MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Paternity of L.M.

Robert Tod Moore,

Appellant-Petitioner,

v.

Cassandra Shepard,

Appellee-Respondent.

December 20, 2023

Court of Appeals Case No. 23A-JP-883

Appeal from the Hamilton Superior Court

The Honorable David Najjar, Judge

Trial Court Cause No. 29D05-1710-JP-1301

Memorandum Decision by Judge Kenworthy
Chief Judge Altice and Judge Weissmann concur.

Kenworthy, Judge.

Case Summary

[1] Robert Tod Moore ("Father") and Cassandra Joy Shepard ("Mother") are the parents of a child ("Child") born in 2014. Custody and support issues were settled in a 2018 agreed paternity order. The parties agreed to share joint legal custody of Child, with Mother having primary physical custody and Father enjoying parenting time. In 2023, the trial court ruled on a series of motions filed by the parties, declining to modify primary physical custody but modifying Father's parenting time and child support obligation and finding Father in contempt for failing to pay his share of childcare expenses.

[2] Father raises four issues on appeal:

1. Did the trial court err in declining to modify primary physical custody from Mother to Father?

2. Did the trial court err in modifying Father's parenting time?

3. Did the trial court err in determining Father's income when calculating his modified child support obligation?

4. Did the trial court err in finding Father in contempt?

Concluding the trial court did not err in any of these rulings, we affirm.

Facts and Procedural History

[3] Father and Mother have never been married to each other; Father signed a paternity affidavit at Child's birth and initiated this paternity action in 2017. In

2018, when Child was three years old, the parties signed an agreed order addressing—among other things—custody, parenting time, and child support. They agreed to share joint legal custody of Child with Mother having primary physical custody. The parties made provisions for Father's parenting time both before and after Child entered elementary school; after Child started school, Father would exercise parenting time in accordance with the Indiana Parenting Time Guidelines ("IPTG") plus an additional midweek evening visit. Father was to pay $30 per week in child support initially and "[o]nce parenting time changes due to [Child's] enrollment in school," the parties would attempt to reach an agreement regarding child support. *Appellant's App. Vol. 2* at 25. The parties also agreed to split the cost of childcare equally, with Father's obligation capped at $450 monthly.

[4] Until 2020, the parties co-parented well. Father got married in 2017 and he and his wife had a child together in 2019. Father's wife also has a child from a previous relationship who is two years older than Child. They live in a home owned by Father's aunt and do not have a mortgage or rent payment. The parties' homes are approximately one hour from each other. Mother and Child were close to several members of Father's extended family and Mother facilitated Child's relationships with those relatives even when Child was in her physical custody. Mother began a romantic relationship in early 2020. Sometime after that, Mother's relationships with Father's relatives deteriorated and Child began to spend less time with them, including during Father's

parenting time. The parties also began to experience difficulties in communicating and reaching consensus in matters related to Child.

[5] In the summer before Child began kindergarten in the fall of 2020, Mother began to discuss childcare options with Father, expressing her preference for enrolling Child in before and after school care ("BAC") at his elementary school. Father deflected conversations about childcare and Mother eventually enrolled Child in BAC even though Father never explicitly agreed. Despite acknowledging he was supposed to pay half the cost, Father did not contribute to childcare costs after August 2020.

[6] Shortly after Child started school and Father's parenting time shifted to the new arrangement of two midweek visits, Mother moved to modify Father's parenting time and child support obligation and alleged Father was in contempt. Mother alleged Father's midweek parenting time was "very disruptive" to Child, who is often tired afterward. *Id.* at 29. "[I]n the best interest of the child," she asked for Father's midweek parenting time to be reduced to one evening per week instead of two. *Id.* Mother also asked for child support to be modified to "reflect the parties' current parenting time arrangement." *Id.* And she asked that Father be held in contempt because he had failed to pay his share of Child's BAC expenses since Child started

kindergarten. Father in turn moved for modification of custody.[1] The trial court appointed a guardian ad litem ("GAL") at Father's request.

[7] Between the filing of the parties' motions in September 2020 and the first day of the hearing a year later, several things relevant to the issues occurred. First, in May 2021, Father quit his job at Individual Support Services, Inc. ("ISS")—a business owned by his aunt—and took a position in sales with Schaeffer Manufacturing Company on a commission basis. Second, Child began therapy, first with a school-based therapist to address coping skills and impulse control, and later with a non-school-based therapist. And third, Mother alleged Child had disclosed inappropriate touching by his stepsibling at Father's home during parenting time. The allegation was investigated by the Department of Child Services but was unsubstantiated. Father implemented measures at his home to keep the children from being alone with each other.

[8] The trial court held a hearing on the parties' motions over two days—first in September 2021 and then in October 2022. The GAL described Child as "a super fun little kid. He is very imaginative. He just kind of talks your head off whenever you have a moment to talk with him. . . . Academically, his teachers don't have concerns with him[.] He has some behavior issues sometimes." *Tr.*

[1] Father also alleged Mother was in contempt, but the trial court found Father had failed to prove his allegations and Father does not appeal that decision.

Vol. 2 at 8. She reported Child is clothed and fed appropriately and appears to be well taken care of in both homes.

[9] With respect to her petition to modify Father's parenting time, Mother testified the two midweek visits with Father were not working out well for Child. When Mother and Child arrived home from midweek parenting time exchanges—which were to occur at 7 p.m.—Child was often still hungry even though he had eaten at Father's house. They had to do twenty minutes of reading time for school and Child had to bathe and brush his teeth. Mother said "the wind down session of going from one parent's house to another, just kind of doing the wind down and then getting [Child] ready for bed" was difficult. *Id.* at 96.

[10] As for child support, the original support order was for Father to pay $30 per week. Mother introduced into evidence two financial declarations prepared by Father for these proceedings. The first, based on his income while still employed with ISS, showed a gross weekly income of $1,280. The second, prepared after he left ISS, showed only self-employment income of $350 per week. Father testified he took a commission-only position in sales with Schaeffer Manufacturing after leaving ISS, occasionally does freelance work for ISS, and does some construction work on his own. Father submitted one 2022 paystub from ISS and one from Schaeffer Manufacturing and testified he makes "[f]ive, eight hundred bucks a week before taxes" from his self-employment. *Tr. Vol. 3* at 38.

[11] Regarding the contempt petition, Mother testified and introduced supporting evidence that she broached the subject of enrolling Child in BAC during the summer before Child began school and followed up several times, but Father never responded directly. Mother ultimately enrolled Child in BAC without Father's express agreement so Child was assured a spot in the program. BAC was also less expensive than Child's existing childcare arrangement. Father testified he had paid nothing for BAC despite acknowledging in a text to Mother, "I have to pay half, regardless." *Ex. Vol. 4* at 38.

[12] The trial court denied Father's petition to modify custody, granted Mother's motion to modify parenting time, modified Father's child support obligation, and found Father in contempt for failing to pay childcare costs per the 2018 agreed order.

Standard of Review

[13] Indiana has a well-established preference "for granting latitude and deference to our trial judges in family law matters." *Steele-Giri v. Steele*, 51 N.E.3d 119, 124 (Ind. 2016) (quoting *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993)). Trial judges are in the best position to judge the facts, determine witness credibility, understand family dynamics, and "get a sense of the parents and their relationship with their children." *E.B.F. v. D.F.*, 93 N.E.3d 759, 762 (Ind. 2018) (quoting *MacLafferty v. MacLafferty*, 829 N.E.2d 938, 940 (Ind. 2005)). They are in "a superior position to ascertain information and apply common sense, particularly in the determination of the best interests of the

involved children." *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011). Appellate courts, on the other hand, "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." *Steele-Giri*, 51 N.E.3d at 124 (quoting *Kirk v. Kirk*, 770 N.E.2d 304, 307 (Ind. 2002)).

[14] Contrary to Father's assertion, the trial court did enter findings of fact and conclusions thereon in its order. None of the relevant statutes require the trial court to make findings and the record contains no indication either party filed a written request for findings, so the findings of fact here were entered *sua sponte*. When the trial court enters findings *sua sponte*, the specific findings control only as to the issues they cover, and a general judgment standard applies to any issue on which the court has not made findings. *See Harrison v. Thomas*, 761 N.E.2d 816, 819 (Ind. 2002). The specific findings will not be set aside unless they are clearly erroneous, Ind. Trial Rule 52(A), and we will affirm the general judgment on any legal theory supported by the evidence, T.R. 52(D); *Steele-Giri*, 51 N.E.3d at 123–24. A finding is clearly erroneous when there are no facts or inferences drawn therefrom that support it. *Steele-Giri*, 51 N.E.3d at 125. In reviewing the trial court's findings, we neither reweigh the evidence nor judge the credibility of the witnesses. *E.B.F.*, 93 N.E.3d at 762. Instead, we examine the evidence in the light most favorable to the trial court's decision. *Id.*

No Error in Denying Modification of Custody

[15] A child custody order may not be modified unless "(1) modification is in the best interests of the child; and (2) there is a substantial change in one (1) or more of the factors that the court may consider under section 2[.]" Ind. Code § 31-14-13-6 (1999).[2] Those factors include: the child's age and sex; the wishes of the parents; the child's wishes; the relationship the child has with his or her parents, siblings, and others who may significantly affect the child's best interest; the child's adjustment to home, school, and community; the mental and physical health of all involved; and any evidence of domestic or family violence. I.C. § 31-14-13-2(1)–(7) (2002) ("Section 2 factors").[3] The party seeking the modification bears the burden of demonstrating the existing custody arrangement should be changed. *Kirk*, 770 N.E.2d at 307. Custody modifications have a "more stringent standard" than an initial custody determination because "permanence and stability are considered best for the welfare and happiness of the child." *Steele-Giri*, 51 N.E.3d at 124 (quoting *Lamb v. Wenning*, 600 N.E.2d 96, 98 (Ind. 1992)). We review custody modification

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[2] Throughout these proceedings, the parties and the trial court cited sections of Indiana Code Chapter 31-17-2, which is applicable to custody matters in dissolution proceedings. Indiana Code Chapter 31-14-13 is applicable to custody decisions following a determination of paternity, as here. Nonetheless, the relevant statutes concerning the standard for modification and factors to be considered in the two contexts contain nearly identical language. Because the standard is the same in both contexts, we may consider case law on custody decisions made in dissolution proceedings when determining issues related to custody in paternity proceedings. *See In re Paternity of V.A.M.C.*, 768 N.E.2d 990, 1000 n.4 (Ind. Ct. App. 2002).

[3] Father's petition for modification of custody requested the trial court grant him legal and physical custody of Child. *See Appellant's App. Vol. 2* at 39. The trial court addressed legal custody in its order and determined the parties should continue to exercise joint legal custody. *See id.* at 118–19. Father does not appeal this determination.

decisions for abuse of discretion. *Kirk*, 770 N.E.2d at 307. To reverse, it is not enough that the evidence might support some other conclusion; it must "positively require" the result the appellant seeks. *Id.*

[16] The trial court denied Father's motion to modify custody, finding Father had failed to meet his burden of showing modification was appropriate: "The Court cannot find that a modification of physical custody is in [Child's] best interest[.] . . . [A]lthough to be sure there are some changes with the age of the child and the wishes of the parties, the Court cannot find that there is a substantial change of circumstances which would necessitate a change in physical custody." *Appellant's App. Vol. 2* at 116–17.

[17] Father contends the trial court erred in denying his motion to modify custody of Child. He identifies changes in several areas of the parties' lives since the 2018 agreed order: Child started school, Mother began a serious relationship, Child's time with Father's extended family decreased, Child began therapy, and there was a DCS investigation into allegations that Child's stepsibling touched him inappropriately.[4] He argues "any one of those changes likely rises to the level sufficient to warrant a substantial change in circumstances, and certainly taken

[4] Father offers no explanation for why he considers the allegation Child was inappropriately touched in Father's house by Child's stepsibling a "change" at all, let alone a change warranting modification in Father's favor. Father also makes no particularized argument about why Child beginning therapy would constitute a substantial change.

together constitute such a change." *Appellant's Br.* at 14. He makes no argument related to Child's best interests.

[18] Although Father identifies several alleged changes, he does not specifically tie those changes to any Section 2 factors. In fact, he does not cite the Section 2 factors at all. Instead, Father cites several cases in which a substantial change warranting modification of custody was found. *See id.* at 13. But each case is distinguishable.

[19] With respect to Child now being of school age, Father presumably refers to Child's "adjustment to his school," I.C. § 31-14-13-2(5), and cites *In re Paternity of C.S.*, 964 N.E.2d 879 (Ind. Ct. App. 2012), *trans. denied*. In that case, however, the trial court's modification of custody was affirmed because the mother, who originally had primary physical custody, wanted to hold the child out of kindergarten even though he was of school-going age and physically and mentally ready to attend. *Id*. at 884. Here, Child entered kindergarten at the appropriate age with the consent of both parents, and he has been attending the same school since, with no academic concerns. Father did not introduce any evidence that Child's "adjustment to his school" has substantially changed beyond the simple fact that he now attends school. *Cf. Webb v. Webb*, 868 N.E.2d 589, 594 (Ind. Ct. App. 2007) (holding children's poor academic progress in the mother's custody was a substantial change in a statutory factor warranting modification of custody to the father).

[20] Father also alleges Mother's relationship and cohabitation with her boyfriend is a substantial change warranting modification, citing *Julie C. v. Andrew C.*, 924 N.E.2d 1249 (Ind. Ct. App. 2010). Again, Father does not cite the relevant Section 2 factor, but we presume he refers to the "interaction and interrelationship" of Child with Mother and her boyfriend, "a person who may significantly affect [his] best interest." I.C. § 31-14-13-2(4). In *Julie C.*, the trial court's modification of custody from primary physical custody with the mother to joint physical custody was affirmed because the father's upcoming marriage in conjunction with the wishes of the father and the children to "forg[e] new relationships [and] accomplish a blended family" constituted a substantial change. *Id*. at 1257. *Julie C.* does not support Father's position, as here, it is Mother—who already has primary physical custody—who has an interest in forming a new family unit. Modifying custody would hinder, not help, build those relationships. Although the introduction of a new person into Mother's home undoubtedly affected Child, Father presented no evidence Child's relationship with either parent has substantially changed since Mother's relationship began.

[21] To support his argument that the decrease in time Child spends with Father's extended family since the 2018 agreed order is a substantial change, Father cites *In re Paternity of J.T.*, 988 N.E.2d 398 (Ind. Ct. App. 2013). This Court affirmed the trial court's modification of custody in *J.T.* because evidence that the custodial parent routinely denied parenting time showed a substantial change in the interrelationship of the parties. *Id.* at 401. Here, there is no order for Child

to visit with his relatives. Although the interrelationships between Child and his paternal relatives are important, they are not of the same significance as the interrelationship between a parent and child, as was the case in *J.T.* It is unfortunate the time Child spends with those relatives has diminished, but Mother is not solely or even mainly the reason. Child has less free time because he is in school, and Father has forgone opportunities to nurture relationships between Child and his family during his own parenting time.[5]

[22] Father also alleges Mother's position "that the *status quo* is good enough" does not "meet[] even the low bar sufficient to support the trial court's decision to deny a modification of custody." *Appellant's Br.* at 14; *see id.* at 11–12 (arguing "Mother presented insufficient evidence to support the trial court's decision to deny Father's request to modify custody"). But Mother need not meet *any* bar. "[T]here is a presumption in favor of maintaining the *status quo*," *Sanford v. Wilburn*, 185 N.E.3d 451, 455 (Ind. Ct. App. 2022), and it was *Father's* burden at trial to present evidence showing a substantial change in the statutory best interest factors sufficient to disrupt the current custody arrangement, *Kirk*, 770 N.E.2d at 307. It is also his burden on appeal to show the trial court erred. *Jones v. Gruca*, 150 N.E.3d 632, 640 (Ind. Ct. App. 2020) (noting when the party

[5] While these proceedings were pending, Father became concerned time Child spent with his relatives during his parenting time would be held against him. We commend the trial judge for recognizing the importance of familial relationships and assuring the parties on the record that within reason, "I will not look poorly on you if you decide you wish to give up part of your time so that grandma, grandpa, aunts, uncles, cousins . . . can enjoy the child. And so that that child can also enjoy those aspects of the extended family. . . . [T]his Court is [not] going to put a restriction on a child experiencing the joys and wonder of family in all of its shapes, forms, colors, and everything else." *Tr. Vol. 3* at 75.

bearing the burden of proof in the trial court is denied relief and appeals, it is an appeal from a negative judgment that requires that party to show the trial court's ruling was clearly erroneous), *trans. denied*. The trial court, after considering the Section 2 factors, found no change substantial enough to warrant modification and further found modification would not be in Child's best interests. Father's contentions to the contrary are nothing more than invitations for us to reweigh the evidence.

[23] In short, Father has not shown a substantial change in any relevant factor that the trial court overlooked. The trial court's findings are supported by the evidence and the judgment denying Father's petition to modify custody is not clearly erroneous.

No Error in Modifying Father's Parenting Time

[24] "The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child." I.C. § 31-14-14-2 (2005). "A noncustodial parent is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time might . . . (1) endanger the child's physical health and well-being; or (2) significantly impair the child's emotional development." I.C. § 31-14-14-1(a) (2019).

[25] In making and reviewing parenting time decisions, courts are required to "give foremost consideration to the best interests of the child." *Perkinson v. Perkinson*, 989 N.E.2d 758, 761 (Ind. 2013) (quotation omitted). Parenting time decisions are reviewed for an abuse of discretion, and we will reverse only where the

judgment is clearly against the logic and effect of the facts and circumstances before the trial court or where the court errs as a matter of law. *Id.*

[26] The trial court granted Mother's request to modify Father's parenting time to reduce his midweek parenting time from two evenings to one, finding a change is necessary because of the distance between the parties' homes and the time required for travel: "For a child diagnosed with adjustment disorder, the Court finds two mid-week parenting time sessions to be too much back and forth for [Child] during the school week." *Appellant's App. Vol. 2* at 117.[6] The trial court granted Father extended parenting time during the summer, allowing Father to choose whether to take his time as one consecutive period, in two segments, or in alternate weeks. But the court expressed that "exchanges [during the summer] should be minimized" to reduce parental friction and allow Child to have as much uninterrupted time with each parent as possible. *Id.* Finally, the trial court, concerned about the potential for inappropriate interactions between Child and his stepsibling, stated:

> [T]he Court would caution Father not to permit [Child] to be left alone with [his stepsibling] and to supervise their interactions at all times out of an abundance of caution to ensure [Child's] safety.

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[6] The GAL's first report to the trial court reflects that Child had been diagnosed with "Adjustment Disorder with mixed emotional conduct." *Appellant's App. Vol. 2* at 47. Although we have not found and the parties do not direct us to any other evidence in the record supporting or explaining this diagnosis, the trial court accepted that Child has an adjustment disorder.

Id. at 118.

[27] Father contends the trial court erred in modifying his midweek parenting time, claiming the trial court "incorrectly restricted" his parenting time for three reasons: first, if the concern was the hour commute between Mother's and Father's homes, the trial court could have ordered the second midweek parenting time to occur close to Mother's home; second, the court's reason for eliminating the second midweek parenting time was "incongruous" with the trial court's order that Father could choose to exercise his summer parenting time in alternating weeks; and third, requiring him to supervise all interactions between Child and his step-sibling was a "substantial restriction" on his parenting time. *Appellant's Br.* at 15.

[28] To begin, we note Father's second midweek parenting time exceeded the parenting time recommended by the IPTG. *See* Ind. Parenting Time Guideline II.D.1 (calling for noncustodial parent to exercise parenting time on alternating weekends and one evening per week for up to four hours, plus scheduled holidays). Eliminating the second midweek visit still afforded Father the full parenting time recommended by the IPTG and therefore the trial court's order was not a deviation from the IPTG, let alone a restriction.

[29] Father contends the trial court "heard no evidence that the back and forth was in any way damaging to the Child." *Appellant's Br.* at 16. But Mother testified that the "wind down session of going from one parent's house to another" was difficult and the constant back and forth was not working out well for Child.

Tr. Vol. 2 at 96. To the extent Father contends the trial court erred because its school year and summer parenting time orders were contradictory, we disagree. The trial court clearly expressed concern for Child's well-being "during the school week" when modifying Father's parenting time to reduce the number of times Child makes the hour-long trip between his homes and minimize disruptions to his schooling. *Appellant's App. Vol. 2* at 117. The same concerns are not present during the summer, and even the every-other-week summer parenting time the trial court offered would entail far fewer exchanges than multiple midweek visits.

[30] The trial court accepted Mother's testimony as to the effect of the second midweek visit on Child and we may not reweigh that evidence. As it is required to do, the trial court entered a parenting time order putting the best interests of Child at the forefront, and thus there is no error in the order modifying Father's parenting time.

[31] As for the alleged restriction on Father's parenting time, we agree with Father's general statement that the trial court may not restrict parenting time unless it finds that parenting time without the restriction would endanger Child's physical health or impair his emotional development. *See* Ind. Code § 31-14-14-1(a); *Lyons v. Parker*, 195 N.E.3d 883, 890 (Ind. Ct. App. 2022). Parenting time rights are "restricted" when they are "curtailed in an unreasonable manner." *In re Paternity of J.K.*, 184 N.E.3d 658, 667 (Ind. Ct. App. 2022). Here, the trial court *advised* Father to supervise Child's interactions with his stepsibling but did not *require* anything of Father. And Father had already implemented safety

measures during his parenting time. We discern no error in this cautionary provision of the trial court's order as it does not curtail any of Father's parenting time rights.

No Error in Child Support Calculation

[32] On appeal, "[a] trial court's calculation of child support is presumptively valid." *Bogner v. Bogner*, 29 N.E.3d 733, 738 (Ind. 2015) (quoting *Young v. Young*, 891 N.E.2d 1045, 1047 (Ind. 2008)). When we review a support modification order, "only evidence and reasonable inferences favorable to the judgment are considered." *Kinsey v. Kinsey*, 640 N.E.2d 42, 44 (Ind. 1994). The order will only be set aside if clearly erroneous. *Bogner*, 29 N.E.3d at 738.

[33] Indiana Child Support Guideline 3(A)(1) provides that a parent's child support obligation is based on their weekly gross income, which is defined as "actual weekly gross income of the parent if employed to full capacity, potential income if unemployed or underemployed, and the value of in-kind benefits received by the parent." Trial courts have great discretion to determine the amount of potential income to be imputed to a parent who is found to be underemployed. *Walters v. Walters*, 186 N.E.3d 1186, 1193 (Ind. Ct. App. 2022).

[34] Mother moved to modify Father's child support obligation and asked the trial court to impute income to him because "he's capable of making 1280 a week

which is what he was making when he worked for his prior employment[.]"[7] *Tr. Vol. 2* at 101. The trial court indicated it was "unsure what Father's actual income is and why he left stable employment for a lesser paying job." *Appellant's App. Vol. 2* at 121. Accordingly, the trial court found Father's income "should remain the same due to his voluntary underemployment and lack of clarity from Father as to his current income." *Id.*

[35] Father contends the trial court erred in imputing income to him when calculating his child support obligation. We need not determine whether the trial court erred in imputing income due to voluntary underemployment, however, because a gross weekly income figure of $1,280 is supported by the evidence Father provided of his actual income. Father testified he works for two employers and is also self-employed. He provided pay stubs from the two employers showing gross weekly income totaling approximately $500. *See Ex. Vol. 4* at 7, 9 (showing gross pay after 38 weeks of $11,280 from ISS—approximately $300 per week—and $7,671.41 after 40 weeks at Schaeffer Manufacturing—approximately $191 per week). In addition, Father testified he earns between $500 and $800 per week before taxes from his self-employment. Based on those figures, Father's weekly gross income is between approximately

[7] Mother also asked that income be imputed to Father for the in-kind benefit he received by living rent- and mortgage-free in a home owned by his aunt. *See Tr. Vol. 2* at 100–02. The trial court imputed $1,000 per month in income to Father for this benefit in addition to imputing income due to voluntary underemployment. *See Appellant's App. Vol. 2* at 120, 126–128 (child support worksheets prepared by the trial court showing gross weekly income $1,512 for Father). Father does not appeal this part of the trial court's child support calculation.

$900 and $1,300 even without imputing income because of voluntary underemployment. The trial court did not clearly err in its child support calculation.

No Error in Contempt Finding

[36] Trial courts have considerable discretion in determining whether a party should be found in contempt of court and a contempt judgment is therefore reviewed for an abuse of discretion. *Matter of Paternity of B.Y.*, 159 N.E.3d 575, 577–78 (Ind. 2020). "We will reverse a trial court's finding of contempt only if there is no evidence or inference therefrom to support the finding." *Steele-Giri*, 51 N.E.3d at 124 (quoting *Witt v. Jay Petroleum, Inc.*, 964 N.E.2d 198, 202 (Ind. 2012)).

[37] To be held in contempt for failure to follow a court order, a party must have willfully disobeyed the order. *City of Gary v. Major*, 822 N.E.2d 165, 170 (Ind. 2005). "The order must have been so clear and certain that there could be no question as to what the party must do, or not do, and so there could be no question regarding whether the order is violated." *Id*. A party may not be held in contempt for failing to comply with an ambiguous or indefinite order. *Id.*

[38] Regarding childcare expenses, the agreed order provided in full:

> The minor child shall continue to attend daycare at his current daycare, Wednesday through Friday every week. Once Mother moves her residence to Westfield, the child's daycare may change to be closer to Mother's residence as she will be doing the majority of the transportation to/from daycare. The child shall

> attend daycare Wednesday through Friday. Once the child begins school, the parties may jointly decide to move him to before and after school care at the school. The parties shall split the cost of childcare equally with each party paying one-half of the cost directly to the provider on a timely basis. However, Father's obligation towards childcare shall not exceed $450.00 on a monthly basis.

Appellant's App. Vol. 2 at 24. Mother asked the trial court to find Father in contempt for failing to pay any childcare costs after Child began BAC. The trial court found that Father's obligation to contribute to the cost of childcare "was not predicated on the parties' agreement to said childcare," Father knew a cost was incurred for childcare, and Father willfully failed to comply with the order that he pay half the cost. *Id.* at 124.

[39] Father argues the "plain language" of the agreed order required him to pay for a portion of childcare costs once Child began school only if the parties agreed to BAC or Child attended a childcare facility *other* than BAC. *Appellant's Br.* at 20. Because neither of those scenarios occurred, he contends he was not required to contribute to childcare costs. And he argues that if the order contemplated his contribution in this situation, then it was ambiguous. In either case, Father argues the trial court erred in finding him in contempt.

[40] Although the order may be ambiguous about *which* childcare Child should attend after beginning school and under what circumstances, the order is not ambiguous about *how* childcare should be paid for: the cost "shall" be split equally between the parties. *Appellant's App. Vol. 2* at 24. The payment

provision does not say "the parties shall split the cost of *agreed* childcare equally." Father acknowledged in the context of conversations about BAC that he was required to pay half "regardless" and simply failed to pay his share. *Ex. Vol. 4* at 38. The trial court did not err in finding him in contempt for willfully disobeying the childcare provision of the agreed order.

Conclusion

[41] There was no error in the trial court's order and therefore, we affirm the judgment.

[42] Affirmed.

Altice, C.J., and Weissmann, J., concur.