

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

S.T.C.,	:	
Plaintiff-Appellant/ Cross-Appellee,	:	No. 116110
v.	:	
J.P.C.,	:	
Defendant-Appellee/ Cross-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: October 1, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. DR-23-396756

Appearances:

Cavitch, Familo & Durkin Co., L.P.A. and Roger L.
Kleinman, *for appellant/cross-appellee.*

Stafford Cruz Law Company and Kelley R. Tauring, *for
appellee/cross-appellant.*

SEAN C. GALLAGHER, J.:

{¶ 1} Appellant/cross-appellee S.T.C. (“Father”) appeals from the trial court’s post-decree judgment entry adopting the magistrate’s decision with

modifications related to the parties' shared parenting plan ("SPP") He raises one assignment of error for our review:

The trial court's decision to reduce [Father's] parenting time is, on its face, an abuse of discretion.

{¶ 2} Appellee/cross-appellant J.P.C. ("Mother") filed a cross-appeal, raising three assignments of error for our review:

I. The trial court erred and abused its discretion by disregarding the transcripts of the proceedings filed in support of [Mother's] Supplemental Objections.

II. The trial court's refusal to terminate the Shared Parenting Plan constitutes reversible error and an abuse of discretion.

III. The trial court erred and abused its discretion by failing to hold [Father] in contempt of the Judgment Entry of Divorce.

{¶ 3} For the following reasons, we affirm.

I. Factual and Procedural History

{¶ 4} Father and Mother were married on November 22, 2013, and had three children born as issue of the marriage: L.C. (d.o.b. 6/18/16), R.C. (d.o.b. 3/4/20), and A.C. (d.o.b. 7/21/22). Father filed a complaint for divorce on October 8, 2023, and the judgment entry of divorce was entered on October 23, 2024. The court adopted Father's proposed SPP over Mother's objections.

{¶ 5} Both parties appealed the trial court's judgment entry of divorce. Pursuant to a joint motion informing this court that the parties were engaged in post-decree proceedings before the trial court related to the allocation of parental rights and responsibilities, this court dismissed that appeal on August 4, 2025. *See S.T.C. v. J.P.C.*, No. 114546 (8th Dist. Aug. 4, 2025).

{¶ 6} On November 19, 2024, Mother filed a motion to show cause and a motion to modify parental rights and responsibilities. Father also filed motions to show cause on three occasions thereafter. All four motions related to the parties' rights and obligations under the Shared Parenting Plan and the divorce decree, generally.

{¶ 7} On May 12, 2025, while the motions to show cause were pending, Mother filed a petition for a domestic violence civil protection order ("DVCPO") in a separate action. Following an ex parte hearing, the court issued an order of protection. The trial court held a full hearing on the motion on May 27, 2025, after which it issued a DVCPO. The DVCPO listed Mother — and none of the parties' minor children — as a protected person, and it provided that it would remain in effect until May 12, 2026. Both parties filed objections to the DVCPO, which the trial court overruled. Both parties then appealed to this court, which affirmed the trial court's issuance of the DVCPO. *J.P.C. v. S.T.C.*, 2026-Ohio-3021 (8th Dist.).

{¶ 8} In the underlying matter, the magistrate held hearings on the parties' motions to show cause on May 30, 2025, and July 18, 2025. The magistrate issued a decision on August 19, 2025, denying all the motions to show cause and granting Mother's motion to modify parental rights. The magistrate addressed the "right of first refusal" in the SPP, which provided that if the possessory parent was not available for scheduled parenting time for four hours or more, then the other parent had the right of first refusal for the children. The magistrate's decision addressed this aspect of the SPP at length, noting that Father consistently contorted his work

schedule and would leave one of the children with his mother to avoid the obligation to notify Mother of the right of first refusal and citing this as one of the sources of discord between the parties.

{¶ 9} The magistrate found that holding one parent in this case in contempt and not the other would be “inappropriate” and declined to hold both parents in contempt. The magistrate modified the SPP by ordering that

[u]nless otherwise agreed to in writing signed by both parties, Father’s “companionship time” shall commence every other Friday through Monday morning, including Wednesdays after school during the [off week] until 8:00 p.m. on school days and 9:30 p.m. on non-school days. Father’s off-week Wednesday parenting time may be expanded to overnights as each child matures.

{¶ 10} The magistrate vacated the parties’ current allocation of parenting time for Christmas Eve and Christmas Day and ordered the parties to submit a reallocation of parenting time within 14 days of the magistrate’s order. The magistrate also ordered both Mother and Father to “remain in any individual therapy until discord is abated.”

{¶ 11} On September 2, 2025, both parties filed objections to the magistrate’s decision, along with a praecipe to the court reporter requesting a transcript of the May 30 and July 18 hearings. On October 17, 2025, both parties filed motions for extensions of time to file supplemental objections. Mother’s motion for an extension noted that the transcript was prepared on October 3, 2025, and Father’s motion for an extension stated that he needed additional time to review the transcript.

{¶ 12} The court granted both motions and gave the parties until November 14, 2025, to file their supplemental objections to the magistrate's decision. On November 13, 2025, Father filed a second motion for an extension of time to file supplemental objections. On November 14, 2025, both parties filed their supplemental objections to the magistrate's decision. On November 17, 2025, the court denied Father's second motion for an extension of time to file his supplemental objections.

{¶ 13} Both parties again asked the court for extensions of time in which to file their briefs in opposition to each other's supplemental objections. The court granted both motions, giving the parties until December 5, 2025, to file their briefs in opposition.

{¶ 14} On December 5, 2025, Mother filed the transcripts of the May 30 and July 18 hearings without leave of court, as well as her brief in opposition to Father's supplemental objections.

{¶ 15} On January 8, 2026, the trial court ruled on the parties' objections to the magistrate's decision and adopted the magistrate's decision subject to the modifications detailed in its judgment entry. Specifically, the trial court found that while both parties timely filed objections to the magistrate's decision, the parties did not timely file the transcript of the proceedings. The trial court, therefore, was required to adopt the magistrate's factual findings and its review of the parties' objections was limited to the magistrate's conclusions of law. Father's first objection to the magistrate's decision was that the magistrate's decision to reduce

Father's parenting time was unsupported by the weight of the evidence and was an abuse of discretion. The court modified the magistrate's decision with respect to Father's first objection as follows:

The Magistrate found that it is in the best interest of the children that the parenting time schedule be modified to avoid the number of exchanges to which the children are subjected and to alleviate the issues caused by the four-hour right of first refusal rule in the [SPP.] The Magistrate recommended modifying the parenting time schedule to [Father] having the children on alternating weekends from Friday to Monday morning, plus a Wednesday evening in the "off-week."

The Court finds that the GAL recommended that [Father] have "standard visitation schedule, overnights every other weekend (Friday through Monday) and a midweek visit on Wednesdays during the off week". Magistrate's Decision, pg. 7. The Court notes that the standard parenting time schedule includes midweek parenting time every week, not just in the off week.

[Father]'s first objection is sustained in part in that the parenting time schedule shall be as follows: [Father] shall have parenting time on alternating weekends from Friday after school until Monday at school drop-off, or 9:00 a.m. if there is no school, plus every Wednesday beginning after school until 8:00 p.m. on school days, and 10:00 a.m. until 9:30 p.m. on non-school days. The Court reiterates the Magistrate's encouragement for the parties to expand this parenting time by agreement.

{¶ 16} The court further modified the magistrate's decision by (1) ordering the parties to exchange the children at the Seven Hills Police Department, or another mutually agreed-upon location; (2) ordering that the right of first refusal in the SPP shall only take effect if the possessory parent will be away from the child(ren) for eight hours or more, as opposed to four hours; (3) ordering the parties to engage a psychologist or other treating professional for an evaluation of

L.C.; and (4) ordering the parties to discuss the children's extracurricular activities prior to enrollment.

{¶ 17} The court overruled the remainder of the parties' objections. It is from this decision that Father appeals and Mother cross-appeals.

II. Legal Analysis

A. The Transcript

{¶ 18} For ease of discussion, we will begin by addressing Mother's first cross-assignment of error. Mother argues in her first cross-assignment of error that the trial court erred and abused its discretion by disregarding the transcripts of the proceedings filed in support of her supplemental objections.

{¶ 19} Mother argues that because she notified the trial court of her request for the transcripts, she timely filed her supplemental objections that contained numerous citations to the transcript, and because she filed the transcripts approximately one month before the trial court ruled on the parties' objections, the trial court abused its discretion in not considering the transcript in its review. We disagree.

{¶ 20} Pursuant to Civ.R. 65.1(F)(3)(d)(iv):

Objections based upon evidence of record shall be supported by a transcript of all the evidence submitted to the magistrate. . . . The objecting party shall file the transcript . . . with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

{¶ 21} Cuyahoga C.P. Dom.Rel.Div., Loc.R. 27(B) provides that “the party requesting the transcript must file the transcript within 14 days of the filing of the Notice of Transcript Completion and Availability[,]” and “the objecting party may have 14 days after the Notice of Transcript Completion and Availability to file any supplemental objections along with the transcript.” If a party is objecting to factual findings in the magistrate’s decision, a transcript of the record of proceedings must be filed pursuant to Cuyahoga C.P. Dom.Rel.Div., Loc.R. 27(A)(3). Further, under the local rules, the party filing objections must order the transcript and file a praecipe “within the initial fourteen (14) day period after the date the magistrate’s decision is filed.” Dom.Rel.Div., Loc.R. 27(A)(1). Dom.Rel.Div. Loc.R. 27(B) provides that a “party must file the transcript contemporaneously with the filing of the supplemental objections.” Finally, Cuyahoga C.P. Dom.Rel.Div., Loc.R. 27(C)(3) provides that the “time to file supplemental objections may be extended, at the discretion of the Court, for up to but not more than a total of forty-two (42) days from the date the transcript is completed.”

{¶ 22} Here, both parties timely filed their initial objections to the magistrate’s decision, and Mother timely filed a praecipe. The record reflects that the transcript was prepared on October 3, 2025. Both parties filed motions for extensions in which to file their supplemental objections on October 17, 2025. The court granted these motions, and the parties filed their supplemental objections, without a transcript, on November 14, 2025 — 42 days after the transcript was prepared. The parties then requested further extensions to file briefs in opposition

to each other's supplemental objections, and the court granted them until December 5, 2025. On December 5, 2025, Mother filed her brief in opposition to Father's supplemental objections. She also filed the transcript, without leave of court. Approximately one month later, on January 8, 2026, the trial court ruled on the parties' objections to the magistrate's decision.

{¶ 23} Mother points to an unreported case from a different district in which the court, interpreting different local rules than those at play in this case, found that a party "arguably" met their burden of producing a transcript upon notification to the trial court that a transcript had been ordered. *Hill v. Hill*, 2000 Ohio App. LEXIS 5297, *7 (10th Dist. Nov. 16, 2000).

{¶ 24} However, when a transcript is filed out of time, a trial court has broad discretion in deciding whether to consider the transcript. *Levy v. Seiber*, 2016-Ohio-68, ¶ 17 (12th Dist.), citing *Ramsey v. Ramsey*, 2014-Ohio-1921, ¶ 23 (10th Dist.). Here, although Mother is correct that the transcript was filed prior to the court ruling on the parties' objections, it was also filed approximately two months after it was prepared and several weeks after Mother filed her supplemental objections. Mother has provided no explanation for her failure to comply with the mandatory procedural rules and timely file the transcript. Thus, we cannot say that the trial court abused its discretion in declining to consider the untimely filed transcript in ruling on the parties' objections. Mother's first cross-assignment of error is overruled.

B. Reduction in Father's Parenting Time

{¶ 25} Father's assignment of error asserts that the trial court's decision to reduce his parenting time is, on its face, an abuse of discretion because it is unjust and unreasonable.

{¶ 26} R.C. 3109.04(E)(2)(b) provides that the court may modify the terms of an SPP "upon its own motion at any time if the court determines that the modifications are in the best interest of the children or upon the request of one or both of the parents under the decree." The statute further provides that such modifications may be made at any time and the court "shall not make any modification to the plan under this division unless the modification is in the best interest of the children." R.C. 3109.04(E)(2)(b). A modification to a plan under R.C. 3109.04(E)(2)(b) does not require a showing of a change in circumstances. *In re J.R.P.*, 2026-Ohio-827, ¶ 17 (8th Dist.).

{¶ 27} Our standard of review of a trial court's best-interest determination is for an abuse of discretion. *Id.* at ¶ 18, citing *In re N.J.V.*, 2025-Ohio-375, ¶ 35 (8th Dist.). "This highly deferential standard of review rests on the premise that the trial judge is in the best position to determine the credibility of witnesses because he or she is able to observe their demeanor, gestures and attitude." *Id.*, quoting *In re L.S.*, 2003-Ohio-2045, ¶ 12 (8th Dist.), citing *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984). An abuse of discretion occurs when a court exercises its judgment, in an unwarranted way, in regard to a matter over which it has discretionary authority. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

{¶ 28} Further, as discussed above, Father did not file a transcript of the proceedings in support of his objections. As such, the trial court was required to adopt the magistrate’s factual findings, and the trial court’s review of the magistrate’s decision was limited to the magistrate’s conclusions of law. *In re G.J.A.*, 2019-Ohio-1768, ¶ 20 (8th Dist.), citing *Vannucci v. Schneider*, 2017-Ohio-192, ¶ 17 (8th Dist.), citing *In re C.L.*, 2010-Ohio-682, ¶ 8 (8th Dist.). Therefore, on appeal, “our review is limited to determining whether the trial court abused its discretion in accepting and modifying the magistrate’s decision.” *Woods v. Lukan*, 2026-Ohio-3022, ¶ 14 (8th Dist.), quoting *Vannucci* at ¶ 5, citing *Dancy v. Dancy*, 2004-Ohio-470, ¶ 10 (8th Dist.).

{¶ 29} Here, Father argues that the court’s purported basis for reducing his parenting time was his “excessive observance” of the four-hour right of first refusal and there can be no sound reasoning process that supports reducing a party’s parenting time in response to their adherence to the terms of the SPP.

{¶ 30} The trial court considered the R.C. 3109.04(F)(1) best-interest factors addressed by the magistrate and discussed them at length. Relevant to Father’s arguments on appeal, the trial court analyzed the magistrate’s findings with respect to R.C. 3109.04(F)(1)(f) – the parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights, and found:

Neither party seems to want to adhere to the current parenting time schedule. The Magistrate noted [Father’s] unwillingness to allow

[Mother] to care for the children while he is at work and the discord ensuing from the right of first refusal rule.

The Magistrate found that it is in the best interest of the children that the parenting time schedule be modified to avoid the number of exchanges to which the children are subjected and to alleviate the issues caused by the four-hour right of first refusal rule in the shared parenting plan. The Magistrate recommended modifying the parenting time schedule to [Father] having the children on alternating weekends from Friday to Monday morning, plus a Wednesday evening in the “off-week.”

The Court finds that the GAL recommended that [Father] have “standard visitation schedule, overnights every other weekend (Friday through Monday) and a midweek visit on Wednesdays during the off week.” Magistrate’s Decision, pg. 7. The Court notes that the standard parenting time schedule includes midweek parenting time every week, not just in the off week.

{¶ 31} All of Father’s arguments in support of his assertion that the trial court abused its discretion are based on a disagreement with the lower court’s factual findings. We cannot, therefore, conclude that the trial court abused its discretion in adopting the magistrate’s decision with modifications. Father’s sole assignment of error is overruled.

C. Refusal to Terminate the Shared Parenting Plan

{¶ 32} In her second cross-assignment of error, Mother argues that the trial court abused its discretion by failing to terminate the SPP. We disagree.

{¶ 33} R.C. 3109.04(E)(2)(c) provides that a court may terminate an SPP “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.”

{¶ 34} We reiterate that in adopting the magistrate’s decision, with modifications, the trial court was required to adopt the magistrate’s factual findings

and was constrained to reviewing the magistrate's legal conclusions because neither party timely filed a transcript of the proceedings. Our review is likewise limited to whether the trial court abused its discretion in adopting the magistrate's decision.

{¶ 35} Having reviewed the record, we cannot conclude that the trial court's decision to keep the SPP in effect, subject to the aforementioned modifications, constituted an abuse of discretion. Mother's second cross-assignment of error is overruled.

D. Contempt

{¶ 36} In Mother's third cross-assignment of error, she argues that the trial court erred and abused its discretion by failing to hold Father in contempt of the judgment entry of divorce. Specifically, she argues that Father's refusal to contact Mother and instead giving their minor child to his mother and other nonparties during his work hours amounted to a clear violation of their SPP.

{¶ 37} Contempt is a disregard of or disobedience to an order or command of judicial authority. *In re I.L.J.*, 2023-Ohio-2960, ¶ 6 (8th Dist.), citing *Phelps v. Saffian*, 2018-Ohio-4329, ¶ 52 (8th Dist.). To establish civil contempt, the complainant must establish by clear and convincing evidence the existence of a valid court order, that the respondent had knowledge of the order, and a violation of the order. *Id.*, citing *In re K.B.*, 2012-Ohio-5507, ¶ 77 (8th Dist.). The determination of contempt is within the trial court's discretion and will not be reversed absent an abuse of that discretion. *Id.* at ¶ 7, citing *Cleveland v. Heben*, 74 Ohio App.3d 568, 573 (8th Dist. 1991).

{¶ 38} The arguments Mother presents in support of this cross-assignment of error were fully borne out at the court. The magistrate's decision addressed both parties' compliance, or lack thereof, with court orders. Ultimately, given the extremely contentious nature of the case and the behavior of both parties, the magistrate determined that it would be inappropriate to hold one party in contempt and not the other, and it declined to hold both parties in contempt. The trial court agreed with that decision.

{¶ 39} Having reviewed the record, we cannot conclude that the trial court erred or abused its discretion in declining to hold Father in contempt of court. Mother's third cross-assignment of error is overruled.

{¶ 40} Judgment affirmed.

It is ordered that appellee and appellant share the costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, domestic relations division, 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.

SEAN C. GALLAGHER, JUDGE

MARY J. BOYLE, P.J., and
ANITA LASTER MAYS, J., CONCUR