



Paternity

11/10/2005

NOTE: Transfer Granted, Opinion Vacated Feb. 21, 2006;
Subsequently summarily affirmed in part and reversed in part by
Fuchs v. Martin, 845 N.E.2d 1038 (Ind. Apr. 20, 2006).

In Fuchs v. Martin, 836 N.E.2d 1049 (Ind. Ct. App. 2005), the Court affirmed in part, reversed in part and remanded with instructions the trial court's order. Mother and Father met when they were arrested as they and their mutual friends were fleeing a bowling alley where one of the friends had been involved in a fight. They began dating, and their daughter was born in 1999. In 2000, Father filed a petition to establish paternity. The trial court held a hearing and entered the final order in 2004. The order established paternity of the child in Father, granted joint legal custody to Mother and Father, gave sole physical custody to Mother, ordered parenting time for Father, and established child support. Father appealed the custody determination, the child support calculation, and a part of the trial court's order that the parties submit all disagreements to mediation before they may return to court for adjudication of any dispute.

The Court held that, because the record contained evidence to support the trial court's relevant findings, and because those findings supported joint legal custody with Mother having primary custody, it could not reverse the trial court's custody decision. Id. at 1056-57. The Court stated that, in light of the record evidence to which Mother directed the Court, it could not agree with Father's claims that there was not evidence in the record to support the trial court's order regarding custody.

Because Mother is the custodial parent, her child support obligation should not have been adjusted by application of a parenting time credit and the trial court should modify its order accordingly. Id. at 1058. The Court reviewed Indiana Child Support Guidelines and their instructions for the proper application of a parenting time credit.

The Court reversed the trial court's order that the parties submit all disagreements to mediation before they may "return to court for adjudication of any dispute." Id. at 1059. Father claimed the trial court erred when it included this provision in its order. Mother claimed the order "does not prohibit either party from filing such motions with the court as the parties may deem appropriate in the future," and the order was supported by Marion Circuit and Superior Court Family Law Rule 2(H). The Court disagreed with Mother's reading of the court's order, and found the order improper and unsupported by the local rule.