

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
ERIE COUNTY

In re I.K.

Court of Appeals No. E-13-023

Trial Court No. 2011-JB-0065

DECISION AND JUDGMENT

Decided: December 6, 2013

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J.S., pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is a pro se appeal from a judgment of the Erie County Court of Common Pleas, Juvenile Division, that denied appellant's objection to the trial court's entry ordering that the minor child I.K.'s father be named residential parent and legal custodian. For the following reasons, the judgment of the trial court is affirmed.

{¶ 2} The undisputed facts relevant to the issues raised on appeal are as follows. On August 12, 2011, O.K., biological father of the minor child I.K., filed a complaint for custody of his child in the Erie County Court of Common Pleas, Juvenile Division, along with a motion requesting an emergency ex parte order granting him temporary custody. O.K. (hereafter, “father”) requested that he be named residential parent and legal custodian of I.K. because appellant, the child’s mother, was currently incarcerated. For reasons not evident in the record before this court, father’s request for an emergency order was denied and the matter proceeded upon his complaint for custody.

{¶ 3} On July 26, 2012, appellant was named residential parent and legal custodian. Subsequently, however, appellant was sentenced to several years in prison and, following a review hearing on August 21, 2012, father was granted temporary custody. At a review hearing on November 19, 2012, the court found it was in the child’s best interest to grant father’s request to be named residential parent and legal custodian. The court’s judgment entry was filed on February 20, 2013. On March 15, 2013, appellant filed objections to the custody order. By judgment entry filed March 29, 2013, the trial court denied appellant’s objection as it was filed past the 14-day objection period. In so doing, the trial court stated that the entry filed February 20, 2013, was a final order and that, accordingly, it could only consider an appeal of the entry or a motion filed pursuant to Civ.R. 50(B), 59 or 60(B). The trial court noted that appellant filed none of the available motions, nor did she appeal the judgment entry of February 20, 2013. This timely appeal followed.

{¶ 4} Appellant sets forth the following assignments of error:

I. The trial court abused its power when it entered a new judgment entry for custody on or about February 20, 2013, because there was no change of circumstance, subsequent to the original judgment entry filed on or about July 26, 2012.

II. The due process rights of the appellant were violated.

III. The trial court erred when it did not disqualify the attorney for the father Appellee: given that a conflict of interest existed between the appellee's attorney, the appellant and the maternal grandmother.

{¶ 5} This court has reviewed the record of proceedings in the trial court.

Pursuant to Juv.R. 40(D)(3)(b)(i), "a party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Juv.R.

40(D)(4)(e)(i)." Based on the foregoing, this court finds that the trial court did not err by denying appellant's untimely objections to the February 20, 2013 order. We further note that appellant's assignments of error are not relevant to the trial court's denial of her objections for being untimely filed, which is the judgment entry from which she appeals. Accordingly, appellant's first, second and third assignments of error are not well-taken.

{¶ 6} On consideration whereof, the judgment of the Erie County Court of Common Pleas, Juvenile Division, is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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