[Cite as *Waymeyer v. Waymeyer*, 2026-Ohio-4533.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

CLERMONT COUNTY

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| MICHAEL T. WAYMEYER, | : | CASE NO. CA2026-01-004 |
| Appellee, | : | |
| vs. | : | OPINION AND JUDGMENT ENTRY 11/16/2026 |
| SARAH WAYMEYER, | : | |
| Appellee, | : | |
| vs. | : | |
| DONALD KNECHT, | : | |
| Appellant and Third-Party Intervenor. | : | |
| | : | |

CIVIL APPEAL FROM CLERMONT COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
Case No. 2023 DRA 00014

Helmes Legal Services, and Andrew J. Helmes, for appellee Michael T. Waymeyer.

Sarah Waymeyer, pro se.

Trolinger Law Offices, LLC, and Christopher L. Trolinger, for appellant and third-party intervenor Donald Knecht.

## O P I N I O N

**PIPER, J.**

**{¶ 1}** Appellant ("Great-Grandfather") appeals the decision of the Clermont

County Court of Common Pleas, Domestic Relations Division, denying companionship rights with his two great-granddaughters. For the reasons discussed below, this court affirms the domestic relations court's decision.

## I. Factual and Procedural Background

**{¶ 2}** Mother and Father married in February 2016. Their children, Emma and Olivia, were born in September 2017 and August 2018, respectively.[1] In 2021, Mother sought a civil protection order against Father. Although the order did not name the minor children as protected parties, it provided that Father was not allowed to have contact with the children. At that time, Mother was designated the children's temporary residential parent and legal custodian. Mother and Father officially separated in December 2021. After the separation, Mother began living with another man, Charles Smith ("Smith"). Father agreed to a consent order granting him supervised parenting time with the children in March 2022.

**{¶ 3}** In September 2022, Father obtained an ex parte civil stalking protection order against Smith, naming Emma and Olivia as protected parties. At the full hearing held on Father's protection order, Great-Grandfather appeared as a character witness for Smith and paid his legal fees. Following that hearing, the domestic relations court found that Smith engaged in menacing by stalking the children through texts to Father, threatened to use physical harm to discipline them, and threatened to show them "sex stories" depicting Father as homosexual. The court held that Smith engaged in conduct that left the children bruised and knowingly caused them to believe he would cause them physical or mental distress. The order prohibited Smith from initiating or having any

1. "Emma" and "Olivia" are pseudonyms, adopted for the purposes of privacy and readability. *See In re J.W.*, 2024-Ohio-5142, ¶ 1, fn. 1 (12th Dist.); and *The Supreme Court of Ohio Writing Manual*, § 16, at 115 (3d. Ed. 2024).

contact with Emma and Olivia for five years.

**{¶ 4}** On January 5, 2023, Father filed for divorce from Mother, asking to be named Emma and Olivia's temporary residential and custodial parent and requesting supervised visitation time for Mother. In an attached affidavit, Father stated that he believed Mother had allowed Smith to be around the children in violation of the aforementioned civil stalking protection order. Mother was pregnant with Smith's child at the time, and Father believed that Smith and Mother had remained in a relationship since the order was issued and that Mother continued to allow Smith around Emma and Olivia. Mother filed a counterclaim for divorce from Father, seeking legal custody of the children and the complete suspension of Father's parenting time.

**{¶ 5}** On March 6, 2023, the magistrate designated Mother as the children's residential parent and legal custodian, with Father having supervised visitation every other weekend. Under the protection order, Smith was not permitted to be around the children during Mother's parenting time. One month later, on April 6, 2023, and at Mother's request, the magistrate held a hearing to address the children's temporary custody.

**{¶ 6}** At the conclusion of that hearing, the magistrate found Mother's testimony not credible, including her claim that Smith had been around the children only once, which Marcus Sarver, a friend of Father's, contradicted. Based upon this credibility determination, the magistrate designated Father as Emma and Olivia's residential parent and legal custodian and ordered Mother's visitation to be supervised because of safety concerns for the children in her care. The magistrate also reiterated the prior order prohibiting Smith from being around Emma and Olivia.

**{¶ 7}** Later in April 2023, Father sought and obtained a protection order against

Mother for continuing to allow Smith around the children.[2] Since approximately April 2023, Mother has had no contact with the children, with Mother and Father finalizing their divorce a few months later, in September 2023. Shortly after Mother's and Father's divorce was finalized, on January 3, 2024, Great-Grandfather, as a third-party defendant, moved for companionship or visitation rights regarding the children. One month later, on February 7, 2024, Great-Grandfather moved to intervene in Mother's and Father's divorce case, and the magistrate granted the motion. A guardian ad litem ("GAL") was thereafter appointed.[3]

**{¶ 8}** On May 7, 2025, the domestic relations court held a hearing on Great-Grandfather's complaint for companionship time with Emma and Olivia. Great-Grandfather and Father appeared with counsel; Mother did not attend. At that hearing, the court heard testimony from Father, Great-Grandfather, and the GAL, and received the GAL's report. The report noted Great-Grandfather's "ignorance" of the abuse the children suffered during the divorce proceedings or, at minimum, that he "minimizes its significance." The GAL also noted Great-Grandfather's skepticism and lack of respect for Father, believing Great-Grandfather was "trying to save the children herein from the damage that comes from Mother's abandonment and also to reconcile his entire family … through his visitation with the children." The GAL's report ultimately recommended that Great-Grandfather have public visitation with the children at Father's discretion.

**{¶ 9}** On May 20, 2025, the magistrate denied Great-Grandfather's request for companionship time with Emma and Olivia. In so ruling, the magistrate cited concerns about the children's health and safety, noting that "not a single person" on their maternal

2. In May 2024, Father extended the protection order against Mother for another four years.

3. The GAL, Vivian Martin, served as Emma and Olivia's GAL during the divorce proceedings, and was thereafter reappointed as GAL during Great-Grandfather and Father's proceedings.

side of the family, other than Great-Grandfather, had expressed interest in them. The magistrate also emphasized that the children were thriving in Father's care and that no evidence suggested otherwise. The magistrate concluded that maintaining a relationship with Great-Grandfather was not in Emma and Olivia's best interest.

**{¶ 10}** On October 17, 2025, Great-Grandfather filed objections to the magistrate's decision.[4] Two months later, on December 17, 2027, the domestic relations court overruled Great-Grandfather's objections to the magistrate's decision and adopted the magistrate's decision as the court's final order. Great-Grandfather now appeals the court's decision denying his request for companionship time with the children, raising two assignments of error for review. For ease of discussion, we address both of Great-Grandfather's assignments of error together.

## II. Great-Grandfather's Two Assignments of Error

**{¶ 11}** In his two assignments of error, Great-Grandfather argues that the domestic relations court erred by finding that he knew about the children's alleged abuse and by denying him companionship time with them. To support these arguments, Great-Grandfather contends that the court improperly determined that companionship time would not be in the children's best interests and gave too much weight to Father's wishes. Upon review, however, we find no error with the domestic relations court's decision.

**{¶ 12}** An appellate court will not reverse a trial court's decision regarding visitation rights absent an abuse of discretion. *King v. King*, 2006-Ohio-5985, ¶ 8 (12th Dist.). An abuse of discretion implies that the trial court's decision was unreasonable, arbitrary, or unconscionable. *Id.* "The vast majority of cases in which abuse of discretion is asserted

4. We note that Great-Grandfather did not initially receive the magistrate's decision. On September 18, 2025, Great-Grandfather filed a motion for leave to file untimely objections due to not receiving the magistrate's decision. Four days later, the domestic relations court issued an order granting Great-Grandfather's motion to file his objections with an October 17, 2025 deadline.

involve claims that the decision is unreasonable." *Snell v. Howell*, 2024-Ohio-1522, ¶ 19 (12th Dist.), citing *In re L.W.,* 2021-Ohio-2461, ¶ 21. A court's decision is unreasonable where it is not supported by a "sound reasoning process." *Id.*

**{¶ 13}** A parent has a fundamental right to make decisions regarding the care, custody, and control of his or her own child. *Traxel v. Granville*, 530 U.S. 57, 65 (2000); *In re P.R.P.*, 2018-Ohio-216, ¶ 18 (12th Dist.); *In re O.A.*, 2023-Ohio-1782, ¶ 22 (12th Dist.). Grandparents, however, have no constitutional right of association with their grandchildren. *In re A.B.*, 2016-Ohio-2891, ¶ 39 (12th Dist.), citing *In re Martin*, 1994-Ohio-506, ¶ 14. Instead, grandparents may only be granted companion or visitation rights as provided by statute. *Id.* "Because a parent has a fundamental right to parent whereas the nonparent has only a statutory right to request visitation, the nonparent has the burden to prove that visitation will be in the child's best interest." *In re O.A.* at ¶ 23, citing *In re P.R.P.* at ¶ 18.

**{¶ 14}** Great-Grandfather sought companionship time with Emma and Olivia under R.C. 3109.051(B)(1). In accordance with R.C. 3109.051(B), a court may grant companionship rights to a grandparent only if it determines that (1) the grandparent filed a motion with the court seeking visitation, (2) has an interest in the welfare of the child, and (3) such visitation is in the best interest of the child. When determining whether to grant visitation rights to a grandparent, the court is required to consider all relevant factors, including those listed in R.C. 3109.051(D). This includes a requirement that the court consider "the wishes and concerns of the child's parents, as expressed by them to the court." R.C. 3109.051(D)(15). "Although the trial court can consider any factors it considers relevant, consideration of the parent's wishes and concerns is mandatory." *Harrold v. Collier*, 2005-Ohio-5334, ¶ 42. The court must also weigh the parent's wishes and concerns against the other R.C. 3109.051(D) factors. *In re O.A.* at ¶ 25.

**{¶ 15}** Although rebuttable, there is a presumption that "fit parents act in the best interest of their children." *Traxel*, at 68; *Harrold* at ¶ 44; *In re O.A.*, 2023-Ohio-1782, at ¶ 23 (12th Dist.). Absent an allegation of parental unfitness, the parents' determination of their child's best interest must be afforded "special weight." *Traxel* at 69; *Harrold* at ¶ 12, 42-43; *In re O.A.* at ¶ 24. We note that the record contains no allegations that Father is an unfit parent. The domestic relations court likewise observed that no evidence suggested Father was an unfit parent; rather, the court found that the evidence showed the children were "thriving in [Father's] care."

**{¶ 16}** Under Ohio's nonparental visitation statutes, a court "afford[s] parental decisions the requisite special weight, [and] take[s] into consideration the best interest of the child and balance[s] that interest against the parent's desires." *Harrold*, at ¶ 43. "[T]he manner in which this standard is to be applied to each case must be 'elaborated with care.' Thus, there must be some meaningful rationale given for either abiding by or overriding the wishes of the parent." *Celek v. Celek*, 2009-Ohio-4990, ¶ 10 (1st Dist.), citing *Traxel*, 530 U.S. at 73. *See also In re O.A.* at ¶ 25.

**{¶ 17}** In her decision, the magistrate properly cited the applicable legal principles and weighed each of the factors listed in R.C. 3109.051(D). In doing so, the magistrate identified the relevant facts underlying her decision. Based on the hearing testimony, the magistrate found that Great-Grandfather had a close, loving relationship with Emma and Olivia during their early years and throughout their parents' divorce proceedings. Much of that relationship developed because Great-Grandfather cared for the children three days a week for a year during the divorce proceedings. Apart from Great-Grandfather, however, the children have no relationship with their maternal family, who, for reasons

unknown, the record indicates, have no desire to have one.[5] Although Great-Grandfather was once close to Emma and Olivia, he has had no contact with them since May 2023—more than three years ago.

**{¶ 18}** The magistrate also raised concerns about the children's health and safety if allowed to spend time with Great-Grandfather. At Smith's protection order hearing, Great-Grandfather testified on Smith's behalf as a character witness and paid his legal fees after Smith violated the protection order, despite knowing about the abuse the children had endured. Great-Grandfather continues to minimize the abuse and question whether it occurred. The GAL report further states that Great-Grandfather questions whether Father fabricated the abuse allegations and notes his continued skepticism and lack of respect toward Father. The magistrate also found that Great-Grandfather continues to protect Mother and expressed uncertainty about why Mother cannot see the children.

**{¶ 19}** As relevant here, the magistrate identified Father's wishes and noted that the court must give them "special weight" absent an allegation of parental unfitness. The magistrate found no allegations or evidence that Father was unfit, and Great-Grandfather presented no evidence to indicate otherwise. Indeed, the magistrate observed that "[q]uite the contrary, the evidence showed that the children were thriving in [Father's] care." Because Father was presumed fit and Grandfather presented no evidence of parental unfitness, Father's wishes and concerns were entitled to "special weight."

**{¶ 20}** Father stated that he does not want Great-Grandfather to have companionship time with Emma and Olivia. At the hearing, Father testified that the

5. During Mother and Father's marriage, the two lived next to Great-Grandfather's son, but that he and his wife have never seen Emma and Olivia. The magistrate emphasized in her findings that the maternal side of the family, including Mother, has made statements they do not "*want* a relationship with the girls and actively avoid them." (Emphasis in original.)

children had not seen Great-Grandfather in two years and that their last visit occurred during a "tremendously traumatic period in their lives." Father is justifiably concerned that reintroducing Great-Grandfather could rekindle the trauma they experienced from abuse and Mother's abandonment. The GAL expressed a similar concern in her report, stating she has "concern that visiting with [Great-Grandfather] will probably naturally take their minds back in time to when they were spending time with [Great-Grandfather] … which is the timeline in which they experienced abuse and subsequently the abandonment from Mother."

**{¶ 21}** Father also told the magistrate that he was concerned Great-Grandfather had testified on Smith's behalf at his protection order hearing and paid his legal fees after Smith violated the order, enabling his release from jail. Father remained concerned that Great-Grandfather still seemed to doubt the abuse the children endured during that period.

**{¶ 22}** After weighing the R.C. 3109.051(D) factors and giving special weight to Father's wishes, the magistrate declined to follow the GAL's recommendation for public visits between Great-Grandfather and the children at Father's discretion, concluding that those visits would not serve Emma and Olivia's best interests. Great-Grandfather objected to the magistrate's decision, which the domestic relations court overruled. In so doing, the court explained that it must give special weight to Father's wishes in considering Great-Grandfather's request for companionship rights. The court added that a fit parent is presumed to act in the children's best interests, but that the presumption can be rebutted and that the nonparent (i.e., Great-Grandfather) bears the burden of proving that companionship time is in the children's best interests. The court further emphasized the circumstances and concerns described above and held that the magistrate properly determined that the children's interest in maintaining a relationship

with Great-Grandfather was outweighed by Father's wishes. This is in addition to the court finding that there was a "high likelihood that psychological harm will befall the children if reintroduced to members of Mother's family."[6]

**{¶ 23}** After thoroughly reviewing the record and the decisions below, we find that the magistrate and the domestic relations court gave Father's wishes the required special weight and properly denied Great-Grandfather's request for companionship time. In the magistrate's opinion, she identifies several factors under R.C. 3109.051(D) and explains her findings in accordance with the statute. In addressing Father's "special weight," she cites a footnote to *Traxel* and explains that, in addition to considering the factors, "the Court is required to give [Father's] wishes 'special weight' absent an allegation of parental unfitness." The magistrate did not minimize the relationship between Great-Grandfather and the children during Mother and Father's divorce proceedings; the magistrate instead found that Great-Grandfather had not presented sufficient evidence to outweigh Father's wishes and concerns.

**{¶ 24}** Moreover, the domestic relations court further explained the "special weight" by citing both *Harrold* and *Traxel*. The court expressed concern that Great-Grandfather continued to doubt the children's abuse allegations, including the connection with his role in Smith's legal proceedings. The court also noted that reintroducing Great-Grandfather could rekindle the children's past trauma. Based on these considerations, the court found that maintaining a relationship with Great-Grandfather was not in Emma and Olivia's best interests, while recognizing the caring relationship the three had once shared. This was not error.

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6. We note that Great-Grandfather raised two objections to the magistrate's decision. In his first objection, he argued that the GAL's investigation was deficient in the performance of her duties. The domestic relations court overruled his objection finding that the GAL adequately determined the best interest of the children "using her professional judgment and resources reasonably available to her," even if she deviated from Superintendence Rule 48(D). This objection was not part of this appeal.

**{¶ 25}** In so ruling, we would be remiss if we did not acknowledge Great-Grandfather's emphasis on the importance of the grandparent-grandchild relationship in the children's lives and that "maintenance of this relationship may be in the best interest of the child." However, visitation with a grandparent is not presumed to be in the child's best interest. "Rather, the burden is on the grandparent to prove visitation would be in the best interest of the child." *In re O.A.*, 2023-Ohio-1782, at ¶ 34 (12th Dist.), citing *M.H. v. B.K.*, 2022-Ohio-4777, ¶ 46 (1st Dist.). Great-Grandfather did not meet that burden.

## III. Conclusion

**{¶ 26}** In light of the foregoing, we hold that Great-Grandfather failed to meet his burden of proving that companionship would be in Emma and Olivia's best interest. The magistrate and the domestic relations court properly balanced the factors under R.C. 3109.051(D) and gave Father the requisite "special weight" as a fit parent. Accordingly, we overrule Great-Grandfather's two assignments of error.

**{¶ 27}** Judgment affirmed.

HENDRICKSON, P.J., and SIEBERT, J., concur.

# 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 Clermont County Court of Common Pleas, Domestic Relations 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/ Robert A. Hendrickson, Presiding Judge*

*/s/ Robin N. Piper, Judge*

*/s/ Melena S. Siebert, Judge*