MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In Re: The Paternity of A.E.H.;
Christian J. Halterman (Father),
Appellant-Petitioner,

v.

Kristiana M. Seeker (Mother),
Appellee-Respondent.

November 17, 2021

Court of Appeals Case No. 21A-JP-1147

Appeal from the Adams Circuit Court

The Honorable Chad E. Kukelhan, Judge

Trial Court Cause No. 01C01-0802-JP-17

Pyle, Judge.

Statement of the Case

[1] In this paternity action, Christian Halterman ("Father") appeals the trial court's order that modified both his parenting time with his daughter, A.H. ("A.H."),

and his child support obligation. Father specifically argues that the trial court abused its discretion when it modified his parenting time and child support obligation. Concluding that the trial court did not abuse its discretion in modifying Father's parenting time, we affirm that portion of the trial court's order. However, we conclude that the trial court abused its discretion in modifying Father's child support obligation when it: (1) credited Mother with payment for a $20.09 health insurance premium; and (2) ordered Father to pay 77% of all of A.H.'s uninsured medical expenses in excess of $530.40 per year. We, therefore, remand with instructions for the trial court to: (1) remove Mother's credit for the health insurance premium and to recalculate Father's child support obligation; and (2) clarify in its order that Father is not responsible for paying any uninsured expenses when Mother declines to use the medical insurance that Father provides for A.H. We affirm the trial court's child support modification in all other respects.

[1] We affirm in part, reverse in part, and remand with instructions.

Issues

1. Whether the trial court abused its discretion when it modified Father's parenting time.
2. Whether the trial court abused its discretion when it modified Father's child support obligation.

Facts

[2] Father and Kristiana Seeker ("Mother") are the parents of A.H., who was born in June 2007. In October 2008, Father agreed to pay $47.00 per week in child support and was awarded parenting time with A.H.

[3] In November 2011, the trial court modified Father's child support obligation to $59.00 per week. Also in 2011, Father joined the Indiana National Guard. For the next six years, Father resided in Indiana and continued to exercise parenting time with A.H.

[4] In October 2017, Father transitioned from the National Guard to active duty in the United States Army. Three months later, in January 2018, the army sent Father to a base in California. While Father was in California, Mother and Father agreed on parenting time, and A.H. visited Father, his wife, and two children in California. Specifically, during the summer of 2019, A.H. spent seven weeks in California with Father, and, during the summer of 2020, A.H. spent five weeks in California. Father paid A.H.'s travel expenses, including an airline chaperone so that A.H. would not have to travel alone.

[5] In October 2020, the army sent Father to a base in Germany for at least three years. Father wanted A.H. to visit him and his family in Germany during the summer of 2021. Although Mother and Father had previously agreed on Father's parenting time, including A.H.'s visits to California, Mother did not want A.H. to travel to Germany.

[6] In February 2021, Father filed a petition to modify parenting time and child support. In the petition, Father stated that "[d]ue to the distance between Adams County, Indiana and Germany, [his] parenting time require[d] modification, and additional orders to facilitate his parenting time, and the tremendous cost of transportation to facilitate the parenting time [had to] be factored into the computation of Father's child support." (App. Vol. 2 at 32). Father specifically asked the trial court to award him eight weeks of summer parenting time. Father also asked the trial court to "[m]odify [his] child support obligation consistent with the current incomes of the parties and all relevant factors, including the substantial transportation cost required for [A.H.]'s parenting time[,]" which Father agreed to pay. (App. Vol. 2 at 33).

[7] Also in the petition, Father told the trial court that he paid for medical insurance that covered his family, including A.H. Mother, however, had refused to use the insurance because A.H.'s current provider did not accept it. Father asked the trial court to enter an order "requiring Mother to pay unnecessary uninsured medical expenses occasioned by her choosing to not use the medical insurance provided by Father." (App. Vol. 2 at 33).

[8] The trial court held a hearing on Father's petition in April 2021. Twenty-nine-year-old Father testified that, if Mother could transport A.H. to Chicago, there was a non-stop flight from Chicago to Munich that A.H. could take to Germany. During the flight, A.H. would be under the supervision of an airline chaperone, and Father would meet A.H. at the airport in Munich. Because of

COVID-19 precautions, upon her arrival in Germany, A.H. would be required to quarantine for five days at Father's home. Father further testified that based on A.H.'s experiences in California, Father had no reason to believe that A.H. would not enjoy herself and have a good time visiting him and his family in Germany. Father acknowledged that A.H. had told him that she did not want to travel to Germany because she was starting high school and would be on the varsity cheerleading team as a freshman. A.H. was concerned about missing summer cheerleading practices.

[9] Father also testified that the cost of A.H.'s airfare to Germany would be approximately $1800 to $1900. Father testified that he would pay for A.H.'s travel expenses but asked the trial court to take these travel expenses into consideration when determining Father's child support obligation. In addition, Father tendered to the trial court a copy of his 2020 W-2 form and an April 2021 paystub. The W-2 form shows that Father had earned $37,691.76 in 2020. Father's April 2021 paystub shows that his base pay is $3405.60 per month, his basic allowance for subsistence is $386.50 per month, and his cost-of-living allowance for living in Germany is $573.33 per month. Father did not submit a child support worksheet.

[10] Mother testified that she did not want A.H. to travel to Germany during the summer of 2021 because of the possibility that A.H. could end up "stuck" there due to the COVID-19 pandemic. (Tr. at 55). Mother agreed that A.H. could travel to Germany during the summer of 2022. Mother further testified that, in

the summer of 2022, she would like for A.H. to travel to Germany after her June 3 birthday and return to Indiana on or before July 4 so that she could participate in cheerleading practice. A.H. is also involved in church activities and Future Farmers of America ("FFA") because she wants to be a veterinarian. Although Mother agreed that A.H. should spend time with Father, Mother also believed that A.H.'s "social life [was] just as important as being with family[.]" (Tr. at 55).

[11] Mother also testified that her annual gross income is $15,000 per year. Mother specifically explained that she is a part-time custodial maintenance supervisor for a local business, where she works ten to fifteen hours per week and earns $17.00 per hour. Mother further testified that she could work full-time as a custodial maintenance supervisor at the local business but that she had chosen to work part-time because of "scheduling with [her] children[.]" (Tr. at 62). Mother estimated that she earns $12,000 per year from that job. Mother also testified that she works at a school cafeteria, where she earns $3,000 per year. Mother, like Father, did not submit a child support worksheet.

[12] In addition, Mother testified that, in the past, she had not used the insurance that Father provides for A.H. because A.H.'s medical provider had not accepted the insurance. Mother further testified that she was "perfectly willing to pay for all of [A.H.'s] medical bills" so that A.H. could remain with her current medical provider. (Tr. at 61). Mother also testified that she had recently learned that A.H.'s medical provider does accept the insurance that

Father provides for A.H. Mother did not testify that she had paid or was currently paying for additional insurance for A.H.

[13] A.H.'s Guardian Ad Litem ("the GAL") testified that A.H. was fearful about getting "stuck" in Germany during the summer of 2021 because of the COVID-19 pandemic. (Tr. at 66). According to the GAL, A.H. had been following the CDC website, which had stated that Germany was on "high alert" and suggested that people not travel there. (Tr. at 66). The GAL further testified that A.H. was concerned about missing cheerleading practices and "letting down her cheerleading squad and letting down people that are counting on her." (Tr. at 65). In addition, the GAL had spoken with the cheerleading coach and learned that A.H. would not be able to cheer with the cheerleading team until she had learned all of the routines. The cheerleading coach had also told the GAL that cheerleading practice began two weeks after the school year ended and that there was a moratorium week in July. If A.H. traveled to Germany in June and early July, A.H. would miss fewer practices. The GAL recommended that A.H. not travel to Germany during the summer of 2021. However, the GAL recommended that A.H. travel to Germany in 2022. The GAL further explained that A.H. was nervous about the international flight and understandably wanted a family member, and not just an airline chaperone, to travel to Germany with her on her first overseas trip. A.H. believed that she would be fine returning by herself from Germany to Indiana.

[14] In May 2021, the trial court issued an order concluding as follows regarding parenting time: (1) A.H. should not travel to Germany for the summer of 2021; (2) Mother and Father should cooperate to ensure that A.H. visits with Father in Germany during the summer of 2022; (3) A.H. should travel to Germany on or about June 5, 2022 and should return to the United States on or about July 11, 2022; (4) Father should ensure that A.H. does not travel overseas for the first time without a relative accompanying her for the flight.

[15] The trial court's order included an attached child support worksheet, which found that Father's weekly gross income was $985.72 and that Mother's weekly gross income was $301.98. Each parent was awarded a credit for subsequent born children, which was subtracted from each parent's weekly gross income. Following this adjustment, the trial court found that Father's weekly adjusted income was $890.11, which is 77% of the parties' weekly adjusted income, and that Mother's weekly adjusted income was $272.69, which is 23% of the parties' weekly adjusted income. The trial court also gave Mother a $20.09 weekly credit for a health insurance premium. As a result of these calculations, the trial court concluded that Father's child support obligation was $135.00 per week. In addition, the trial court ordered that Mother was to be responsible for the first $530.40 of A.H.'s uninsured medical expenses and that, thereafter, Father was to be responsible for 77% of A.H.'s uninsured medical expenses, and Mother was to be responsible for 23% of A.H.'s uninsured medical expenses.

[16] In June 2021, Father filed a motion to reconsider. The trial court denied Father's motion, which we consider as a motion to correct error.[1]

[17] Father now appeals.

Decision

[18] At the outset, we note that there is a well-established preference in Indiana for granting latitude and deference to the trial court in family law matters. *Steele-Giri v. Steele*, 51 N.E.3d 119, 124 (Ind. 2016). Appellate courts "are in a poor position to look at a cold transcript of the record, and conclude that the trial judge, who saw the witnesses, observed their demeanor, and scrutinized their testimony as it came from the witness stand, did not properly understand the significance of the evidence." *Id*. (internal quotation marks and citations omitted). "On appeal it is not enough that the evidence might support some other conclusion, but it must positively require the conclusion contended for by appellant before there is a basis for reversal." *Id*. (internal quotation marks and citations omitted). "Appellate judges are not to reweigh the evidence nor reassess witness credibility, and the evidence should be viewed most favorably to the judgment." *Id*. (internal quotation marks and citations omitted). We now turn to the issues in this case.

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[1] Motions to reconsider are properly made and ruled upon before the entry of final judgment. *Hubbard v. Hubbard*, 690 N.E.2d 1219, 1221 (Ind. Ct. App. 1998). "Accordingly, although substantially the same as a motion to reconsider, a motion requesting the court to revisit its final judgment must be considered a motion to correct error." *Id.*

[19] Father argues that the trial court abused its discretion when it modified his parenting time and child support obligation. We address each of his contentions in turn.

1. Parenting Time

[20] Father first argues that the trial court abused its discretion when it modified his parenting time. Father specifically argues that the trial court abused its discretion when it awarded him five rather than eight weeks of parenting time in Germany during the summer of 2022 and ordered that a family member travel with A.H. on her first overseas trip.

[21] We initially observe that in all parenting time controversies, trial courts are required to give foremost consideration to the best interests of the child. *In re Paternity of C.H.*, 936 N.E.2d 1270, 1273 (Ind. Ct. App. 2010), *trans, denied*. When reviewing a trial court's determination of a parenting time issue, we grant latitude and deference to the trial court and will reverse only when the trial court abuses its discretion. *Id*. An abuse of discretion occurs if the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. *Id*. If there is a rational basis for the trial court's determination, then no abuse of discretion will be found. *Id*. Therefore, on appeal, it is not enough that the evidence might support some other conclusion, but it must positively require the conclusion contended for by appellant before there is a basis for reversal. *Id*. Further, we may not reweigh the evidence or judge the credibility of the witnesses. *Id*.

[22] Here, the trial court concluded that it was in A.H.'s best interests to travel to Germany for five weeks, rather than eight weeks, in the summer of 2022 and to be accompanied by a relative during her first overseas flight. Our review of the evidence reveals that, in the summer of 2022, A.H. will just have completed her freshman year of high school and will just have turned fifteen years old. A.H., who is a varsity cheerleader, is concerned about missing summer cheerleading practice and letting down other members of the cheerleading team. A.H. is also involved in a church youth group and FFA because she wants to be a veterinarian. Pursuant to the trial court's order, A.H. will miss two to three weeks of cheerleading practice and other activities but will spend five weeks in Germany with Father and his family. The trial court has crafted an order that balances Father's parenting time with A.H.'s summer activities. In addition, as the GAL pointed out, A.H. is nervous about the international flight, and understandably wants a family member, and not just an airline chaperone, to travel with her on her first overseas trip. Although the evidence might have supported another conclusion, the evidence neither positively requires the conclusion contended for by Father nor provides a basis for reversal. *See id*. Rather, this evidence provides a rational basis for the trial court's parenting time order, and we find no abuse of the trial court's discretion. *See id*.

2. Child Support

[23] Father also argues that the trial court abused its discretion when it modified his child support obligation. Specifically, Father raises several arguments regarding the trial court's modification of his child support obligation.

[24] At the outset, we note that the Indiana Child Support Guidelines require the filing of a child support worksheet when the trial court is asked to order support. *See* Ind. Child Support Guideline 3(B)(1) ("In all cases, a copy of the worksheet which accompanies these Guidelines *shall* be completed and filed with the court when the court is asked to order support[.] Worksheets *shall* be signed by both parties, not their counsel, under penalties for perjury.") (emphases added). Here, however, neither parent filed a child support worksheet. We strongly "urge trial courts in the exercise of their discretion to *require* verified child support worksheets in every case. Failure to do so frustrates not only appellate review but also the goals of the child support guidelines." *Butterfield v. Constantine*, 864 N.E.2d 414, 417 (Ind. Ct. App. 2007). (emphasis in the original).

[25] We now turn to Father's argument that the trial court abused its discretion when it modified his child support obligation. A trial court's calculation of child support is presumed valid, and we will review its decision only for an abuse of discretion. *Thompson v. Thompson*, 811 N.E.2d 888, 924 (Ind. Ct. App. 2004), *trans. denied*. An abuse of discretion occurs only when the decision is clearly against the logic and effect of the facts and circumstances before the court, including any reasonable inferences to be drawn therefrom. *Barber v. Henry*, 55 N.E.3d 844, 850 (Ind. Ct. App. 2016). The importance of the first-person observation and the prevention of disruption to the family setting justifies the deference given to the trial court in its child support determinations. *Id.*

[26] Father first argues that the trial court abused its discretion in modifying his child support obligation because it failed "to impute Mother's potential income." (Father's Br. 21). Specifically, Father argues that because Mother testified that she could work full-time as a custodial maintenance supervisor and that she would earn $17.00 per hour, "Mother's potential weekly income of $680 should be imputed to her." (Father's Br. 23). However, Father has waived appellate review of this issue because he did not raise it to the trial court at the hearing. *See GKC Indiana Theaters, Inc. v. Elk Retail Investors, LLC.*, 764 N.E.2d 647, 651 (Ind. Ct. App. 2002) ("As a general rule, a party may not present an argument or issue in an appellate court unless the party raised that argument or issue to the trial court[.] The rule of waiver in part protects the integrity of the trial court; it cannot be found to have erred as to an issue or argument that it never had an opportunity to consider.").[2]

[27] Father next argues that the trial court abused its discretion in modifying his child support obligation because it included his cost-of-living adjustment in its calculation of his weekly gross income. Father has also waived appellate review of this issue because he did not raise it to the trial court. *See id*.

[28] Father further argues that the trial court abused its discretion in modifying his child support obligation because it declined to factor Father's cost of transportation to facilitate parenting time into the computation of Father's child

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[2] Father also raised this issue in his motion to correct error. However, a party also may not raise an issue for the first time in a motion to correct error. *Troxel v. Troxel*, 737 N.E.2d 745, 752 (Ind. 2000).

support. "Deviation from the guideline amount based on travel expenses in exercising parenting time is within the trial court's discretion." *Hazelett v. Hazelett*, 119 N.E.3d 153, 164 (Ind. Ct. App. 2019). The commentary to Guideline 6 of the Indiana Child Support Guidelines addresses the cost of transportation and provides, in relevant part, as follows:

> When transportation costs are significant, the court may address transportation costs as a deviation from the child support calculated by the Worksheet, or may address transportation as a separate issue from child support. Consideration should be given to the reason for the geographic distance between the parties and the financial resources of each party.

Here, the trial court's child support worksheet reveals that Father's weekly adjusted gross income is $890.11, and Mother's weekly adjusted gross income is $272.69. Based upon this vast difference in the parties' financial resources, the trial court did not abuse its discretion when it declined to factor Father's cost of transportation to facilitate parenting time into the computation of Father's child support.

[29] In addition, Father argues that the trial court abused its discretion when it credited Mother with a $20.09 health insurance premium. He is correct. The Child Support Guidelines provide that a parent should generally receive a health insurance credit in an amount equal to the premium cost the parent actually pays for a child. *Julie C. v. Andrew C.*, 924 N.E.2d 1249, 1261 (Ind. Ct. App. 2010); *see also* Ind. Child Support Guideline 3(E)(2). Here, however, where Mother did not testify that she had paid or was currently paying for

additional insurance for A.H., the trial court abused its discretion when it credited her with a $20.09 health insurance premium. We, therefore, remand with instructions for the trial court to remove this credit from the child support worksheet and to recalculate Father's child support obligation.

[30] Lastly, Father argues that the trial court abused its discretion when it ordered him to pay 77% of *all* of A.H.'s uninsured medical expenses in excess of $530.40 per year. Father specifically contends that he should not have to pay for the uninsured medical expenses for A.H. resulting from Mother's failure to use the medical insurance provided by Father. We agree. Our review of the hearing transcript reveals that Mother testified that, in the past, she had not used the medical insurance that Father provided for A.H. because A.H.'s medical provider had not accepted the insurance. Mother further testified that she was "perfectly willing to pay for all of [A.H.'s] medical bills" so that A.H. could remain with her current medical provider. (Tr. at 61). The trial court abused its discretion when it ordered Father to pay for all of A.H.'s uninsured medical expenses in excess of $530.40. We therefore remand with instructions for the trial court to enter an order stating that Father is not responsible for paying any uninsured expenses when Mother declines to use the medical insurance that Father provides for A.H.

[31] Affirmed in part, reversed in part, and remanded with instructions.[3]

Bailey, J., and Crone, J., concur.

[3] On cross-appeal, Mother argues that "Father's appeal is frivolous and without merit and [we] should remand the matter to the trial court for a finding of appellate attorney fees in favor of Mother." (Mother's Br. 27). However, because Mother's one-paragraph argument includes no citations to case law or other relevant authority, Mother has waived appellate review of this issue. *See Zollinger v. Wagner-Meinert Engineering, LLC*, 146 N.E.3d 1060, 1074 (Ind. Ct. App. 2020) (citing Ind. Appellate Rule 46(A)(8)(a)). Waiver notwithstanding, Father's appeal is neither frivolous nor without merit, and we, therefore, decline Mother's request for appellate attorney fees.