Affirmed as Modified and Memorandum Opinion filed November 4, 2010.

In The

Fourteenth Court of Appeals

NO. 14-08-01154-CV

IN THE MATTER OF B.J.W.S., A CHILD

On Appeal from the 300th District Court
Brazoria County, Texas
Trial Court Cause No. 43691

MEMORANDUM OPINION

In this suit affecting the parent-child relationship, Anthony, the child's father, appearing *pro se*, appeals the trial court's order that, *inter alia*, (a) names Amanda, the child's mother, the sole managing conservator of B.J.W.S., (b) requires that Anthony's visitation with B.J.W.S. be supervised, (c) limits Anthony's electronic communication with the child, and (d) requires Anthony to pay child support based on the presumption that he could earn minimum wage. In total, appellant raises some seventeen issues and various sub-issues in this appeal. Because we conclude that the portion of the trial court's order concerning electronic communication is not consistent with the statutory requirements, we modify the order to comply with the Texas Family Code. We otherwise affirm.

I. BACKGROUND

Amanda and Anthony are the parents of B.J.W.S., who was born in January 2005.[1] Anthony and Amanda met over the Internet in 2002, and they began an intimate relationship shortly after meeting.

Anthony was earlier diagnosed with psychosis in 1995, schizophrenia in 1997, and obsessive-compulsive disorder in 2000. He was involuntarily institutionalized based on these diagnoses at least twice, and on one occasion stayed in the hospital for at least three months. Anthony has not taken any medication or seen a psychiatrist since 2000. However, at the time of trial in 2008, he was still receiving disability payments from the United States government based on his mental health disability.

Amanda filed a suit affecting the parent-child relationship ("SAPCR") in July 2007, seeking sole-managing conservatorship of B.J.W.S. and financial support from Anthony for B.J.W.S.'s care. Anthony filed a counter-petition on August 10, seeking appointment as a joint-managing conservator and entry of a standard possession order. Amanda obtained a temporary restraining order on July 20, which restrained each parent from: (a) disturbing the peace of the child or of another party; (b) withdrawing the child from enrollment in the school or day-care facility where the child was enrolled; (c) hiding or secreting the child from the other party; (d) making disparaging remarks regarding the other party or the other party's family in the presence or within the hearing of the child; (e) consuming alcohol within the 12 hours before or during the period of possession of or access to the child; (f) canceling, altering, failing to pay premiums, or in any manner affecting the level of coverage of any health insurance policy insuring the child; and (g) removing the child from Brazoria County, Texas.

On August 2, the parties entered into a Rule 11 Agreement, agreeing to the following:

[1] Amanda and Anthony have never been married.

- Amanda was named temporary sole-managing conservator. Anthony was named temporary possessory conservator.

- Anthony was permitted possession of B.J.W.S. once a month from 9:00 a.m. to 8:00 p.m. for up to four days (no overnight visitation) with ten days advance notice to Amanda. Anthony was not permitted to remove the child from Brazoria and Harris counties. Anthony's visitation was required to be supervised by his mother.

- Anthony was ordered to provide temporary support in the amount of $150 per month to Amanda. Anthony was also ordered to procure any "SSI benefits" proper for support of the child. Any benefits would be applied to the child support payment.

- The temporary restraining order became a mutual temporary injunction.

- Amanda would pay for the child's health insurance and any uninsured medical expenses incurred would be split 50/50 between Anthony and Amanda.

- Each party was required to exchange all psychiatric or psychological records with the other on or before September 15, 2007.

- The entry date for the Temporary Orders based on the Rule 11 Agreement was set for August 17, 2007.

The trial court entered temporary orders based on the Rule 11 Agreement on August 31. Anthony did not appear at the hearing to enter the temporary orders (even though it was rescheduled to accommodate him), nor did he sign them. These orders incorporated the items listed above.

Anthony did not provide his mental health records by September 15, 2007. The trial court ordered Anthony three separate times to provide his mental health records for *in camera* review on Amanda's motion, but Anthony failed to provide the records. Ultimately, on April 23, 2008, after Anthony failed to appear at a hearing, the trial court entered an order on Amanda's second motion for mental examination, which included the following findings:

1. Anthony . . . has confirmed that he is disabled on the basis of his mental health status, as defined by the Social Security Administration.

2. Anthony . . . has continued to disregard the Court's orders for the production of mental health records in this cause, though order[ed] to produce the records on three prior occasions.

. . .

4. The issues concerning the mental health of Respondent, Anthony . . ., are of such import in determining the safety, welfare and best interest of the child in this cause that the court must enter the following order for mental health evaluation of Anthony . . ..

The trial court ordered Anthony to undergo a mental examination "to determine the full extent of his mental disability and the possible effects of this disability on the orders regarding possession and access to the child." The trial court additionally entered an Order of Enforcement in which it found Anthony in contempt and sanctioned him for failing to comply with its previous orders regarding production of his mental health records by (a) abating his discovery pending compliance with all prior orders, (b) striking his pleadings, and (c) ordering him to pay Amanda's attorney $1,500 for attorney's fees. The trial court, however, allowed Anthony to proceed on a supplemented answer with amendments that he filed on May 7, 2008, during a pre-trial conference.

This case was tried to the bench in June 2008. Amanda alleged that a standard-possession order would not be in B.J.W.S.'s best interests based on Anthony's lengthy history of mental illness. She again requested that Anthony's periods of possession be supervised and sought a permanent injunction, which incorporated several of the provisions of the prior agreed temporary injunction. She additionally requested that the court permanently enjoin Anthony from removing B.J.W.S. from the Women's Center in Angleton, Texas at any time; harassing her, her family, friends, employers, co-workers, B.J.W.S., and B.J.W.S.'s teachers and caretakers; and communicating with her at any time, except through one weekly email regarding only matters concerning the child.

Dr. Robert Gordon, the clinical and forensic psychologist appointed to conduct a psychological assessment of Anthony, testified first at trial. Dr. Gordon explained that he had initiated Anthony's evaluation by speaking to Amanda and getting a "history," seeing B.J.W.S., and performing a home study of Amanda's home. He had not met Anthony nor gotten any information from him. Dr. Gordon stated that his office had attempted to set up Anthony's evaluation, but had been unsuccessful. Dr. Gordon testified positively about Amanda's relationship with B.J.W.S., and explained that he believed Amanda wanted Anthony involved in B.J.W.S.'s life.

Amanda testified next, explaining that she and Anthony had never been married but had been involved in a "dating relationship" at the time B.J.W.S. was conceived. She was unaware at the time B.J.W.S. was conceived that Anthony had a disabling mental health issue. She explained that, when she first started dating Anthony, Anthony himself was unaware his parents were receiving disability payments for him. However, Anthony had acknowledged his prior involuntary institutionalization.

Amanda testified that she and Anthony had never lived together. She lived in Brazoria County, and Anthony lived in the Dallas area. According to Amanda, Anthony came to Brazoria County for B.J.W.S.'s birth in January 2005 and visited B.J.W.S. about two more times in 2005. Anthony stayed at her parent's home until she moved into her own home; thereafter, he stayed at her home when he came to visit B.J.W.S. By March or April of 2006, she no longer considered them dating, but her intention was to remain friendly with Anthony so that he could continue to see B.J.W.S. She testified that Anthony visited B.J.W.S. about monthly during 2006.

Amanda discovered in October 2004 that Anthony was receiving mental health disability payments, but was not aware of the nature of his disability. According to her, Anthony's behavior "escalated" from March or April of 2006 to April of 2007. Although she continued to leave B.J.W.S. unsupervised with Anthony, she testified that she was anxious about doing so and had her family check in on them. She also would call

regularly to find out whether Anthony was feeding or changing B.J.W.S. Amanda noted that B.J.W.S. was never left alone with Anthony overnight.

According to Amanda, in April 2007, Anthony admitted going through her purse while she and B.J.W.S. were at the park. Because of this incident and Anthony's prior behavior, she informed Anthony that he could no longer stay at her house when he visited B.J.W.S. Amanda explained that after this development, Anthony started "bombarding" her with emails, voicemails, and harassing behavior. She became concerned about the nature of Anthony's communication with B.J.W.S.'s teachers, and believed that he had harassed and threatened at least one of B.J.W.S.'s day-care workers. She also feared she might have to find a new day care for B.J.W.S. because of Anthony's behavior.

Amanda further described two incidents that occurred when Anthony was with B.J.W.S. without supervision. In the first, which occurred in March or April 2007, Anthony left B.J.W.S. locked in the car while he went into a restaurant to pick up food. When he was inside the restaurant, Anthony met Amanda's brother and stayed in the restaurant longer than anticipated while B.J.W.S. was locked outside in the car.

The second incident occurred after Amanda filed suit and the parties had entered into the Rule 11 Agreement requiring that Anthony's visitation be supervised. In September or October 2007, Anthony, his mother, and B.J.W.S. went to a local mall, but Anthony's mother left Anthony and B.J.W.S. alone when she went into a department store. Anthony and B.J.W.S. began playing on a rocky indoor fountain, and B.J.W.S. fell and injured the back of his head.

Amanda additionally was concerned about the "secretive" manner in which he and his family treated his mental disability. She expressed concern that Anthony's mother apparently controlled his finances; all the monetary support she was ever provided for B.J.W.S. was paid by checks from Anthony's mother. Amanda testified that Anthony never expressed any desire to provide financial support for B.J.W.S.

In October 2007, Amanda was made aware of a website that included hundreds of pages of information about herself, her family, and her friends that was "completely inappropriate for anyone to see." She explained that this MySpace.com website, created by Anthony, included pictures of her, named the city she resided in, revealed the names and email addresses of many of her friends, and included "personal, financial, [and] sexual information." She stated that she felt "stalked" by Anthony and that others also felt that way. She indicated a concern about the escalation of Anthony's behavior because she did not know how far he might go and did not want to live in fear.

Amanda's next witness was Anthony, called adversely. Anthony testified that he had not worked since he was eighteen years old, when he worked "for about a month." He admitted that he had not cooperated with the trial court's order for a mental examination. He acknowledged that he had been diagnosed with psychosis, schizophrenia, depression, and obsessive-compulsive disorder. However, he claimed his last diagnosis was in 2000, and he was no longer on any medication or under the care of a psychologist or psychiatrist. He admitted that his disability prevents him from working because he "cannot engage in long-term, stressful, day-to-day activities" that are out of his control.

In response to questioning regarding his lengthy mental health history and concerns about his current mental health status, Anthony replied that only "recent times" should be relevant. However, he admitted that he is currently on mental health disability and is not "fraudulently receiving those benefits[.]" He further admitted that he is currently mentally disabled and acknowledged that he has not produced his mental health records or participated in a psychological evaluation despite numerous court orders to do so.[2] Additionally Anthony stated that he does not manage his own finances directly, but he has to budget what he spends from funds provided to him by his parents.

[2] The following exchange illustrates Anthony's behavior in response to the orders to produce his mental health records:

After Amanda rested her case, Anthony took the stand on his own behalf. He admitted much of the behavior that Amanda described, but attempted to explain his conduct. He justified B.J.W.S.'s injury from falling on the fountain by stating that many kids climb around that fountain. He further explained that he had invaded Amanda's privacy because his relationship with her was his first relationship, and he was concerned that she was seeing other people. He admitted that he had called B.J.W.S.'s caretakers and day-care workers and sent them messages about his perceived rights in an effort to get information about B.J.W.S.'s education. The following are some typical excerpts from his testimony, which spanned roughly an hour and forty-five minutes and eighty-one pages in the record:

> If I'm just earning money just to earn money – and especially full-time, I don't – I don't – I just can't imagine working full-time. That's a lot of – you know, unless I loved that job, unless that's something I really, really want to do; and I have a certain amount of control over my job; and, you know, it fits around my own personal schedule, then, you know, someday I can see myself working full-time. But currently, no, I can't see myself doing that.
>
> And in regards to my disability, I mean, you know, I could care less what the psychiatrists say. You know, I didn't see them voluntarily. You know, I don't care about my diagnoses. And what I care about is just – you know, I don't want to take medication. I don't believe in taking psychiatric medication.
>
> . . .
>
> And, you know, because whatever I receive is not enough to pay for my needs; and Amanda has admitted that, you know, she has enough money to pay for attorney's fees and, you know, to meet all her needs and also [B.J.W.S.]'s needs.

> Q. And instead of going out and producing the records as ordered by the Court on at least two different occasions, you chose to spend all of your time drafting mandamus documents and affidavits of indigency and request[s] for free records and motions to compel on us and all kinds of discovery motions and new motions to modify temporary orders. Is that what you spent your time on?
>
> A. For the most part, yeah.

> You know, it wouldn't be in the best interest of someone of my income to be giv[ing] the little I have to Amanda. You know, to me, it's obvious that she's not, you know, acting in the financial best interest of anyone; and, you know, given the amount that my parents have contributed, you know, they've contributed way more than, you know, they needed to and the fact that, you know, I will be incurring expenses, travel expenses to see my [child].

Anthony sought joint managing conservatorship, with at least a standard possession order. He additionally requested that Amanda reimburse him for all past and future expenses he incurred visiting B.J.W.S. and argued that there was "no reason" for him to pay child support.

At the end of the bench trial, the trial court named Amanda sole-managing conservator, named Anthony a possessory conservator with supervised visitation only, ordered Anthony to pay child support, and entered a permanent injunction mutually enjoining Amanda and Anthony from (a) communicating with each other except for arranging visitation or communicating about other matters involving B.J.W.S. and (b) making disparaging remarks about each other or their families. Anthony was further enjoined from removing B.J.W.S. from the supervising party during any period of possession.

II. ANALYSIS

As noted above, Anthony, a *pro se* litigant, has filed a brief containing seventeen issues, with numerous sub-issues.[3] Under our Rules of Appellate Procedure, where, as here, the issues are settled, we "should write a brief memorandum opinion no longer than necessary to advise the parties of the court's decision and the basic reasons for it." Tex.

[3] A list of Anthony's actual issues, taken verbatim from his brief, is included as an Appendix to this opinion. We note that several of Anthony's issues may be disposed of based on briefing waiver. *See* Tex. R. App. P. 38.1(i) (requiring that a brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and the record); *Sterling v. Alexander*, 99 S.W.3d 793, 798–99 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). For example, issues 1, 2, 8, 12, 16, and 17 contain neither clear and concise arguments, nor appropriate citations to authorities.

R. App. P. 47.4. After reviewing Anthony's issues carefully,[4] it is apparent that there are five categories of issues relevant to our disposition of this case: (1) conservatorship; (2) possession and access; (3) child support; (4) injunctive relief; and (5) post-trial motions. For the sake of clarity, we consolidate his seventeen issues into these five broader categories and confine our discussion to these subjects.

A. Standard of Review: Conservatorship, Possession and Access, and Child Support

A trial court has broad discretion to decide the best interest of a child in family law matters such as custody, visitation, possession, and child support. *See Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990) (child support); *Gillespie v. Gillespie*, 644 S.W.2d 449, 451 (Tex. 1982) (custody, control, possession, visitation); *In re A.L.E.*, 279 S.W.3d 424, 427 (Tex. App.—Houston [14th Dist.] 2009, no pet.) (conservatorship). A trial court abuses its discretion when it acts arbitrarily or unreasonably, or when it clearly fails to correctly analyze or apply the law. *See In re D.S.*, 76 S.W.3d 512, 516 (Tex. App.—Houston [14th Dist.] 2002, no pet.).

We remain mindful that the trial judge is best able to observe and assess the witnesses' demeanor and credibility, and to sense the "forces, powers, and influences" that may not be apparent from merely reading the record on appeal. *A.L.E.*, 279 S.W.3d at 427. Therefore, we defer to the trial court's resolution of underlying facts and to credibility determinations that may have affected its decision, and will not substitute our judgment for the trial court's. *Id.*

Legal and factual insufficiency challenges are not independent grounds for asserting error in custody determinations, but are relevant factors in assessing whether the trial court abused its discretion. *Id.* at 427–28. An abuse of discretion does not occur if some evidence of a substantive and probative character exists to support the trial court's

[4] One of Anthony's issues challenges the trial court's award of appellate attorney's fees to Amanda. Amanda has not retained an attorney to respond to this appeal, so this issue has no merit because she will receive no award of fees.

decision. *Id.* at 428. We consider only the evidence most favorable to the trial court's ruling and will uphold its judgment on any legal theory supported by the evidence. *Worford*, 801 S.W.2d at 109; *A.L.E.*, 279 S.W.3d at 428.

1. Conservatorship

Anthony challenges the legal and factual sufficiency of many of the trial court's findings regarding conservatorship in issues one through four. But, as stated above, legal and factual sufficiency challenges are not independent grounds for asserting error in a custody case. *See A.L.E.*, 279 S.W.3d at 427–28. However, in the interest of justice, we nonetheless address Anthony's conservatorship issues.

There is a strong presumption that the best interest of a child is served if a natural parent is appointed as a managing conservator. *Lewelling v. Lewelling*, 796 S.W.2d 164 (Tex. 1990); *In the Interest of A.D.H.*, 979 S.W.2d 445, 447 (Tex. App.—Beaumont 1998, no pet.); *see also Brook v. Brook*, 881 S.W.2d 297, 299 (Tex.1994); Tex. Fam. Code Ann. § 153.131(a) (Vernon 2008). A parent shall be appointed as sole managing conservator, or the parents as joint managing conservators, unless the court finds the appointment would not be in the best interest of the child because it would significantly impair the child's physical health or emotional development. Tex. Fam. Code Ann. § 153.131(a). There must be evidence to support the logical inference that some specific, identifiable behavior or conduct of the parent will probably cause that harm. *In the Interest of M.W.*, 959 S.W.2d 661, 665 (Tex. App.—Tyler 1997, writ denied).

Here, Anthony admitted that he has been diagnosed with several serious mental conditions and is still receiving government disability benefits based on these diagnoses. He consistently refused to provide any information about these diagnoses and refused to undergo a mental health evaluation, even though ordered repeatedly by the trial court to do so. The trial court concluded that uncontroverted evidence of Anthony's disability, coupled with his refusal to provide either any records or participate in a mental health evaluation, left it with the limited evidence of the determination made by the Social

Security Administration—i.e., that Anthony currently suffers from a mental health disability. In addition, twice when Anthony was alone with B.J.W.S., he endangered B.J.W.S.'s health and safety by permitting him to jump off a rocky fountain and by leaving him alone in the car.

After thoroughly reviewing the record, including the voluminous emails and other communications from Anthony to Amanda and others, we believe there is sufficient evidence to overcome the presumption that appointing both parents as joint managing conservators in this case would be in B.J.W.S.'s best interests. *See* Tex. Fam. Code Ann §§ 153.002 ("The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child."), 153.131 (noting that it is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the child's best interests). Thus, we cannot say the trial court abused its discretion in naming Amanda sole managing conservator and appointing Anthony possessory conservator of B.J.W.S. We overrule his conservatorship issues.

2. Possession and Access

In this section of his brief, encompassing issues five through nine, Anthony challenges the trial court's deviation from the standard-possession order, as well as challenging the trial court's electronic-communications order. We conclude that the trial court did not abuse its discretion in deviating from the standard-possession order, but agree with Anthony that the trial court abused its discretion in entering the electronic-communications order as written.

(a). Deviation from Standard Possession Order

The Family Code provides that there is a rebuttable presumption that the standard possession provides reasonable minimum possession for a parent named joint managing conservator and is in the best interest of the child. *See* Tex. Fam. Code Ann. § 153.252. In addition, the Family Code sets out the factors the court may consider in ordering other

than the standard possession. *See id.* § 153.256. Those factors include the age, developmental status, circumstances, needs, and best interest of the child, the circumstances of the conservators, and any other relevant factors. *Id.*

The trial court here found that entry of a standard-possession order would not be in B.J.W.S.'s best interests. For the same reasons as discussed above in the Conservatorship section of this opinion, we agree that the trial court did not abuse its discretion in deviating from the standard-possession order. We therefore overrule Anthony's fifth, sixth, and seventh issues.

(b). Electronic-Communications Order

In his ninth issue,[5] Anthony challenges the trial court's entry of the electronic-communications order in its final order. The Family Code provides:

> If a court awards a conservator periods of electronic communication with a child under this section, each conservator subject to the court's order shall:
>
> (1) provide the other conservator with the e-mail address and other electronic communication access information of the child;
>
> (2) *notify the other conservator of any change in the e-mail address or other electronic communication access information not later than 24 hours after the date the change takes effect*; and
>
> (3) if necessary equipment is reasonably available, accommodate electronic communication with the child, with the same privacy, respect, and dignity accorded all other forms of access, at a reasonable time and for a reasonable duration subject to any limitation provided by the court in the court's order.

Tex. Fam. Code § 153.015(c). Here, the trial court failed to require that Amanda notify Anthony of any change in the e-mail address or other electronic communication access information not later than 24 hours after the date the change takes effect. *See id.* The trial court thus abused its discretion in crafting an order that does not comport with the

[5] Anthony has waived his eighth issue by failing to properly brief it. *See* Tex. R. App. P. 38.1(i).

statutory requirements. We sustain Anthony's ninth issue and modify the trial court's order to comply with this requirement.

3. Child Support

In his tenth, eleventh, and twelfth issues, Anthony challenges the trial court's child support orders. Anthony has not challenged the trial court's finding that "No evidence was introduced to establish that Anthony . . . is unable to obtain employment at the minimum hourly wage." Indeed, even Anthony's own testimony reflects that he probably could obtain employment:

> If I'm just earning money just to earn money – and especially full-time, I don't – I don't – I just can't imagine working full-time. That's a lot of – *you know, unless I loved that job, unless that's something I really, really want to do; and I have a certain amount of control over my job; and, you know, it fits around my own personal schedule, then, you know, someday I can see myself working full-time.* But currently, no, I can't see myself doing that.

Amanda further testified that she knew of no reason why Anthony could not work.

The Family Code provides that, in the absence of wage or salary income evidence, the court *shall* presume that a party has wages or salary equal to the federal minimum wage for a 40-hour work week. Tex. Fam. Code Ann. § 154.068. That is exactly what the trial court did here, and we must presume that an order conforming to the guidelines is reasonable and in the best interest of the child. *Id.* § 154.122(a). We thus overrule Anthony's tenth and eleventh issues. Anthony's twelfth issue is contingent upon his tenth and eleventh issues; we thus overrule this issue as well.

B. Injunctive Relief

In his thirteenth issue, Anthony asserts that the evidence is legally and factually insufficient to support the trial court's implied findings regarding the language in the order permanently enjoining him from certain specified behavior. Specifically, Anthony argues that there is insufficient evidence to support the trial court's implied findings

necessary for entry of a traditional permanent injunction, *i.e.*, findings of a wrongful act, imminent harm, irreparable injury, and no adequate remedy at law. *Jones v. Landry's Seafood Rest., Inc.*, 89 S.W.3d 737, 742 (Tex. App.—Houston [1st Dist.] 2002, pet. denied).

When the best interests of the child are at issue, as they are here, sufficiency of the evidence is not the appropriate standard of review. Rather we must determine whether the trial court abused its discretion. *Cf. A.L.E.*, 279 S.W.3d at 427–28.

Further, we note that where the Family Code discusses injunctive relief, it generally dispenses with these traditional requirements. *See* Tex. Fam. Code Ann. § 105.001; *see also Peck v. Peck*, 172 S.W.3d 26, 36 (Tex. App.—Dallas 2005, pet. denied) (concluding that traditional requirements for permanent injunctive relief are inapplicable in custody portion of a final divorce decree). There can be no question that courts routinely grant permanent injunctions consistent with the best interests of the child. *See, e.g.*, *Peck*, 175 S.W.3d at 35; *In re A.C.J.*, 146 S.W.3d 323, 328 (Tex. App.—Beaumont 2004, no pet.); *In re A.J.L.*, 108 S.W.3d 414, 419 (Tex. App.—Fort Worth 2003, pet. denied).

We have reviewed the record surrounding entry of this injunction, and Anthony has shown no abuse of discretion. We overrule Anthony's thirteenth issue.

C. Post-Trial Motions

In issue fifteen, Anthony complains that the trial court abused its discretion by not hearing his post-trial motions. The trial court signed a final judgment on August 15, 2008. Anthony filed seven post-trial motions on October 20, 2008, but the trial court heard none of them because it concluded it no longer had plenary jurisdiction.

Anthony claims not to have received the required notice of the final judgment. *See* Tex. R. Civ. P. 306a (4). Consequently, he filed a motion in this Court seeking a determination from the trial court regarding the date he first either received notice or acquired actual knowledge the judgment was signed. We abated his appeal for that

purpose. The trial court determined that Anthony acquired actual knowledge of the final judgment on September 29, 2008.

Anthony subsequently filed one motion to suspend or reduce child support in this Court. We again abated this appeal for the trial court to conduct a hearing on that motion. The trial court conducted a hearing on Anthony's motion on February 5, 2010 and denied the motion.

Anthony took no further action to obtain rulings on the other motions he filed in the trial court. We therefore overrule his fifteenth issue.[6]

III. CONCLUSION

We conclude that the trial court abused its discretion by failing to require, as part of its electronic-communications order, that Amanda notify Anthony within 24 hours of any change in B.J.W.S.'s email address or other electronic communications access information. We therefore modify the trial court's order to reflect this requirement. Otherwise, for the reasons stated above, we affirm the trial court's judgment.

/s/ Kent C. Sullivan
Justice

Panel consists of Justices Brown, Sullivan, and Christopher.

[6] In his sixteenth and seventeenth issues, Anthony states "Anthony does not have the time or space to brief this issue." We thus conclude that he has waived these issues. Tex. R. App. P. 38(i).

APPENDIX

1. Is the evidence legally and factually sufficient to support the trial court's finding that Anthony has "a substantial mental health history based on the admission of Respondent [Anthony] under oath[?]"
2. Is the evidence legally and factually sufficient to support the finding that the parties are unable to communicate effectively about any issue concerning the child?
3. Does the trial court's finding that Anthony "has consistently refused to participate in the production of evidence that might provide some possibility that Respondent [Anthony] is not a danger to the child, even though the Court ordered psychological assessment and the production of mental health records for in camera inspection," constitute a sanction and are any orders based on this finding a sanction?
    a. The trial court's findings, orders, and sanctions are waived because Amanda failed to secure a pre-trial ruling on discovery issues.
    b. Was Anthony given notice and hearing regarding the trial court's sanction?
    c. Are the sanctions just?
    d. Is the evidence legally and factually sufficient to support the finding of this Issue (not sub issue)?
4. Is the evidence legally and factually sufficient to support the finding and conclusion that the trial court's orders are in the best interest of the child?
5. Is the evidence legally and factually sufficient to support the finding that "The Court finds specifically that Anthony . . . has been a danger to the child in the past, by leaving the child unsupervised in the car and other negligent acts?"
    a. Is the evidence legally and factually insufficient to support the finding that Anthony . . . has been a danger to Brandon in the past because of the "fountain incident?"

6. Is the evidence legally and factually insufficient to support the finding that "Anthony . . . . may be a danger to the child in the future, based on his aberrant behavior up to this point, his admitted psychological conditions, and his persistent refusal to be evaluated as ordered by the Court?"
7. Is the evidence legally and factually insufficient to support the trial court's findings and conclusions that "[a]ll decisions of this Court contemplate most importantly the safety and best interest of the child. On that basis, the Court cannot apply the presumptions of the Texas Family Code relative to ... possession and access in this cause," (4 RR 893) and "The Court finds, based on the evidence introduced in trial, that the Standard Possession Order in the Texas Family Code is not in the best interest of the child" (4 RR 897)? Anthony also challenges the trial court's conclusions that "all legal prerequisites to the establishment of a parenting plan have been met" (5 CR 979, number 3) and "all variances in the Court's order from the presumptions in the Texas Family Code are necessary to safeguard the best interests of the child" (5 CR 980).
8. Did the trial court abuse its discretion by finding the electronic communications order is in the best interest of Brandon?
9. Did the trial court abuse its discretion by not making the electronic communications order enforceable and compliant with Texas Family Code?
10. Is the evidence legally and factually sufficient to support "the amount of child support ordered by the Court is in accordance with the percentage guidelines[?]"
11. Is the evidence is legally and factually sufficient to support the trial court's implied finding or conclusion that the amount of child support ordered is just, appropriate, reasonable and in the best interest of the child?
12. Did the Trial Court Abuse Its Discretion by Ordering Anthony to Pay Additional Child Support (4 CR 905) to Amanda?
    a. Did the trial court abuse its discretion by ordering Anthony to pay for 50% of Brandon's uninsured medical costs?

13. Is the evidence legally and factually sufficient to support any of the trial court's implied findings and conclusions regarding the permanent injunction?
14. Is the evidence legally and factually sufficient to support the award of appellate and Texas Supreme Court attorney's fees?
15. Did the trial court abuse its discretion by not hearing Anthony's post trial motions?
16. Did the trial court abuse its discretion by not using the significantly impair standard found in Tex. Fam. Code, Section 153.131(a)?
17. Did the trial court abuse its discretion by not using the clear and convincing burden of proof?