[Cite as *Morehart v. Snider*, 2009-Ohio-5674.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

ETHAN MOREHART

Appellee

v.

STEPHANIE SNIDER

Appellant

C.A. No. 24640

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. 2006-05-1547

DECISION AND JOURNAL ENTRY

Dated: October 28, 2009

BELFANCE, Judge.

{¶1} Appellant, Stephanie Snider, appeals the judgment of the Summit County Court of Common Pleas, Domestic Relations Division that granted Appellee, Ethan Morehart unsupervised visitation with the parties' child and held her in contempt of court.

I.

{¶2} Ethan Morehart ("Father") and Stephanie Snider ("Mother") were never married, but have a son together, born February 4, 2004. Days after the child was born, Father visited Mother and son in the hospital. After this initial visit, Father did not visit the child for several months. Mother initiated a few visits between Father and son over the next couple of years. No court order was in place providing support or visitation. Father did not pay child support nor visit with the child on his own initiative.

{¶3} On May 10, 2006, Father filed a complaint to establish a parent-child relationship seeking visitation and an order for child support.

{¶4} On August 9, 2006, the court issued a provisional order. The order stated that paternity and child support had been established. The order named Mother as the residential parent and legal custodian and granted Father visitation pursuant to a set schedule. Thereafter, the parties formed an agreed entry with respect to visitation. All visitation was unsupervised and overnight visitation was provided.

{¶5} A few months after visitation began, Mother noticed severe behavioral changes in the child. The child was reluctant to leave for visits with Father and would often cry or scream and physically resist leaving. In general, he would have emotional outbursts and exhibit anger. Although potty-trained, the child would sometimes soil himself. Despite these difficulties, Mother and Father continued to follow the visitation schedule.

{¶6} On Christmas Eve in 2006, the child began repeating phrases such as, "Daddy's not nice." and "My Daddy. My butt." Mother believed that Father may have spanked the child. However, the child then picked up his younger sister's doll and pulled its pants down. He then attempted to place his finger in the doll's buttocks. Then, the child pulled down his own pants and placed his finger in his buttocks. Alarmed, Mother called the police the day after Christmas and took the child to the Care Center at Akron Children's Hospital. After a brief exam, the staff at the Care Center advised Mother that they could not find any physical signs of abuse; however, the staff did contact Summit County Children's Services ("CSB"). A CSB caseworker visited Mother's home the day of the exam at the Care Center. The caseworker also went to Father's home.

{¶7} In January 2007, Mother began taking the child to counseling sessions with Megan Rogers. Rogers believed the child exhibited signs of sexual abuse. He also continued to

allege that Father was the perpetrator. Rogers drafted two reports indicating her findings, one on September 5, 2007 and the second on November 8, 2007.

{¶8} On May 30, 2007, Mother filed a motion to modify visitation due to the allegations of sexual abuse. The magistrate ordered supervised visitation at Family Visitation and Mediation Services. In July, a Family Court Services Evaluator was assigned to the case also. In August, the magistrate ordered that the visitation be changed from supervised to monitored.

{¶9} The staff at the visitation center did not indicate that any problems arose during the visits. However, after a visit in October, Mother returned to the visitation center with the child, who was upset. The child repeated phrases suggesting that Father engaged in inappropriate behavior with the child.

{¶10} Also in October, Mother was informed by the child's preschool that the child said, "Daddy beat my butt." and "Daddy touched my butt and my penis." The school also made a report of the conduct to CSB. As a result of the report, another caseworker from CSB, Jessica Russo, visited Mother's home. The child was not very talkative, but before Russo had a chance to ask him about the alleged abuse, the child began saying things such as, "Daddy touched my 'woody.'" and "No Daddy. Daddy butt." Russo advised Mother to discontinue visitation with Father.

{¶11} On October 25, 2007, Mother filed an ex parte emergency motion to suspend Father's visitation. The magistrate denied the motion, but ordered supervised, rather than monitored, visitation at Family Visitation and Mediation Services.

{¶12} Following a settlement conference, the magistrate issued an order on December 7, 2007, terminating the visitation at Family Visitation and Mediation Services and granting Father

unsupervised visits. The court's order outlined the visitation schedule. The magistrate further ordered that an evidentiary hearing would be held on January 29, 2008.

{¶13} At the hearing, Mother presented the testimony of the child's therapist, Mother's mother, Mother's current, live-in boyfriend, and her own testimony. Father offered his own testimony, and that of the Family Court Services Evaluator assigned to the case, one of the CSB caseworkers who investigated the case, and his wife.

{¶14} On March 14, 2008, the magistrate issued a decision including findings of fact and conclusions of law. After outlining the evidence presented at the hearing, the magistrate ruled that Father would be permitted unsupervised visitation according to the Standard Order of Visitation and ordered "make-up" visitation to compensate for periods of time during which Mother disallowed visitation. The magistrate also found Mother in contempt of court for disallowing visitation and fined her $250.

{¶15} On October 10, 2008, with leave of court, Mother filed objections to the magistrate's decision. Mother argued that the decision was against the manifest weight of the evidence, that it was an error to find Mother in contempt, that the magistrate failed to rule on Mother's motion for contempt against Father, and that the magistrate erred by not allowing the child's therapist to be qualified as an expert at the hearing.

{¶16} Upon review by a judge, the court sustained Mother's objection with respect to her contempt motion against Father, but overruled her remaining objections. Mother subsequently filed the instant appeal.

II.

{¶17} In her appeal, Mother argues: (1) the trial court's ruling was against the manifest weight of the evidence; (2) the magistrate's decision was against the child's best interests; (3) the

trial court abused its discretion when it found Mother in contempt; (4) the trial court erred by not allowing the child's therapist to be qualified as an expert witness, and; (5) the trial court erred by not holding Father, acting as his own attorney, to the same standards as a party represented by counsel.

{¶18} At the outset, we note that Father has failed to file a reply brief to Mother's merit brief. Accordingly, we are permitted to "accept Mother's statement of the facts and issues as correct and reverse the trial court's judgment if Mother's brief reasonably appears to sustain such action." *Hall v. Nazario*, 9th Dist. No. 07CA009131, 2007-Ohio-6401, at ¶8, citing App.R. 18(C).

GRANTING UNSUPERVISED VISITATION

{¶19} In her first assignment of error, Mother argues that the decision below granting Father unsupervised visitation with the child was against the manifest weight of the evidence. In her second assignment of error, she contends that the decision was not in the child's best interest. As these two assignments are interrelated, we shall consider them in tandem.

{¶20} We review matters relating to custody and visitation pursuant to the abuse of discretion standard. *Harrold v. Collier*, 9th Dist. No. 06CA0010, 2006-Ohio-5634, at ¶6. See, also, *Werts v. Werts*, 9th Dist. No. 23610, 2007-Ohio-4279, at ¶7, quoting *In re West* (Dec. 24, 2001), 4th Dist. No. 01 CA8, citing *Davis v. Flickinger* (1997), 77 Ohio St.3d 415, 418 ("Even though the appellant styled her [first] assignment of error as being both against the manifest weight of the evidence and an abuse of discretion, we review custody determinations on an abuse of discretion standard only."). A trial court abuses its discretion if its decision is arbitrary, unreasonable, or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶21} In making its determination, the trial court must consider the applicable statutory framework. In the instant matter, Mother and Father were never married, but Father's paternity was established. R.C. 3109.12(A) provides that if a child is born to an unmarried mother, and the father's paternity has been established, the father may move the court to grant him parental rights and companionship with the child. Father filed a complaint to establish a parent-child relationship in which he requested visitation with the child. R.C. 3109.12(B) provides that the court may grant visitation if it is in the child's best interest. The trial court is directed to consider the sixteen best interest factors enumerated in R.C. 3109.051(D) when evaluating the child's best interest. R.C. 3109.12(B). Those factors include the child's health and safety, the mental health of the parties, whether it is reasonable "to believe that either parent has acted in a manner resulting in a child being [abused or neglected,]" and "[a]ny other factor in the best interest of the child." R.C. 3109.051(D)(7), (9), (11), (16).

{¶22} At the magistrate's hearing, Mother presented evidence from each of her witnesses that the child's behavior has substantially deteriorated since he began regular visits with Father. Mother's live-in boyfriend, Jeremy Politz, testified that he has been around the child since the child was eighteen months old and he has noticed a change in his disposition. Politz witnessed the incident on Christmas Eve in 2006 when the child placed his finger in the buttocks of his sister's doll and then attempted to do the same to himself. He has heard the child allege that Father touched the child's butt and testified that when the child prays he says "I want my Daddy to stop."

{¶23} Mother's mother, Pam Steely, testified that the child once had a severe emotional outburst when Father came to pick him up. The child was crying, screaming, and shaking. He was so resistant to leaving with Father that the scheduled visit did not occur. Steely further

stated that the child has nightmares sometimes at her house and has demonstrated sexual activity in her presence.

{¶24} Mother testified that she noticed a change in the child's behavior and temperament shortly after he began visiting with Father. Initially, she believed this to be due to his need to adjust to the fact that Mother had recently given birth to another child. However, the child began having angry outbursts and regressed in his development, for example, he needed to be potty-trained again. Eventually, he would resist leaving with Father, crying, screaming, and kicking, to the point that Mother and Father decided not to make the child go for the visit. She also described the episode with the doll that occurred on Christmas Eve 2006 that prompted the examination at the Akron Children's Hospital Care Center and the visit from CSB.

{¶25} Mother noticed that the child had periods of disassociation during which he would stare blankly and not respond to communication. When the period of disassociation ended, the child would become angry, acted like "an animal," and repeated phrases such as "My Daddy, my butt." His ability to speak also deteriorated. Mother stated that the child uses words to refer to his penis that she does not use in her home. The child's statements concerning his Father have become more detailed, such as: "Daddy put his finger up my butt." and "You're not going to stick it in my engine." The child explained that his "engine" is his butt. The child has also stated that he has been made to touch Father's butt and penis.

{¶26} Mother described related incidents that occurred in October 2007 at the child's preschool. The child's teacher asked Mother if anything had happened to the child over the past weekend because she had noticed that the child was withdrawn, aggressive, and defiant. Mother also learned that the child had yelled on the school bus that Father touched his butt and his penis.

{¶27} Mother explained that the family is following the advice of the child's counselor in an attempt to correct the child's negative behavior and help him deal with his issues. She does not seek to end Father's visitation, but desires the visits to be supervised.

{¶28} Mother also offered the testimony of Megan Rogers, a licensed clinical therapist who has conducted at least forty sessions with the child since January of 2007. Rogers' specialty is treating trauma and much of her practice focuses on children ages two to eighteen who have been sexually abused. She concluded that the child has definitely experienced trauma. Based on her interaction with the child and her experience, Rogers has determined that the child exhibits symptoms of sexual abuse and consistently identifies Father as the perpetrator. Rogers diagnosed the child as an abused child with an adjustment disorder.

{¶29} Additionally, it was revealed at the hearing that Father and his family have a history of psychological problems. He testified that his grandmother and mother have bipolar disorder. Father stated he was also diagnosed with bipolar disorder, as well as attention deficit disorder, attention deficit hyperactivity disorder, and adult attention deficit disorder. He further stated that he does not take medications for any of these conditions, although he has in the past, because "Drugs cause more problem[s] tha[n] they would do anything good for me." He does not currently seek medical or psychological care for these disorders and believes he does not suffer from symptoms.

{¶30} From the testimony adduced at the hearing, it is clear that the child has experienced some type of serious traumatic event. Multiple witnesses spoke about the change in his behavior and development since regular visits with Father began. The child's counselor, who had been treating the child for a year as of the date of the magistrate's hearing, concluded that he displays symptoms of sexual abuse. Moreover, at the hearing Father disclosed his history of

mental and behavioral disorders and admitted that he is not currently in treatment or taking medication for these afflictions. Pursuant to R.C. 3109.051(D)(9), the trial court is required to consider the mental health of all parties when determining if visitation with one party is in the child's best interest. Thus, Father's mental health is directly at issue in this matter. *In re Kelleher*, 7th Dist. Nos. 08-JE-31, 08-JE-32, 08-JE-33, 08-JE-34, 2009-Ohio-2960, at ¶17. The court must also consider the health and safety of the child and "whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child * * *." R.C. 3109.051(D)(7), (11).

{¶31} In the instant matter, Father's mental health was not explored in a meaningful way and was not even mentioned in the magistrate's decision. Father stated that he had been diagnosed with numerous mental health disorders for which he does not obtain any treatment. We conclude that the magistrate's decision to grant Father unsupervised visitation amidst confirmation from a non-party witness that the child has in fact suffered trauma from abuse as well as revelations as to Father having been diagnosed with substantial mental health disorders, was unreasonable and hence, an abuse of discretion. In light of the specific facts and circumstances of this case, we find that more investigation into Father's mental health is necessary. See *Prakash v. Prakash*, 181 Ohio App.3d 584, 2009-Ohio-1324, at ¶19 (stressing the need for psychological examinations in a custody case when the record reveals allegations of sexual abuse). Accordingly, we remand the matter to the trial court for consideration of Father's mental health as it relates to whether unsupervised visitation is in the best interest of the child.

MOTHER'S CONTEMPT

{¶32} Mother argues that the trial court abused its discretion in finding her in contempt for not allowing Father to exercise visitation with the child. The magistrate found that Mother

disallowed visitation from December 15, 2006 to January 12, 2007, and from January 19, 2007 to June 4, 2007, when supervised visitation was ordered. The magistrate ordered Mother to pay a fine of $250 and awarded Father specific, extra periods of visitation until further order of the court as punishment. The trial court upheld this ruling.

{¶33} Pursuant to R.C. 2705.031, a parent who is granted court-ordered visitation may initiate contempt proceedings against the other parent if that parent interferes with or does not comply with the visitation schedule. R.C. 2705.031(B)(2). The penalty for the first instance of noncompliance is a maximum fine of $250, or a maximum prison term of thirty days, or both. R.C. 2705.05(A)(1). Courts also possess the inherent power to punish one who disobeys a court order. *Hall* at ¶9, quoting *Malson v. Berger*, 9th Dist. No. 22800, 2005-Ohio-6987, at ¶7.

{¶34} Contempt may be categorized as civil or criminal depending upon the type and purpose of the punishment. *Estate of Harrold v. Collier*, 9th Dist. Nos. 07CA0074, 08CA0024, 2009-Ohio-2782, at ¶12. Civil contempt sanctions are remedial and designed to coerce the contemnor to comply with the court's order in the future. See *Brown v. Executive 200, Inc.* (1980), 64 Ohio St.2d 250, 253. On the other hand, the purpose of criminal contempt is to punish the contemnor for the prior act of disobedience of a court order. Id. at 254. Ultimately however, a sentence for contempt may be both criminal and civil in nature. *James v. James* (Apr. 21, 1999), 9th Dist. No. 98CA0016, at *3. Thus, to determine whether to characterize the contempt sanction as civil or criminal, we must determine whether the intended purpose was to remedy the effects of noncompliance and coerce future compliance, or to punish the party for past noncompliance. See *Brown*, 64 Ohio St.2d at 254.

{¶35} In the instant matter, the journal entry identifies the past periods of time during which Mother violated the court's order by disallowing Father's visitation. The order than states

that as "punishment for the contempt," Mother is required to pay a fine and allow Father compensatory visitation for the time that he missed. Although arguably the sanctions imposed could coerce Mother to comply with the visitation order in the future; the court's judgment entry explicitly states that it is punishing Mother for her past transgressions. Accordingly, we determine that Mother's contempt sentence is criminal in nature.

{¶36} Criminal contempt must be proven beyond a reasonable doubt. Id. at syllabus. Thus, we must determine whether the evidence presented below was sufficient to permit the court to find beyond a reasonable doubt that Mother intended to disobey the visitation order. *James*, at *3.

{¶37} Mother admitted that she did not allow Father visitation for a period of time, however, she argues that her actions were justified. Mother argues that she acted to protect her child from what she perceived as sexual abuse by Father. Furthermore, in October 2007, Mother was advised by Russo, one of the caseworkers from CSB, to discontinue visitation with Father until the Care Center issued its report with respect to the allegations of abuse. However, Mother had already commenced withholding visitation from January 12, 2007 to June 4, 2007, well before she had any discussion with CSB.

{¶38} Mother relies on cases from the Fourth and Twelfth Appellate Districts in support of her position that her concern for her child's welfare justifies violating the visitation order. In each of the case cited by Mother, the court of appeals upheld the decision of the trial to *not* find the parent who violated the visitation order in contempt. See, e.g., *Shafer v. Shafer* (Dec. 1, 1993), 4th Dist. No. 93 CA 16. The appellate courts determined that it was within the discretion of the trial court to determine whether to issue a finding of contempt for a violation of its own order, and that that exercise of discretion could only be overruled upon a showing of abuse. See,

e.g., *Bardenhagen v. Bardenhagen* (Aug. 27, 1990), 12th Dist. No. CA90-01-009. The trial court is in the superior position to observe the witnesses and assess their credibility with respect to whether a parent's perceived threat to the child justifies disobeying the visitation order. See *Boley v. Boley* (Sept. 19, 1994), 5th Dist. No. CA 498, at *2 ("This Court * * * will not impose punishment for the violation of a court order when the court that made the original order finds a legitimate excuse."). Additionally, in some of the cases Mother cites, the trial court specifically found that the child had been abused by the parent from whom visitation was withheld. See, e.g., *Clark v. Clark* (Apr. 19, 1993), 12th Dist. No. 92-01-001. Many of the appellate courts to address the issue also noted that the parent withholding visitation should have pursued judicial intervention, not self-help. See, e.g., *McClead v. McClead*, 4th Dist. No. 06CA67, 2007-Ohio-4624. Thus, the cases cited by Mother do not establish a defense to violating a court-ordered visitation schedule; rather, they reinforce the idea that the trial court has discretion in these matters.

{¶39} In the case at bar, the magistrate found Mother in contempt for disallowing visitation from December 15, 2006 to January 12, 2007, and from January 19, 2007 to June 4, 2007. Mother does not deny that she withheld visitation, but claims she was concerned about possible sexual abuse by Father. Although we understand Mother's concern for her child's welfare, we cannot find reversible error in the trial court's decision, given that an appropriate course of conduct would have been to seek immediate judicial intervention in lieu of engaging in an ongoing violation of an order of a court. However, Mother did not file a motion for modification of the visitation order until May 30, 2007. Nor do we believe that Mother's actions should be excused because she was advised by CSB to withhold visitation, given that Mother had already decided to disregard the order of the court well before receiving any advice from CSB.

The CSB caseworker who advised Mother to disallow Father's visitation testified that she first met with Mother on October 17, 2007. Therefore, Mother was not acting on the advice of CSB when she denied Father visitation from December 15, 2006 to January 12, 2007 and January 19, 2007 to June 4, 2007. In light of the above, the trial court did not err in determining that it had sufficient evidence to support its finding of contempt. Mother's third assignment of error is overruled.

EXPERT OPINION

{¶40} Mother challenges the magistrate's refusal to qualify Megan Rogers, the child's counselor, as an expert at the hearing. Rogers was permitted to testify at the hearing, however, the magistrate specifically denied Mother's request to have Rogers qualified as an expert.

{¶41} It is within the trial court's discretion to manage discovery matters, including the admissibility of expert testimony. *Abels v. Ruf*, 9th Dist. No. 24359, 2009-Ohio-3003, at ¶7. We will not overrule the trial court's decision absent an abuse of discretion. Id. A mere error in judgment does not rise to the level of abuse of discretion. *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619, 621. The party alleging error must demonstrate that the trial court's actions were "unreasonable, arbitrary, or unconscionable." *Blakemore*, 5 Ohio St.3d at 219. We will not substitute our judgment for that of the trial court. Id.

{¶42} In the instant matter, after Mother requested that the court qualify Rogers as an expert, the magistrate inquired as to whether Father received notice that Rogers would be offered as an expert. Father replied that he had received the notice. The magistrate stated that she would allow Rogers to testify with respect to her treatment of the child, but would not qualify her as an expert because Rogers' report was not submitted to Father in advance of the hearing. Mother did not assert that Father had been provided a copy of Rogers' report.

{¶43} Pursuant to the Amended Rules of Practice and Procedure of the Court of Common Pleas Domestic Relations Division, Summit County Ohio, at least thirty days before a trial or evidentiary hearing, any expert reports must be submitted to the court and opposing counsel. Loc.R. 12.01(B); Loc.R. 20.03. Our review of the docket did not reveal any entry relating to the submission of Rogers' report to the court or to Father.

{¶44} The record reflects that Father received written notice that Mother intended to offer Rogers as an expert witness. In addition, it does not appear that Father wished to lodge any objection at the evidentiary hearing to Rogers' testimony; rather, the objection came from the magistrate. However, we cannot discern from the record what testimony Mother was unable to introduce by virtue of the lack of qualification of Rogers as an expert witness. Despite the fact that Rogers was not qualified as an expert witness, she testified at length concerning her treatment of the child and gave her opinion as to whether the child displayed characteristics of a child who was sexually abused. Rogers testified as to statements the child made during his sessions with her, the conclusions she formed based on the child's drawings made during the sessions, and based on the scenarios the child acted out with figures representing himself and his parents. She also testified that she believed the child's statements about the alleged abuse were truthful and not "coached." When directly asked if she believed that the child was sexually abused, Rogers stated that she could not definitely say that he was, but later reiterated that the child clearly exhibits symptoms of sexual abuse. Furthermore, she testified that she has diagnosed the child as abused and having an adjustment disorder.

{¶45} Rogers testified that there is no question that the child has suffered some sort of trauma or traumatic event. She discussed a chart that she created demonstrating that the child's regressive behaviors and emotional outbursts correlate to times when he has regular visitation

with Father. Conversely, the child is more cooperative and less anxious when he has not seen Father for a period of time. Father did not object to any of the above testimony and the magistrate did not attempt to prevent any of Mother's questions of Rogers or any of Rogers' responses. Mother has not alleged what further information, if any, she intended to elicit from Rogers and made no proffer to the court when the court ruled she could not testify as an expert.

{¶46} Although the magistrate did not qualify Rogers as an expert, Rogers was permitted to testify as to her conclusions and diagnoses. "It is an elementary proposition of law that an appellant, in order to secure reversal of a judgment against him, must not only show some error but must also show that that error was prejudicial to him." *Smith v. Flesher* (1967), 12 Ohio St.2d 107, 110. Because Mother has not demonstrated prejudice, her assignment of error lacks merit. Accordingly, we conclude that the magistrate did not abuse her discretion when she did not qualify Rogers as an expert.

FAILURE TO HOLD FATHER AS PRO SE LITIGANT TO SAME STANDARD AS LITIGANT REPRESENTED BY COUNSEL

{¶47} A party to litigation may chose to represent himself rather than be represented by an attorney. *Ragan v. Akron Police Dept.* (Jan. 19, 1994), 9th Dist. No. 16200, at *3. However, a party proceeding pro se is "presumed to have knowledge of the law and of correct legal procedure and [is] held to the same standard as all other litigants." *Harris v. City of Akron Hous. Appeals Bd.*, 9th Dist. No. 21197, 2003-Ohio-724, at ¶11. "Pro se litigants are not to be accorded greater rights and must accept the results of their own mistakes." Id. Moreover, a magistrate must be an impartial arbitrator and may not afford a pro se litigant greater leeway than any other litigant. See *Kilroy v. B. H. Lakeshore Co.* (1996), 111 Ohio App.3d 357, 363.

{¶48} Mother contends that the magistrate improperly assisted Father with the presentation of his case. Specifically, Mother argues that the magistrate raised an objection to

Mother's witness being offered as an expert when Father did not object, and questioned a witness with respect to facts not in evidence.

{¶49} Initially, we note that Mother did not raise these specific issues in her objection to the magistrate's decision. Pursuant to Ohio Civil Rule of Procedure 53(D)(3)(b)(iv), except for plain error, "a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion * * * unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b)." Having failed to raise these arguments in the court below, Mother has forfeited her right to assign error before this Court. *Ilg v. Ilg*, 9th Dist. No. 23987, 2008-Ohio-6792, at ¶6.[1]

III.

{¶50} In light of the above, we reverse the trial court's ruling with respect to visitation and remand to the trial court for proceedings consistent with this opinion. We affirm with respect to its finding of contempt against Mother and its ruling to not qualify Rogers as an expert witness. We do not consider Mother's assignment of error concerning the trial court's alleged failure to hold Father to the same standard as a party represented by counsel because Mother has forfeited her right to assign that issue as error.

Judgment reversed in part,
affirmed in part,
and remanded.

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[1] Although we may not directly consider this assignment of error, we do note that in our review of the transcript, we did not consider the interjections of the magistrate to be improper. Rather, we view her comments as an attempt to clarify the testimony. Moreover, the magistrate allowed the parties to question a witness after any time that she posed questions of that same witness.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed equally to both parties.

EVE V. BELFANCE
FOR THE COURT

WHITMORE, J.
MOORE, P. J.
CONCUR

APPEARANCES:

LYNDA HARVEY WILLIAMS, Attorney at Law, for Appellant.

ETHAN MOREHART, pro se, Appellee.