

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

KEITH J. WOJTOWICZ

C.A. No. 25385

Appellee

v.

RACHAEL A. JANES

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. 2008-11-3345

Appellant

DECISION AND JOURNAL ENTRY

Dated: November 10, 2010

WHITMORE, Judge.

{¶1} Defendant-Appellant, Rachael Schweyer¹ (“Mother”), appeals from the judgment of the Summit County Court of Common Pleas, Domestic Relations Division. This Court affirms.

I

{¶2} Mother and Plaintiff-Appellee, Keith Wojtowicz (“Father”), never married, but had one child together. The child, K.J., was born on June 4, 2008. On November 6, 2008, Father filed a complaint to establish paternity and to request visitation and child support orders. Mother answered and filed a counterclaim for custody, support, and several other items. A

¹ The record reflects that Mother changed her name at some point from Rachael Janes to Rachel Schweyer. The lower court filings, including the trial court’s judgment entry, use the name “Janes” while the appellate filings use the name “Schweyer.” Because the trial court captioned its decision with the name “Janes,” the caption of this case will continue to be *Wojtowicz v. Janes*. Yet, this Court will use the name “Schweyer” in the body of its opinion because that is the name Mother used to refer to herself in her appellate filings.

magistrate held a hearing on Father's complaint and Mother's counterclaim. Subsequently, genetic testing established that K.J. was Father's child. The magistrate declared Mother to be the residential parent and issued a child support award. The magistrate also awarded Father supervised visitation and set the matter for a review hearing. Both Mother and Father appeared pro se at the August 31, 2009 review hearing. The focus of the hearing was to determine whether Father's visitation with K.J. should be supervised or unsupervised.

{¶3} On September 4, 2009, the magistrate issued a decision, awarding Father unsupervised visitation. The trial court adopted the magistrate's decision the same day. On September 9, 2009, Mother filed a letter, which the court construed as an objection to the magistrate's decision. The trial court ruled upon Mother's objection on April 30, 2010. Specifically, the court overruled Mother's objection and ordered that Father have unsupervised parenting time with K.J.

{¶4} Mother now appeals from the trial court's judgment and raises three assignments of error for our review. For ease of analysis, we rearrange and consolidate the assignments of error.

II

Assignment of Error Number Two

"THE JUDGE ALSO VIOLATED CIVIL RULE 53(D)(3), WHEN THE JUDGE ADOPTED THE MAGISTRATES (sic) ORDER ON THE SAME DAY AND TIME OF SEPTEMBER 4, 2009 AT 8:41 AM. THERE WAS NO 14 DAY WINDOW."

{¶5} In her second assignment of error, Mother argues that the trial court violated Civ.R. 53(D)(3) when it adopted the magistrate's decision on the same day and time that the magistrate's decision was issued. She argues that the court erred by failing to wait fourteen days before adopting the decision. We disagree.

{¶6} Although a party has fourteen days within which to object to a magistrate's decision, Civ.R. 53 permits a trial court to adopt a magistrate's decision before the expiration of the fourteen-day period. Civ.R. 53(D)(4)(e)(i). Any objections that a party then files "operate as an automatic stay of execution of the judgment until the court disposes of those objections and vacates, modifies, or adheres to the judgment previously entered." *Id.* Here, the magistrate's decision informed the parties that they had to file objections in order to preserve any alleged errors for appeal. Further, the trial court's judgment entry informed Mother that she had fourteen days within which to file any objections and that any such objections would stay the court's judgment. Mother did file an objection, and the court later ruled upon that objection and adhered to its earlier decision in accordance with Civ.R. 53. Mother's argument that the trial court violated Civ.R. 53(D)(3) by adopting the magistrate's decision too quickly lacks merit. Accordingly, her second assignment of error is overruled.

Assignment of Error Number One

"THE APPELLE HAS SUBMITTED SEVERAL TIMES WHY THE MINOR CHILD [K.J.] SHOULD NOT HAVE NORMAL VISITATION AND SHOULD KEEP TO THE SUPERVISED VISITATION WITH THE APPELLANT KEITH WOJTOWICZ. AN EMERGENCY MOTION HAD BEEN SUBMITTED SEVERAL TIMES AND THE MOTION WAS OVER LOOKED. THE APPELLE HERSELF HAS ALSO TIRED TO VERBALLY SPEAK TO THE MAGISTRATE ON THE RISK THE MINOR CHILD WILL BE FACING SUCH AS PHYSICAL NEGLECT. THE APPELLE, RACHAEL SCHWEYER HELD THE MINOR CHILD AT HER RESIDENCE AND WOULD NOT LET THE APPELLANT TAKE THE MINOR CHILD FOR THE REASON THAT SHE DID NOT KNOW WHERE THE APPELLANT WAS LIVING, NOR DID SHE KNOW IF THE APPELLANT HAD ANYTHING TO PROVIDE FOR THE MINOR CHILD. IN DOING SO, THE APPELLE WAS FOUND IN CONTEMPT OF COURT AND SENTENCED TO 30 DAYS IN JAIL." (Sic.)

Assignment of Error Number Three

“THE MAGISTRATE ALSO ABUSED HIS DECISION ON PAGE FOUR (4) OF THE TRANSCRIPT.”

{¶7} In her first and third assignments of error, Mother touches upon several issues relating to the trial court’s decision to award Father unsupervised visitation. Mother argues that the court did not give serious consideration to her objection to unsupervised visitation. Mother also argues that the magistrate abused his decision “on page four (4) of the transcript.”

{¶8} Initially, we note that Mother appears pro se on appeal. With respect to pro se litigants, this Court has held as follows:

“[A] pro se litigant is presumed to have knowledge of the law and correct legal procedures so that he remains subject to the same rules and procedures to which represented litigants are bound. He is not given greater rights than represented parties, and must bear the consequences of his mistakes. This Court, therefore, must hold [pro se appellants] to the same standard as any represented party.” (Internal citations omitted.) *Sherlock v. Myers*, 9th Dist. No. 22071, 2004-Ohio-5178, at ¶3.

This Court “will not guess at undeveloped claims on appeal.” *State v. Wharton*, 9th Dist. No. 23300, 2007-Ohio-1817, at ¶42.

{¶9} The magistrate held a hearing on the issue of Father’s visitation on August 31, 2009. Both Mother and Father appeared pro se and gave their respective positions as to whether Father’s visitations with K.J. should be supervised or unsupervised. Mother’s argument at the hearing was that Father should not be entitled to unsupervised visitation because he never wanted a child and failed to help Mother during the first few months of K.J.’s life. She also briefly stated that she did not trust Father’s family and acquaintances. The entire transcript from the hearing is five pages long.

{¶10} Mother’s first assignment of error presents this Court with a factual and procedural recitation of this case’s history, told from Mother’s perspective. The assignment of error does not actually assign error to the trial court or magistrate. It merely recalls Mother’s

efforts in this case. On the other hand, Mother's second assignment of error assigns error to the magistrate, but does not explain the basis for the alleged error. It merely sets forth the page of the transcript where Mother believes an error occurred. Further, the argument section of Mother's brief is essentially a very short recitation of her captioned assignments of error. Mother does not explain why she believes the trial court did not address her objection. With regard to her claim that the magistrate abused his discretion, Mother argues that "[t]he transcript was very short and did not comply with the magistrate's motion." Mother does not elaborate upon any of her arguments or support them with any citations to authority.

{¶11} App.R. 16(A)(7) requires an appellant to provide this Court with arguments in support of each assignment of error, including "the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which [the] appellant relies." Without any explanation of the bases for Mother's arguments or any supporting citations, this Court cannot properly address Mother's arguments on appeal. The magistrate gave Mother the opportunity to present her position. Further, the trial court received and considered Mother's objection in light of the transcript and documentary evidence in the record. Nothing on the face of the record suggests that the court below failed to consider Mother's arguments, and Mother has not pointed this Court to any specific factual or legal error that she believes occurred in the trial court. See App.R. 16(A)(7). As noted, this Court "will not guess at undeveloped claims on appeal." *Wharton* at ¶42. Because Mother has not presented this Court with reasoned arguments in support of properly framed assignments of error, this Court must conclude that Mother's first and third assignments of error lack merit. As such, they are overruled.

{¶12} Mother's assignments of error are overruled. The judgment of the Summit County Court of Common Pleas, Domestic Relations Division, is affirmed.

Judgment affirmed.

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 to Appellant.

BETH WHITMORE
FOR THE COURT

MOORE, J.
BELFANCE, P. J.
CONCUR

APPEARANCES:

RACHAEL A. SCHWEYER, pro se, Appellant.