulted in the State charging Father with domestic battery as a Class D felony and domestic battery as a Class A misdemeanor.[6] During an initial hearing in early April 2007, the criminal court entered an order forbidding Father from contacting Mother or I.M.A., but released its order between Father and I.M.A. on April 13, 2007. Mother admitted that she brought I.M.A. to the initial hearing, told the presiding judge that she was willing to have I.M.A. testify, and that "[d]epending on the circumstances" it might be in I.M.A.'s best interest to testify. Id. at 119.

As a result of the criminal court's order forbidding Father from contacting I.M.A., I.M.A. was in Mother's custody from approximately March 30, 2007, to April 13, 2007. On

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[5] I.M.A. does not have a sister.

[6] Mother included in the appendix to her reply brief the chronological case summary for Father's criminal proceeding, which indicates that as of October 16, 2007, Father's criminal trial was set for November 9, 2007. The record, however, does not indicate the outcome of Father's criminal proceeding.

April 10, 2007, based on advice from the attorney prosecuting Father's criminal case, Mother's father, Dale, filed a report with Marion County CPS. It is not entirely clear from the record why the prosecutor advised Dale to file a report, or whether the report was related to a particular incident. Dale testified during the April 27, 2007, hearing that I.M.A. told him Father had hit her, but explained that she reported this to him on April 11, 2007, one day after he made the report. Regardless, Marion County CPS's investigation included interviews with Mother, Father, and I.M.A., and the records relating to its investigation include details of most of the four-year history of sexual abuse allegations against Father. Although the record does not indicate who provided this information, Dale testified that "[n]ot all" of it came from him. Transcript at 305 (April 27, 2006, hearing). Marion County CPS concluded the allegations were unfounded, but the caseworker testified that she had "some reservations" about the conclusion, specifically that I.M.A. expressed concern about Father finding out what was discussed during her interview and that I.M.A. reluctantly denied she was afraid of Father. Id. at 292.

On April 12 and 27, 2007, the trial court conducted hearings on Father's April 9, 2007, motion to suspend Mother's parenting time, during which it heard evidence on events since the January 24, 2007, exchange of custody.[7] On April 30, 2007, the trial court issued an order (the "Parenting Time Restriction Order") that included the following findings:

> 1. This Court issued its Final Order on 1/17/07. In that Order, this Court articulated a number of concerns it had re: [Mother], [and] set forth a variety of reasons for its award of custody to [Father]. The Court ordered [Mother] to

[7] The trial court also heard testimony on an April 10, 2007, motion for third party custody filed by friends of Father who sought to obtain custody in the event it was relinquished from Father. The trial court also was prepared to hear testimony on Mother's April 9, 2007, motion for modification of custody, but deferred the presentation of evidence on that motion pending resolution of Father's criminal proceeding.

submit to therapy so that some of these concerns could be addressed.
2. Now, 3 months later, these concerns have not been alleviated, but have in fact worsened. [Mother] continues to engage in behavior that undermines the Order [and] the reasons for it, undermines the father-daughter relationship, and is rising to the level of emotional abuse.
3. Be it directly or indirectly, [Mother] continues to pursue sexual abuse allegations against [Father]. It is interesting that recent "disclosures" made by [I.M.A.] have occurred after [Mother's] parenting time. No abuse has been substantiated, and no neutral 3rd party has concerns about [I.M.A.'s] welfare, i.e. her teacher.
4. Particularly given some of [Mother's] testimony at the trial in 10/06, this Court is appalled by [Mother's] choice of t-shirts for the custody exchange. Equally disturbing is the "send-off" given to [I.M.A.] at the police station in January, rather than attempting to make a calm, smooth, anxiety-free transition for the child. Further, [Mother] wants to intervene the child even more into the parental conflict, by having her at the City County Building during the criminal case, and by wanting the child to testify against her father. Finally, [Mother] again has injected police officers into this young child's life by asking law enforcement to "check on her welfare" on 3/19/07 when in [Father's] care.
5. [I.M.A.'s] internal conflict re: her parents (referenced often by Dr. Gonso in her evaluation) has not been lessened since the change of custody. It is evident that this child continues to be confused and emotionally tormented about what is right [and] wrong, what she should say or not say, and how she can please her mother.
6. There has been no substantiation of any emotional or physical abuse by [Father] against [I.M.A.]; this "lack of findings" has been consistent for years. For whatever reason, [Mother] cannot and will not accept this, nor does she appear motivated to address how her [(next three words illegible)] has contributed to the current situation. While [Mother] is in therapy, it appears to be focused on her distress at losing custody, rather than addressing this court's concerns.

Appellee's App. at 49-51 (emphasis in original). Based on these findings, the trial court made the following conclusion:

> This Court is convinced that it must take action to protect this child from further emotional harm perpetuated by [Mother]. Preventing unsupervised contact must occur if [I.M.A.] is to have any chance of an emotionally stable and healthy childhood. This Court finds that to continue the current parenting

time order would significantly impair the child's emotional development.[8]

Based on this conclusion, the trial court granted Father's motion, ordering that Mother receive supervised parenting time once a week for two hours. Mother now appeals the Custody Modification Order and the Parenting Time Restriction Order.

Discussion and Decision

I. Standard of Review

This court recently reiterated the standard of review where, as here, the trial court entered findings of fact and conclusions of law pursuant to Indiana Trial Rule 52:

> [W]e must first determine whether the evidence supports the findings and second, whether the findings support the judgment. 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 them. A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made. We neither reweigh the evidence or assess the credibility of witnesses, but consider only the evidence most favorable to the judgment.

Webb v. Webb, 868 N.E.2d 589, 592 (Ind. Ct. App. 2007) (citations omitted).

In addition to the standard of review under Trial Rule 52, our supreme court has expressed a "preference for granting latitude and deference to our trial judges in family law matters." In re Marriage of Richardson, 622 N.E.2d 178, 178 (Ind. 1993). The rationale for this deference is that appellate courts "are in a poor position to look at a cold transcript of the record, and conclude that the trial judge . . . did not properly understand the significance of the evidence, or that he should have found its preponderance or the inferences therefrom to be different from what he did." Kirk v. Kirk, 770 N.E.2d 304, 307 (Ind. 2002) (quoting

[8] This portion of the trial court's order is not included in either party's appendix, but is appended to Mother's brief.

Brickley v. Brickley, 247 Ind. 201, 204, 210 N.E.2d 850, 852 (1965) (footnote omitted)). Accordingly, we review both the trial court's decision to modify custody and to restrict parenting time for an abuse of discretion. Id.; Lasater v. Lasater, 809 N.E.2d 380, 400 (Ind. Ct. App. 2004). Abuse of discretion occurs unless there is a rational basis in the record supporting the trial court's decision. Lasater, 809 N.E.2d at 400.

II. Waiver

Before addressing the merits of Mother's appeal, we note Father argues that Mother waived her right to argue the issues raised on appeal based on several violations of our appellate rules. Mother's brief does contain violations of our appellate rules, including failure to provide citations to the record for the statement of facts and failure to present the statement of facts in a manner consistent with the standard of review. See Ind. Appellate Rule 46(A)(6)(a) and (b). Although "[d]ismissing an appeal may be warranted where an appellant fails to substantially comply with the appellate rules," Novatny v. Novatny, 872 N.E.2d 673, 677 (Ind. Ct. App. 2007), we do not think these violations warrant dismissal.

Mother has, however, waived the right to argue one of the issues raised on appeal. In this respect, another violation of our appellate rules is significant: Mother's brief mentions only in passing that the trial court's Parenting Time Restriction Order was erroneous. See, e.g., Appellant's Brief at 3 ("[Mother] appeals from the trial court's orders modifying the custody and parenting time of I.M.A. . . . pursuant to the lower court's rulings on . . . April 30, 2007"); id. at 28 ("[I]n this case there is absolutely no evidence in the [record] that would support the court's order [to restrict parenting time]."); id. at 35 ("Neither did the trial court provide any explanation to further restrict [Mother's] parenting time . . . which constitutes

legal error, and the decision must be reversed."); id. at 40 ("For the foregoing reasons, [Mother] respectfully requests the Court to vacate the lower trial court's order of January 17, 2007, and April 30, 2007 . . . ."). These statements and other similar ones are scattered throughout Mother's brief, and they do not individually or collectively provide cogent reasons why the trial court's Parenting Time Restriction Order was erroneous. See App.R. 46(A)(8)(a) ("The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning.").

A pro se litigant such as Mother is held to the same standard as a licensed attorney, see Goossens v. Goossens, 829 N.E.2d 36, 43 (Ind. Ct. App. 2005), and this court will not "indulge in any benevolent presumption on [her] behalf, or waive any rule for the orderly and proper conduct of [her] appeal," Foley v. Mannor, 844 N.E.2d 494, 496 n.1 (Ind. Ct. App. 2006). Because Mother has failed to provide this court with cogent reasoning regarding the propriety of the trial court's Parenting Time Restriction Order, she has waived her right to argue that issue on appeal. Notwithstanding the waiver, because of the issue's importance to the parties and to I.M.A., we will address it to the extent the record allows for meaningful appellate review.

III. Propriety of Trial Court's Orders[9]

A. Custody Modification Order

Mother argues the trial court abused its discretion when it issued its Custody Modification Order. Indiana Code section 31-14-13-6 states in relevant part:

> The court may not modify a child custody order unless:
>
> (1) the modification is in the best interests of the child; and
>
> (2) there is a substantial change in one (1) or more of the factors that the court may consider under section 2 . . . .

The factors listed in Indiana Code section 31-14-13-2 are:

> (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 siblings; and
>
> (C) any other person who may significantly affect the child's best interest.
>
> (5) The child's adjustment to 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 . . . .

Generally, "the noncustodial parent must show something more than isolated acts of misconduct by the custodial parent to warrant a modification of child custody." Wallin v. Wallin, 668 N.E.2d 259, 261 (Ind. Ct. App. 1996). However, "a parent's egregious violation

[9] The parties refer to sections of Indiana Code article 31-17 as the operative statutes governing custody and parenting time. These statutes, however, apply in a dissolution context; Indiana Code article 31-14 contains the operative statutes governing custody and parenting time in a paternity context. See In re Paternity of K.J.L., 725 N.E.2d 155, 157 n.1 (Ind. Ct. App. 2000). Because this case arises out of a paternity action, we will refer to sections of Indiana Code article 31-14 for the operative statutes. We also note that although there are slight differences between the statutes in Indiana Code article 31-14 and Indiana Code article 31-17, "a case involving child custody. . . or visitation that arises in the dissolution context may be instructive and authoritative in a case that arises in the paternity context, and vice-versa, to the extent that the case is not specifically affected by differences in the statutes relating to dissolution and paternity." Farrell v. Littell, 790 N.E.2d 612, 615 (Ind. Ct. App. 2003).

of a custody order or behavior towards another parent, which places a child's welfare at stake, can support a trial court's modification of its custody order." Hanson v. Spolnik, 685 N.E.2d 71, 78 (Ind. Ct. App. 1997), trans. denied.

Mother argues the trial court's Custody Modification Order was erroneous because the trial court improperly disregarded two expert opinions favorable to her case and because it faulted her for complying with mandatory child abuse reporting laws.[10] Mother's first argument overlooks our standard of review, which requires this court to consider only the evidence most favorable to the judgment. See Webb, 868 N.E.2d at 592. More specifically, in the context of considering the weight afforded to an expert's opinion, this court has stated that "[a] finder of fact is not required to accept the opinions of an expert simply because he is an expert. Instead, the finder of fact must weigh the expert's opinion against the other evidence and make its own determination as to the evidence." Periquet-Febres v. Febres, 659 N.E.2d 602, 607 (Ind. Ct. App. 1995) (citation omitted), trans. denied. Thus, Mother's argument that the trial court improperly disregarded two expert opinions is simply another way of inviting this court to reweigh evidence, which our standard of review precludes.[11]

[10] Mother also appears to argue the trial court's Custody Modification Order was erroneous because it failed to consider the factors listed in Indiana Code section 31-14-13-2. The trial court's findings, specifically those labeled "ggggg" through "ooooo," see appellee's app. at 37-38, indicate that it considered those factors. Moreover, to the extent Mother appears to argue the trial court failed to consider criminal charges against Father as evidence of a pattern of family or domestic violence, see appellant's br. at 23-24, we note that such charges were filed after the Custody Modification Order. As such, Mother cannot predicate error on the trial court's failure to consider events that occurred after it issued its order.

[11] Mother also contends the trial court "ignore[d] the unanimous recommendations of two different psychological professionals . . . who unanimously recommended that [Mother] remain as the custodial parent of I.M.A." Appellant's Br. at 35. This contention misstates the record. Although it was not required to do so, the trial court explained in its Custody Modification Order why it favored Dr. Gonso's custody evaluation over the other two experts' opinions. See Appellee's App. at 23-24, 36-37 (trial court's findings concerning experts' opinions).

Mother's second argument, that the trial court faulted her for complying with mandatory child abuse reporting laws, relies on the premise that Mother cannot be stripped of custody for complying with such laws. A panel of this court rejected a similar argument in Albright v. Bogue, 736 N.E.2d 782, 789 (Ind. Ct. App. 2000), reasoning that

> the real issue present in this case is not whether [Mother] is being penalized in some fashion for her reporting of alleged child molestation to the authorities. Rather, it is clear that the trial court's decision to modify custody was based upon ample evidence to support the conclusion that [Mother] was causing harm to [the child] by placing pressure on him to say that he was being molested and by attempting to interfere with [father's] visitation. We will not speculate as to matters of psychology and whether [mother's] conduct was intentional or unintentional, but the end result is the same: severe emotional damage to [the child].

Here, the findings supporting the trial court's Custody Modification Order include the following: that Mother attempted to position I.M.A. in the middle of the parental conflict, that Mother perpetuated false allegations of sexual abuse against Father, that Mother's behavior put I.M.A.'s emotional health at risk, that Mother's behavior continued despite warnings it might harm I.M.A., and that Mother had not encouraged I.M.A. to have a positive relationship with Father and did not portray Father in a positive manner. In light of these findings, and consistent with the reasoning expressed in Albright, Mother cannot use mandatory child abuse reporting laws to shield herself from the consequences of false reporting.

Nor does our review of the record convince us that the trial court's findings are insufficient to support its conclusion or that the evidence is insufficient to support its findings. Indeed, this court has affirmed custody modifications under similar circumstances. Cf. Arms v. Arms, 803 N.E.2d 1201, 1211 (Ind. Ct. App. 2004) (concluding evidence was

sufficient to support trial court's modification of custody from mother to father based in part on evidence that mother filed several allegations of abuse against father, "coached" the child to call father derogatory names, and failed to abide by the terms of the previous custody agreement); Hanson, 685 N.E.2d at 77 (Ind. Ct. App. 1997) (concluding trial court did not abuse its discretion in granting father custody modification in part because trial court's finding that mother had engaged in a "concerted effort" to destroy child's relationship with father, which included unfounded allegations of sexual abuse, supported a conclusion that a substantial change in child's mental health had occurred). Moreover, although Mother does not appear to challenge the trial court's findings as clearly erroneous,[12] the facts reiterated above, coupled with the reasonable inferences drawn from them, convince us that there was sufficient evidence to support them. Thus, it follows that the trial court acted within its discretion when it issued its Custody Modification Order.

B. Parenting Time Restriction Order[13]

Mother argues the trial court abused it discretion when it issued its Parenting Time Restriction Order. 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." The trial court's broad discretion in modifying parenting time is tempered somewhat where the modification results in a restriction of parenting time. In such

[12] Mother asserts sporadically throughout her brief that the trial court's findings were not supported by the evidence. See, e.g., Appellant's Br. at 28 ("[T]here is absolutely no evidence in the that [sic] that would support the court's order."); id. at 40 ("In sum, the court adopted Dr. Gonso's findings and recommendations based upon . . . facts not in evidence . . . ."). These assertions, however, are simply conclusory statements unsupported by cogent reasoning explaining why such findings are clearly erroneous. As such, we conclude Mother waived her right to argue the trial court's findings were clearly erroneous for the same reason she waived her right to argue the propriety of the Parenting Time Restriction Order. See supra, Part II.

a case, the trial court must also make a specific finding after a hearing that parenting time would endanger the child's physical health or well-being or significantly impair the child's emotional development. Ind. Code § 31-14-14-1; see also Farrell, 790 N.E.2d at 616 (explaining that "[e]ven though section 31-14-14-1 uses the term 'might,' this court interprets the statute to mean that a court may not restrict visitation unless that visitation would endanger the child's physical health or well-being or significantly impair the child's emotional development") (emphasis in original).

The trial court concluded "that to continue the current parenting time order would significantly impair the child's emotional development."[14] The trial court based its conclusion on findings that Mother continued to perpetuate false sexual abuse allegations against Father, continued to position I.M.A. in the middle of the parental conflict, and failed to undergo therapy designed to assist her in dealing with behavioral problems that adversely affected I.M.A.'s well being. These findings are sufficient to support the trial court's conclusion. Cf. Arms, 803 N.E.2d at 1212 (affirming trial court's order restricting all of mother's parenting time based in part on findings that mother coached the child to speak negatively of father despite court orders not to do so, that the child was "psychologically hampered" by mother's behavior, and that such behavior was causing the child "great confusion and harm").

Moreover, the evidence is sufficient to support the trial court's findings. The evidence presented during the April 12 and 27, 2007, hearings indicate that despite the Custody

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[13] We reiterate Mother has waived this issue, but choose to address it notwithstanding the waiver. See id.

[14] We reiterate that this portion of the Parenting Time Restriction Order is not included in either party's appendix, but is appended to Mother's brief. See supra, note 8.

Modification Order, Mother's abusive behavior toward I.M.A. continued. Evidence of such behavior includes Mother's continued attempts to position I.M.A. in the middle of the parental conflict, see tr. at 199 (April 12, 2006, hearing) (Mother's testimony stating that she told the judge presiding over Father's criminal trial that she was willing to have I.M.A. testify and that "[d]epending on the circumstances" it might be in I.M.A.'s best interest to testify), and her attempts to portray Father in a negative light, see id. at 108 (Mother's testimony that during the custody exchange, she wore a shirt that stated, "too many abusers get custody"). Thus, it follows that the trial court acted within its discretion when it issued its Parenting Time Restriction Order.

Conclusion

The trial court did not abuse its discretion when it granted physical and legal custody of I.M.A. to Father or when it restricted Mother's parenting time.

Affirmed.

FRIEDLANDER, J., and MATHIAS, J., concur.