

Children's Law Center of Indiana



Custody and Parenting Time

3/6/18

In **Goodman v. Goodman**, 94 N.E.3d 733 (Ind. Ct. App. 2018), the Court affirmed the trial court's order awarding custody of the parties' adopted child to Wife. Husband and Wife married on June 24, 1995 and adopted Husband's granddaughter who was born on November 5, 2006. Around March 2012, Wife and the child moved out of the marital residence, and Wife filed for dissolution of marriage on March 12, 2012. On June 26, 2012, the parties submitted a Provisional Agreed Order which was approved by the court on July 31, 2012. The Provisional Order awarded primary custody of the child to Wife and parenting time pursuant to the Indiana Parenting Time Guidelines to Husband. For the next five years, the parties engaged in fierce and relentless litigation, filing more than one hundred and seventy pleadings which resulted in the issuance of ninety-two orders. The marriage was dissolved by agreement in December 2, 2015, with bifurcation of the issues regarding division of marital assets, apportionment of marital debt, and establishment of custody, parenting time, and child support. The trial court conducted a final hearing over seven non-consecutive days, concluding the hearing on February 22, 2017. The evidence presented reflected that during the marriage, Husband and Wife both worked in their tree trimming business, but the family received government health insurance, food stamps, and qualified for free/reduced fee school lunches and textbooks. Both Husband and Wife were gamblers and often purchased lottery tickets and visited the casino. Testimony suggested that Husband had total financial control during the marriage over the parties' personal and business possessions. Wife was always present during Husband's parenting time. Wife indicated that she attended the visits because the child was afraid to stay alone. After two *in camera* interviews, the trial court did not find evidence that the child was fearful of Husband, but determined that the child had been coached and influenced by Wife.

On May 16, 2017, the trial court issued its forty-nine page order, including findings of fact and conclusions of law. Out of the one hundred and sixty findings made by the trial court, only twenty-four dealt with the custody issue and out of the ninety conclusions, only fourteen involved custody. The majority of the findings and conclusions concerned financial issues. The trial court awarded primary physical custody of the child to Wife. The trial court adopted the opinion of the Guardian ad Litem that it was time for Husband to have unsupervised parenting time. The court provided for a short transition period and stated it expected Wife to allow the relationship to be rebuilt and not to engage in action that causes the child to be in fear of Husband. Husband appealed seven issues, but only the custody issue is addressed here.

The Court concluded that the trial court acted within its discretion in awarding primary physical custody to Wife. *Id.* at 749. Husband argued the trial court abused its discretion by awarding physical custody to Wife, claiming that Wife had actively tried to poison the child

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against him, and the child's best interests would be served by being in his custody. The Court reviewed IC 31-17-2-8, which lists the factors for determining the child's best interests in a dissolution case. Id. Quoting Russell v. Russell, 682 N.E.2d 513, 515 (Ind. 1997), the Court noted that, "[a] trial court's custody determination is reviewable only for an abuse of discretion. An abuse of discretion occurs where the decision is clearly against the logic and effect of the evidence before the court." Goodman at 749. The Court opined that the record and order both demonstrated the trial court carefully considered Husband's contentions that Wife maintained a persistent pattern of preventing his parenting time and tried to discourage his relationship with the child. Id. The Court found that Husband was asking the Court to reweigh the evidence in his favor. Id. The Court opined the trial court's order clearly reflected that it gave proper consideration to the statutory facts when determining the custody arrangement that was in the child's best interests. Id.