

Children's Law Center of Indiana



Custody and Parenting Time

11/9/2018

In Moorman v. Andrews, 114 N.E.3d 859 (Ind. Ct. App. 2018), Mother appealed the trial court's order of additional parenting time to Father and finding her in contempt of court, after holding an in camera interview of the child. The Court affirmed the case in full, finding no merit in her claims.

The Court held that the trial court's contempt finding was not in error; based on the evidence before it, the trial court did not find Mother's claims credible and found that Mother was taking intention action to deprive Father of parenting time. Id. at 865. Mother argued that she should not have been held in contempt of the trial court. The Court observed that "[w]hether a person is in contempt of a court order is a matter left to the trial court's discretion." Evans v. Evans, 766 N.E.2d 1240, 1243 (Ind. Ct. App. 2002) (citing Meyer v. Wolvos, 707 N.E.2d 1029, 1031 (Ind. Ct. App. 1999), trans. denied)." Id. at 864. In reviewing the record, the Court affirms the trial court's decision, noting that "[b]ased on the evidence before it, the trial court did not find Mother's claim that she was actively parenting during the time T.A. accompanied her to work to be credible. The trial court also determined that Mother was intentionally acting to rearrange her schedule to deprive Father of legitimate and beneficial contact with the Child. We cannot say that the finding of contempt was against the logic and effect of the circumstances before the trial court." Id. at 865.

The Court held that a plain language reading of IC 31-17-4-1 does not limit the use of in chambers interviews of a child to cases where the emotional or physical health of a child is at risk and parenting time may be restricted. Id. at 866. Mother argued that the in camera interview of T.A. was improper, because IC 31-17-4-1 only allow in camera interviews when the emotional or physical health of a child is at issue. Id. The Court disagreed, noting that "[b]ased on a plain reading of the statute, we are not persuaded. We can find no language in the statute allowing its use solely for the purposes of restriction of parenting time. The statute plainly and simply provides an in camera interview as an option to assist trial courts in determining whether parenting time would physically or emotionally endanger a child." Id.

The Court held that there was sufficient evidence in the record outside of the in chambers interview to support the trial court's findings and conclusions. Id. at 867. Mother argued that the trial court erred in relied solely on the in camera interview for the modification of parenting time, claiming that "a trial court's judgment 'may not rest primarily upon the results of a private in camera interview.'" McCauley v. McCauley, 678 N.E.2d 1290, 1292 (Ind. Ct. App. 1997), trans. denied." Id. The Court disagreed with Mother's argument, because "[u]pon review, we are

able to locate sufficient evidence in the record outside of the in camera interview that supports the trial court's findings and conclusions regarding Father's parenting time . . . This testimony from Mother and Father alone is sufficient for the trial court to determine that Mother's assertion that she was actively parenting during the time T.A. was at work with her was not credible." Id.