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IN THE COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE GUARDIANSHIP OF J.K.	)	
J.G., Appellants,	)	
vs.	)	No. 66A03-1005-JP-345
A.K., Appellee.	)	

APPEAL FROM THE PULASKI CIRCUIT COURT
The Honorable Michael A. Shurn, Judge
Cause Nos. 66C01-0703-GU-5 and 66C01-9911-JP-34

November 15, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

J.G. ("Father") appeals the order of the Pulaski Circuit Court denying his motion to terminate A.K.'s ("Grandmother") temporary guardianship of his daughter, J.K. ("Daughter") and the court's order granting Grandmother's petition for a permanent guardianship over Daughter. Father appeals pro se and presents seven issues, which we reorder and restate as:

I. Whether the trial court infringed Father's due process rights;

II. Whether there was evidence of emotional harm to Daughter sufficient to justify the guardianship;

III. Whether the trial court improperly delegated the terms of Father's visitation to Daughter's therapist;

IV. Whether the trial court erred in vacating a parenting time hearing that was scheduled after the order appointing Grandmother as guardian;

V. Whether the trial court gave improper weight to the recommendations of Daughter's therapists and the Guardian Ad Litem ("GAL");

VI. Whether the trial court erred in awarding Grandmother a permanent guardianship over Daughter based on a general finding that such would be in the best interests of the child; and

VII. Whether the trial court erred in entering a supplemental order with specific findings of fact and conclusions of law.

We affirm.

Facts and Procedural History

Daughter was born in July 1999 to Father and H.K. ("Mother"). At the time of Daughter's birth, both Mother and Father were themselves minors and lived with their respective mothers. Thus, Mother and Daughter lived with Grandmother for the first few years of Daughter's life. Father did not establish paternity of Daughter and did not regularly visit the child. On November 18, 1999, the State filed a petition to establish

paternity. As a result of this action, the trial court entered an order on January 14, 2000, establishing paternity and ordering child support and visitation. The parties initially agreed to Father having supervised visitation on Tuesdays, Thursdays, and Sundays. However, these visits "dwindle[d] away" after a few months, and Father started visiting the child only on Sundays. Tr. p. 194. In November 2003, the trial court granted Father unsupervised visitation, including overnight visitation on every other weekend. After Daughter turned three years old, Father exercised only three overnight visits with Daughter.

In January 2004, when Daughter was four and one-half years old, Father moved to Florida, and in June of that year, Daughter travelled to Florida for a visit that was supposed to be for two weeks. Father was to return Daughter to Indiana shortly before Daughter's birthday in July. But when the time came to return the child to Indiana, Father was either unable or unwilling to do so.[1] With very little notice, Mother was forced to travel to Florida to return Daughter to her home in Indiana. This event traumatized Daughter, who insists that Father "kidnapped" her. Tr. pp. 37-38. After this incident in 2004, Father had no contact with Daughter other than one brief telephone conversation. In November 2004, Father moved back to Indiana to live with his parents in Logansport, but still had no contact with Daughter. Father claimed that he tried to call Mother at her old cellular telephone number and that he went to her old apartment. But

[1] Father later explained that he had car trouble and would have been able to bring Daughter back to Indiana the following week.

Father never attempted to contact Grandmother or reach Mother or Daughter through Grandmother.

On March 17, 2007, Mother died. At the time of Mother's death, she, Daughter, and Daughter's half-sister had been living with Grandmother. After Mother's death, Daughter and her half-sister remained living with Grandmother. Mother and Daughter had lived with Grandmother for the first three years of Daughter's life, and Daughter had formed a very close bond with Grandmother and had visited her regularly when not living with her.

On March 21, 2007, shortly after Mother's death, Father sent a letter to the trial court requesting that he be given custody of Daughter. Also on that date, Grandmother filed an emergency petition for appointment of a temporary guardianship and a permanent guardianship. A hearing was held the following day, at which Father, acting pro se, consented to Grandmother having temporary guardianship over Daughter. An order appointing Grandmother as temporary guardian was entered on May 17, 2007.

On June 14, 2007, a hearing was held at which the parties informed the trial court that an agreement had been reached with regard to visitation, and Father, now represented by counsel, agreed to the appointment of a guardian ad litem ("GAL"). The trial court also scheduled a hearing to be held on August 21, 2007. By agreement of the parties, this hearing was continued to October 15, 2007. On October 15, the parties informed the trial court that they had agreed to hold a status conference on October 23, 2007. At this status conference, Father indicated that he wished to have the current visitation order remain in

effect but change the location of the visits. The parties also agreed to hold a hearing on the matter on December 11, 2007.

At the December 11 hearing, Father requested that his visits with Daughter be supervised by a therapist other than the one he had previously consented to. Father also requested that the temporary guardianship be terminated. Grandmother requested that a permanent guardianship be established. The trial court granted Father's request to change therapists and scheduled another hearing to be held on May 12, 2008.

At the May 12 hearing, the trial court heard evidence on Father's motion to terminate the guardianship. The GAL was concerned with Daughter's lack of progress concerning her fears about Father, and Grandmother explained that Daughter was still afraid of Father. Father was unable to understand the basis of his Daughter's fears and thought she should just "face" them. Tr. p. 52. Daughter's therapist, Laura Kirchhoffer ("Kirchhoffer"), testified that she was trying to help Daughter cope with all of the changes in her life and prepare to move in with Father. But she explained that Daughter was not yet ready for such a transition. Daughter's visits with Father were traumatic, with Daughter's fears of Father causing severe emotional and physical distress to Daughter. Apparently, these fears were based on Daughter's belief that Father had tried to "kidnap" her in Florida and on an alleged incident in which another child in Father's household in Florida had attempted to touch Daughter in a sexual manner. Kirchhoffer admitted that the "kidnapping" incident was not truly a kidnapping, but explained that Daughter still thought that it was. Kirchhoffer therefore recommended that the guardianship continue so that Daughter could attempt to slowly build a relationship with

Father through written correspondence and telephone conversations. She also explained that Father did not seem to fully understand Daughter's behavior or how best to deal with it and that Father discussed the custody situation with the child, causing her to become upset.

The GAL testified that although she did think that Daughter needed to build a relationship with Father, she was not yet in favor of making a drastic change such as a switch in custody. She therefore recommended that the guardianship be continued for at least another two months.

At the end of the hearing, Father's counsel argued that the guardianship should be terminated and that the guardianship should have never lasted so long to begin with. To this, Grandmother's counsel noted that the guardianship was still in place because the parties had been attempting to gradually acclimate Daughter to Father and further argued that the evidence was sufficient to justify the imposition of a permanent guardianship. The trial court denied Father's motion to terminate the guardianship and indicated that it wanted to follow the GAL's recommendation to continue the guardianship. The court then set a hearing on the Father's petition to terminate and Grandmother's petition for a permanent guardianship to be held on August 4, 2008, a hearing which was later continued.

Eventually, a status hearing was held almost a year later, on June 22, 2009, at which Father's counsel noted that the temporary guardianship had been in place for over two years and that Daughter's progress needed a "kick start." Tr. p. 116. Father requested that Grandmother be present with Daughter when she visited Father to make

Daughter feel more at ease. Grandmother had no objection to this, and the case was scheduled for a hearing on August 6, 2009. Instead, a status hearing was held on August 6, at which the court scheduled another status hearing for August 19, 2009 and an evidentiary hearing for October 30, 2009. The evidentiary hearing was continued over Father's objection on October 29, 2009 and reset for December 15, 2009. The trial court later vacated the December 15 date and rescheduled the hearing for February 19, 2010. This hearing was later continued over Father's objection to March 12, 2010.

An evidentiary hearing was finally held on March 12, but there was insufficient time to complete the hearing, so the matter was continued to March 30, 2010. But the trial court continued this date to April 29, 2010 on its own motion. On April 29, the evidentiary hearing was finally concluded. The trial court issued a ruling from the bench denying Father's petition to terminate the guardianship and granting Grandmother's petition for a permanent guardianship and stated as follows:

> You know I have thought long and hard about this case and I've done a fair amount of preliminary research, so I'm just going to make the call from the bench. You know, I'm going to grant the – I'm going to grant the permanent guardianship. *Whether you call it abandonment or acquiescence, the reality of the case is for three years prior to the mother's death the father really didn't have any relationship with the child, and during that time, the child had a substantial relationship with grandmother, and unfortunately mother just ups and dies.* And the combination of those things I think gives me the power to say the mother is – *or the grandmother has proven by clear and convincing, or clear and cogent evidence, uh, that there's evidence to support this permanent guardianship on the legal basis, and as the guardian ad litem stated, and really I think the sole evidence in this case is that – [t]hat to do otherwise would have a permanent and catastrophic detrimental effect on this child.*
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> * * *

> We have to find an appropriate therapy for the child to have parenting time, and as that relationship matures then it's only appropriate as in with the grandmother in the other grandchildren that that parent step into the shoes and maintain the relationship, and that's the goal of this court. I'm going to tackle that. And so I'm going to set a hearing, you know, approximately about 65 days down the road to do that, but if there's an appeal that – you know – that might change things or whatever. I don't want to discourage you an appeal. Everybody has a right to appeal. But I think the real factor here will be in this child's life to tell her, you know, it's essentially over. You're not going to be taken away from your grandmother but you're going to start having a parenting relationship with your dad, and we're going to tackle that. I disagree with the counselors to a degree that that can't be – because we don't know that at this point in time because she needs to have some permanency, and I think knowing the guardianship is in effect gives her that permanency and piece [sic] of mind. You know, it's just that intervening trauma of no dad, a death, and only grandma to cling onto. Kids work through grief and therapy in many odd ways
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> *It's just the fact scenario here where there was no relationship for three years, a traumatic death, trauma for the child, and uh – and her essentially locking up, which all experts say if we just say cold turkey it's over it will have a permanent detrimental effect on this child, which is clearly not in her best interest. I think grandmother has overcome the – overcome the presumption.* I'm not saying here the father is an unfit person because all of the evidence is he generally is not an unfit person as we would define it in any case, a divorce case, a guardianship case, a paternity case. It is just not the case. But it is the facts here that I think you know that require this ruling.

Tr. pp. 203-08. (emphases added). The trial court set a hearing on parenting time for July 12, 2010. Father, though, filed a notice of appeal on May 19, 2010. The trial court then vacated the parenting time hearing pending appeal. On September 3, 2010, the trial court issued a supplemental order, containing written findings.

Parental Presumption

Before directly addressing the issues raised by Father on appeal, we note that there is a presumption in all cases that the natural parent should have custody of his or her

child. In re Custody of J.V., 913 N.E.2d 207, 209 (Ind. Ct. App. 2009) (quoting In re L.L. & J.L., 745 N.E.2d 222 (Ind. Ct. App. 2001)). The presumption in favor of the natural parent will not be overcome merely because a third party could provide "the better things in life for the child." K.I. ex rel. J.I. v. J.H., 903 N.E.2d 453, 458 (Ind. 2009) (quoting In re Guardianship of B.H., 770 N.E.2d 283, 287 (Ind. 2002)). Instead, before placing a child in the custody of a person other than the natural parent, a trial court must be satisfied by clear and convincing evidence that the best interests of the child require such a placement. Id. "The trial court must be convinced that placement with a person other than the natural parent represents a substantial and significant advantage to the child." Id.

In a proceeding to determine whether to place a child with a person other than the natural parent, evidence establishing the natural parent's unfitness or acquiescence, or demonstrating that a strong emotional bond has formed between the child and the third person, is obviously important, but the trial court is not limited to these criteria. Id. The issue is not merely the "fault" of the natural parent, but is instead whether the important and strong presumption that a child's interests are best served by placement with the natural parent is clearly and convincingly overcome by evidence proving that the child's best interests are substantially and significantly served by placement with another person. Id.

I. Due Process

Father makes two arguments with regard to due process. His first argument is difficult to discern. In fact, his argument is so vague that we consider it waived. See Ind. Appellate Rule 46(A)(8)(a) (argument portion of appellant's brief must contain

contentions of the appellant, supported by cogent reasoning); Romine v. Gagle, 782 N.E.2d 369, 386 (Ind. Ct. App. 2003) ("A party generally waives any issue for which it fails to develop a cogent argument[.]"), trans. denied. Nor are the deficiencies in Father's brief excused by the fact that he is proceeding pro se on appeal. We have repeatedly held that a litigant who chooses to proceed pro se will be held to the same rules of procedure as trained legal counsel. Shepherd v. Truex, 819 N.E.2d 457, 463 (Ind. Ct. App. 2004).

Waiver notwithstanding, Father seems to base his argument on Indiana Code section 31-17-2-25 (2006). Subsection (a) of this section provides, "This section applies if a custodial parent or guardian of a child dies or becomes unable to care for the child." Thus, it would appear to be applicable to the present case, as Mother was the custodial parent of Daughter when Mother died. Subsection (b) then provides that if a person other than a parent files a petition to determine or modify custody, that person may file a petition alleging the circumstances warranting emergency placement with that person instead of the non-custodial parent, pending a final determination of custody. Subsection (c) requires the trial court to set a hearing on such a petition within four days after the petition is filed. Father, however, refers only to subsection (d), which states:

> A court is not required to set an initial hearing in accordance with this section if:
> (1) it appears from the pleadings that no emergency requiring placement with a person other than the noncustodial parent exists;
> (2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or
> (3) manifest injustice would result.

I.C. § 31-17-2-25(d).

Father now complains that the trial court did not follow subsection (d). But this overlooks the fact that the trial court *did* hold a hearing on Grandmother's petition for temporary guardianship the day after it was filed, whereas subsection (d) describes when the trial court is *not* required to set a hearing. We thus fail to see how the trial court failed to comply with this subsection. Moreover, at the hearing on Grandmother's petition, Father agreed to Grandmother being appointed as at least a temporary guardian. We therefore conclude that Father has not demonstrated any error in this regard.

Father also complains that his due process rights were violated by the various delays in the final resolution of this case. Again, Father's argument is hard to follow, and we would be within our discretion to consider it waived. But even if we considered his argument on the merits, Father would not prevail. The thrust of his argument seems to be that the length of time that Daughter was with Grandmother prejudiced his rights by further "alienating" him from Daughter. It cannot be denied that the final resolution of this case was delayed an extremely long time, for a period of nearly two years. But the record also shows that the goal of the trial court was to allow sufficient time for Daughter to bond with Father so that the transition to his custody after Mother's death would not be traumatic. And although there were several, lengthy continuances, Father agreed to several of them, because all parties still seemed to be concerned with helping Daughter overcome her fear of being put in Father's custody. Unfortunately, Daughter's fear was more of a problem than the parties anticipated, and the hoped-for improvements in Daughter's anxiety did not occur.

Father cites several cases in his brief, but wholly fails to explain how they apply to the facts of the present case in such a manner as to support his position. For example, Father cites Brown v. Brown, 463 N.E.2d 310, 313 (Ind. Ct. App. 1984), in which the court noted that "[a]n opportunity to be heard is essential before a parent can be deprived of custody." In Brown, the mother had obtained custody of the children by way of an *ex parte* order, and no custody hearing was held for over two months. Id. Similarly, in Wilcox v. Wilcox, 635 N.E.2d 1131 (Ind. Ct. App. 1994), the father was granted custody of the children by means of an *ex parte* order and the mother was not given an opportunity to be heard for over fifteen months. The Wilcox court held that even though the mother had delayed for over five months before requesting a hearing, the remaining delay was not attributable to her at all. Id. at 1137. Therefore, the court concluded that this delay prejudiced the mother's right to a hearing and denied her procedural due process.

Here, however, Father was not deprived of custody; he was never Daughter's custodial parent. Nor did Grandmother obtain custody of Daughter by way of an *ex parte* proceeding. In fact, Father initially agreed to the guardianship, at least on a temporary basis. Moreover, the court held multiple hearings at which Father was represented by counsel and had the opportunity to be heard. And Father did not object to most of the continuances requested by the other parties.[2]

[2] Father's citation to In re M.K., 867 N.E.2d 271, 275 (Ind. Ct. App. 2007) is also unavailing, as that case simply held that there was insufficient evidence to rebut the presumption that the mother have custody of her children where there was no indication that, at time of hearing, mother was an unfit parent, that she had voluntarily abandoned her children, or that the children's best interests would be served by remaining

Ultimately, we cannot say that Father has shown he was harmed by the delay in the final resolution of this case. Beyond having no bond with Father when Mother died, Daughter was actually afraid of Father and this situation did not improve despite the efforts to resolve Daughter's fears of having to live with Father through visitation and therapy. In fact, most of the delay seems to have been caused by the parties giving Daughter and her therapists more time to acclimate her to life with Father. Unfortunately, these efforts proved fruitless.

In short, it was not the delay in the final resolution of this case that prevented Daughter from developing a bond with Father; to the contrary, the delay was attributable in large part to the efforts to allow Daughter to bond with Father before yet another traumatic upheaval in her life took place. We therefore decline Father's request that we reverse the trial court's decision based on the delays in resolution of this case.

II. Evidence of Emotional Harm

Father next claims that there was no evidence that Daughter would be in actual physical or emotional danger if he had custody. Father argues that there was only speculation that Daughter might by emotionally harmed by a change in custody. We are unable to agree. The evidence presented clearly shows that Daughter suffers from extreme anxiety regarding Father. This anxiety has not lessened over time, and two therapists have concluded that placing Daughter in Father's custody would cause severe, perhaps permanent harm to her emotional and mental health. Both counselors even stated

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in the custody of the guardians. As discussed in more detail below, here there was ample evidence to rebut the parental presumption.

that, previous to their work with Daughter, they had not seen a child with this level of fear and anxiety toward a parent.

Prior to her scheduled visits with Father, Daughter became sick and suffered from headaches and stomach pain. She also had nightmares, cried, and vomited before the visits. She had difficulty focusing at school and shook uncontrollably. During one visit, Daughter did not want to get out of the car, and when she finally did get out, she made a "barricade" of toys in the visitation room. Tr. p. 22. She also cried for over an hour in the room. Moreover, Father seemed not to understand the severity of Daughter's problems, and Daughter was upset because Father was unwilling to listen to her with regard to the alleged molestation incident. Father also testified that he thought Daughter should simply "face" her fears, revealing a substantial lack of comprehension of Daughter's level of distress. Tr. p. 52. Clearly, none of this evidence was speculative, and we will not fault the trial court for concluding that placing Daughter in Father's custody would cause severe emotional harm to Daughter.

III. Visitation Terms

Father next argues that the trial court improperly delegated the terms of his visitation with Daughter to Sarah Kirkwood ("Kirkwood"), Daughter's therapist. But Father refers to no part of the record where he objected to Kirkwood's involvement with his visitation with Daughter. To the contrary, Kirkwood became Daughter's therapist and involved with Father's visits at Father's own request. Father's counsel even seemed to request that Kirkwood be involved with Father's visits when she asked the trial court "And then, Judge, is visitation pursuant to . . . [Kirkwood]'s recommendations?" Tr. p.

41. Thus, any error is invited at most, and at the very least waived for failure to make a contemporaneous objection. See Reinhart v. Reinhart, 938 N.E.2d 788, 791 (Ind. Ct. App. 2010) (noting that a party may not take advantage of an error that he commits, invites, or which is the natural consequence of his own neglect or misconduct); Neuse v. Kelley, 705 N.E.2d 1047, 1050 (Ind. Ct. App. 1999) (noting that failure to make a contemporaneous objection at trial results in waiver of the issue on appeal).

IV. Parenting Time Hearing

Father also argues that the trial court erred in vacating the parenting time hearing it scheduled after granting Grandmother's petition to appoint her as Daughter's guardian. Yet again, Father's argument on this issue is difficult to discern, but he seems to claim that the trial court improperly vacated its parenting time hearing and that he has therefore been denied any visitation with his child during the pendency of this appeal.

Pursuant to Indiana Appellate Rule 8 (2010), "The Court on Appeal acquires jurisdiction on the date the trial court clerk issues its Notice of Completion of Clerk's Record." Once an appeal is perfected, the trial court loses subject matter jurisdiction over the case.[3] Jernigan v. State, 894 N.E.2d 1044, 1046 (Ind. Ct. App. 2008) (citing Clark v. State, 727 N.E.2d 18, 20 (Ind. Ct. App. 2000)). A judgment made when the court lacks subject matter jurisdiction is void. Id. The policy underlying the rule is to facilitate the

[3] There are exceptions to this general rule which permit the trial court to retain jurisdiction notwithstanding an appeal, e.g., a trial court may retain jurisdiction to reassess costs, correct the record, enforce a judgment, continue with a trial during an interlocutory appeal concerning venue, or preside over matters which are independent of and do not interfere with the subject matter of the appeal. Id.

efficient presentation and disposition of the appeal and to prevent the simultaneous review of a judgment by both a trial and appellate court. Id.

Here, the trial court clerk issued the notice of completion of clerk's record on August 4, 2010, and it was on this date that we acquired jurisdiction over this case. It is not clear from Father's brief whether he is complaining that the trial court vacated the parenting time hearing *before* the notice of completion of clerk's record was issued or whether he is complaining simply that the trial court vacated the hearing. If it is the former, then we cannot say that the trial court erred in that it knew that Father had filed a notice of appeal and the issuance of the notice of completion of clerk's record was imminent. If it is the latter, then Father has failed to put forth any cogent argument as to precisely how the trial court erred. It is clear that we acquired jurisdiction over this case on August 4, 2010, and Father makes no cognizable argument that the trial court retained jurisdiction to hear the issue of parenting time.

V. Weight of Witness Testimony

Father's next argument is especially difficult to comprehend, but from what we can gather, he claims that the trial court should have given less deference to the testimony of Daughter's therapists and the GAL because these witnesses failed to acknowledge the presumption that the natural parent of the child should have custody of a child. Firstly, Father does not explain exactly how these witnesses failed to acknowledge the parental presumption.

More importantly, it does not matter whether these witnesses acknowledged or "applied" the parental presumption. What matters is whether the trial court did so. We

presume trial courts know and follow the applicable law. Ramsey v. Ramsey, 863 N.E.2d 1232, 1239 (Ind. Ct. App. 2007). And here it is clear that the trial court understood and applied the parental presumption. The fact that lay witnesses are unaware of a legal presumption is no cause for the trial court to give less weight to their testimony. It is the role of the trial court acting as the trier of fact, not this court on appeal, to judge witness's credibility and weigh evidence. See B.H., 770 N.E.2d at 288 (noting that courts on appeal do not reweigh evidence or judge witness credibility).

VI. Best Interests of the Child

Father next claims that the trial court improperly based its decision to appoint Grandmother as Daughter's guardian solely on a general finding that such was in the best interests of the child. He claims that the trial court's April 28, 2010 order contained no findings and that he therefore "was never given notice as to why he was deprived of custody of his child, or what he needed to do to get custody." Appellant's Br. p. 26. Father then block-quotes long passages from six cases without explaining how these cases are relevant to his argument or how they apply to the facts of this case. He then claims that because he has "effectively been removed from the child's life" the guardianship is "clearly . . . not [in] the child's best interest." Id. at 28. Even though we might be within our discretion to consider Father's argument on this matter, like many other issues he raises, waived for failure to make a cogent argument, we will attempt to address this issue on the merits as best we can.

Father's claim that the trial court's order gave him no notice as to reasons the guardianship was granted is without merit. The trial court, when entering its initial ruling

from the bench, clearly explained the reasons why it was appointing Grandmother as Daughter's guardian. Specifically, the trial court found that Father had nothing to do with his Daughter for three years prior to Mother's death and that to remove Daughter from Grandmother's custody would "have a permanent and catastrophic detrimental effect" on Daughter. Tr. p. 204. The trial court also noted that, once Daughter understood that she was not going to be removed from Grandmother, then she could continue with her therapy so that she could eventually visit with Father. The trial court specifically found that Grandmother had overcome the presumption that Father should have custody by clear and convincing evidence. Id. We therefore reject Father's complaint that the trial court did not give him proper notice regarding the basis for the trial court's ruling.

We also disagree with Father that the trial court based its ruling solely on a generalized finding that the guardianship was in Daughter's best interests. As noted above, a generalized finding that a placement other than with the natural parent is in a child's best interests is insufficient to support such placement. B.H., 770 N.E.2d at 287; J.V., 913 N.E.2d at 211. Here, however, the trial court did not base its decision on such a generalized finding of best interests. As noted, the trial court found that Father had abandoned his child by failing to have any contact with her for a period of three years, and this finding was supported by the evidence that Father had nothing to do with his child even after he moved back to Indiana.

The trial court further found that Grandmother had proved by clear and convincing evidence that placement with Father would have a "permanent and catastrophic

detrimental effect on [Daughter]." Tr. p. 203. See B.H., 770 N.E.2d at 287 (holding that the relevant inquiry is whether the parental presumption is clearly and convincingly overcome by evidence proving that the child's best interests are substantially and significantly served by placement with another person); J.V., 913 N.E.2d at 209 (noting that decision to leave or place custody of a child in a third party based on child's best interests must be specifically delineated, be compelling, and be in the "real and permanent" interest of the child). Suffice it to say that Father has not demonstrated reversible error with regard to the content or sufficiency of the trial court's findings.

VII. Supplemental Order

Lastly, Father claims that the trial court erred in entering a supplemental order containing findings after the trial court's initial guardianship order. However, Father cites no authority for his claim that the trial court could not enter the supplemental order. In fact, most of his argument in this portion of his brief is simply an attack on the veracity of the findings contained in the supplemental order. Moreover, even if the trial court should not have entered the supplemental order, the findings the trial court made when it issued its judgment from the bench are substantially the same as the findings in the trial court's supplemental order.[4]

The remainder of Father's argument regarding the trial court's findings are little more than a request that we consider evidence that is not favorable to the trial court's

[4] We further note that when Father filed a motion to hold Grandmother's counsel in contempt for failing to comply with the trial court's earlier request to submit written findings and conclusions, Father responded affirmatively that he wished to "stand on the record as made." Tr. p. 234. This would seem to indicate that Father did not object to the trial court's supplemental findings, in which case the issue is waived for purposes of appeal, or that Father wished to appeal from the trial court's earlier ruling.

judgment, reweigh the credibility of witnesses, and reach a conclusion different than did the trial court. This of course is not our prerogative on appeal.

To the extent that Father's argument can be construed as an argument that the evidence was simply insufficient to support the trial court's judgment, we again disagree. The evidence favorable to the trial court's judgment shows that there was clear and convincing evidence that the parental presumption had been overcome. As noted by the GAL, prior to June 2004, Father had sporadic contact with Daughter. Then, for a period of three years he had no contact with his child outside of a brief telephone conversation. And when Father moved back to Indiana, he still had no contact with his child. Only after Mother's death did Father attempt to have contact with Daughter.

Father then missed his first scheduled visit with Daughter, and the visits that did take place demonstrated that Daughter had extreme anxiety and fear toward Father. It is clear that Daughter has a close bond with Grandmother that stems not only from the fact that she and Mother lived with Grandmother for the first few years of Daughter's life, but also from Daughter's fear of abandonment following her Mother's death. And regardless of the veracity of Daughter's version of events regarding the alleged "kidnapping" and sexual misconduct, it is clear that these beliefs contribute to Daughter's perhaps irrational fear of Father.

Despite years of therapy, Daughter has made little progress toward overcoming her fear and anxiety. And the evidence favorable to the trial court's judgment does not support any claim that Grandmother has "poisoned" Daughter's mind regarding Father or attempted to alienate the child from Father. To the contrary, Grandmother indicated that

she wanted Daughter to have contact with her Father, and was even at one point willing to consider sending Daughter to therapeutic foster care to help her with her psychological problems. Kirchhoffer testified that removing Daughter from Grandmother's custody would seriously endanger Daughter's mental health and that placing her in Father's custody would cause permanent psychological harm to Daughter. Kirkwood testified that in her twenty years as a therapist, she had never seen a child have Daughter's level of fear and anxiety regarding a parent and that forcing a relationship between Daughter and Father would cause permanent damage to Daughter. The GAL too testified that placing Daughter in Father's custody would create the risk of permanent emotional damage to Daughter.

Based on this evidence, we agree with the trial court that Grandmother presented clear and convincing evidence overcoming the parental presumption. Not only did Father abandon Daughter for a period of three years, Daughter's fear and anxiety toward Father and her attachment to Grandmother support the conclusion that Daughter's best interests are substantially and significantly served by placing her with a non-parent.

Conclusion

Although there may have been some procedural irregularities in this case, Father has failed to persuade us on appeal that any of the alleged errors he presents require us to reverse the trial court's order appointing Grandmother as Daughter's guardian. We sincerely hope that now that there is some permanence in her life, Daughter will eventually be able to overcome her anxiety and fear regarding Father and that they will someday be able to form a familial bond. But it is clear that Daughter's current, best

interests are substantially and significantly served by being in the custody of Grandmother, not Father.

Affirmed.

BAILEY, J., and CRONE, J., concur.