[Cite as *In re A.P.*, 2026-Ohio-4477.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

IN RE A.P.	:	
		Nos. 115707 and 116170
A Minor Child	:	
[Appeal by K.P., Mother; Cross-Appeal by D.V., Father]	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED IN PART, VACATED IN PART, AND REMANDED
RELEASED AND JOURNALIZED: November 12, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. CU-17101374

Appearances:

Law Office of Anne S. Magyaros, LLC and Anne S. Magyaros, *for appellant/cross-appellee*.

Anthony & Zomoida, LLC and David S. Anthony, *for appellee/cross-appellant*.

EMANUELLA D. GROVES, P.J.:

{¶ 1} Appellant/cross-appellee K.P. ("Mother") and appellee/cross-appellant D.V. ("Father") appeal from the decision of the juvenile court terminating their shared-parenting plan and finding Father in contempt of court.

{¶ 2} Mother raises the following assignments of error:

Assignment of Error No. 1

The [juvenile court] erred in issuing an order for Father's visitation schedule and attendant terms that [were] never in evidence and [are] not in A.P.'s best interests.

Assignment of Error No. 2

The [juvenile court] erred as a matter of law by ordering continued joint decision making after terminating shared-parenting.

Assignment of Error No. 3

The [juvenile court] abused its discretion and erred in adopting findings from a previously vacated magistrate's decision, by failing to find Father in contempt as supported by the evidence and by imposing an unlawful and illusory purge condition.

Assignment of Error No. 4

The [juvenile court] erred by failing to order Father to grant compensatory parenting time, reimbursement of fees and expenses and Mother's reasonable attorney fees and costs after finding him in contempt.

{¶ 3} Father's cross-assignments of error claim:

Cross-Assignment of Error No. 1

The [juvenile court] abused its discretion by terminating shared-parenting a[s] such decision is against the manifest weight of the evidence.

Cross-Assignment of Error No. 2

The [juvenile court] abused its discretion by finding [Father] in contempt without identifying the specific provisions of a court order allegedly violated.

{¶ 4} After a thorough review of the record, we affirm the juvenile court's decision terminating the shared-parenting plan and assigning parental rights and

responsibilities, reverse the finding of contempt, and remand the matter to the juvenile court to make independent findings of fact and conclusions of law.

I. Factual and Procedural History

{¶ 5} On October 24, 2018, the juvenile court adopted a magistrate's decision and journalized an agreed shared-parenting order executed by the parties. The order designated Mother as the residential parent for school enrollment, and assigned Father's parenting time as follows:

> School Schedule:
>
> > Every Tuesday after school or 4:00 p.m. (if no school) until Wednesday morning at school, or 8:00 a.m. (if no school).
> >
> > The week prior to Mother's scheduled weekend, from Tuesday after school or 4:00 p.m. (if no school) until Thursday morning at school or 8:00 a.m. (if no school).
> >
> > Alternating weekends from Friday after school or 4:00 p.m. (if no school) through Sunday evening at 7:00 p.m.
>
> Summer Schedule:
>
> > Every Tuesday from 4:00 p.m. until Wednesday at 4:00 p.m.
> >
> > The week prior to Mother's scheduled weekend, from Tuesday at 4:00 p.m. until Thursday morning at 8:00 a.m.
> >
> > Alternate weekends from Friday at 10:00 a.m. through Sunday evening at 7:00 p.m.

{¶ 6} The shared-parenting plan also split holidays between the parents based on even or odd years. Relevant to this appeal, Thanksgiving provided parenting time from Thursday at 9:00 a.m. to Friday at 9:00 a.m. For Christmas, the parents would alternate parenting time on Christmas Eve and Christmas Day. The parents could deviate from the plan by agreement.

{¶ 7} In January 2024, Mother filed a motion to terminate the shared-parenting plan. Father filed a motion to modify the shared-parenting plan a few months later. Subsequently, Mother filed an amended motion to terminate shared-parenting, a motion to show cause, and a proposed parenting plan. A trial on these motions commenced before a magistrate in October 2024.

{¶ 8} Mother, Father, and the court-appointed parenting coordinator ("PC") and guardian ad litem ("GAL") testified. Mother called the PC to testify in her case-in-chief. The PC testified that he had been involved with the family for approximately two years, which was longer than usual. Ordinarily, his involvement with a family would be one year or one and a half years at most. He reached an impasse with this couple because both parents, especially Father, were unhappy with his role. Father asked the PC to resign and expressed that the PC held biases and always ruled in Mother's favor when making decisions. The PC described Mother as "compliant and flexible" but Father insisted on a "50/50 plan," which was inconsistent with the shared-parenting plan. The PC relayed that Father felt misled because he thought the goal of the PC was to change the shared-parenting plan to a 50/50 plan. However, the PC informed Father that he lacked authorization to change the parties' agreement but could tweak it and that the order appointing him explicitly set out those limitations.

{¶ 9} The PC went on to describe several conflicts the parents had during his tenure. These included decisions regarding A.P.'s extracurricular activities, religious education required by the church, whether she should pierce her ears, co-

bathing or showering with her sibling, concerns about her allergies, tutoring, and whether they should evaluate A.P. for an individual education plan, or IEP.

{¶ 10} The PC testified that Father acted contrary to the PC's recommendation more than once. For example, the PC recommended that A.P. sign up for two extracurricular activities she was interested in. Father signed her up for one with a large time commitment, which prevented her from signing up for the other activity. The PC approved Father's Christmas vacation but Father extended it claiming that Mother took extra days on a vacation one to two years prior. The PC concluded that making plans was always more complicated than it needed to be with these parents.

{¶ 11} When A.P. participated in activities, the PC encouraged Father to enlist Mother's help in transporting A.P. However, Father preferred that he, his wife ("stepmother"), or his mother transport A.P. when it was his parenting time. He did not want or seek Mother's assistance.

{¶ 12} The PC also noted that he issued several orders during his tenure on the case. Mother followed the orders even when they were not in her favor. Father did not always follow orders if they were not in his favor. He noted that the parents should be able to communicate and make decisions without requesting the PC's intervention. When asked whether he believed the parents had A.P.'s best interests at heart, the PC stated that he believed that Mother does and is "flexible and compliant in every way." However, the PC opined that Father thinks he has A.P.'s best interest in mind, but only focused on fairness. Father expressed to the PC that

he believed it was in A.P.'s best interest to do what the rest of his children were doing. The PC testified that Father does not take into consideration that A.P. is part of both families. Further, the PC opined that Father does not respect Mother. The PC noted that Father thought Mother was controlling, but the PC did not share that opinion.

{¶ 13} On cross-examination by Father's attorney, the PC acknowledged that Father was striving to make the parenting time schedule fairer, but the PC had a limited ability to make changes. The PC thought Father had reasonable concerns, but the shared-parenting plan reflected the agreement of the parties. An example of Father's concerns was the Thanksgiving schedule. The shared-parenting plan required A.P. to go back and forth to each parent's house, and A.P. did not like that.

{¶ 14} On further questioning, the PC agreed that he was the first one to mention that he should step down, followed by Father's request that he resign. He noted that Father's expectations did not allow Father to have much flexibility in the way that he responded to Mother. Additionally, he noted that the parents should be able to ascertain A.P.'s wishes without his involvement.

{¶ 15} The PC recognized that Father's family situation was more complicated than Mother's. Father had married and had a stepdaughter and three other children, in addition to A.P. However, the PC noted it would be helpful if Father would allow Mother to help. Ultimately, the PC opined that both parents contribute to the problems, but not equally because there was more "obfuscation and interference" on Father's part.

{¶ 16} Next, Mother testified. Mother explained that she filed a motion to terminate the shared-parenting plan because she and Father had been engaged in a "high-conflict battle" for ten years regarding how to raise A.P. During that time, they had seen three parenting coordinators and a counselor, yet still struggled to make everyday decisions for the child.

{¶ 17} Mother addressed her concerns with A.P.'s education. A kindergarten teacher had suggested that A.P. be placed on medication and an IEP. When she tried to discuss those recommendations with Father, he merely stated he agreed with the recommendation and would not discuss it further. Mother felt that over the years, Father did not take A.P.'s learning difficulties seriously. Her main concern was her belief that Father did not work with A.P. during his parenting time to assist her with her learning challenges. She believed that Father opposed tutoring and only cooperated with it when the court ordered him to do so. Because of Father's actions, Mother worked around Father's schedule so that any tutoring took place during her parenting time.

{¶ 18} Mother's concerns often stemmed from Father's refusal to accommodate any scheduled activities that took place during his parenting time. Whether it was extracurricular activities, religious education, or tutoring, Mother testified it was a struggle to get Father to make time for these activities, so A.P. would miss events on occasion. Mother would schedule events during her parenting time to avoid needing Father's assistance.

{¶ 19} Mother also expressed a concern that Father did not take A.P.'s health seriously. Mother noted that she did not believe that Father followed a doctor's advice that A.P. cease co-bathing or showering with her siblings or keep Epi-Pens at home in case A.P. had an allergic reaction.

{¶ 20} Finally, Mother reported that she had received a call from someone looking for information because Father was seeking to obtain a life insurance policy on A.P. She expressed concern about this development.

{¶ 21} On cross-examination, Father's attorney explored her feelings about the life insurance request. Mother testified that Father acquiring life insurance for A.P. caused her to have "great concern" for A.P.'s safety. When asked directly whether she thought Father took out life insurance on A.P. because he intended to harm her, Mother responded, "I wouldn't put it past him," referencing Father's failure to take A.P.'s allergies seriously and not having an EpiPen available for A.P.'s use when in Father's care.

{¶ 22} Mother acknowledged that the shared parenting plan called for her to schedule certain activities during her parenting time. She further admitted that in the past two years, she and Father had negotiated a different schedule for Thanksgiving. Mother agreed that both she and Father thought these transitions were not in A.P.'s best interest, and Father raised the issue with the PC.

{¶ 23} Moreover, Mother acknowledged that the shared-parenting plan placed the responsibility on the parents to "discuss activities important to the child in advance, including times, dates, and transportation needs. . . ."

{¶ 24} When Mother was asked about Father's involvement in A.P.'s IEPs, Mother agreed that Father participated in the IEP process each year. Mother also acknowledged that she was aware Father had provided tutoring for A.P.

{¶ 25} Mother testified that she had no direct knowledge about the co-bathing and showering, but it was her assumption that the practice continued. Mother also acknowledged that Father attends A.P.'s medical appointments and that they have not had disagreements about medical care, "[b]ecause there hasn't really been anything that came up that we needed to agree or disagree on."

{¶ 26} Mother then rested and Father began his case, testifying on his own behalf. Father testified that he had five daughters born between 2013 and 2023, including A.P. Father thought the goal with the PC was to work towards a "better" shared-parenting plan. In his opinion, parts of the plan were vague, and he hoped to clarify aspects regarding pick-up times, scheduling times, and school breaks. Father filed his motion to modify shared-parenting because every year he had to remind the school to include him on notifications for A.P. and he thought a modification would achieve that goal. He requested a 5-5-2-2 parenting plan because he wanted equal time with A.P.[1] He wanted Thanksgiving designated as a school break and not a holiday because the children had the whole week off, and he believed the plan should divide the time evenly. He also wanted the Christmas

[1] A sample of a 5-5-2-2 plan could give Mother parenting time on Monday and Tuesday and Father parenting time on Wednesday and Thursday every week, and then each would take alternate weekends, Friday, Saturday, and Sunday. Effectively, the child would have five consecutive days with each parent, then two additional days with each over the course of two weeks.

school break divided evenly: one parent would have A.P. from the beginning of the school break until Christmas at noon and the other would have A.P. from noon on Christmas until the end of the school break, alternating each year.

{¶ 27} Father testified that initially his relationship with the PC was "good" and he felt heard. Over time, he felt like the PC was paying more attention to Mother and ignoring his point of view. Addressing some of the specific issues raised thus far, Father acknowledged that he did not react well to Mother's decisions to pierce A.P.'s ears. Father indicated that he supported tutoring for A.P. and provided his own tutor for her during first through third grade. At the time of trial, A.P. saw a tutor that both Mother and Father utilized. Father's only complaint about tutoring was that Mother would sometimes schedule tutoring during his parenting time without discussing it with him first.

{¶ 28} With respect to the life insurance policy, Father averred that his policy expired, and the salespeople told him he could get life insurance for all five of his children for a low price. He decided to acquire the plan, which is why the agent contacted Mother.

{¶ 29} Father described his relationship with A.P. as "very positive" and that she was a girl who smiled from "ear-to-ear." He explained that sometimes she was guarded because she did not want her parents to be mad at her. He recognized that A.P. loves both parents. However, he did not know whether A.P. understood the animosity between Mother and Father.

{¶ 30} Father also offered testimony about A.P.'s relationship with her siblings. Father testified that A.P. and her second oldest sibling, i.e. her stepsister, who is five days younger than A.P., have a hot and cold relationship, fighting one minute and friends the next.[2] The younger two sisters always looked forward to an "[A.P.] day" and would constantly ask him when A.P. would visit. A.P. also had a good relationship with her two-year-old sister. Father described A.P.'s relationship with her stepmother as "good," and noted that A.P. would ask her for help and advice.

{¶ 31} On cross-examination, Father acknowledged that he agreed to the shared-parenting plan and did not express a desire for a 5-5-2-2 plan. Preliminarily, Mother's attorney questioned Father about whether he had adopted his stepdaughter and whether her biological father was involved in her life. Father established that he had not adopted her and that her biological father was not involved. When asked whether he attended his "non-biological, non-adopted" daughter's events more than his "biological daughter's" events, Father responded that he had known his stepdaughter since she was six-months-old. Further, as a father of five, he had to make decisions about whose event he would attend. He acknowledged that sometimes he attended his stepdaughter's events rather than A.P.'s events.

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[2] Father referred to his stepdaughter as his daughter throughout his testimony.

{¶ 32} Father also described his one-on-one activities with A.P. Father described making dinner, catching up with her after school, going through her homework sheets, kicking the soccer ball around, jumping on the trampoline, and going for walks in the park. On further questioning, Father explained that some of these activities occurred with the family and that he would ask questions of all the children after school. Discussing activities with just himself and A.P., Father offered that he and A.P. had one-on-one time when A.P. returned from school, which was an hour before the other children returned home.

{¶ 33} At the end of Father's testimony, the GAL gave her recommendations. The GAL recommended sole custody to Mother and that Mother make all medical and school decisions, and Father may provide input. She further recommended:

> (a) Father's parenting time should be every other weekend from Friday to Sunday, and Wednesday evenings from 6:00 p.m. to 8:00 p.m.;
>
> (b) the remaining parenting time would be determined by the juvenile court's standard schedule for holidays, days of special meaning, and vacations;
>
> (c) Mother shall make clear to A.P. that she can request permission to see Father and or be with his family. Mother shall endeavor to arrange such time for A.P. by contacting Father on Our Family Wizard ("OFW"), the court's communication application;
>
> (d) Father may contact A.P. once per day on her cell phone. A.P. may contact Father as she wishes by phone, text or otherwise;
>
> (e) Mother shall continue tutoring sessions for A.P. during Mother's parenting time as recommended by the tutor and school personnel. Father may arrange for tutoring at his expense during his weekend visits;
>
> (f) Mother and Father shall continue to use OFW to communicate, including using the calendar function to note A.P.'s activities at school

and with friends, in particular those that may occur on Father's weekend;

(g) A.P. should not be "over scheduled" on Father's weekends;

(h) Both parents should recognize that there is a reasonable balance between family time and A.P.'s personal time;

(i) Mother and Father should endeavor to keep their disagreements from A.P. and each parent should make clear to A.P. that she can talk to them about anything.

{¶ 34} At the end of trial, the magistrate took the case under advisement and issued a decision in November 2024. Mother subsequently filed a motion requesting findings of fact and conclusions of law. The magistrate issued a subsequent decision in February 2025. The parties both filed timely objections to the magistrate's decisions. After reviewing the magistrate's decisions, the juvenile court issued a journal entry vacating both decisions "in their entirety." The court further found that all objections to the magistrate's decision were rendered moot. The juvenile court assigned all future hearings to the appointed judge.

{¶ 35} The court subsequently ordered each party to file proposed parenting plans. In April 2025, Mother and Father complied with the juvenile court's order. Mother's parenting plan assigned Father's parenting time, as follows:

School schedule: Every other Friday at 6:00 p.m. to Sunday at 6:00 p.m.

Every Wednesday from 6:00 p.m. to 7:30 p.m., for one-on-one time with the minor child as long as Father confirms with Mother via OFW no less than 48 hours prior to the start of the parenting period. If the child has a scheduled activity on Wednesday, the parenting period may be moved by Father with Mother's written agreement at least one week in advance or Father shall transport the child to and/or from the event during his parenting period. This responsibility to take the child to her

event shall not be delegated by Father to a third party (outside Mother) if he cannot attend. If Father is unwilling or unable to make his weekly parenting period, the time is forfeited.

Summer schedule: Other than vacation and holidays as set forth in this Plan, the parties shall follow the regular parenting schedule. No vacations by either party shall be scheduled the first seven days after school recesses for the summer or in the seven days prior to school resuming.

{¶ 36} Father's parenting plan provided, as follows:

School schedule – The parties shall follow a 5-5-2-2 parenting time schedule with Father exercising parenting time on Monday and Tuesday and Mother on Wednesday and Thursday. Further the parties shall alternate weekends which are defined as Friday through Sunday. All exchanges shall occur at school and if no school at the time school begins.

Summer schedule – The parties to follow a week on/week off during the summer recess with exchanges occurring on Wednesday at 5:00 p.m. The summer recess shall begin on the first Wednesday after the last day of school and end on the last Wednesday prior to commencement of school. Father shall have the first week of summer recess in odd-numbered years and Mother shall have the first week of summer recess in even-numbered years.

Unavailability of a parent – A parent must notify the other parent that they will be out of town, without the child, for work for a period in excess of twelve (12) hours and if it is that parent's parenting time the third party that will be providing care for the child in their absence. This provision shall not be construed as a right of first acceptance or refusal.

{¶ 37} In May 2025, the juvenile court issued a temporary parenting order. The order retained Mother as the residential parent for school purposes. Father's parenting time would start every other Friday after school (or 6:00 p.m. if school was not in session), until Sunday evening at 6:00 p.m. This changed the pick-up time and return time in the shared-parenting plan, which was after school (4:00

p.m. if school was not in session) until 7:00 p.m. on Sunday. Additionally, the temporary order assigned Father parenting time every Wednesday after school until Thursday morning at school (10:00 a.m. if school was not in session). This varied from the shared-parenting plan in two ways. The shared-parenting plan called for visits on Tuesday, and the return time was 8:00 a.m. the following day if school was not in session. Also, it removed Father's extended weekday visit on Mother's weekend. The court also ordered an in-person settlement conference for later that month and a motion hearing in July 2025.

{¶ 38} In July 2025, the juvenile court conducted a hearing on the outstanding motions, including Mother's motion and amended motion to terminate shared-parenting and her motion to show cause and Father's motion to modify shared-parenting.[3] The parties agreed that there would be no further testimony, the juvenile court could review the October 2024 trial transcripts, and they would present oral arguments in support of their cases. After listening to arguments of counsel, the juvenile court heard the GAL's recommendation. The GAL noted that since the October 2024 trial, she had the opportunity to speak privately with A.P. three times to assist in the best-interest determination. The GAL stated that A.P. expressed a desire for more parenting time with Father because there was a new sibling on the way. The GAL noted that Father had not complied with the requirement that he spend one-on-one time with A.P.; however, Father had

[3] The juvenile court's journal entry lists Mother's motion to terminate shared parenting and amended motion to terminate shared parenting as pending consideration as of the July 2025 hearing.

discussed the reasoning with A.P. and she seemed to accept Father's response. The GAL met with Mother and Father several times as well.

{¶ 39} The GAL then discussed her current recommendation, which was a departure from her recommendations in October 2024 and April 2025. Preliminarily, she noted that shared-parenting could not work and that it was not in A.P.'s best interest. She continued to recommend that the juvenile court designate Mother as A.P.'s legal custodian. She recommended that Father's parenting time should be every other weekend from Friday after school (4:00 p.m. when school was not in session) until Sunday at 8:00 p.m. Further, Father should have a Wednesday visit after school (4:00 p.m. when school was not in session) until 8:00 p.m. on Thursday.

{¶ 40} Mother questioned the new recommendation, noting that it was a "radical departure" from the GAL's recommendations at trial in October 2024, and in her October 2024 and April 2025 GAL reports. While the GAL acknowledged that Father had not met the goal of one-on-one time with A.P. in the months after the trial, she repeatedly explained that her recommendations were determined by A.P.'s best interests.

{¶ 41} In September 2025, the juvenile court issued its decision and found that the parents "cannot co-parent to the degree needed for shared-parenting." The juvenile court designated Mother as the residential parent and legal custodian for A.P. and assigned Father's parenting time, as follows:

> Every other Friday after school (or 3:00 p.m., if school was not in session) until Sunday evening at 7:00 p.m.
>
> One weeknight after school until the following evening at 8:00 p.m. A.P. alone will have the discretion to pick the best night for her on a quarterly basis, based on her current activity and school schedule.
>
> Once a month, Father shall use his parenting time, whether on a weeknight or weekend to do something just with A.P. for at least one hour.

{¶ 42} This order increased the weekend schedule from the court's May 2025 temporary order by approximately four hours. The weekday schedule also increased Father's parenting time by approximately 12 hours, changing the return time from the start of school or 8:00 a.m. to 8:00 p.m. Nevertheless, the order was a reduction in the parenting time assigned to Father in the October 2018 shared-parenting plan.

{¶ 43} In addition, the juvenile court made the following rulings:

> The parents shall consult with each other about the child's medical care needs and each shall immediately notify the other parent about all major non-emergency medical decisions before authorizing a course of treatment. . . . If the parties cannot agree regarding a course of treatment, the mother's decision shall control.
>
> . . .
>
> Both parents shall allow [A.P.] some self-determination as she grows older to spend time with both sides of her family outside of the court ordered parenting time and hopefully work increasingly together with their daughter as she grows older to accommodate her voice and preferences time spent with both sides of the family.
>
> . . .
>
> Mother and Father shall notify the other parent via OFW if they will be out of town without the child for a period in excess of 12 hours during their parenting time and the third party who will be providing care for

> the child in their absence. The other parent should be offered to take the extra time with the child first before setting up third-party arrangements.
>
> . . .
>
> Communications by parents shall be done through OFW. Each party shall respond to the other's request or notification within 48 hours if a response is required. A party's failure to respond within such time period without requesting an extension of time to obtain further information with which to reply, including but not limited to seeking legal counsel or independent medical advice, shall be deemed a consent or a waiver, as the case may be, of the matter posted.
>
> . . .
>
> [After subscribing to OFW for one year], [t]he parties shall thereafter conduct all communications regarding their minor child on this website. The parties shall not telephone, text or e-mail each other directly regarding issues relating to their child but instead shall post all communication exclusively on the website.
>
> . . .
>
> Days of special meaning and holidays subject to original shared-parenting plan agreement unless otherwise agreed to by the parties. Thanksgiving is defined as a school break and should be divided equally.

{¶ 44} Mother filed a request that the juvenile court issue a ruling on her motion to show cause. In September 2025, the juvenile court granted the motion, noting that it adopted the magistrate's original ruling "except" it suspended both the fine and court costs. The juvenile court also "encouraged [the parents] to consider the recent Court ruling as a fresh start and work towards parenting in the best interest of their child in a flexible and collaborative way."

{¶ 45} Next, the court made further ruling on Mother's request for fees and expenses, finding that "all fees and expenses have been ordered to be paid by the

proper parties in prior journal entries. It is therefore ordered that motion for fees and expenses is now moot." In a separate order, the juvenile court granted the GAL's motion for fees and ordered that the parties split the fees evenly. The court also found that the parties are responsible for their own attorney fees.

{¶ 46} Mother filed a motion for clarification or reconsideration. The juvenile court journalized its response in October 2025 addressing its prior rulings. With respect to Mother's motion to show cause, the juvenile court adopted the magistrate's findings issued in February 2025, which the court had previously rejected, and found that Father failed to abide by the Thanksgiving holiday or the winter break schedule. The court further found that Father voiced frustrations with Mother on several occasions in front of A.P. The court concluded that Father was in contempt of court for violating the court's October 9, 2018 order which was the magistrate's decision ratifying the parties' shared-parenting plan. As a result, the court imposed a fine of $250 and a term of incarceration for 30 days, then suspended both the sentence and fine. Father could purge the suspended sentence by "not violating any orders of this Court for the next twelve (12) months."

{¶ 47} Mother and Father appeal the September and October decisions terminating shared parenting, finding Father in contempt of court, and denying Mother's requests for attorney's fees, expenses, and compensatory parenting time after finding Father in contempt.

II. Law and Analysis

A. Termination of the Shared-Parenting Plan

{¶ 48} In his first cross-assignment of error, Father challenges the juvenile court's ruling terminating the shared-parenting plan. In her first and second assignments of error, Mother challenges the decision that increased Father's parenting time and ordered continued joint decision making.

{¶ 49} Our review of a motion to terminate a shared-parenting plan, is governed by R.C. 3109.04(E)(2)(c), which states:

> 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. . . .

{¶ 50} In making the decision whether to terminate a shared-parenting plan, the sole concern of the court is the best interests of the child. *Bruns v. Green*, 2020-Ohio-4787, ¶ 20. The court does not need to consider whether there was a change of circumstances to make a ruling under R.C. 3109.04(E)(2)(c). *In re J.R.P.*, 2026-Ohio-827, ¶ 14 (8th Dist.), citing *Bruns* at *id.*

{¶ 51} Furthermore, an appellate court reviews a court's best-interest determination for an abuse of discretion. *Id.* at ¶ 18. A court abuses its discretion when its ruling is "unreasonable, arbitrary or unconscionable." *In re F.T.*, 2020-Ohio-1624, ¶ 60 (8th Dist.), citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). Moreover,

> "[t]his 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."

J.R.P. at *id.*, quoting *In re L.S.*, 2003-Ohio-2045, ¶ 12 (8th Dist.).

{¶ 52} However, the Ohio Supreme Court has held that "'courts lack the discretion to make errors of law, particularly when the [inferior] court's decision goes against the plain language of a statute or rule.'" (Brackets in original.) *State v. Jones*, 2025-Ohio-5389, ¶ 19, quoting *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 39.

{¶ 53} A reviewing court may not substitute its judgment for the judgment of the lower court where that judgment is supported by competent, credible evidence. *Bertalan v. Bertalan*, 2025-Ohio-1443, ¶ 70 (8th Dist.), citing *Hunter v. Troutman*, 2025-Ohio-366, ¶ 64 (8th Dist.).

{¶ 54} In examining whether shared-parenting is in the best interest of the child, R.C. 3109.04(F)(2) instructs the juvenile court to consider, in pertinent part, "all relevant factors, including, but not limited to," the factors enumerated in R.C. 3109.04(F)(1), and the following:

> (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;
>
> . . .
>
> (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.

R.C. 3109.04(F)(2).

{¶ 55} The relevant factors in R.C. 3109.04(F)(1) include:

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

{¶ 56} Father describes the juvenile court's decision to terminate the shared-parenting plan as "absurd." He argues that the juvenile court's findings conflict because some support termination while others support continuing the shared-parenting plan with modifications.

{¶ 57} To support his argument, Father claims that the juvenile court's findings show that both parents contributed to the dysfunctional shared-parenting arrangement, citing the court's findings pursuant to R.C. 3109.04(F)(1)(e), (f), and (i) and 3109.04(F)(2)(a) and (b).

{¶ 58} The relevant findings were as follows:

> No concern for [the] physical health of Mother or Father. Concern for both parents' failure to put their child first and amicably co-parent together despite years of attempts with coordinators, etc., is a mental health concern for both parents. Also concerned for the long-term mental health for the child given the nature of the parenting relationship and failure for the parties to be cordial in the community. [R.C. 3109.04(F)(1)(e)]
>
> The ongoing drama between the parents and the way the parents treat each other is a concern for the mental health of the child. There is no concern for the safety of the child[.] Both parents are required to have any active medication for [A.P.] not expired and at their homes. [R.C. 3109.04(F)(1)(e)]
>
> There is not a positive working relationship between the parents to resolve issues on their own in regards to visitation, etc. [R.C. 3109.04(F)(1)(f)]
>
> Both parents have failed to be able to participate in a shared-parenting arrangement. Parties always return to litigation and the last parent coordinator quit and testified his involvement was unsuccessful for the family. [R.C. 3109.04(F)(1)(i)]
>
> The parents are unable to cooperate and make joint decisions that are in the best interest of the child. The testimony of the most recent parenting coordinator and the recommendation of the GAL both reflect that shared-parenting is not working. They have used multiple resources including but not limited to mediation, parenting coaches, and coordinators, and there is no improvements or success. [R.C. 3109.04(F)(2)(a) and (b)]
>
> There is no significant concern as to the child's ability to adjust to either home, school, or community. There is concern regarding the child's school performance that needs to continue to be adequately addressed. [R.C. 3109.04(F)(1)(d)]

{¶ 59} Without refuting or analyzing these findings, Father proceeds to list findings that he believes support modification of the shared-parenting plan rather than termination.

{¶ 60} However, the record supports the juvenile court's findings that the parents jointly contributed to the failure of the shared-parenting plan. Father failed to request Mother's help to transport A.P. to her activities if they occurred during his parenting time. He was also insistent on a "50/50" split of responsibilities and sought to bargain for additional parenting time or other concessions when Mother asked for his assistance. Mother contributed to the ongoing drama with Father, testifying that she "wouldn't put it past" Father to harm A.P. because he sought to obtain a life-insurance policy for her. Although the PC felt that Father's rigidity was at fault for the disputes, he also opined that both parents contributed to the problems with shared parenting and the parents should be capable of resolving their issues on their own without the PC's intervention.

{¶ 61} Moreover, the parties were very contentious with one another and most of the disagreements might have been resolved if the parties could put aside their differences. The record reflects that the parties required the intervention of at least three professionals to navigate the shared-parenting plan, all three resigned, and the parents still failed to resolve their issues and come to terms with shared-parenting. Indeed, both Mother and Father testified to their fractured relationship.

{¶ 62} Finally, Father challenges the GAL's final recommendation claiming that it is contradictory. Father argues that the recommendation designates Mother as residential parent and legal custodian, but also recommends Father be given increased visitation time and A.P. be given more autonomy. Nevertheless, at the final custody hearing, the GAL testified that her sole concern was the best interest

of A.P. After talking extensively to A.P., she changed her recommendation to increase the weeknight visit from one and one-half hours, to a little over 24 hours. It is not contradictory for the GAL to opine that Mother should receive sole custody and that Father's visitation time should increase based on A.P.'s stated wishes.

{¶ 63} Although both parties challenge the GAL's recommendation, neither parent challenges the GAL's claims regarding A.P.'s wishes. Rather, Mother challenged Father's commitment to parenting A.P. and whether increasing his parenting time was warranted given his past conduct. Likewise, Father questioned whether the GAL was aware of the one-on-one time he spent with A.P. over the past several months.

{¶ 64} The parties' ongoing and contentious interactions supported the juvenile court's decision to terminate shared parenting. Based on the record before us, we do not find that the juvenile court abused its discretion when it terminated the shared-parenting plan. The decision was not unreasonable, arbitrary, or unconscionable. Accordingly, Father's first cross-assignment of error is overruled.

{¶ 65} We now turn to Mother's first and second assignments of error. In her first assignment of error, Mother argues that the juvenile court erred by imposing "a schedule not supported by any evidence, increasing Father's visitation . . . ." In her second assignment of error, Mother claims that it was error for the

juvenile court to require joint decision making after the termination of the shared-parenting plan.[4]

{¶ 66} When a court terminates shared-parenting,

> the court shall proceed and issue a modified decree for the allocation of parental rights and responsibilities for the care of the children under the standards applicable under [3109.04](A), (B), and (C). . . as if no decree for shared-parenting had been granted and as if no request for shared-parenting ever had been made.

R.C. 3109.04(E)(2)(d); *Bruns*, 2020-Ohio4787 at ¶ 14.

{¶ 67} When neither parent has filed a shared-parenting plan, the court

> shall allocate the parental rights and responsibilities for the care of the children primarily to one of the parents, designate that parent as the residential parent and the legal custodian of the child, and divide between the parents the other rights and responsibilities for the care of the children, including, but not limited to, the responsibility to provide support for the children and the right of the parent who is not the residential parent to have continuing contact with the children.

R.C. 3109.04(A)(1).

{¶ 68} The juvenile court must base its division of parental rights and responsibilities on what is in the best interest of the child. *G.R. v. B.H*, 2026-Ohio-3666, ¶ 32 (6th Dist.); R.C. 3109.04(B). A nonexhaustive list of those best interest factors is delineated in R.C. 3109.04(F)(1). *Id.* at ¶ 33; R.C. 3109.04(F)(1) ("In determining the best interest of a child pursuant to this section . . . the court shall consider all relevant factors" listed, though the court is not limited to the list.).

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[4] In parts of her assigned errors, Mother cites to a January 2026 hearing that was conducted after the juvenile court's October 2025 order. We disregard evidence that was not before the court prior to its final order. *Lytle v. Columbus*, 70 Ohio App.3d 99, 105 (10th Dist. 1990).

{¶ 69} Mother focuses her claims on the juvenile court's September 2025 journal entry terminating shared parenting, arguing that it is unresponsive or non-responsive to the required statutory findings or that the evidence fails to support those findings. Ultimately, Mother requests that the juvenile court reduce Father's weekday visitation to 1.5 hours on Wednesday night and alternate weekends from Friday at 6:00 p.m. to Sunday at 6:00 p.m., which is the same schedule proposed in Mother's April 2025 parenting plan. Mother presents contradictory arguments claiming that the juvenile court properly terminated the shared-parenting plan while also claiming that the court's journal entry does not support the court's parenting time decision for Father. Mother does not establish how the juvenile court's order amounted to an abuse of discretion.

{¶ 70} Contrary to Mother's argument, our review of the record reveals that the juvenile court's order decreased Father's parenting time from the original shared-parenting plan. The October 2018 shared-parenting plan called for him to have every other weekend beginning after school (4:00 p.m. if school was not in session) to Sunday at 7:00 p.m. The new order slightly increased Father's parenting time on days where school was not in session by starting parenting time at 3:00 p.m. The shared-parenting plan scheduled Father's weekday parenting time from Tuesdays to Wednesdays on Father's parenting weekends, and Tuesdays to Thursdays on Mother's parenting weekend. In contrast, the new order gave discretion to A.P. On a quarterly basis, A.P. determines the weekday visit based on her extracurricular activities, beginning every week after school on a day chosen by

A.P. and ending at 8:00 p.m., the following day. The overall order reduced Father's parenting time from that agreed to in the October 2018 shared-parenting plan. The juvenile court did not abuse its discretion where it reduced Father's parenting time but not to the level Mother preferred.

{¶ 71} Mother emphasizes the PC's testimony that Father was not always home when A.P. visits. Father confirmed that he was not always home, but he felt that time with the family was valuable regardless of whether he was home. Nevertheless, Mother has not established how the juvenile court's reduction in Father's visitation time is an abuse of discretion. Despite Mother's assertion that A.P. felt "lost" in Father's home and that she had a difficult relationship with Father, the GAL testified that A.P. asked for more time with Father. At that time, the parties were under the juvenile court's May 2025 temporary order reducing Father's weekday time. While Mother cites extensively to the GAL's October 2024 trial testimony that supports a further reduction of Father's time, she ignores the GAL's testimony from the July 2025 hearing where the GAL recommended an increase in that time based on her discussions with all relevant parties.

{¶ 72} Based on the foregoing, the juvenile court did not abuse its discretion when it reduced Father's parenting time.

{¶ 73} Accordingly, Mother's first assignment of error is overruled.

{¶ 74} In her second assignment of error, Mother claims that the juvenile court erred when it imposed joint decision making. First, Mother argues that when the court terminates a shared-parenting plan, R.C. 3109.04(A)(1) requires the

juvenile court to fully allocate parental rights and responsibilities to one parent, who would be the sole decision maker over the child's health, education, and general welfare. Mother does not cite any case law that supports her position and her argument is not well taken.

{¶ 75} R.C. 3109.04(A)(1) clearly requires a court to designate one parent as legal custodian and residential parent and "divide between the parents the other rights and responsibilities for the care of the children." There is no requirement that the juvenile court assign the other rights and responsibilities to the parent who the court designated legal custodian and residential parent.

{¶ 76} In *Sejka v. Sejka*, 2017-Ohio-2, ¶ 28-29 (9th Dist.), the appellate court found that the lower court did not err when it designated the mother the legal custodian and residential parent but made the father the sole authority over medical decisions. The court noted that after determining the legal custodian and residential parent, the lower court must determine "in a manner consistent with the best interest of the child" how to assign the remaining parental rights and responsibilities. *Id.* at ¶ 22. *See Nicola v. Nicola,* 2015-Ohio-3540, ¶ 13 (11th Dist.). ("[T]he legal custodian and residential parent of children in divorce proceedings is normally vested with the power to make non-emergency medical decisions. However, this is not a requirement of the law. The power may be shared between the legal custodian and residential parent, and the other parent.").

{¶ 77} Therefore, we find that the juvenile court was not required to assign all parental rights and responsibilities to Mother. Nevertheless, we must consider

Mother's second argument, i.e., that the court's September 2025 order requires joint decision making. We find that it does not.

{¶ 78} An order that requires joint decision making between the parents violates R.C. 3109.04(A)(1). In *Tustin v. Tustin*, 2015-Ohio-3454, ¶ 39 (9th Dist.), the court did not detail the facts of the case but found that an order requiring the parents to "jointly make decisions which concern the health and safety of their child except in the case of an emergency" was impermissible under the statute.

{¶ 79} Mother argues that the September 2025 order requires joint decision making for activities and medical decisions. Mother also claims that the following terms are impermissible: accountability to Father, communication consequences, prohibition of communication outside of OFW, expense documentation, the creation of children's pages on OFW, an automatic designation of Father as residential parent for purpose of school if Mother moves outside of the district, the requirement that days of special meaning and holidays follow the October 2018 shared-parenting plan, and the designation of Thanksgiving as a school break to be divided evenly.

{¶ 80} With respect to medical decisions, the juvenile court's order requires the parents to "consult" with each other about A.P.'s care needs and notify the other parent about all major nonemergency medical decisions before authorizing a course of treatment. Further, if the parties cannot agree regarding a course of treatment, Mother's decision controls.

{¶ 81} In *Sejka,* 2017-Ohio-2 (9th Dist.), the court ratified an order granting father sole authority over the child's medical decision and requiring that

> (1) Father must seek out and consider Mother's input; (2) both parents are to have full access to medical records and can attend medical appointments with Father giving Mother adequate notice of appointments and making effort to accommodate her schedule; (3) Father is to timely share medical information with Mother; (4) both parties are to follow doctors' recommendations, treatments and prescriptions; and (5) Mother can seek a second opinion.

Id. at ¶ 23.

{¶ 82} In the instant case, although phrased differently, the juvenile court gives ultimate decision-making power to Mother but requires her to seek Father's input, allows Father to access A.P.'s medical records and attend appointments, requires both to share prescribed medications, and provides that each parent may seek a second opinion. Other than concluding that the order requires joint medical decision making, Mother does not analyze or support her claim. Based on our review of the order, we find that the requirement that the parents consult with one another does not require joint decision making.

{¶ 83} Next, Mother cites section (E) of the order, claiming that it requires joint decision making for activities. However, that section addresses time provided for A.P. to complete projects. The only provision that requires the parents to interact states that the residential parent shall inform the other parent of the schoolwork to be completed. Joint decision making is not a requirement of this section.

{¶ 84} Mother also challenges the provisions that she notify Father if she goes out of town during her parenting time and that she offer him the opportunity

to care for A.P.; a failure to respond to an inquiry on OFW amounts to consent or a waiver to the request; the parents only communicate via OFW unless otherwise necessary; they document expenses and provide a page for the child on OFW; and Father becomes residential parent if Mother leaves the school district. These requirements do not amount to joint decision making; they merely require the parents to keep the other parent informed.

{¶ 85} Finally, Mother challenges the part of the order that requires days of special meaning and holidays to be subject to the original shared-parenting plan and argues that the court failed to set dates or times for A.P.'s birthday during out-of-school hours. The original shared-parenting plan assigned the holidays based on odd or even years and does not require joint decision-making, although the parties are tasked with agreeing to any changes. A.P.'s birthday, which is during the school year, is listed as a day of special meaning and sets a start and end time. There is no requirement for joint decision-making unless the parents want to make a change in the schedule. If the parties cannot agree, then they must abide by the schedule.

{¶ 86} Based on the foregoing, the juvenile court did not abuse its discretion in assigning Father's parenting time or dividing the parents' rights and responsibilities. Accordingly, Mother's second assignment of error is overruled.

B. Contempt of Court Ruling

{¶ 87} In her third assignment of error, Mother challenges the juvenile court's contempt finding. Mother claims that the juvenile court erred when it (1) adopted the findings in a previously vacated magistrate's decision; (2) failed to rule

on all 28 contempt allegations in Mother's motion; and (3) issued purge conditions that were "legally invalid and render[ed] the contempt order unenforceable." Because we find that the first of her three claims is dispositive of this issue, we address it first and will not address the others.

{¶ 88} Juv.R. 40 governs the procedure when a magistrate issues a decision. *In re S.N.A-K*, 2024-Ohio-4494, ¶ 5 (8th Dist.). Once a magistrate issues the decision, the parties may file objections, which the juvenile court will review. Juv.R. 40(D)(4)(b). If timely objections are filed, the juvenile court is required to "undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law." Juv.R. 40(D)(4)(d). After review, the juvenile court "may adopt or reject a magistrate's decision in whole or in part, with or without modification." Juv.R. 40(D)(4)(b). The court may also elect to take additional evidence or return the matter to the magistrate. *Id.*

{¶ 89} After a trial that purportedly addressed all pending motions, including Mother's motion to show cause, the magistrate issued an initial ruling. Mother filed a motion requesting findings of fact and conclusions of law, after which the magistrate filed a subsequent decision. The juvenile court rejected the magistrate's rulings and vacated them "in their entirety." A vacated judgment is "'deprived of all conclusive effect,'" i.e., it is "rendered void and is of no effect." *Luri v. Natl. Union Fire Ins. Co.*, 2019-Ohio-1440, ¶ 21 (8th Dist.), quoting *United States v. Lacey*, 982 F.2d 410, 412 (10th Cir. 1992) ("A judgment that has been vacated,

reversed, or set aside on appeal is thereby deprived of all conclusive effect, both as res judicata and as collateral estoppel. The same is true, of course, of a judgment vacated by a trial court.").

{¶ 90} After hearing oral arguments from the parties, the juvenile court issued a series of entries. In the juvenile court's first entry, the court represented that it was ruling on all pending motions and had independently reviewed the testimony from the October 2024 trial and the subsequent July 2025 hearing to make its rulings. However, the juvenile court ruled on Mother's motions to terminate shared-parenting and did not address her motion to show cause.

{¶ 91} Mother filed a motion requesting that the juvenile court address her motion to show cause. In response, the juvenile court filed an entry granting the motion. The court noted that neither party had objected to the magistrate's decision regarding Mother's motion to show cause, and "it was never addressed or raised to the Court's attention at any time to revisit the ruling." The court then noted that it "adopts the Magistrate's original ruling except both the fine and sentence are suspended. . . ." Notably, the magistrate's original ruling imposed a fine and sentence and suspended both.

{¶ 92} Mother then filed a motion for clarification or reconsideration. The juvenile court issued its final entry in the matter and adopted the magistrate's "findings" on the motion to show cause. The juvenile court's two contempt entries do not state that it completed an independent review of the record. Additionally, the order finds Father in contempt for violating the Thanksgiving or Christmas break

schedule and voicing frustration with Mother in front of A.P. numerous times. The court then imposed a 30-day sentence and $250 fine and suspended both. Father could purge the condition by complying with the court's orders for the next 12 months. The juvenile court's ruling is the same as the vacated magistrate's ruling except the magistrate imposed a 15-day jail sentence that like the court, would be suspended if Father abided by the court's orders for the period of one year.

{¶ 93} Juv.R. 40 permitted the juvenile court to adopt and modify the magistrate's decision, if necessary. Rather than do that, the juvenile court rejected and vacated the magistrate's decision and therefore, the juvenile court could not subsequently adopt the magistrate's findings. The vacated entry was void. *Luri*, 2019-Ohio-1440, at ¶ 21 (8th Dist.). Additionally, we cannot find that the juvenile court did an independent review in deciding Mother's motion to show cause. Unlike its first entry, the court does not reference an independent review and adopts the previously vacated magistrate findings.

{¶ 94} Based on the foregoing, we sustain Mother's third assignment of error, vacate the court's contempt findings, and remand for the court to do an independent review of the evidence and issue its opinion. Mother's remaining claims in this assigned error are rendered moot.

{¶ 95} In light of our decision, the juvenile court will address the contempt finding and sentence anew, making Mother's fourth assignment of error and Father's second cross-assignment of error moot. *See* App.R. (12)(1)(c). We will therefore not address them.

{¶ 96} Judgment affirmed in part, vacated in part, and remanded for further proceedings.

It is ordered that the parties split 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, juvenile 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.

_____
EMANUELLA D. GROVES, PRESIDING JUDGE

MARY J. BOYLE, J., and
KATHLEEN ANN KEOUGH, J., CONCUR