

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

M.M.R.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellant

v.

F.M.B.

Appellee

No. 1069 MDA 2013

Appeal from the Order Entered on May 15, 2013
In the Court of Common Pleas of Dauphin County
Civil Division at No.: 2012-CV-2121

BEFORE: BENDER, J., WECHT, J., and FITZGERALD, J.*

MEMORANDUM BY WECHT, J.:

FILED DECEMBER 20, 2013

M.M.R. ("Father") appeals, *pro se*,¹ the trial court's May 15, 2013 order. That order modified the custody provision for the parties' two children that initially was set forth in a protection from abuse ("PFA") order. The May 15 order provided Father with supervised visitation, during which he was required to speak only English. The order also required the family to undergo a custody evaluation and to participate in any recommended

* Former Justice specially assigned to the Superior Court.

¹ Father was represented by counsel through the final hearing in this matter, but he has filed this appeal *pro se*.

counseling.² Further, the order denied Father's petition for contempt filed against F.M.B. ("Mother"). We affirm.

Mother and Father married and had two children: S.R., a son born in January 2006; and S.M.R., a daughter, born in December 2009 (collectively "Children"). On February 6, 2012, Mother petitioned for a PFA order against Father. Following this initial filing, the case has been extensively litigated. We recite only the factual and procedural history relevant to the instant custody appeal. On March 9, 2012, the trial court issued a six-month PFA order that, among other provisions, excluded Father from the marital home for thirty days, and granted him partial physical custody of Children every weekend from Friday after school through Sunday at 6:00 p.m. After several additional hearings, the trial court issued an amended PFA order on April 25, 2012, that confirmed Father's partial custody time. **See** Trial Court Opinion ("T.C.O."), 7/12/2013, at 1-2.

On August 15, 2012, the trial court held a hearing to address Mother's petitions for civil contempt and for extension of the term of the PFA order. At that hearing, the trial court found Father in contempt of the PFA order for

² The order provides that Father shall pay for the evaluation, but that "assuming that Mother has been paid the full amount of child support that she would be entitled to by [the time the evaluation is completed], Father may file an appropriate motion with this Court seeking a contribution from Mother for the cost of the evaluation and/or treatment." Trial Court Order, 5/15/13, at 2 (unpaginated).

violating the custody provisions. The trial court extended the provisions of the PFA order for an additional year.

On October 5, 2012, the trial court held a conference to resolve concerns raised by the parties over the custody arrangement. When no agreement was reached, the trial court scheduled a hearing that resulted in a modified custody provision. The resulting October 11, 2012 order suspended Father's custody, provided Mother with primary physical custody, and ordered Father to undergo a psychological evaluation.

On December 14, 2012, Father filed a petition to modify the order, as well as a petition for contempt. On February 8, 2013, the parties appeared with counsel for a conference. After the parties proved unable to reach an agreement, the trial court held a hearing on May 14, 2013. On May 15, 2013, the trial court entered the order at issue here. On June 12, 2013, Father filed his notice of appeal and concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2)(i) and (b).

Father presents the following questions for our review:

1. Did the trial court err for denying [*sic*] [Father]'s Petitions for Emergency Special Relief?
2. Did the trial court err by denying [Father]'s motions for reconsideration?
3. Did the trial court err and misapplied [*sic*] the law when it awarded primary physical custody to [Mother]?
4. Did the trial court err and abused [*sic*] its discretion when it ordered [Father] to see [the Children] via "Supervised Visitation" only?

[5]. Did the trial court err and abused [*sic*] its discretion when it manifestly ordered [Father] to undergo physiological [*sic*] evaluation again?

Father's Brief at 6.

Our scope and standard of review are as follows:

In reviewing a custody order, our scope is of the broadest type and our standard is abuse of discretion. We must accept findings of the trial court that are supported by competent evidence of record, as our role does not include making independent factual determinations. In addition, with regard to issues of credibility and weight of the evidence, we must defer to the presiding trial judge who viewed and assessed the witnesses first-hand. However, we are not bound by the trial court's deductions or inferences from its factual findings. Ultimately, the test is whether the trial court's conclusions are unreasonable as shown by the evidence of record. We may reject the conclusions of the trial court only if they involve an error of law, or are unreasonable in light of the sustainable findings of the trial court.

C.R.F., III v. S.E.F., 45 A.3d 441, 443 (Pa. Super. 2012). We have stated:

[T]he discretion that a trial court employs in custody matters should be accorded the utmost respect, given the special nature of the proceeding and the lasting impact the result will have on the lives of the parties concerned.

Ketterer v. Seifert, 902 A.2d 533, 540 (Pa. Super. 2006) (quoting ***Jackson v. Beck***, 858 A.2d 1250, 1254 (Pa. Super. 2004)).

The primary concern in any custody case is the best interest of the child. "The best-interests standard, decided on a case-by-case basis, considers all factors that legitimately have an effect upon the child's physical, intellectual, moral, and spiritual wellbeing." ***Saintz v. Rinker***, 902

A.2d 509, 512 (Pa. Super. 2006) (citing **Arnold v. Arnold**, 847 A.2d 674, 677 (Pa. Super. 2004)).

We note that Father filed a prolix eight-page concise statement, raising twenty-one issues. Many of the claimed errors relate to orders not subject to this appeal. The trial court urges us to find these issues waived. Father has abandoned most of these issues in his appeal. The trial court was able to address Father's issues in its Rule 1925(a) opinion. Therefore, we decline to find waiver on those grounds. **See** Pa.R.A.P. 105(a), 2101 (vesting this court with discretion to overlook procedural errors).

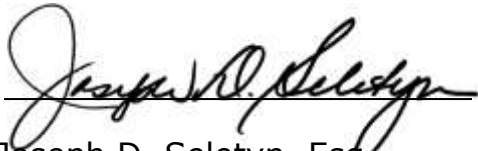
However, we are constrained to find waiver on other grounds. The argument section of Father's brief is devoid of any reference to our case law. Father's entire argument on five issues spans a mere three pages. Father's Brief at 28-30. Father simply restates his allegations of trial court error, and demands that we vacate the trial court's May 15, 2013 order and remand for a rehearing. Father makes no effort whatsoever to link the facts of his case to the law. In sum, Father does not develop a coherent legal argument to support his claims.

"The failure to develop an adequate argument in an appellate brief may result in waiver of the claim under Pa.R.A.P. 2119." **Commonwealth v. Beshore**, 916 A.2d 1128, 1140 (Pa. Super. 2007) (citation, quotation marks and brackets omitted). "[A]rguments which are not appropriately developed are waived. Arguments not appropriately developed include those where the party has failed to cite any authority in support of a contention."

Lackner v. Glosser, 892 A.2d 21, 29-30 (Pa. Super. 2006) (internal citations omitted); **see Chapman-Rolle v. Rolle**, 893 A.2d 770, 774 (Pa. Super. 2006) (holding that “[i]t is well settled that a failure to argue and to cite any authority supporting an argument constitutes a waiver of issues on appeal”) (quoting **Jones v. Jones**, 878 A.2d 86, 90 (Pa. Super. 2005)). Because Father has failed to offer a developed legal argument and citations to relevant authority, we find each of his issues to be waived. Accordingly, we affirm the trial court’s May 15, 2013 order.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/20/2013