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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 11-23-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE THE MATTER OF:) 1 CA-CV 10-0160
)
MISTY DORIS STANDRIDGE,) DEPARTMENT D
)
Petitioner/Appellee,) **MEMORANDUM DECISION**
) (Not for Publication -
v.) Rule 28, ARCAP)
)
MICHAEL DUANE PAICE,)
)
Respondent/Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. FC2004-090159

The Honorable Bruce R. Cohen, Judge

AFFIRMED

Misty Doris Standridge
Petitioner/Appellee, *In propria persona*

Chandler

Michael Duane Paice
Respondent/Appellant, *In propria persona*

Mesa

W I N T H R O P, Presiding Judge

¶1 Michael Duane Paice ("Father") appeals the family court's December 15, 2009 interim order awarding Misty Doris Standridge ("Mother") parenting time with the couple's biological daughter

("the child").¹ For the following reasons, we affirm the court's order.

PROCEDURAL AND FACTUAL BACKGROUND

¶12 The child was born out of wedlock in August 2002. Initially, the child lived with Mother, but due to Mother's significant substance abuse issues and an inability to maintain stable housing, she left the child with her parents. On August 25, 2005, Mother's parents contacted and turned the child over to Father, who has had physical custody of the child since that time. On November 25, 2005, Father filed a petition to modify custody, parenting time, and child support. After attempting but failing to ascertain Mother's whereabouts, Father served her by publication.

¶13 At a May 18, 2006 resolution management conference, which Mother did not attend, the court awarded Father sole custody of the child and ordered in pertinent part that "any access between Mother and the child shall be supervised under Father's direction. He shall have the right to determine who may serve as the supervisor

¹ Both the notice of appeal and the civil appeals docketing statement filed by Father indicate that Father appeals only from the family court's December 15, 2009 minute entry. In their briefs, however, both Father and Mother also make arguments concerning the court's subsequent April 21, 2010 minute entry, in which the court expanded Mother's parenting time. Father has not appealed from that minute entry; accordingly, that appeal is not properly before us, and we do not address the parties' arguments regarding the court's April 21, 2010 minute entry. See ARCAP 8(c) (requiring a notice of appeal to designate the judgment appealed from); *Lee v. Lee*, 133 Ariz. 118, 124, 649 P.2d 997, 1003 (App. 1982) ("The court of appeals acquires no jurisdiction to review matters not contained in the notice of appeal." (citations omitted)).

and the length and conditions for any access by Mother." The court also ordered that Mother be allowed to request a hearing to address her access rights should she reappear, and noted that, "[i]f such a hearing is scheduled, the Court shall consider all relevant evidence regarding Mother's drug history, involvement with the child, and any of the other concerns that give rise to this order."

¶4 On March 17, 2008, Mother filed a petition for post-decree mediation, stating, "I would like to start seeing our daughter [] for four to six hours, three times throughout the week to establish a relationship with her." Mediation was scheduled for June 5, 2008, and although Father appeared, Mother failed to do so.

¶5 On May 12, 2009, Father filed a self-styled "Information to Inform the Court of Other Party and Party's Parents." Father explained that, pursuant to a representation he made to the court when he obtained sole custody, he had allowed Mother's parents to remain "active" in the child's life by permitting them unsupervised visitation. He alleged he had recently become aware, however, that Mother's parents had been secretly taking the child for unsupervised and overnight visits with Mother in her place of residence, despite his warnings that they not do so without his or the court's permission.

¶6 On September 4, 2009, Mother filed a petition in which she sought parenting time with the child and to modify child support. In support of her petition, Mother alleged as follows:

"My circumstances have changed for the better. I am living a much healthier life and would like [the child] to be a part of that. [The child] needs a healthy mother in her life." Father filed a response objecting to the petition and alleging that Mother lacked accountability and "has not changed," in part because she "had another child under sim[i]lar circumstances as the first child she abandoned," had not completed treatment at the rehabilitation center where she was currently seeking help, and had unpaid child support.

¶7 At the December 15, 2009 resolution management conference, the family court set an evidentiary hearing for April 12, 2010, and ordered in the interim that Mother undergo random drug testing and receive conditional parenting time with the child:

The parties have one daughter She has been in Father's sole care for the past four years. Mother now acknowledges that she had significant issues with drugs and alcohol. She states that she has been involved in a number of programs and has maintained sobriety for the past two years. She is seeking to re-engage in [the child's] life.

Quite understandably, Father has significant reservations about reinitiating contact between Mother and [the child]. He states that [the child] is doing well in his care and he is concerned not only about Mother's condition but also about the potential disruptive force that could be brought into [the child's] life through Mother's involvement.

It is appropriate to set the first stage for this process in advance of the Evidentiary Hearing. To do so, the Court must consider Mother's right to have contact, Father's legitimate concern for such contact, and [the child's] best interests both in the short and long term. On balance, initiation of contact with appropriate safeguards is appropriate.

IT IS THEREFORE ORDERED that [the child] shall remain in Father's custody.

IT IS FURTHER ORDERED that Mother shall be entitled to have parenting time under [specified] terms and conditions[.]

The court then specified the terms and conditions under which Mother would be allowed parenting time, including that Mother's parenting time be supervised, the visits occur every other Saturday for 90 to 120 minutes at child-friendly restaurants or similar entities, Father be present, Mother be allowed individual time with the child, Father be allowed to bring a third party with him, and Mother's parents and other child be allowed to attend. Father timely appealed.² We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 12-2101(C) (2003).

ANALYSIS

¶18 Father argues that the family court erred in awarding parenting time to Mother. We review for an abuse of discretion the court's order granting Mother parenting time. See *McGovern v. McGovern*, 201 Ariz. 172, 175, ¶ 6, 33 P.3d 506, 509 (App. 2001). Finding no abuse of discretion, we affirm.

¶19 Subsection (A) of A.R.S. § 25-408 (Supp. 2009) provides as follows:

² The family court held the evidentiary hearing on April 12, 2010, as scheduled. After Father and Mother testified, the court took the matter under advisement, and as previously noted, in a minute entry dated April 21, 2010, the court expanded Mother's parenting time. A new enforcement conference and evidentiary hearing have been scheduled for December 14, 2010.

A parent who is not granted custody of the child is entitled to reasonable parenting time rights to ensure that the minor child has frequent and continuing contact with the noncustodial parent unless the court finds, after a hearing, that parenting time would endanger seriously the child's physical, mental, moral or emotional health.

¶10 Father has not provided a transcript of the December 15, 2009 resolution management conference. We therefore presume the missing transcript supports the family court's findings and orders. See *State v. Geeslin*, 223 Ariz. 553, 554, ¶ 5, 225 P.3d 1129, 1130 (2010); *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995) (stating that when an appellant fails to include necessary items, this court assumes those items would support the trial court's findings and conclusions).

¶11 Further, the record provided to us supports the findings outlined in the family court's comprehensive minute entry, and those findings provided an adequate basis for the court's interim parenting time order. The court sought to balance Mother's right to have contact with the child in advance of the April 12, 2010 evidentiary hearing with Father's legitimate concerns about the disruption caused by such contact by fashioning a thoughtful order that provided specific terms and conditions under which Mother would be allowed supervised parenting time. The order recognized and addressed Father's concerns about the child's safety and best interests by requiring that Mother submit to random drug testing and by strictly limiting the time, place, and manner of Mother's

access to the child, but also provided Mother the opportunity to meet and have individual time with the child. Additionally, the order allowed the court to better assess the status and interrelationships of Mother, Father, and the child before the April 12 hearing. Because the family court's findings provided an adequate explanation of its reasons for determining that parenting time was appropriate, we find no abuse of the court's discretion.

CONCLUSION

¶12 We affirm the family court's December 15, 2009 interim order awarding supervised parenting time to Mother.

_____/S/_____
LAWRENCE F. WINTHROP, Presiding Judge

CONCURRING:

_____/S/_____
PATRICIA K. NORRIS, Judge

_____/S/_____
PATRICK IRVINE, Judge