

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

In re B.T.-H.

2022-Ohio-4139 (Ohio Ct. App. 2022) · No. 21AP0036 · Decided November 21, 2022

SUMMARY

The Ohio Ninth District Court of Appeals affirmed a judgment designating Father as the residential parent of the child and finding Mother in contempt for violations of parenting-time orders. The court held that the trial court’s best-interest findings were supported by competent, credible evidence and did not constitute an abuse of discretion or a manifest miscarriage of justice. The court also concluded that Mother forfeited most of her challenge to the contempt finding by failing to properly object to the magistrate’s decision.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| COURT                 | Ohio Court of Appeals, Ninth Judicial District                                                                                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Thomas A. Teodosio; Callahan; Sutton                                                                                                                                                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | Ohio                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DECIDED               | November 21, 2022                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DOCKET                | 21AP0036                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Mother appealed the Wayne County Court of Common Pleas, Juvenile Division judgment overruling her objections to a magistrate's decision designating Father as the child's sole residential parent and finding Mother in contempt for violating parenting-time orders.                                                                                                                                                                                        |
| STANDARD OF REVIEW    | A trial court's action on objections to a magistrate's decision is reviewed for abuse of discretion, with the nature of the underlying matter informing the review. Factual findings concerning the statutory best-interest factors are reviewed under the manifest-weight standard and must be supported by competent, credible evidence. Issues not preserved through specific objections to a magistrate's decision are forfeited except for plain error. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                                                                                                                                                                                                                                                      |
| PARTIES               | S.P., f.k.a. S.H. (Mother) v. J.T. (Father)                                                                                                                                                                                                                                                                                                                                                                                                                  |

TOPICS

child custody

contempt

standard of review

appellate procedure

family law procedure

## PRACTICE AREAS

family law

child custody

appellate procedure

contempt

## QUESTIONS PRESENTED

1. Whether the trial court abused its discretion or reached a decision against the manifest weight of the evidence by designating Father as the child's residential parent under the best-interest factors in R.C. 3109.04.
2. Whether Mother preserved and established an appellate challenge to the contempt findings based on alleged violations of parenting-time orders.

## HOLDINGS

1. The trial court did not abuse its discretion or act against the manifest weight of the evidence in designating Father as the child's residential parent. The record contained competent, credible evidence supporting the trial court's best-interest determination.
2. Mother forfeited her challenge to the contempt finding concerning the July 11, 2019 parenting-time denial because she did not specifically object to that finding before the trial court and did not argue plain error. Her challenge concerning the September 13, 2019 incident did not demonstrate reversible error.

## KEY QUOTATIONS

*“A trial court therefore possesses broad discretion with respect to its determination of the allocation of parental rights and responsibilities, and its decision will not be overturned absent an abuse of discretion.”* (¶ 10)

*“Where a party fails to raise an issue in its objections to a magistrate’s decision, that issue is forfeited on appeal.”* (¶ 35)

## FACTUAL BACKGROUND

Mother and Father are the unmarried biological parents of a child born in 2008. The child lived with Mother in Ohio from birth, while Father moved to Indiana and established a household with his wife and other children. After extensive disputes over parenting time, the trial court conducted hearings and considered testimony from the parents, their spouses, the guardian ad litem, and documentary evidence, including psychological and guardian-ad-litem reports. The magistrate and trial court found that Mother's untreated or intermittently treated mental-health issues, interference with Father's parenting time, and unhealthy enmeshment with the child weighed against naming her residential parent.

## PROCEDURAL HISTORY

The parties entered an agreed judgment entry in 2015 that addressed parenting time but did not designate a residential parent; because the child resided with unmarried Mother, Mother was the residential parent by operation of law. After the parties filed motions concerning parenting time and contempt, the magistrate held

hearings, designated Father as residential parent, and found Mother in contempt. The trial court adopted the magistrate's decision, later independently reviewed the record, overruled Mother's objections except for certain non-determinative factual findings, and affirmed the resulting judgment on appeal.

## DISPOSITION

affirmed

## CASES CITED

- Fisher v. Hasenjager, 116 Ohio St.3d 53, 2007-Ohio-5589
- Tabatabai v. Tabatabai, 9th Dist. Medina No. 08CA0049-M, 2009-Ohio-3139
- Blakemore v. Blakemore, 5 Ohio St.3d 217 (1983)
- Pons v. Ohio State Med. Bd., 66 Ohio St.3d 619 (1993)
- Davis v. Flickinger, 77 Ohio St.3d 415 (1997)
- Kokoski v. Kokoski, 9th Dist. Lorain No. 12CA010202, 2013-Ohio-3567
- Armbruster v. Armbruster, 9th Dist. Lorain No. 19CA011531, 2020-Ohio-3833
- Baxter v. Baxter, 9th Dist. Lorain No. 10CA009927, 2011-Ohio-4034
- Miller v. Miller, 37 Ohio St.3d 71 (1988)
- Giovanini v. Bailey, 9th Dist. Summit Nos. 28631 and 28676, 2018-Ohio-369
- Bentley v. Rojas, 9th Dist. Lorain No. 10CA009776, 2010-Ohio-6243
- Herron v. Herron, 9th Dist. Summit No. 29264, 2019-Ohio-5095
- Matis v. Matis, 9th Dist. Medina No. 04CA0025-M, 2005-Ohio-72
- Phillips v. Phillips, 9th Dist. Lorain No. 13CA010358, 2014-Ohio-248
- Smith v. Smith, 9th Dist. Summit No. 29754, 2021-Ohio-3016
- In re A.A., 9th Dist. Wayne No. 18AP0035, 2019-Ohio-902
- Eastley v. Volkman, 132 Ohio St.3d 328, 2012-Ohio-2179
- Seasons Coal Co., Inc. v. Cleveland, 10 Ohio St.3d 77 (1984)
- Boreman v. Boreman, 9th Dist. Wayne No. 01CA0034, 2002-Ohio-2320
- Maran v. Clark, 9th Dist. Lorain No. 21CA011796, 2022-Ohio-3175
- In re G.D-M., 9th Dist. Summit Nos. 30069, 30070, 30071, and 30072, 2022-Ohio-3023
- King v. King, 9th Dist. Medina Nos. 11CA0006-M, 11CA0023-M, and 11CA0069-M, 2012-Ohio-5219
- Haddox v. Haddox, 9th Dist. Summit Nos. 29582 and 29588, 2020-Ohio-4673
- Herron v. Herron, 9th Dist. Summit No. 29683, 2021-Ohio-2223
- Bass-Fineberg Leasing, Inc. v. Modern Auto Sales, Inc., 9th Dist. Medina No. 13CA0098-M, 2015-Ohio-46
- Kovacs v. Kovacs, 6th Dist. Erie No. E-03-051, 2004-Ohio-2777
- Weber v. Devanney, 9th Dist. Summit Nos. 28876 and 28938, 2018-Ohio-4012
- Sheehan v. Sheehan, 3d Dist. Defiance No. 4-19-25, 2020-Ohio-5300
- Calhoun v. Calhoun, 7th Dist. Jefferson No. 20 JE 0014, 2021-Ohio-4551

- In re M.R., 12th Dist. Butler Nos. CA2018-07-145, CA2018-07-146, and CA2018-07-147, 2018-Ohio-5047

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