

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
PICKAWAY COUNTY

JOHN DAVID ROGERS, II,	:	
	:	
Plaintiff-Appellant,	:	Case No. 25CA11
	:	
v.	:	
	:	
DACIA ROGERS,	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
	:	
Defendant-Appellee.	:	

APPEARANCES:

Heather B. Sobel, Wolinetz & Horvath, LLC, Columbus, Ohio, for appellant.

Randy S. Kurek, Kurek Law, New Albany, Ohio, for appellee.

Smith, P.J.

{¶1} John David Rogers, II, appeals the Decision and Entry entered March 11, 2025 by the Pickaway County Court of Common Pleas. The Decision and Entry overruled objections to the Magistrate’s Decision issued October 10, 2024. John David Rogers, II, “Father” and Dacia Rogers, “Mother,” were divorced in 2021. Father’s appeal sets forth three assignments of error concerning custody, shared parenting, and child support.

{¶2} Based on our review, we find that competent credible evidence supports the trial court's Decision and Entry. Accordingly, all assignments of error are without merit and are hereby overruled. The judgment of the trial court is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

{¶3} Father and Mother were married in 2008. They are the parents of C.J.R., born in 2007; R.R.R., born in 2008; and R.N.R., born in 2009. On January 14, 2020, Father filed a complaint for divorce. On February 24, 2020, Mother filed her answer. Typical divorce proceedings ensued.

{¶4} On August 3, 2020, Father filed a motion for leave to file an amended complaint to assert a claim challenging paternity of the older two children. The trial court granted the motion. On August 14, 2020, Mother filed an answer to the amended complaint. Custody, shared parenting, spousal support, child support, and division of marital property were the key issues between the parties.

{¶5} On July 28, 2021, the matter came on for a final hearing for divorce before the magistrate. A Magistrate's Decision was issued on January 21, 2022. On February 7, 2022, Father filed 13 objections to the Magistrate's Decision. Mother filed a response and asserted eight

objections. On May 19, 2022, the trial court filed its Decision addressing the parties' objections.

{¶6} On September 9, 2022, the trial court issued its Judgment Decree of Divorce. Among other matters determined, the trial court found as follows:

- 1) that by judicial admission, a father/child relationship existed between Father and the two older children. The youngest child was found to be born during the marriage.
- 2) Father was ordered to pay spousal support and to pay arrears.
- 3) Mother's Amended Shared Parenting Plan was approved and incorporated into the agreement.
- 4) Father was ordered to pay child support and arrears.
- 5) both parties were ordered to be residential parents and legal custodians of the three children. The children were to reside equally with both parents on an alternating weekly basis.

On September 29, 2022, the trial court filed a Journal Entry Journalizing A Final Judgment Decree of Divorce. While the divorce was pending and after it was finalized, the parties filed various contempt motions.

{¶7} The underlying basis of this appeal concerns additional motions brought before the trial court. On August 4, 2023, Father filed Motion of Plaintiff John David Rogers, II, For Reallocation of Parental Rights and Responsibilities. The opening paragraph of the motion indicated the motion was filed only as regards to C.J.R., the parties' son and oldest child. On

August 25, 2023, Mother filed Defendant's Motion for Reallocation of Parental Rights and Responsibilities, which sought to terminate the Amended Shared Parenting Plan and designate Mother as the sole residential parent and legal custodian of all three children. On September 5, 2023, the trial court appointed a guardian ad litem, "GAL."

{¶8} Both motions came on for hearing on July 2, 2024. The Magistrate's Decision Findings of Fact and Conclusions of Law was filed October 10, 2024. Father filed general objections to the Magistrate's Decision, supplemental objections, and a motion for contempt. On March 11, 2025, the trial court filed its Decision and Entry. In it, the trial court observed that a full evidentiary hearing had been conducted, the magistrate applied the best interest factors, and that the magistrate had determined the best interests of the minor children were "best served" with Mother being designated custodial and residential parent of the three children.

{¶9} This timely appeal followed. It is worth noting that at the time of the final hearing, as indicated above, the parties herein live less than a mile from each other, so the children are within walking distance of each parent. Additional facts, via testimony, are set forth below.

ASSIGNMENTS OF ERROR

I. THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN DETERMINING FACTUAL

ISSUES AND APPROPRIATELY APPLYING THE LAW IN TERMINATING SHARED PARENTING AND GRANTING APPELLEE SOLE CUSTODY.

- II. THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN DETERMINING FACTUAL ISSUES AND APPROPRIATELY APPLYING THE LAW IN MODIFYING THE PARENTING TIME OF THE PARTIES.
- III. THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN DETERMINING ACTUAL ISSUES AND APPLYING THE LAW IN MODIFYING APPELLANT'S OBLIGATION OF CHILD SUPPORT.

Standard of Review

{¶10} “ ‘Appellate courts generally review “the propriety of a trial court's determination in a domestic relations case” under the “abuse of discretion” standard.’ ” *Sarchione Tookey, v. Tookey*, 2018-Ohio-2716, at ¶ 21 (4th Dist.), quoting *Clifford v. Skaggs*, 2017-Ohio-8597, ¶ 9 (4th Dist.), quoting *Booth v. Booth*, 44 Ohio St.3d 142, 144 (1989) (abuse of discretion standard applies to child support, custody, visitation, spousal support, and division of marital property). Under this highly deferential standard, we must affirm the decision of the trial court unless it is unreasonable, arbitrary, or unconscionable. *See State v. Beasley*, 2018-Ohio-16, at ¶ 12, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶11} “This standard is warranted because trial courts must have wide latitude in considering the evidence and assessing the parties' demeanor, attitude, and credibility.” *Robinette v. Bryant*, 2015-Ohio-119, ¶ 32 (4th Dist.), citing *Davis v. Flickinger*, 77 Ohio St.3d 415, 418-419 (1997). The factfinder can accept or reject all, part, or none of the testimony of each witness. *Jenkins v. Jenkins*, 2015-Ohio-5484, ¶ 23 (4th Dist.); *see also McKay Mach. Co. v. Rodman*, 11 Ohio St.2d 77, 82 (1967) (“The [trier of fact] can accept all, part, or none of the testimony of any witness whether it is expert opinion or eyewitness fact, whether it is merely evidential or tends to prove the ultimate fact.”). *Foley Constr. Co.*, 54 Ohio St.2d 279, syllabus (1978).

{¶12} The Supreme Court of Ohio has explained that “deferring to the trial court on matters of credibility is ‘crucial in a child custody case, where there may be much evident in the parties' demeanor and attitude that does not translate to the record well.’ ” *Wolford v. Willis*, 2018-Ohio-3937, at ¶ 14, quoting *Davis, supra*, at 419. Furthermore, we recognize that “custody issues are some of the most difficult and agonizing decisions a trial judge must make. Therefore, a trial judge must have wide latitude in considering all the evidence.” *Id.* at 418. As the Ohio Supreme Court also long-ago explained:

In proceedings involving the custody and welfare of children the power of the trial court to exercise discretion is peculiarly important. The knowledge obtained through contact with and observation of the parties and through independent investigation can not be conveyed to a reviewing court by printed record.

Trickey v. Trickey, 158 Ohio St. 9,13 (1952).

{¶13} Thus, this standard of review does not permit us to reverse the trial court's decision if we simply disagree with the decision. *See Willis*, at ¶ 13. We may, however, reverse a trial court's custody decision if the court made an error of law, if its decision is unreasonable, arbitrary, or unconscionable, or if substantial competent and credible evidence fails to support it. *Davis*, 77 Ohio St.3d at 418–419, 421 (explaining “abuse of discretion standard” and stating that courts will not reverse custody decisions as against the manifest weight of the evidence if substantial competent and credible evidence supports it, courts must defer to fact-finder, courts may reverse upon error of law, and trial court has broad discretion in custody matters).

Assignment of Error One - Termination of Shared Parenting

{¶14} Father argues that there is not substantial competent and credible evidence to support terminating shared parenting and granting Mother sole custody. Specifically, he testifies there was an absence of evidence regarding the two younger children, the daughters. He also

contends that the only testimony regarding the daughters is Mother's "limited and self-serving" testimony. Father also points out that the GAL recommended continued shared parenting for the daughters.

Legal Principles

{¶15} " 'R.C. 3109.04 establishes the process for allocating parental rights and responsibilities between the parents of a minor child.' " *Linn v. Utt*, at ¶16, quoting *Bruns v. Green*, 163 Ohio St.3d 43, ¶ 8 (2020). "In addition to outlining how a trial court initially allocates parental rights and responsibilities, R.C. 3109.04 also sets forth the procedures to be followed in the event that either a parent or the trial court finds it necessary to make changes to a shared-parenting decree or plan." *Id.* at ¶ 9. "The procedures differ depending on whether the trial court intends to *modify a decree* that allocates parental rights and responsibilities, *modify the terms* of a shared-parenting plan, or *terminate* a shared-parenting decree and plan." *Id.* (Emphasis added.)

{¶16} Relevant here, R.C. 3109.04(E)(2)(c) provides:

The court may terminate a prior final shared parenting decree that includes a shared parenting plan * * * upon the request of one or both of the parents or whenever it determines that shared parenting is not in the best interest of the children. R.C. 3109.04(E)(2)(c).

The “best interest” factors, written into R.C. 3109.04(F)(1), are set forth as follows:

In determining the best interest of a child pursuant to this section, whether on an original decree allocating parental rights and responsibilities for the care of children or a modification of a decree allocating those rights and responsibilities, the court shall consider all relevant factors, including, but not limited to:

(a) The wishes of the child's parents regarding the child's care;

(b) If the court has interviewed the child in chambers pursuant to division (B) of this section regarding the child's wishes and concerns as to the allocation of parental rights and responsibilities concerning the child, the wishes and concerns of the child, as expressed to the court;

(c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;

(d) The child's adjustment to the child's home, school, and community;

(e) The mental and physical health of all persons involved in the situation;

(f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights;

(g) Whether either parent has failed to make all child support payments, including all arrearages, that are required of that parent pursuant to a child support order under which that parent is an obligor;

(h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an

adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state.

(2) In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including, but not limited to, the factors enumerated in division (F)(1) of this section, the factors enumerated in section 3119.23 of the Revised Code, and all of the following factors:

(a) The ability of the parents to cooperate and make decisions jointly, with respect to the children;

(b) The ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent;

(c) Any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent;

(d) The geographic proximity of the parents to each other, as the proximity relates to the practical considerations of shared parenting;

(e) The recommendation of the guardian ad litem of the child, if the child has a guardian ad litem.

(3) When allocating parental rights and responsibilities for the care of children, the court shall not give preference to a parent because of that parent's financial status or condition.

Analysis

{¶17} We begin by setting forth pertinent testimony the magistrate heard, and the trial court reviewed. The parties agreed on very little. Both Father and Mother admitted that communication was a problem. Both admitted that there was arguing and yelling in front of the children. Both acknowledged an incident with C.J.R. when Mother threatened to call the police. Both admitted that the daughters were present when this occurred.

{¶18 } The parties' testimony also vastly contradicted. Father testified he had not seen medical bills, while Mother testified she posted them on the Our Family Wizard App (OFW). Father testified they had "sat down" together, at Mother's house, once, to discuss co-parenting. Mother denied any discussion occurred. Mother testified that the children were sometimes left alone at Father's house, but on cross-examination, admitted that only C.J.R. had been left alone, five or six times. Mother also admitted the daughters had not been left alone overnight. Mother testified that C.J.R.

missed 19 days of school. Mother denied that R.R.R. had also missed 19 days.

{¶19} We further set forth pertinent testimony of the parties and the GAL.¹ We would agree that most of the testimony involved the oldest child, C.J.R. Given that any issue regarding C.J.R. has become moot, we have attempted to streamline any testimony about him.

Father

{¶20} Father testified that he communicated to Mother about the daughters' extracurricular activities, clothing and athletic gear, medical appointments, and transportation. He testified that the girls excelled in school. He testified that he tried to accommodate Mother's work schedule. He testified he was the one to take the girls to practices and games most of the time in order to accommodate Mother's work schedule.

{¶21} Father testified that Mother "flipped him off" while all three children were in her car. The girls were in the back seat "shaking their heads." They hugged him after the incident. Father testified that he encouraged C.J.R. to have a relationship with his mother and that he did not condone disrespect towards her.

¹ Father also presented multiple exhibits of communications between the parties via the OFW. Both parties testified regarding the OFW messages, further demonstrating the contentious nature of their relationship post-divorce.

{¶22} Father testified that he paid for all the girls' sports-related expenses and a trip to Washington D.C. Mother never asked him to take the children to medical appointments. He feared that Mother wouldn't let the daughters continue to play travel ball.

Mother

{¶23} On direct examination, Mother testified there was trouble multiple times while exchanging the kids. Father would pull up in her driveway and yell or harass her. Communication occurred mostly through the OFW or brief exchanges at sporting events.

{¶24} According to Mother, multiple times Father would tell her he would pick up the children and then the children were stuck at school without a ride. Sometimes Father picked up the children without Mother's permission or sent his girlfriend to do so, without Mother's permission. Once, one of the daughters had to wait five days to go to the doctor, with a bruise on her ankle, until it was Mother's parenting time. Father did not take them to any eye doctor, orthodontist, sports physicals, or counseling appointments.

{¶25} Mother admitted on cross that Father paid for extracurricular activity expenses and the D.C. trip. She admitted she had no exhibit to

prove her claim that Father refused to take the children to appointments.

She testified that children are not returned in a timely manner on holidays.

{¶26} On redirect, Mother testified that she could not afford to pay for extracurricular activities when she paid for appointments, braces, clothing, food, and birthday parties. During the GAL's questioning, Mother testified she had no problems with changing weekends or changing the holiday schedule, but she wanted the children to have weekly structure and one location for school. She wanted the local rule to be followed strictly on holidays.

GAL

{¶27} GAL testified that Mother said that she "didn't want C.J.R. in her home, that he was out of control." The GAL testified that C.J.R. also had rules and boundaries at Father's house. The parties' parenting styles are "different."

{¶28} The GAL testified that the daughters don't seem like "rule breakers." The GAL opined that Father was actively involved with the daughters and their activities. The GAL recommended the daughters' alternating-week schedules continue. He testified:

They want to continue to spend time with both of them. You know, I think that they would, you know, in an ideal world, they would like to be able to go and see Dad whenever they want, go and see Mom whenever they want.... But here's the issue, I think that would be great but John and Dacia can't get along well enough...No matter how many phone calls I have from each of them, text messages I have from each one of them, no matter how many messages I've seen on Family Wizard, I can't keep track of where it started, right? So, it's

circular, and it's been going on for so long I don't see how that is going to change any time in the near future.

The GAL also testified, "I believe the girls have a much different relationship with Dacia than C.J.R. does..."

Our summation

{¶29} There was a great deal of testimony about the parties' lack of positive communication and cooperation; various negative incidents; C.J.R.'s behavior; and the children's schedules, activities, and medical appointments. That testimony aside, we agree with the trial court's conclusion that the "over-arching concern" was the differing structure at Father's and Mother's homes. Mother indicated concern that since C.J.R. had been allowed to "run back and forth" between their homes, the two daughters would also expect the freedom to do so. Mother testified Father did not have appropriate boundaries and was not "responsible." On recross, Mother testified she was concerned that the daughters would "follow C.J.R.'s lead" in leaving without permission. She testified she didn't want the girls to be left alone overnight, possibly having boyfriends stay as well. The GAL testified: "And when I asked Mom why she believed that the girls would spend more time with her, her answer, she said 100% was, because if not, if they keep the 50/50 schedule, they'll follow C.J.R.'s footsteps and do what they want."

{¶30} The Magistrate's Decision contained the following conclusions:

[I]t is clear that the parties in this case do not communicate well and generally cannot get along with each other. Their close proximity...would normally be a positive factor for a shared parenting scenario...It is also easy for a child who is unhappy with a parent's rule to go to the other parent's home where a reduction in rules exist.

Mother testified that C.J.R. missed 19 days of school while in Father's parenting time...Father also leaves C.J.R. at home alone overnight during his parenting time. Father seems to be more of a friend to C.J.R. than a parent...Structure is especially important when there is division in the family such as this divorce case.

Joint decision making has not been prevalent during the time that the parties have been involved in shared parenting after the divorce...

Even though the parents are no longer living together they will have more success in raising their children if they can have a common set of rules and expectations for their children. Consistency in the parents' homes can reduce frustration for the children and the parents...Mother tends to provide more structure and Father provides less structure.

The Guardian ad Litem recommended to leave the girls in the shared parenting plan and pull C.J.R. out for the Father to have custody of him. This may ease the tensions of Mother and son but the long term effects may be disastrous...Even more concerning is the fact that the younger girls are watching what C.J.R. is doing with his parents and may follow in his footsteps of disrespect toward Mother. The Court views structure as a positive in the lives of these children and Father is not on board with this view.

In consideration of the relevant statutes, the testimony and evidence presented, the Court finds that the continued use of a shared parenting plan is not in the best interest of these children. The shared parenting should be terminated. Mother should be designated the legal custodian and residential parent of all three children. The children should spend the majority of their time in

Mother's custody, care, and supervision so that they will have suitable structure in their lives.

{¶31} In its Decision and Entry overruling Father's objections, the trial court noted that the magistrate conducted a full evidentiary hearing on the competing motions, receiving the testimony of Father, Mother, and the GAL. The trial court noted that the magistrate applied the best interest factors of R.C. 3109.04(F)(1) and (2). In reaching the conclusion that Father's objections to the Magistrate's Decision should be overruled, the trial court stated that it had "independently reviewed the entire record, de novo, including the 194-page hearing transcript. The trial court opined:

The over-arching conclusion of the Magistrate is that [Wife] tends to provide more structure, and [Husband] provides less structure. Joint decision making between Husband and Wife is not prevalent. Husband is not on board with Wife's ideas of a structured environment...The 17-year-old son is taking advantage of less structured time with his Father and refused to abide by Mother's rules. The magistrate embraced the natural, logical, and predictable likelihood that the teenage daughters, who have a front-row seat to this dysfunction, will seek the same lack of structure. ...[T]he Court agrees with the Magistrate's election to find the Mother more credible on the issue of home structure.

{¶32} Based upon our review, we agree with the well-reasoned findings of the magistrate and the trial court. We disagree that there was a critical lack of evidence regarding the two younger children, the daughters. Furthermore, the trial court was in the best position to determine the parties'

credibility. While Father describes Mother's testimony as "limited and self-serving," even if that were an accurate description, that does not necessarily equate with untruthful or incredible. To a certain extent, Father's testimony also appears "limited and self-serving." We can find no abuse of discretion or lack of competent and credible evidence.

{¶33} Father also argues that the GAL recommended continued shared parenting for the daughters. However, we are mindful that the opinions of a guardian ad litem are not binding on the court. *See Chick v. Chick*, 2020-Oyghio-04431, at ¶ 38 (7th Dist.); *Seymour v. Hampton*, 2012-Ohio 5053, at ¶ 27 (4th Dist.); *In re R.N.*, 2004-Ohio-4420, at ¶ 4 (10th Dist.). Again, we defer to the magistrate's determinations regarding credibility and factual findings.

{¶34} Father also points to the magistrate's statement at the conclusion of the case that "so far the girls seem to be fine," arguing that the magistrate engaged in impermissible speculation. Father argues the only basis used by the trial court to support a change of custody were "hypothetical concerns that the parties' daughters might develop strained relationship with Appellee, just as their brother had." Father contends that is only speculation and contrasted to the GAL's recommendation for continued alternating schedules.

{¶35} We disagree that the magistrate engaged in speculation. Rather we view the magistrate's remark that the "girls seem to be fine" as a general comment as to what the testimony demonstrated - that C.J.R. appeared to be challenging his Mother's authority and the daughters were not.² Again, the magistrate was not bound by the GAL's recommendation.

{¶36 } Father concludes that the court abused its discretion, given the evidence, testimony and exhibits showing that he regularly attempted to communicate with Mother regarding parenting issues; tried to cooperate with schedules and transportation, even outside of his own scheduled parenting time; took the children five times to check on Mother's dogs; and the evidence that Mother "flipped him off" while he was trying to wave at the children in her car.

{¶37} Again, we defer to the magistrate's findings of fact and conclusions of law, along with the trial court's Decision and Entry overruling Father's objections. The magistrate conducted an exhaustive analysis of the best interest factors set forth in R.C. 3109.04(F) and concluded that termination of the shared parenting plan was in the best

² Father also pointed to the GAL's testimony that Mother told him multiple times that "she did not want her son to be with her; she could not 'deal' with the son and she was 'done' with him being in her home." We need not consider this argument as C.J.R.'s custody is no longer an issue.

interest of the children. Hopefully, with C.J.R.'s majority and the new arrangement, the "constant tug of war" will abate.

{¶38} Based on the foregoing, we find that competent, credible evidence supports the Magistrate's Decision and the trial court's Decision and Entry. We find no abuse of discretion in termination of the amended shared parenting plan at Mother's request and based on the best interest of these children. Accordingly, the first assignment of error is overruled.

Assignment of Error Two - Modification of Parenting Time

{¶39} Father's parenting time was reduced from equal to alternate Wednesday afternoons through Monday mornings, and each Thursday evening. Father argues that the court's conclusion that "the children should spend the majority of time in Mother's custody/care and supervision so that they will have suitable structure in their lives" was unsupported by the evidence and different from the GAL's testimony. Specifically, the GAL testified that it would not be in the two youngest children's best interest to spend less parenting time with Father.

{¶40} Father disagrees with the court's conclusions regarding the following "best interest" factors:

- 1) The parties have no ability to cooperate with each other and make joint decisions.

- 2) It was hard to believe that the parties are fostering, love, affections, and contact for the other parent.
- 3) Each party would honor and facilitate court approved parenting time.

For the reasons which follow, Father's argument is without merit.

Analysis

{¶41} R.C. 3109.04(E)(2)(a) and (b) allow for the modification of the terms of a shared-parenting plan. *See Bruns, supra*, at ¶ 11. Relevant here, Subsection (E)(2)(b) authorizes the trial court—on its own initiative or at the request of one or both parents—to modify the terms of the shared-parenting plan when modification is found to be in the best interest of the child. *Id.*

{¶42} A modification to parenting time is a modification to a shared-parenting plan. *See Sharif v. Sharif*, 2022-Ohio-2856, at ¶14 (1st Dist.); *Bruns, supra*, at ¶ 19 (explaining that shared-parenting plans “[i]nclude agreements concerning parenting time, holiday visitation, school and daycare placement, and payment of childcare expenses”). R.C. 3109.04(E)(2)(b) provides that the terms of the plan for shared parenting may be modified so long as the modification is in the best interest of the children. While a court must consider the children's best interest under R.C. 3109.04(E)(2)(b), it is “not required to specifically consider the factors

enumerated in R.C. 3109.04(F)(1).” *Marimon v. Marimon*, 2021-Ohio-3437, ¶ 22 (1st Dist.). (“[N]othing in R.C. 3109.04(E)(2)(b) explicitly requires the trial court to examine the factors in R.C. 3109.04(F)(1)...”).

{¶43} Based upon our review of the transcript, we find ample evidence to support the magistrate’s conclusions that the parties have no ability to cooperate with each other and make joint decisions. The parties’ communication, as testified, has been reduced to messages on OFW and brief interactions at sporting events. Father yells at Mother during pickups at her driveway. Mother expresses displeasure by “flipping off” Father. Given this state of communication between the parties, and despite Father’s testimony that he encouraged C.J.R. to respect his Mother, it is indeed difficult to believe that the parties foster love, affection, and contact for the other party.

{¶44} Despite the obvious and ongoing tension between the parties, the magistrate concluded that each party would honor and facilitate court-approved parenting time. Mother did testify that Father failed to return the children in a timely manner after holidays. Nevertheless, the magistrate was in the best position to view the parties, analyze all the evidence, and resolve any conflicts in the evidence. Once again, we defer to the magistrate’s judgment even if we may have found differently.

{¶45} Based on the foregoing, we find no merit to Father’s second assignment of error. The magistrate’s finding that modification of the terms of parenting time is in the best interest of the minor daughters is supported by competent, credible evidence. The trial court did not abuse its discretion in overruling Father’s objections to the Magistrate’s Decision. Accordingly, the assignment of error is also overruled.

Assignment of Error Three - Modification of Child Support

{¶46} The trial court ordered Father to pay the sum of \$1,092.81 per month in child support, an increase of nearly \$300 a month. The deviation was related to “companionship time spent by each parent.” Father argues that *should our court reverse the trial court’s orders regarding custody and parenting time, an even greater downward deviation would be appropriate and in the best interest of the children*. He argues the court gave no consideration to the fact that he pays 100 percent of many child-related expenses, including school trips and extracurricular activities, established by the testimony.

Analysis

{¶47} In the magistrate’s Decision, the magistrate observed that Father did not file an affidavit of Basic Information, Income, and Expenses.

Father also testified at the hearing that he did not know his income. By contrast, Mother's testimony about her income was very specific.

{¶48} In the trial court's Decision and Entry, the court noted that Father requested adjustment to the child support order "[p]rovided the Court rejects the Magistrate's Decision." The trial court noted that the objection appeared to be moot and was overruled.

{¶ 49} Generally, it appears that at the final hearing, Father did not provide the requested financial information which would have supported his claim to a downward deviation. Nevertheless, like the trial court, we find this argument to be moot and we need not consider it. Thus, the third assignment of error is also overruled.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE AFFIRMED and costs be assessed to appellant.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Pickaway County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hess, J. and Wilkin, J., concur in Judgment and Opinion.

For the Court,

Jason P. Smith
Presiding Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.