

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
SANDUSKY COUNTY

J.P.

Court of Appeals No. S-09-007

Appellant

Trial Court No. 20140136

v.

H.B.

**DECISION AND JUDGMENT**

Appellee

Decided: September 18, 2009

\* \* \* \* \*

James E. Hitchcock, for appellant.

\* \* \* \* \*

SINGER, J.

{¶ 1} Appellant, J.P., appeals a decision from the Sandusky County Court of Common Pleas, Juvenile Division, finding him in contempt of court. Because we find no abuse of discretion, we affirm.

{¶ 2} The relevant facts giving rise to this appeal are as follows. Appellant and appellee, H.B., are the unmarried parents of a son born in 1992. Appellant has legal

custody of their son and appellee has visitation rights. Appellant and their son reside in Texas. Appellee resides in Ohio. On April 19, 2006, appellee filed a motion to show cause as to why appellant should not be found in contempt for his willful denial of visitation between appellee and their son. Specifically, appellee alleged that in 2006, appellant brought their son to Ohio for a visit and did not inform appellee that they were in the area, as he is required to do pursuant to court order.

{¶ 3} In a February 6, 2009 judgment entry, the court ruled on 20 pending motions, including appellee's motion to show cause, wherein appellant was found guilty of contempt. In the same judgment entry, appellee was found guilty of 124 separate acts of contempt. Appellant now appeals setting forth the following assignments of error:

{¶ 4} "I. The trial court failed to order [appellee] to repay the appellant \$619.80 for airline tickets for [son] to return to Texas.

{¶ 5} "II. The trial court erred in finding the appellant in contempt regarding not letting appellant's mother visit when he brought [son] back to Ohio for a very short visit with his parents.

{¶ 6} "III. The trial court granted a bifurcation of [appellee's] motion to have visitation in Ohio due to Sara Sherick's withdrawal as guardian ad litem. Then it overruled [appellee's] motion for visitation in Ohio. Clarification is needed as to whether or not this motion is pending or not."

{¶ 7} In his first assignment of error, appellant contends that the court erred in failing to order appellee to reimburse appellant for the cost of an airplane ticket. The

ticket was purchased by appellant to transport his son back to Texas after he visited appellee in Ohio. The standard of review for visitation and domestic relations cases is abuse of discretion. *Booth v. Booth* (1989), 44 Ohio St.3d 142, 144. "The term 'abuse of discretion' connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable." *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶ 8} The trial court in this case never ruled on appellant's motion for reimbursement. As such, we presume appellant's motion was denied. See *Vignal v. Cleveland Clinic Foundation* (Sept. 26, 1996), 8th Dist. No. 69603, citing *Mancino v. Lakewood* (1987), 36 Ohio App.3d 219. Finding no abuse of discretion in the court's failure to order reimbursement, appellant's first assignment of error is found not well-taken.

{¶ 9} In his second assignment of error, appellant contends that the court erred in finding him in contempt. The decision to hold a person in contempt lies within the sound discretion of the trial court. *State ex rel. Ventrone v. Birkel* (1981) 65 Ohio St.2d 10, 11.

{¶ 10} Appellee contended that in 2006, appellant brought their son to Ohio for Easter weekend and did not inform appellee that they were coming to Ohio. Nor did appellant contact appellee while he and their son were in Ohio. Appellee contends that this was in clear violation of a 2003 court order which states: "[Appellant] will give 7 days notice of any weekends that he is going to come to Ohio for the weekend."

{¶ 11} In a January 13, 2009 hearing, appellant testified that he did notify appellee of his visit and that appellee chose not to exercise her visitation rights.

{¶ 12} The determination of the credibility of witnesses lies within the discretion of the trial court, and we may not substitute our judgment on appeal. *Seasons Coal Company v. Cleveland* (1984), 10 Ohio St.3d 77, 80. Appellant's second assignment of error is found not well-taken.

{¶ 13} In his third assignment of error, appellant contends that the trial court failed to rule on one of appellee's motions for visitation. Appellant's third assignment of error is without merit as appellant is not the real party in interest to this motion. Appellant's third assignment of error is found not well-taken.

{¶ 14} On consideration, the judgment of the Sandusky County Common Pleas Court, Juvenile Division, is affirmed. Appellant shall pay the court costs of this matter pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, P.J.

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JUDGE

Arlene Singer, J.

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JUDGE

Mary J. Boyle, J.  
CONCUR.

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JUDGE

Judge Mary J. Boyle, Eighth District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio.

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.