IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the Marriage of GERARDO GROSJEAN, Appellant, and BUTSABA GROSJEAN, Respondent.	No. 38595-3-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — In this pro se appeal, Gerardo Grosjean appeals a trial court's decision designating his ex-wife, Butsaba Grosjean, as his son's primary residential parent and granting her permission to relocate him to California. Gerardo[1] alleges that the trial court improperly modified a parenting plan and failed to consider statutorily required child relocation factors. The trial court's October 27, 2008 decisions were not modifications but, rather, initial entries of a permanent parenting plan that included a primary residential parent determination. In entering the parenting plan, the trial court appropriately applied the best interest of the child standard and did not abuse its discretion. Further, because Gerardo does not adequately brief his argument that the child relocation statute factors in RCW 26.09.520 apply when a court enters an initial permanent parenting plan, we do not address this issue. We affirm.

FACTS

On August 30, 2006, Gerardo petitioned for legal separation from his marriage with

[1] The first names of the parties are used for the ease and clarity of the reader.

Butsaba. Butsaba's response to the petition requested a divorce rather than a legal separation. During the divorce proceedings each party accused the other of having committed mental, physical, and sexual abuse during the marriage.[2] Both parties also alleged that the other abused their then two-and-a-half-year-old son, R.G.[3]

On October 12, 2006, the trial court entered a mutual temporary restraining order (TRO) against Gerardo and Butsaba. At the same time, the trial court *temporarily* awarded primary custody to Butsaba and set up a *temporary* visitation schedule for R.G. Under this schedule, R.G. spent weekdays with Butsaba and weekends with Gerardo. On March 29, 2007, the trial court changed the *temporary* visitation schedule to alternating one-week periods.

On May 18, 2007, Butsaba filed notice of her intent to relocate R.G. to California. On June 7, 2007, Gerardo objected to the relocation. On June 21, 2007, guardian ad litem Rae Lea Newman testified that she opposed the relocation due to R.G.'s pending eye surgery and the recovery care required. On June 29, 2007, the trial court entered a temporary order restraining Butsaba from relocating R.G. At the same time, the trial court again changed the *temporary* residential schedule to a repeating 20 days with Gerardo followed by 10 days with Butsaba.

On January 4, 2008, the trial court again modified the *temporary* residential schedule because only Gerardo presented a schooling plan for R.G. The trial court granted primary residential parenting status to Gerardo but expressly stated again that its decision was *temporary*.

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[2] On June 18, 2007, based on some of these allegations and at the request of his attorney, Gerardo voluntarily completed a domestic violence evaluation. The evaluator concluded that he had no domestic violence or anger problems.

[3] R.G. was born in May 2004, and may have autism as he has "severe delays in receptive language, expressive language and the onset of speech" and his "[s]ocial skills are depressed." Ex. 34.

From September 2 to 5, 2008, the trial court held a hearing to determine the interests of the parties in their divorce, establish a *permanent* parenting plan, and determine child support obligations. On October 27, 2008, the trial court entered the dissolution decree and granted Butsaba primary residential parenting status. The trial court also entered a written finding that "[s]ubstantial evidence was presented by both sides throughout the trial as to the relevant [child relocation] factors" listed in RCW 26.09.520 and granted Butsaba permission to relocate R.G. 3 Clerk's Papers at 550. This timely appeal followed.

ANALYSIS

Gerardo asserts that the trial court erred by failing to apply relevant parenting plan modification factors outlined in former RCW 26.09.260 (2000) when changing the parental rights and residential schedule of R.G. in its October 27, 2008 parenting plan order. We disagree. On October 27, 2008, the trial court did not modify an *existing* permanent parenting plan but, rather, it entered an order with an *initial* permanent parenting plan and correctly applied the best interest of the child standard when deciding Gerardo's and Butsaba's parental rights.

Washington's Parenting Act of 1987, ch. 26.09 RCW, requires that "the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities." Former RCW 26.09.002 (1987). It further states that one of the primary objectives of a permanent parenting plan is to "otherwise protect the best interests of the child consistent with [former] RCW 26.09.002." RCW 26.09.184(1)(g). A permanent parenting plan is one that "is incorporated in any final decree or decree of modification in an action for dissolution of marriage." Former RCW 26.09.004(2) (1987).

But a trial court also has the authority to enter a temporary parenting plan prior to entry of

the decree of dissolution. *In re Marriage of Possinger*, 105 Wn. App. 326, 333, 19 P.3d 1109, *review denied*, 145 Wn.2d 1008 (2001). A temporary parenting plan is one that is entered "pending final resolution of any action for dissolution of marriage." Former RCW 26.09.004(1). A trial court has discretion to change a temporary parenting plan before a permanent plan is entered. *See Bower v. Reich*, 89 Wn. App. 9, 19, 964 P.2d 359 (1997).

Here, the trial court entered numerous *temporary* orders changing the *temporary* residential parenting schedule but it did not enter a *permanent* parenting plan until October 27, 2008. The January 4, 2008 order which Gerardo asserts in his brief's factual summary as granting him "full residential time and custody," was titled a "temporary order" and the trial court explicitly stated at its oral ruling that this order was temporary. Br. of Resp't at 6. Although the trial court changed the status quo of R.G.'s primary residence from Gerardo to Butsaba when entering the permanent parenting plan, the trial court was not required to review the modification factors listed in former RCW 26.09.260.

Gerardo asserts that the trial court erred in entering the permanent parenting plan without considering the 11 factors listed in the child relocation statute, RCW 26.09.520, on the record. Gerardo appears to argue that the relocation factors must be considered at any time a parent wishes to relocate a child even when the trial court is creating a permanent parenting plan. But Gerardo provides no argument for this claim, as required by RAP 10.3(a)(6). His briefing is not adequate to allow us to address this issue.[4] *See*, *e.g.*, *Am. Legion Post No. 32 v. City of Walla*

[4] Pro se litigants are held to the same standard and same rules of procedure as attorneys on appeal. *Westberg v. All-Purpose Structures, Inc.*, 86 Wn. App. 405, 411, 936 P.2d 1175 (1997); *In re Marriage of Olson*, 69 Wn. App. 621, 626, 850 P.2d 527 (1993) ("'the law does not distinguish between one who elects to conduct his or her own legal affairs and one who seeks assistance of counsel–both are subject to the same procedural and substantive laws'" (quoting *In re Marriage of Wherley*, 34 Wn. App. 344, 349, 661 P.2d 155, *review denied*, 100 Wn.2d 1013

Walla, 116 Wn.2d 1, 7, 802 P.2d 784 (1991) ("In the absence of argument and citation to authority, an issue raised on appeal will not be considered.").

We hold nothing in Gerardo's arguments or in the limited record on appeal suggests that the trial court abused its discretion when it determined Butsaba should be the primary residential parent of R.G and entered a permanent parenting plan based on its determination of R.G.'s best interest.[5] We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

BRIDGEWATER, P.J.

HUNT, J.

(1983))).

[5] To the extent Gerardo challenges the credibility of evidence before the trial court, we do not review credibility determinations or weigh evidence on appeal. *In re Marriage of Meredith*, 148 Wn. App. 887, 891 n.1, 201 P.3d 1056, *review denied*, 167 Wn.2d 1002 (2009). Additionally, neither party requested attorney fees on appeal and we award none.