

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

Mariah D. v. Michael N.

No. 25-ICA-160 (W. Va. Int'l Ct. App. Dec. 4, 2025) · No. No. 25-ICA-160 · Decided December 4, 2025

SUMMARY

The Intermediate Court of Appeals of West Virginia reviewed a family court's sua sponte orders requiring the parties to undergo family assessment therapy after a contempt hearing. The court held that the therapy orders violated procedural due process because the issue was not noticed and the mother was not given an opportunity to object under West Virginia Rule of Practice and Procedure for Family Court 22(b). The court reversed the family therapy portions of the March 29, 2025, and April 3, 2025, orders, leaving the challenged contempt and child-support rulings unaffected.

CASE DETAILS

COURT	Intermediate Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Judge Charles O. Lorensen; Judge Daniel W. Greear; Judge S. Ryan White
JURISDICTION	Intermediate Court of Appeals of West Virginia
DECIDED	December 4, 2025
DOCKET	No. 25-ICA-160
DISPOSITION	reversed
PROCEDURAL POSTURE	Mother appealed the Jefferson County Family Court's March 29, 2025, and April 3, 2025, orders sua sponte requiring the parties to participate in family assessment therapy and restricting future filings until the assessment was completed.
STANDARD OF REVIEW	Findings of fact are reviewed for clear error, application of law to the facts for abuse of discretion, and questions of law de novo.
PRECEDENTIAL VALUE	Published memorandum decision; reverses in part under the limited-circumstances provision of Rule 21(d).
PARTIES	Mariah D. v. Michael N.

TOPICS

- family law procedure
- procedural due process
- due process
- child custody
- appellate procedure

PRACTICE AREAS

family law

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the family court abused its discretion and violated due process by sua sponte ordering family assessment therapy when the only noticed issue was Mother's contempt petition concerning Father's financial disclosure.
2. Whether the family court complied with Rule 22(b) of the West Virginia Rules of Practice and Procedure for Family Court when it entered the family assessment order without providing Mother a draft order and an opportunity to object.

HOLDINGS

1. The family assessment order failed to comply with Rule 22(b) because Mother was not served with a copy of the draft order and was not given the prescribed opportunity to submit written objections.
2. The family court abused its discretion by sua sponte ordering family assessment therapy without notice that therapy would be considered at the contempt hearing.

KEY QUOTATIONS

“The due process of law guaranteed by the State and Federal Constitutions, when applied to procedure in the courts of the land, requires both notice and the right to be heard.” (at 3)

“Therefore, we find that the family court abused its discretion by sua sponte ordering family assessment therapy.” (at 4)

FACTUAL BACKGROUND

The parties are the parents of two children, born in 2010 and 2012, and were subject to a prior custodial allocation order. After an in-camera interview, the family court found the children sufficiently mature to express a custodial preference and left the existing custodial arrangement in place. During a contempt proceeding concerning Father's late financial disclosure, the family court sua sponte ordered both parents to participate in family assessment therapy, provide broad authorizations and information to the provider, share the costs, and refrain from filing future motions until the assessment was completed.

PROCEDURAL HISTORY

The parties had prior custodial allocation orders, and Father later petitioned to modify the 2019 custody order. After an August 2024 hearing, the family court left the custodial allocation in place and ordered Father to file a full financial disclosure. Mother filed a contempt petition alleging that Father failed to comply. At the March 27, 2025, contempt hearing, the family court addressed Father's disclosure violation and later entered orders requiring family assessment therapy, despite no pending motion or notice concerning therapy. Mother appealed, and Father did not participate in the appeal.

DISPOSITION

reversed

CASES CITED

- State v. Edward Charles L., 183 W. Va. 641, 645 n.1, 398 S.E.2d 123, 127 n.1 (1990)
- Christopher P. v. Amanda C., 250 W. Va. 53, 902 S.E.2d 185 (2024)
- Simpson v. Stanton, 119 W. Va. 235, 193 S.E. 64 (1937)
- State ex rel. Chris Richard S. v. McCarty, 200 W. Va. 346, 489 S.E.2d 503 (1997)
- David C. v. Tammy S., 244 W. Va. 577, 581, 855 S.E.2d 885, 889 (2021)

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