

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

Chandra T. v. Robert M.

No. 25-ICA-271 (W. Va. Int. Ct. App. Feb. 9, 2026) · No. 25-ICA-271 · Decided February 9, 2026

SUMMARY

The Intermediate Court of Appeals of West Virginia reviewed a family court order modifying a parenting plan by removing supervision and non-overnight restrictions on the father's parenting time. The court held that the family court acted within its discretion in assigning limited weight to the children's therapist's testimony and in finding a substantial change in circumstances based on the alleviation of a previously identified limiting factor. The court affirmed in part but remanded for specific written findings addressing whether the modified plan adequately protects the children and mother from harm under West Virginia Code § 48-9-209(c).

CASE DETAILS

COURT	Intermediate Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Judge Greear
JURISDICTION	Intermediate Court of Appeals of West Virginia
DECIDED	February 9, 2026
DOCKET	25-ICA-271
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mother appealed a Family Court of Kanawha County order modifying the parenting plan by removing supervision and non-overnight restrictions on Father's parenting time.
STANDARD OF REVIEW	Family-court factual findings are reviewed for clear error, application of law to the facts is reviewed for abuse of discretion, and questions of law are reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Chandra T. v. Robert M.

TOPICS

- child custody
- domestic violence
- family law procedure
- appellate procedure
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the family court abused its discretion by assigning limited weight to the testimony of the children's treating therapist.
2. Whether the family court properly found a substantial change in circumstances not anticipated in the prior parenting plan and properly determined that modification served the children's best interests.
3. Whether the family court's modification complied with West Virginia Code § 48-9-209(c) and the West Virginia Domestic Violence Act's requirements for protecting the children and Mother from harm.

HOLDINGS

1. A family court may accept or reject expert testimony in whole or in part, including uncontroverted testimony, when it makes specific, reasoned findings addressing the testimony's credibility, weight, or reliability. The family court acted within its discretion in assigning limited weight to the therapist's changed opinion because it conflicted with her prior testimony and was based primarily on the children's expressed preferences without independent observation of Father.
2. The lessening, improvement, or alleviation of a previously found limiting factor may constitute a substantial change in circumstances warranting modification of a parenting plan under West Virginia Code § 48-9-401(a), so long as the change was not anticipated and modification serves the children's best interests.
3. The family court was not categorically barred from modifying Father's parenting time because of his prior domestic violence, but it erred by failing to make special written findings addressing whether the children and Mother could be adequately protected from harm after removal of the supervision and non-overnight restrictions.

KEY QUOTATIONS

“We now hold that the lessening, improvement, or alleviation of a previously found limiting factor, as defined under West Virginia Code § 48- 9-209[(a)], may constitute a substantial change in circumstances warranting modification of a parenting plan under Section 401(a).” (at 17)

“Accordingly, this Court converts the June 10, 2025, final order into a temporary order and remands this matter to the family court with instructions to issue a new order that contains additional findings analyzing whether the children and Mother can be adequately protected from harm based on the restrictions set forth in the parenting plan.” (at 24)

FACTUAL BACKGROUND

The parties are the parents of twins born in 2013. After Father committed domestic violence against Mother in the children's presence, a domestic violence protective order issued and the family court restricted Father's parenting time to supervised, non-overnight visits. Father completed court-ordered counseling, therapy, and psychological evaluation requirements, and he exercised unsupervised parenting time beginning in October 2023 without reported incidents or renewed allegations of domestic violence. In June 2025, the family court removed

the supervision and non-overnight restrictions and granted Father overnight visitation, relying in part on the alleviation of the limiting factor and the children's best interests.

PROCEDURAL HISTORY

The parties' divorce and custody proceedings were bifurcated after a domestic-violence incident involving Father and a resulting domestic violence protective order. The family court initially imposed supervised and non-overnight restrictions, later allowing incremental unsupervised parenting time. After Father exercised unsupervised parenting time for approximately eighteen months without reported incidents, the family court found a change in circumstances, removed the restrictions, and awarded overnight visitation. Mother appealed. The Intermediate Court of Appeals affirmed the findings concerning expert testimony, change in circumstances, and the children's best interests, but converted the order to a temporary order and remanded for specific written findings under West Virginia Code § 48-9-209(c).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Kanawha County Family Court must issue a new order containing special written findings analyzing whether the children and Mother can be adequately protected from harm under the restrictions in the modified parenting plan, consistent with West Virginia Code § 48-9-209(c). The family court may conduct an evidentiary hearing if additional factual development is necessary. The June 10, 2025 order is converted into a temporary order pending further proceedings.

CASES CITED

- Christopher P. v. Amanda C., 250 W. Va. 53, 902 S.E.2d 185 (2024)
- Nichols v. Nichols, 160 W. Va. 514, 236 S.E.2d 36 (1977)
- Gentry v. Mangum, 195 W. Va. 512, 520 n.6, 466 S.E.2d 171, 179 n.6 (1995)
- In re M.M., 251 W. Va. 74, 87, 909 S.E.2d 109, 122 (2024)
- Jonpaul C. v. Heather C., 248 W. Va. 687, 696, 889 S.E.2d 769, 778 (Ct. App. 2023)
- In re D.S., 251 W. Va. 466, 472, 914 S.E.2d 701, 707 (2025)
- Nathan H. v. Ashlee R., No. 21-1019, 2023 WL 245344 (W. Va. Jan. 18, 2023)
- Goff v. Goff, 177 W. Va. 742, 356 S.E.2d 496 (1987)
- Skidmore v. Rogers, 229 W. Va. 13, 21, 725 S.E.2d 182, 190 (2011)
- Jared M. v. Molly A., 246 W. Va. 556, 562, 874 S.E.2d 358, 364 (2022)
- Smith v. State Workmen's Comp. Com'r, 159 W. Va. 108, 219 S.E.2d 361 (1975)
- Kane M. v. Miranda M., 250 W. Va. 701, 705, 908 S.E.2d 198, 202 (Ct. App. 2024)
- Dancy v. Dancy, 191 W. Va. 682, 685, 447 S.E.2d 883, 886 (1994)
- Tevya W. v. Elias Trad V., 227 W. Va. 618, 626, 712 S.E.2d 786, 794 (2011) (Workman, J., concurring)

- Andrea H. v. Jason R.C., 231 W. Va. 313, 745 S.E.2d 204 (2013)
- Brooke B. v. Donald Ray C., 230 W. Va. 355, 738 S.E.2d 21 (2013)
- Stacey J. v. Henry A., 243 W. Va. 150, 158-59, 842 S.E.2d 703, 711-12 (2020)

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