

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

D.A.R.,

Appellee

v.

C.J.R.,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1443 WDA 2012

Appeal from the Order August 21, 2012,
in the Court of Common Pleas of Blair County,
Orphans' Court at No(s): 2011 GN 2437

BEFORE: BENDER, ALLEN, and MUSMANNO, JJ.
MEMORANDUM BY BENDER, J.:

Filed: February 1, 2013

C.J.R. (Father) appeals from the order dated August 21, 2012, that awarded D.A.R. (Mother) primary physical custody of the parties' two children, K.R. and S.R., with Father to exercise periods of partial custody every other weekend. The order also granted Mother's petition to relocate to Fairmont, West Virginia. We affirm.

Father raises two issues for our review:

I. [Whether] the trial court erred as a matter of law and/or was unreasonable in light of the sustainable findings of the record in determining that the natural Mother be granted primary residential custody of the parties' two minor children[?]

II. [Whether] the trial court erred and/or was unreasonable in light of the sustainable findings in the record in determining that the natural Mother should be granted the right to relocate the minor children to the state of West Virginia[?]

Father's brief at 31.

Our scope and standard of review are as follows:

[O]ur scope is of the broadest type and our standard is abuse of discretion. This Court 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, this Court must defer to the trial judge who presided over the proceedings and thus viewed 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.

E.D. v. M.P., 33 A.3d 73, 76 (Pa. Super. 2011) (quoting *A.D. v. M.A.B.*, 989 A.2d 32, 35-36 (Pa. Super. 2010)).

The primary concern in any custody case is the best interests 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 well-being. *Saintz v. Rinker*, 902 A.2d 509, 512 (Pa. Super. 2006) (citing *Arnold v. Arnold*, 847 A.2d 674, 677 (Pa. Super. 2004)). Furthermore, we recognize that the recently enacted Child Custody Act (Act), 23 Pa.C.S. §§ 5321-5340, governs all proceedings commenced after January 24, 2011. The specific factors that a court must consider are listed at 23 Pa.C.S. § 5328(a)(1) – (16). *See E.D.*, 33 A.3d at 79-80 (holding that “best interests of the child” analysis requires consideration of all section 5328(a) factors).

As for Mother's relocation request, it is governed by 23 Pa.C.S. § 5337. Mother, as the party proposing relocation, has the burden of proving that relocation will serve the children's best interest as set forth under section 5337(h)¹. **See** 23 Pa.C.S. § 5337(i)(1). In addition, "[e]ach party has the burden of establishing the integrity of that party's motives in either seeking the relocation or seeking to prevent the relocation." 23 Pa.C.S. § 5337(i)(2). **See E.D.**, 33 A.3d at 79.

We have reviewed the certified record, the briefs of the parties, the applicable law, and the thorough, well-reasoned 28-page opinion of the Honorable Hiram A. Carpenter III of the Court of Common Pleas of Blair County, dated August 21, 2012. We conclude that Judge Carpenter's extensive opinion meticulously disposes of the issues presented by Father in this appeal. Accordingly, we adopt the court's opinion as our own and affirm the custody/relocation order on that basis.

Order affirmed.

¹ Section 5337(h)(1) – (10) lists the factors that a court must consider when determining whether to grant or deny a relocation petition.