

Children's Law Center of Indiana



Guardianship; Parenting Time

8/9/2019

In **Blankenship v. Duke**, 132 N.E.3d 410 (Ind. Ct. App. 2019), the Court reversed and remanded the lower court's order of "parenting time as the parties agree", with instructions to order reasonable parenting time. The Court held that Father's motion for an automatic change of judge was not timely, and that the trial court's order regarding parenting time was in error, as it allowed Grandparents to determine Father's parenting time.

Grandparents obtained guardianship of the children of Mother and Father. After a continuance and a hearing, the trial court issued an order granting Grandparents guardianship. Grandparents had testified that they had a "no trespassing order" against Father, and that if they were allowed to determine Father's parenting time, they would leave it up to the children to decide whether to see Father or not. Grandparents also testified that they would only encourage a relationship with Father if they believed that they had changed, and they did not believe that he had at this point. Grandparents indicated it was not best for the children for Grandparents and Father to communicate, because they did not get along. Despite this testimony, the trial court ordered parenting time for Father as agreed upon by the parties.

The Court relied upon Manis v. McNabb, 104 N.E.3d 611 (Ind. Ct. App. 2018), stating that **"when a trial court orders parenting time in a guardianship case, it cannot allow the guardian, who often has a personal stake in the matter, to determine the parent's parenting time with their child during the guardianship proceedings."** Id. at 413. Father argued that a parenting time order such as this would result in him having no parenting time at all, given the nature of the relationship between Grandparents and Father. Id. Allowing one party to determine parenting time in this way "has the potential to deprive the parent and the child of time together and an opportunity to develop a meaningful relationship and bond. Id. The Court opined that the evidence supported Father's argument, and allowed Grandparents to decide when and whether Father would have parenting time. Id.