

Children's Law Center of Indiana



Custody and Parenting Time

12/11/15

In **Patton v. Patton**, 48 N.E.3d 17 (Ind. Ct. App. 2015), the Court affirmed the trial court's order that parenting time between Father and his son continue to be supervised. *Id.* at 22. After Father was convicted in 2012 of child seduction for fondling his daughter's breasts when she was sixteen years old, Mother and Father were divorced. Upon dissolution of the marriage, Father was granted supervised parenting time with his son at an agency. In July, 2014 Father petitioned for modification of parenting time. Mother requested that Father have a psychological evaluation. The psychologist who performed the evaluation did not make a recommendation on whether Father's parenting time should continue to be supervised, but recommended that Father and his son should meet with a professional counselor if the trial court ordered unsupervised parenting time. The trial court ordered that: (1) parenting time between Father and his son should continue to be supervised; (2) Paternal Grandmother could supervise Father's parenting time; (3) Father was entitled to at least one visit with his son per week for a period of up to six hours per day; (4) Father and his son must attend counseling together; and (5) the requirement that parenting time be supervised would be modified only upon the written recommendation from the counselor who was treating Father and his son.

The Court held that the trial court did not abuse its discretion in maintaining supervised parenting time between Father and his son. *Id.* at 21. Noting that the psychologist who evaluated Father did not specifically recommend either that supervision continue or that it cease, the Court opined that a trial court's parenting time order will be reversed only upon a determination that the trial court has abused its discretion. *Id.* The Court opined that, although the trial court found that parenting time "may" rather than "would" endanger the son's physical health or emotional development, this did not establish the manifest abuse of discretion required to overturn the trial court's judgment. *Id.* The Court found the trial court's order indicated that the court carefully considered the record, and that the record was sufficient to sustain the trial court's ruling because: (1) Father had given comic books to his son which depicted satanic figures and contained sexually explicit references; and (2) Father continued his refusal to take responsibility for the actions that led to his child solicitation conviction. *Id.* The Court concluded that the trial court's order "took a thoughtful approach to the visitation issue" and "struck a balance that adequately addressed the concerns of all" while giving Father the opportunity for more rewarding parenting time with his son immediately and in the future. *Id.* at 22.