



Grandparent Visitation
6/28/21

In **In re B.A.A.**, 173 N.E.3d 689 (Ind. App. 2021), the Court held that the trial court's findings of fact and conclusions were inadequate to support the grandparent visitation order, as they were inadequate under the requirements set out by Indiana caselaw.

In **McCune v. Frey**, 783 N.E.2d 752 (Ind. Ct. App. 2003), the Court set out four factors that a grandparent visitation order should address; and the Indiana Supreme Court approved those factors as mandatory in findings of fact and conclusions thereon in **In re K.I.**, 903 N.E. 2d 453 (Ind. 2009). The Indiana Supreme Court further explained that the Grandparent Visitation Act contemplates only occasional, temporary visitation that does not substantially infringe on a parent's fundamental right to control the upbringing, education, and religious training of their children in **In re Visitation of M.L.B.**, 983 N.E.2d 583 (Ind. 2013).

The B.A.A. Court found that none of the trial court's findings give any indication that it recognized the presumption that a fit parent acts in their child's best interests or gave special weight to a fit parent's decision to deny or limit visitation. B.A.A. at 693.

Additionally, the trial court's order failed to address the third factor, whether Mother had denied Paternal Grandparents visitation or had simply limited it. In this case, Mother has already offered visitation voluntarily, and it is not the existence of a relationship at stake, but only on whose terms it will be. Id. The Indiana Supreme Court has explained that these factors are key to a constitutionally appropriate balance between the natural parent's fundamental rights and a child's best interest—and without findings reflecting that balance, a grandparent-visitation order is not constitutionally permissible. Id.