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**IN THE  
COURT OF APPEALS OF INDIANA**

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TERRI L. (SNIDER) IRONS, )

Appellant-Petitioner, )

vs. )

MICHAEL H. SNIDER, )

Appellee-Respondent. )

No. 17A03-0704-CV-177

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APPEAL FROM THE DEKALB CIRCUIT COURT  
The Honorable Kirk D. Carpenter, Judge  
Cause No. 17C01-0212-DR-182

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**November 21, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

## **Case Summary**

Terri Snider Irons appeals the trial court's finding her in contempt of court. We affirm.

### **Issue**

Terri raises one issue, which is, whether the trial court abused its discretion by finding her in contempt of court.

### **Facts**

Terri and Michael Snider's marriage was dissolved on May 1, 2003. They have two children, A.S., born in 1996, and Z.S., born in 2000. The original dissolution decree granted Terri and Michael joint legal custody, with Terri designated as the primary physical custodian of the children. Michael was to have parenting time in accordance with the Indiana Parenting Time Guidelines, with consideration given to his work schedule.

The children began undergoing counseling in 2006. Terri indicated the children were telling her that they were afraid of Michael. Evidence was introduced that the children may have also witnessed domestic abuse between Terri and her new husband. On April 9, 2006, Terri called the local police during Michael's parenting time to report that Z.S. phoned her to tell her that Michael slapped him, and he was scared. Police visited Michael's home. Michael said he did slap Z.S. on the butt to correct him because his son slapped his face while they were playing. The children admitted they did not tell their mother Z.S. was slapped because he was being corrected. Terri called police after

the visit to ask what would be in the report. She asked the officer to leave what the boys told the officer out of the report.

On July 18, 2006, Terri contacted the Dekalb County Office of the Indiana Department of Child Services (“DCS”) regarding her worries about Michael’s treatment of the children. She reported that Michael is mentally and emotionally abusive, and the children are afraid of him. She also reported the children viewed pornography at Michael’s home. DCS instituted an investigation and concluded the children were in danger when visiting Michael. DCS filed a petition on behalf of each child on September 22, 2006, alleging they were children in need of services (“CHINS”).

Sometime between July and October of 2006, Terri took the children to their pediatrician because they complained of stomachaches and nightmares. The doctor issued a letter requesting the children have only supervised visitation with their father. A psychiatrist evaluated the children in October of 2006 and recommended supervised visitation as well. On October 7, 2006, Michael did not have his regularly scheduled visitation with the children. Terri did not want to leave the children with Michael. She offered supervised visitation, but he declined. Michael only spoke on the phone with the children after that time.

On November 14, 2006, Terri petitioned to modify parenting time and requested that Michael only have supervised visits. Michael filed a motion to modify the dissolution decree and a rule to show cause on January 8, 2007. He requested that Terri be held in contempt and regular parenting time be enforced. Hearings were held on February 21, 2007, and March 1, 2007.

The trial court found that the children did not need supervised visitation and denied Terri's petition. The trial ordered that parenting time should resume and Indiana's parenting time guidelines should be followed. The trial court also found Terri in contempt. The trial court ordered Terri to serve thirty days in jail, but that sentence would be suspended when regular visitation resumed. This appeal followed.

### **Analysis**

Neither the Chronological Case Summary ("CCS") nor the transcript indicate that the parties requested findings and conclusions pursuant to Indiana Trial Rule 52(A) prior to the hearing; therefore, the trial court's entry of such was sua sponte. See Perry v. Ballew, 873 N.E.2d 1068, 1071-72 (Ind. Ct. App. 2007). "Under such circumstances, the findings and judgment are not to be set aside unless clearly erroneous, and due regard is to be given to the trial court's ability to assess the credibility of witnesses." Id. at 1072. When a trial court applies the wrong legal standard or no evidence supports the findings of fact, the judgment is deemed clearly erroneous. Id. The conclusions of law are reviewed de novo. Id.

"Indirect contempt is the willful disobedience of any lawfully entered court order of which the offender has notice." City of Gary v. Major, 822 N.E.2d 165, 169 (Ind. 2005); see also Ind. Code § 34-47-3-1. The determination of whether a party is in contempt of court is a matter within the trial court's discretion. Van Wieren v. Van Wieren, 858 N.E.2d 216, 222-23 (Ind. Ct. App. 2006). We will reverse a finding of contempt only where an abuse of discretion is established. Id. "When reviewing a

contempt order, we will neither reweigh the evidence nor judge the credibility of witnesses.” Id.

The trial court found that Terri denied Michael his parenting time. Such finding was not in error, considering that Terri admitted her actions during her testimony. Regarding the contempt, the trial court specifically issued the following conclusion: “Mrs. Irons was and is aware of the parenting time order. She chooses to ignore that order. The Respondent has violated the Court’s previous order willfully, without just or proper cause. She is in contempt of court.” App. p. 9.

Terri contends her behavior regarding the children’s visitation with Michael was necessary. She contends she only denied parenting time after several professionals recommended supervised visitations to her and Michael refused to participate in such arrangement. Those professionals included a therapist the children had been seeing, their pediatrician, and a psychiatrist recommended by their pediatrician. We have held, however, that following the advice of a medical provider cannot be a defense or excuse for disobeying a court order. MacIntosh v. MacIntosh, 749 N.E.2d 626, 631 (Ind. Ct. App. 2001), trans. denied. Terri also claimed she was afraid DCS would be angry with her if she placed the children with their father.

If she felt that the current parenting time order was not appropriate, Terri’s remedy was to seek a modification of that order, not defy it. Id. Yet Terri waited approximately two months after DCS filed the CHINS petitions before initiating any action to modify the parenting time. DCS’s involvement did not come as a surprise to Terri; rather, she personally contacted them to initiate an investigation into Michael. The findings of facts

and conclusions thereon issued by the trial court were not clearly erroneous, and the trial court did not abuse its discretion when it found Terri in contempt of court.

### **Conclusion**

The trial court did not abuse its discretion in finding Terri in contempt of court.

We affirm.

Affirmed.

KIRSCH, J., and ROBB, J., concur.