[Cite as *Beverly v. Withers*, 2026-Ohio-4423.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

CLINTON COUNTY

DERRICK BEVERLY,	:	CASE NO. CA2026-05-010
Appellant,	:	
vs.	:	OPINION AND JUDGMENT ENTRY 11/9/2026
MEGAN TEBOE WITHERS,	:	
Appellee.	:	
	:	

APPEAL FROM CLINTON COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case No. 20254023

Derrick Beverly, pro se.

Megan Teboe Withers, pro se.

O P I N I O N

SIEBERT, J.

{¶ 1} Appellant, Derrick Beverly ("Father"), appeals the judgment of the Clinton

County Juvenile Court denying his motions to modify parental rights and responsibilities, modify child support, and hold Mother in contempt, among other requests for relief.

{¶ 2} Father argues that the juvenile court erred in finding no change in circumstances warranted a custody modification, denying his contempt motions, refusing to modify child support, weighing the best-interest factors, and limiting his cross-examination of the guardian ad litem ("GAL"). Because the juvenile court's findings are supported by competent, credible evidence and Father has not demonstrated reversible error, we affirm.

I. Facts and Procedural History

{¶ 3} Father and Megan Withers ("Mother") are the parents of "Emily."[1] Under the existing court orders, Mother is Emily's residential parent and legal custodian. Subsequently, Father moved to reallocate parental rights and responsibilities, modify child support, and hold Mother in contempt.

{¶ 4} The matter proceeded to an evidentiary hearing. Father presented evidence that Jamar Warren, Mother's former boyfriend, had threatened him and argued that the incident constituted a change in circumstances warranting a modification of custody. Father also raised concerns regarding communication difficulties with Mother, Emily's participation in counseling, and Mother's alleged interference with his relationship with Emily, including communications he believed demonstrated efforts to limit his contact with the child. Father also sought a reduction in child support, asserting that his income had decreased, and advocated for shared parenting.

1. "Emily" is a pseudonym adopted for this opinion for the purposes of privacy and readability. *In re D.P.*, 2022-Ohio-4553, ¶ 1, fn. 1 (12th Dist.).

{¶ 5} Mother and the GAL also testified. The evidence showed that Emily maintained meaningful relationships with both parents. During an in camera interview, Emily expressed a desire for additional parenting time with Father but wanted to continue residing primarily with Mother, who had historically served as her primary caregiver.

{¶ 6} Following the hearing, the juvenile court denied Father's motions to modify custody and child support and his motions for contempt and show cause. Although the court declined to designate Father as Emily's residential parent, it expanded his parenting time to accommodate Emily's desire for increased contact. The court issued written findings of fact and conclusions of law explaining its decisions.

{¶ 7} Father now appeals, raising five assignments of error.[2]

II. Appeal

A. Change in Circumstances

{¶ 8} In his first assignment of error, Father argues that the juvenile court erred in finding that he failed to establish a change in circumstances warranting a modification of parental rights and responsibilities.

{¶ 9} "In determining whether a modification of custody is warranted, the trial court must follow R.C. 3109.04(E)(1)(a)." *Lemasters v. Lemasters*, 2019-Ohio-4395, ¶ 10 (12th Dist.). Pursuant to that statute, a juvenile court may not modify a prior decree allocating parental rights and responsibilities unless it first finds that a change in circumstances has occurred since the prior decree and that modification is necessary to serve the child's best interest. *D.M. v. J.D.*, 2017-Ohio-4118, ¶ 12 (12th Dist.).

2. Mother has not filed an appellate brief. Pursuant to App.R. 18(C), this court may accept Father's statement of the facts and issues as correct and reverse the judgment if his brief reasonably appears to sustain such action.

{¶ 10} The statute is intended to promote stability in children's lives and prevent repeated custody litigation when a nonresidential parent believes he or she could provide a "better" environment. *Bingham v. Elliott*, 2013-Ohio-3314, ¶ 15 (12th Dist.). Although R.C. 3109.04 does not define "change in circumstances," we have previously stated that the term refers to an "event, occurrence, or situation which has a material and adverse effect upon a child." *Jones v. Wall*, 2016-Ohio-2780, ¶ 17 (12th Dist.). The change must be substantive, rather than slight or inconsequential. *Heath v. Heath*, 2017-Ohio-5506, ¶ 37 (12th Dist.). A juvenile court has wide latitude in determining whether a change in circumstances has occurred, and we will not reverse that determination absent an abuse of discretion. *In re A.T.*, 2022-Ohio-1803, ¶ 24 (12th Dist.).

{¶ 11} Father identifies three circumstances that he contends warranted modification: Warren's alleged threat, Emily's participation in counseling, and Mother's alleged interference with his parenting time and efforts to alienate Emily from him. Father also argues that the juvenile court improperly considered these circumstances individually rather than collectively.

{¶ 12} Father further contends that the juvenile court improperly imposed requirements not found in R.C. 3109.04(E)(1)(a). Specifically, he characterizes the court's observation that Mother did not make the alleged threat as an improper "attribution-to-Mother requirement." He similarly challenges the court's finding that "there was no evidence presented that [Emily's] condition began post the previous order, that it was caused by Mother, that [Emily's] needs were not being cared for properly by Mother, and/or that Father would do a better job of caring for [Emily]," arguing that the court effectively imposed a four-part test not found in the statute.

{¶ 13} We do not read the juvenile court's decision as establishing additional statutory prerequisites to modification. In context, these statements reflect factual findings addressing Father's specific allegations, not additional statutory prerequisites to modification. The court evaluated whether the circumstances Father identified materially affected Emily and whether the evidence substantiated his claims. The court's references to Mother's involvement in the alleged events were part of that factual assessment, not an indication that the court applied an incorrect legal standard.

{¶ 14} The record further demonstrates that the juvenile court considered each allegation but found the evidence insufficient to establish a change in circumstances. We find no abuse of discretion in that determination.

{¶ 15} Regarding the alleged threat, the court found that Mother neither made the statements nor directed Warren to make them. The evidence indicated that the dispute arose between Father and Warren and concerned matters unrelated to Emily. The court also found no evidence that Emily knew about the alleged threats or was adversely affected by them. The juvenile court therefore reasonably concluded that the incident did not warrant a custody modification. Although Father characterizes the alleged threat as a significant change in circumstances, the juvenile court was permitted to conclude that a dispute between Father and Warren, did not materially alter Emily's circumstances.

{¶ 16} The court likewise rejected Father's reliance on Emily's participation in counseling. Although Father emphasized the fact Emily had received counseling, the evidence did not establish that she suffered from untreated emotional, medical, or developmental issues. Rather, the evidence indicated that counseling was obtained as concerns arose and that Emily was otherwise doing well. Without any evidence that

Emily's circumstances had materially deteriorated, the court reasonably concluded that her participation in counseling did not constitute a substantive change under R.C. 3109.04(E)(1)(a).

{¶ 17} Finally, the court rejected Father's allegations that Mother interfered with his parenting time and attempted to alienate Emily from him. The juvenile court found that Father failed to establish either parental alienation or a violation of the existing parenting-time orders. Because the juvenile court was in the best position to observe the witnesses and evaluate their testimony, we defer to those credibility determinations.

{¶ 18} Moreover, Father's own presentation at trial focused significantly on obtaining additional parenting time and implementation of a shared-parenting arrangement. Father noted that the GAL reports recommended shared parenting and urged the court to adopt that recommendation. The juvenile court addressed those concerns by expanding Father's parenting time. The fact that the court found expanded parenting time appropriate did not require it to conclude that a change in circumstances existed sufficient to justify modifying the existing residential-parent designation.

{¶ 19} Considered together, these circumstances do not compel a different result. Father's emphasis on the GAL's recommendation for shared parenting and his desire for additional parenting time does not establish that the existing residential-parent designation should be changed. The juvenile court addressed Emily's desire for increased contact with Father by expanding his parenting time without altering the existing custodial arrangement. Emily's preference to continue residing primarily with Mother, together with the evidence that she maintained meaningful relationships with both parents and was doing well, further supports the court's decision.

{¶ 20} Accordingly, whether considered individually or collectively, Father's allegations do not demonstrate that the juvenile court abused its discretion in finding no change in circumstances warranting a modification of parental rights and responsibilities. Father's first assignment of error is overruled.

B. Contempt

{¶ 21} In his second assignment of error, Father argues that the juvenile court erred by denying his motions for contempt and for an order to show cause.

{¶ 22} To establish civil contempt, the moving party must prove by clear and convincing evidence that the opposing party violated a court order. *O'Brien v. O'Brien*, 1997 WL 208133, *2 (12th Dist. Apr. 28, 1997); *Jenkins v. Jenkins*, 2012-Ohio-4182, ¶ 12 (2d Dist.). We review a court's contempt determination for an abuse of discretion. *Wolf v. Wolf*, 2010-Ohio-2762, ¶ 4 (1st Dist.).

{¶ 23} Father based his contempt motions on allegations that Mother interfered with his parenting time and undermined his relationship with Emily. Although Father relies heavily on a text message in which Mother warned that she would pursue harassment charges if his communications continued, the juvenile court was not required to conclude from a single communication that Mother violated a court order, denied parenting time, or interfered with Father's relationship with Emily. The juvenile court found that Father failed to establish by clear and convincing evidence that Mother violated any parenting-time order. It also rejected his claims of parental alienation. The juvenile court specifically found that Father failed to substantiate his allegations of parenting-time interference and parental alienation, findings that undercut the basis for his contempt motions.

{¶ 24} The record shows that the parties offered conflicting accounts of their communications and the incidents Father believed demonstrated interference. Mother denied interfering with his relationship with Emily and testified that she encouraged the relationship. The juvenile court was permitted to assess the witnesses' credibility and credit Mother's testimony over Father's.

{¶ 25} Given the juvenile court's credibility determinations and its finding that Father failed to establish a violation of any court order, we find no abuse of discretion in the denial of Father's contempt motions. Accordingly, Father's second assignment of error is overruled.

C. Modification of Child Support

{¶ 26} In his third assignment of error, Father argues that the juvenile court erred by denying his motion to modify child support despite his testimony that his income had decreased.

{¶ 27} A party seeking modification of an existing child-support order bears the burden of demonstrating a substantial change in circumstances warranting modification. *Johnson v. Melton*, 2011-Ohio-792, ¶ 18 (12th Dist.).

{¶ 28} Here, the juvenile court found that Father failed to submit a financial-disclosure affidavit or sufficient documentation to verify his income. He did not provide tax returns, pay stubs, W-2 forms, or any comparable documentation from which the court could reliably determine his earnings. *See* R.C. 3119.05(A). Father also acknowledged that he had not filed an income affidavit and had not filed his most recent tax return.

{¶ 29} Although Father testified that his income had decreased to approximately $70,000 annually, the court was not required to accept that assertion without supporting

documentation. In the absence of reliable financial records, the court reasonably concluded that it lacked a sufficient basis to verify Father's claimed income or determine whether a modification was warranted. Accordingly, we find no abuse of discretion in the juvenile court's denial of Father's motion to modify child support. Father's third assignment of error is overruled.

D. Best-Interest Determination

{¶ 30} In his fourth assignment of error, Father argues that the juvenile court improperly weighed the best interest factors in R.C. 3109.04(F). On appeal, Father primarily relies on R.C. 3109.04(F)(1)(f), which directs the court to consider which parent is more likely to honor and facilitate court-approved parenting time.

{¶ 31} The juvenile court specifically considered this factor but found that Father's allegations of interference were unsupported by the evidence. As discussed above, the court rejected Father's claims that Mother violated parenting-time orders or attempted to alienate Emily from him. It also found no substantiated evidence that Emily had become alienated from Father. Those findings are supported by the record, and we defer to the court's assessment of the conflicting testimony.

{¶ 32} The juvenile court also considered Emily's wishes, her relationship with both parents, and the GAL reports. Emily expressed a desire for additional parenting time with Father but wished to continue residing primarily with Mother. The court accommodated her desire for increased contact by expanding Father’s parenting time while maintaining Mother’s designation as residential parent.

{¶ 33} Father's disagreement with the juvenile court's decision does not establish that the court abused its discretion. The record supports the court's findings concerning

the parties' respective relationship with Emily and Mother's willingness to facilitate Father's parenting time. We find no abuse of discretion in the court's consideration of the best interest factors. Father's fourth assignment of error is overruled.

E. Cross-Examination of the GAL

{¶ 34} In his fifth assignment of error, Father argues that the juvenile court improperly restricted his cross-examination of the GAL.

{¶ 35} The admission or exclusion of relevant evidence rests within the discretion of the trial court. *Ohmer v. Renn-Ohmer*, 2013-Ohio-330, ¶ 17 (12th Dist.). An appellate court will not disturb a decision of the trial court to admit or exclude evidence absent a clear and prejudicial abuse of discretion. *State v. Young*, 2021-Ohio-2541, ¶ 54 (12th Dist.); *League v. Collins*, 2013-Ohio-3857, ¶ 8 (12th Dist.).

{¶ 36} Evid.R. 611 provides that "[c]ross-examination shall be permitted on all relevant matters and matters affecting credibility."

{¶ 37} The record reflects that, prior to Father's cross-examination of the GAL, the juvenile court informed Father that cross-examination was limited to matters addressed on direct examination. Father contends that this restriction improperly limited the scope of cross-examination.

{¶ 38} However, even if the court's ruling improperly restricted cross-examination under Evid.R. 611(B), Father has not demonstrated prejudice. After the court advised Father of the limitation, Father asked the GAL only whether he had previously discussed child support with her. The GAL responded that she believed they had discussed the issue but could not recall whether she or Father had raised it. Father then ended his examination.

{¶ 39} Father did not identify any additional questions he wanted to ask, explain what testimony he expected to elicit, or proffer the evidence purportedly excluded by the court's ruling. Without such a proffer, we cannot determine whether any limitation on cross-examination affected Father's substantial rights. As noted above, an appellant bears the burden of demonstrating both error and resulting prejudice. *Beard v. Meridia Huron Hosp.*, 2005-Ohio-4787, ¶ 35.

{¶ 40} Moreover, the juvenile court's decision was based upon multiple considerations, including its credibility determinations, its rejection of Father's parental alienation claims, Emily's expressed wishes, and the GAL reports. Father has not demonstrated that additional questioning of the GAL would have affected those findings or changed the outcome.

{¶ 41} Because Father failed to demonstrate that any limitation on cross-examination affected his substantial rights, any error was harmless. Accordingly, Father's fifth assignment of error is overruled.

III. Conclusion

{¶ 42} Having overruled all five assignments of error, we affirm the judgment of the juvenile court.

{¶ 43} Judgment affirmed.

M. POWELL, P.J., and DONOVAN, V.J., concur.

Donovan, J., retired, of the Second Appellate District, sitting by assignment of the Chief Justice, pursuant to Section 6(C), Article IV of the Ohio Constitution.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Clinton County Court of Common Pleas, Juvenile Division, for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Mike Powell, Presiding Judge

/s/ Melena S. Siebert, Judge

/s/ Mary E. Donovan, Visiting Judge