

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, STARK
COUNTY

Pluskota v. McVicker

2026-Ohio-441 · No. 2025CA00080 · Decided February 11, 2026

SUMMARY

The Fifth District Court of Appeals reversed and remanded a Stark County family court judgment concerning a father's supervised parenting time. The court held that the trial court abused its discretion by relying on a guardian ad litem's post-hearing visitation recommendation without allowing the parties to argue regarding it or cross-examine the guardian ad litem. The court did not reach the appellant's remaining assignments of error.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Stark County
WRITING FOR THE COURT	Kevin W. Popham, J.; Andrew J. King, P.J.; William B. Hoffman, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Stark County
DECIDED	February 11, 2026
DOCKET	2025CA00080
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mother appealed the trial court's judgment overruling objections to a magistrate's decision and adopting the decision with a modification concerning supervision of Father's parenting time.
STANDARD OF REVIEW	Abuse of discretion for the trial court's admission or exclusion of additional evidence when ruling on objections to a magistrate's decision.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Karen McVicker v. Matthew Pluskota

TOPICS

- visitation
- family law procedure
- appellate procedure
- evidence
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by considering the guardian ad litem's post-trial updated visitation recommendation without allowing Mother to argue about the recommendation or cross-examine the guardian ad litem.
2. Whether the trial court abused its discretion by modifying the magistrate's visitation decision.
3. Whether the trial court adequately explained its findings and conclusions when modifying the magistrate's decision.

HOLDINGS

1. Although Civil Rule 53 permits a trial court to receive additional evidence when ruling on objections to a magistrate's decision, the court abused its discretion by relying on the guardian ad litem's updated recommendation without giving Mother an opportunity to argue her position and cross-examine the guardian ad litem.
2. The court declined to address Mother's first and third assignments of error because its disposition of the second assignment of error was dispositive.

KEY QUOTATIONS

“new events may arise or be discovered between the time of a magistrate’s decision and a trial judge’s final judgment, and the rule provides a mechanism for the introduction of such evidence in a timely manner.” (¶ 32)

“the trial court’s discretion must be exercised in a manner which best protects the interest of the child.” (¶ 37)

FACTUAL BACKGROUND

Mother and Father are the parents of A.P. Father initially exercised visitation, but Mother stopped permitting visits in November 2023. After a trial addressing parenting time, the magistrate ordered supervised visitation based on Father's criminal history, lack of candor, alleged violence, counseling progress, and perceived risk to the child. While Father's objections were pending, the guardian ad litem submitted an updated recommendation identifying K.J. as an appropriate supervisor, and the trial court relied on that recommendation without allowing the parties to examine the guardian ad litem or present argument concerning it.

PROCEDURAL HISTORY

Father filed a complaint for allocation of parental rights and responsibilities and parenting time. After a magistrate conducted a trial and ordered supervised visitation, Father filed general objections. While the objections were pending, the guardian ad litem filed a notice containing an updated recommendation that Father's then-wife, K.J., supervise visitation. The trial court adopted the magistrate's decision with a modification requiring K.J. to supervise Father's visits, without permitting the parties to question the guardian ad litem or argue about the updated recommendation. Mother appealed, and the appellate court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for proceedings consistent with the opinion, including reconsideration of the visitation issue with appropriate opportunity for the parties to argue their positions and cross-examine the guardian ad litem regarding any updated recommendation.

CASES CITED

- Love Properties, Inc. v. Kyles, 2007-Ohio-1966, ¶ 37 (5th Dist.)
- Rafeld v. Sours, 2014-Ohio-4242, ¶ 21 (5th Dist.)
- Morrison v. Morrison, 2014-Ohio-2254, ¶ 26 (9th Dist.)
- Kolano v. Vega, 2016-Ohio-356, ¶ 23 (5th Dist.)
- Meyers v. Sparrow, 2009-Ohio-945, ¶ 55
- Gerling & Assocs. v. S&R Servs., 2009-Ohio-1897, ¶ 39
- In re A.S., 2013-Ohio-1975, ¶ 26 (9th Dist.)
- Pagonis v. Steele, 2012-Ohio-4252, ¶ 9 (9th Dist.)
- Anderton v. Hatfield, 2007-Ohio-7139, ¶ 23 (10th Dist.)
- Flynn v. Flynn, 2004-Ohio-3881, ¶ 15 (10th Dist.)

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