2017 IL App (1st) 153577-U

SIXTH DIVISION
Order filed: June 9, 2017

No. 1-15-3577

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

In re ESTATE OF ELAINA MINEROF, a Disabled Person,	)	Appeal from the Circuit Court of Cook County
(Barry Minerof, Petitioner and Crossrespondent-Appellee,	)	No. 15 P 1821
v.	)	Honorable Kathleen McGury,
Peta Minerof-Bartos, Respondent and Crosspetitioner-Appellant).	)	Judge, Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Rochford and Delort concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the judgment of the trial court appointing the petitioner as guardian of the person and estate of his disabled adult daughter where: (1) the trial court did not abuse its discretion in denying the cross-petitioner's request for co-guardianship or a third-party guardian; (2) the cross-petitioner waived her claim that the guardian *ad litem* exceeded her authority under the Probate Act of 1975 (755 ILCS 5/1 *et seq.* (West 2014)); and (3) appellate jurisdiction does not exist to review the trial court's post-judgment order modifying the visitation schedule that was in effect prior to trial.

¶ 2 The petitioner, Barry Minerof, filed a petition under the Probate Act of 1975 (Act) (755 ILCS 5/1 *et seq.* (West 2014)) to be appointed as guardian of the person of his disabled adult daughter, Elaina Minerof. Elaina's mother, the cross-petitioner, Peta Minerof-Bartos, filed a competing petition to be appointed as co-guardian of Elaina's person and estate with Barry, or, in the alternative, requesting that the trial court appoint Lifecare Guardianship, Inc. (Lifecare), a care management agency, as guardian of Elaina's person and estate. Following a bench trial, the trial court granted Barry's petition and appointed him as guardian of Elaina's person and estate. Peta appeals, arguing that the trial court: (1) abused its discretion in appointing Barry as Elaina's guardian rather than grant co-guardianship to the parties or name Lifecare as guardian; (2) erred in allowing the guardian *ad litem* to exceed her role under the Act; and (3) abused its discretion in entering a post-judgment order modifying the visitation schedule that was in effect prior to trial. For the reasons which follow, we affirm in part and dismiss in part.

¶ 3 Barry and Peta (collectively, the parties) married in 1989 and had two children: Elaina, born in 1997, and Emily, born in 2000. When Elaina was one year old, she was diagnosed with Rett Syndrome, a neurological disease that rendered her severely developmentally disabled. Thereafter, Barry and Peta divorced in March 2006 and entered into a joint parenting agreement which, in relevant part, gave the parties joint custody of Elaina.

¶ 4 In March 2015, as Elaina was approaching her 18th birthday, Barry filed a petition to be appointed as guardian of her person. The petition alleged that Elaina was a disabled person due to Rett Syndrome and that she lacked sufficient understanding or capacity to make or communicate decisions regarding her care. A guardian *ad litem*, Cynthia Farenga, was appointed to represent Elaina's interests during the proceedings.

¶ 5 In April 2015, Peta filed a cross-petition for guardianship. In her cross-petition, she requested to be appointed as co-guardian of Elaina's person and estate with Barry, or, alternatively, that the trial court appoint Lifecare as guardian of Elaina's person and estate.

¶ 6 The case proceeded to a bench trial on both parties' petitions, which occurred between July and November 2015. The parties stipulated that Elaina was a disabled person for purposes of the Act.

¶ 7 During his case-in-chief, Barry presented his own testimony, as well as testimony from Farenga; Howard Rosenberger, the guardian *ad litem* in the parties' post-decree divorce proceedings; Ursula Zbikowska and Esther Garma, two of Elaina's caregivers; Judy McGowan, Peta's mother; and Dr. Maria Simon, Elaina's dentist.

¶ 8 Farenga testified that, based upon her investigation, Barry should be appointed as sole guardian of Elaina's person. Per her testimony and written report, Farenga visited Barry's house on a Sunday morning and found him to be "organized," "efficient," and committed to including Elaina "in ordinary family life in every way possible." Barry speaks to Elaina as though she were an ordinary child, changes her diaper, plans her diet, and maintains a system for tracking her medical appointments, school reports, and bowel movements in order to avoid constipation. Barry and Elaina eat meals together, watch television together, and go to bed at approximately the same time. Barry's house has a living area that is visible from the kitchen and is surrounded by cushions, where Elaina can walk without risk of injury, and, from Barry's bedroom, he can see Elaina in her own room. According to Farenga, Barry criticized Peta's ability to communicate and problem solve regarding Elaina's care and indicated that, when Peta underwent surgery in 2014, he offered to drive Elaina to school but Peta declined his offer in order to avoid

contact with him and hired taxis instead. On two occasions, Barry observed Elaina entering the taxis and believed that the drivers touched her inappropriately.

¶ 9 According to her report, Farenga visited Peta's house on a weekday afternoon. Elaina was watching television, alone in bed, per her typical afterschool routine at Peta's house. Her bedroom is not located on the same level as the other bedrooms but has its own handicap-accessible bathroom. Farenga did not believe that someone in Peta's bedroom could hear Elaina in her own room, although Peta indicated that she would purchase a monitor. Peta stated that she was not working because she "needed 'mental space' due to the pressures of the guardianship and domestic relations proceedings," and that she favors placing Elaina on a wait list for a residential facility "due to her concern that Elaina could outlive her parents." Peta stated that Barry does not communicate with her in a timely manner and refuses to purchase a specialized van, stroller, or bed for Elaina.

¶ 10 Farenga also interviewed Emily, who believed that Barry should serve as Elaina's guardian, and Dr. Beth Wilner, a psychologist who had met with the parties and opined that co-guardianship would be "disastrous based on [their] trouble-ridden history of working together post-divorce." Wilner stated that the parties' efforts to co-parent their children were "extremely dysfunctional" and that " '[t]hey had a very difficult time coordinating [parenting] efforts on higher level care.' " Based upon her investigation, Farenga concluded that co-guardianship of Elaina would be "unworkable" and that hiring a case management agency such as Lifecare would be expensive and not in Elaina's best interests.

¶ 11 Rosenberger testified regarding his investigation during the parties' post-decree divorce proceedings, which Barry initiated following the taxi incident, and described Elaina's routine at Peta's and Barry's houses in substantially the same manner as Farenga. Rosenberger noted that

only Peta favored placing Elaina in a residential facility, while Barry stated that Elaina could live at his house "forever." He added that, when he visited Peta's house in January or February 2015, he observed dog droppings "all over" the home and was told by Emily that Elaina developed diaper rash because Peta did not change her diaper. Based upon his investigation, Rosenberger believed that Peta is involved with Elaina on an "as-needed basis" and that Barry has a "better ability to put [Elaina] first."

¶ 12 Zbikowska and Garma testified that, at the time of trial, they cared for Elaina at Peta's and Barry's houses, respectively, although Garma also worked at Peta's house from 2009 to 2011. Their typical routine at Peta's house involved taking Elaina from bed, changing her diaper, which would be full, showering her, grooming and dressing her, and serving her breakfast. Elaina ate meals alone, and sometimes there was no food in the house or the food had expired. After dinner, they showered Elaina and put her in bed by 6:30 p.m.

¶ 13 Both Zbikowska and Garma stated that Peta's dogs urinated and defecated in the house. Garma further testified that clutter in Peta's garage made it difficult for Elaina to exit the house and that, in the winter, the area outside the house was icy. Elaina's room flooded on at least three occasions, causing mold to grow around the baseboards, and she stayed there even when the damaged carpet was removed and the floor was bare concrete. According to Garma, Peta was unresponsive when she complained about these problems.

¶ 14 Barry's testimony regarding his household, his daily care for Elaina, and his system for communicating with Elaina's school and recording her diet and bowel movements resembled Farenga's report. He stated that he tracked this information because he believed that Elaina suffered from constipation and that, on two or three occasions, he retained an attorney to secure Elaina's access to therapy services at her school. He further testified that, at the time of trial, he

was employed as a podiatrist and had organized fundraisers and conferences for causes related to Rett Syndrome.

¶ 15 Barry characterized Peta's petition for co-guardianship as a "horrible and unworkable idea," and opposed Lifecare's appointment as Elaina's guardian. Notwithstanding, he stated that, despite his misgivings, he did not prevent Peta from giving Elaina birth control medication. Additionally, when Elaina developed a bone infection in her foot and a physician, Dr. Elaine Rosenfeld, suggested amputation, Barry worked with Peta to find another doctor and treat Elaina with intravenous antibiotics. On cross-examination, Barry testified that, in 2011, he wrote an email to Dr. Wilner alleging that Dr. Phyllis Amabile, in a written report, stated that Peta had once referred to Elaina as a "retard." Barry acknowledged that no such statement appeared in the report but stated that Dr. Amabile had, in fact, related Peta's statement to him verbally.

¶ 16 Barry also adduced testimony from Dr. Simon, who stated that Barry disagreed with her treatment plans only once, when he refused to give Elaina anesthesia and instead found other ways to calm her during examinations, and McGowan, who testified that Barry was better suited than Peta to provide Elaina with "a safe, clean environment where she is *** acknowledged during the day and cared for in a loving way."

¶ 17 During her case-in-chief, Peta presented her own testimony, as well as testimony from Beth Winograd, one of Elaina's caregivers; Dr. Teri Merens, Elaina's pediatrician; Pat Cline, a care manager for Lifecare; Drs. Amabile and Rosenfeld; and Thomas Ossmann, an employee of the dispatcher service that Peta used to arrange taxi service for Elaina.

¶ 18 Peta testified that she opposed Barry serving as Elaina's sole guardian and did not believe that he would grant her "liberal visitation" with Elaina. She stated that she was concerned about what would happen to Elaina after she aged out of public school, and researched day programs

and residential facilities. Peta believed that Lifecare was an appropriate option because, if Elaina outlives both her parents, the agency would care for her according to her family's wishes.

¶ 19 Peta further testified that she was employed as a podiatrist at the time of trial and had consented to treating Elaina's bone infection using intravenous antibiotics although she disagreed with Barry's plan. She stated that Barry ignored her request to put Elaina on birth control. She was unaware of Elaina's diet at Barry's house, did not believe that she suffered from constipation, and sometimes ignored Barry's emails regarding the issue. Additionally, Peta stated that she did not use Barry's method to communicate with Elaina's school and would not read his notes when they functioned as a "shaming device." Peta acknowledged that Barry had complained to her regarding the cleanliness of her house, dogs, food, use of taxis to transport Elaina, and the presence of bare concrete floors in Elaina's room.

¶ 20 Winograd's testimony regarding her daily routine at Peta's house resembled that of Zbikowska and Garma, but she stated that there was always food and that she had no concerns about Elaina's safety. Dr. Merens testified that neither Barry nor Peta was "unfit or unable" to care for Elaina.

¶ 21 Cline testified that Peta paid her to prepare a report detailing options for Elaina's care after she reached the age of majority. Cline met with Peta and Elaina at Peta's house but did not speak with Barry. She recommended that the parties serve as co-guardians with support services from Lifecare.

¶ 22 Peta also called Dr. Amabile, who denied telling Barry that Peta called Elaina a "retard," and Dr. Rosenfeld, who denied telling Barry that Elaina required an amputation. Ossmann stated that taxi drivers are "not expected to be physically handling or assisting the passenger."

¶ 23 Following closing arguments, the trial court appointed Barry as guardian of Elaina's person and estate. The trial court found that, although both parties wanted to "make sure everything is in [Elaina's] best interest," co-guardianship was not appropriate because "co-guardians must be on the same page." According to the trial court, the parties "have substantial disagreements," "don't agree on most things," and risked exhausting Elaina's estate through litigation. The trial court declined to appoint Lifecare as Elaina's "case manager" due to the expense, Elaina's age, and the fact that "she is able to live at home and be cared for by her family ***." This appeal followed.

¶ 24 On appeal, Peta does not challenge Elaina's disability or her need for a guardian. Rather, she contends that the trial court abused its discretion in appointing Barry as Elaina's sole guardian instead of granting co-guardianship to the parties.

¶ 25 The trial court's selection of a guardian "will not be overturned on appeal absent an abuse of discretion." *In re Estate of Johnson*, 303 Ill. App. 3d 696, 705 (1999); 755 ILCS 5/11a-12(d) (West Supp. 2015). An abuse of discretion occurs when " 'the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court.' " *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009) (quoting *People v. Hall*, 195 Ill. 2d 1, 20 (2000)). This court may affirm the trial court's judgment on any basis contained in the record. *Lake Environmental, Inc. v. Arnold*, 2015 IL 118110, ¶ 16.

¶ 26 Section 11a-3(a) of the Act (755 ILCS 5/11a-3(a) (West Supp. 2015)) provides, in relevant part, that, "[u]pon the filing of a petition by a reputable person" the court may adjudge a person to be disabled and "may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or

(2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate." To be qualified to serve, the proposed guardian must be at least 18 years old, be a resident of the United States, not be of unsound mind, not be adjudged a disabled person as defined in the Act, and not be convicted of a felony. 755 ILCS 5/11a-5(a) (West Supp. 2015). Additionally, the court must find that the proposed guardian "is capable of providing an active and suitable program of guardianship for the disabled person ***." *Id.* In this case, the parties stipulated that Elaina was a disabled person for purposes of the Act and only dispute whether the trial court properly appointed Barry as her sole guardian.

¶ 27 In selecting a guardian, the trial court must consider the qualifications of the proposed guardian and give due consideration to the preference of the disabled person, but is not bound by that preference. 755 ILCS 5/11a-12(d) (West Supp. 2015); *In re Estate of McHenry*, 2016 IL App (3d) 140913, ¶ 141. Rather, "the paramount concern in the selection of the guardian is the best interest and well-being of the person with a disability." 755 ILCS 5/11a-12(d) (West Supp. 2015). Factors that the trial court may consider in making that determination include:

> "(1) the degree of relationship between the disabled person and the proposed guardian; (2) the recommendations of persons with kinship or familial ties to the disabled person; (3) conduct by the disabled person prior to the adjudication demonstrating trust or confidence in the proposed guardian; (4) prior conduct by the proposed guardian indicating a concern for the well-being of the disabled person; (5) the ability of the proposed guardian to manage the disabled person's estate (the proposed guardian's business experience and other factors); and (6) the extent to which the proposed guardian is committed to discharging any

responsibilities which might conflict with his or her duties as a guardian." *In re McHenry*, 2016 IL App (3d) 140913, ¶ 141 (citing *Johnson*, 303 Ill. App. 3d at 705).

¶ 28 Turning to the present case, Peta contends that the trial court abused its discretion in appointing Barry as Elaina's sole guardian because, while the parties disagreed regarding who should be Elaina's guardian, they never engaged in a substantial dispute regarding her care. Peta notes that, among other instances, she and Barry agreed to Elaina's birth control and the treatment of her bone infection, and submits that her decision not to use Barry's system to track Elaina's bowel movements and communicate with her school is inconsequential because the evidence did not demonstrate that Elaina suffered from constipation or was adversely affected by Peta's method of communication.

¶ 29 We find that the trial court did not abuse its discretion in either appointing Barry as the sole guardian of Elaina's person and estate or in denying Peta's petition for joint guardianship. The statute provides that the trial court's "paramount concern" in selecting a guardian is the "best interest and well-being of the person with the disability" (755 ILCS 5/11a-12(d) (West Supp. 2015)), and, in this case, the evidence supports the trial court's determination that Elaina's best interests would be served by appointing Barry as her sole guardian. Turning to the first factor outlined in *McHenry*, the degree of relationship between Barry and Elaina, Farenga's report described in detail how Barry participates in Elaina's daily care, speaks to her as though she were an ordinary child, eats meals and watches television with her, and includes her in "ordinary family life." As to the second factor, the recommendations of Elaina's family members, both Emily and McGowan expressed their belief that Barry was best suited to serve as Elaina's guardian. Per the fourth factor, Barry's prior conduct indicating a concern for Elaina's well-

being, the evidence indicated that he planned her diet, maintained a system to communicate with her school, retained an attorney to secure her access to therapy, arranged his home to promote Elaina's safety, and complained to Peta regarding unsafe conditions in her house. With respect to the fifth factor, Barry's ability to serve as guardian of Elaina's estate, the evidence indicated that Barry was employed, organized fundraisers and conferences, and was described by Farenga as "organized" and "efficient." We further note that, although Elaina's ability to communicate is limited, the evidence adduced at trial, taken as a whole, suggests that she thrived to the greatest extent under Barry's care.

¶ 30 The trial evidence also demonstrates that Elaina's best interests and well-being would not have been served had Barry and Peta been appointed as co-guardians. Although Peta characterizes the litigation arising from the taxi incident as a "one-off problem," the parties' "substantial disagreements," as the circuit court noted, would risk exhausting Elaina's estate through litigation. Only Peta favored co-guardianship, while Barry described it as a "horrible" idea. Peta favored placing Elaina on a waiting list for residential treatment, while Barry wanted Elaina to live at his house. Both Barry and Peta criticized each other's ability to communicate, disputed whether Elaina required expenditures such as a specialized van, stroller, or bed, disagreed as to whether Elaina suffers from constipation, and did not coordinate her diet. Per Farenga's report, Dr. Wilner opined that co-guardianship would be impractical due to the parties' inability to coordinate "higher level care" for their children. Based upon her investigation, Farenga concluded that co-guardianship of Elaina would be unworkable. In view of the foregoing, the trial court could reasonably infer that co-guardianship would not be in Elaina's best interests. *Best v. Best*, 223 Ill. 2d 342, 350-51 (2006) ("A reviewing court will not substitute

its judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn.").

¶ 31 To the extent Peta argues that whether she or Barry provides "a better home for Elaina" has no bearing on her ability to make personal and financial decisions in Elaina's best interest, we disagree. Although Peta testified that she wished to place Elaina in a residential facility in order to secure her future care, the evidence adduced at trial demonstrated that she did not consistently provide for Elaina's ongoing "support, care, comfort, health, education and maintenance, and professional services" as mandated by the Act. 755 ILCS 5/11a-17(a) (West Supp. 2015). Specifically, the trial evidence indicated that, at Peta's house, Elaina spent most of her afterschool time in bed, did not eat with the rest of the family, and went to bed by 6:30 p.m. Testimony from Elaina's caretakers suggested that Peta did not change her diaper at night, and that Peta was unresponsive to complaints regarding dog urine and droppings in her house, clutter in her garage, icy outdoor areas, and mold and uncarpeted flooring in Elaina's room, all of which posed a danger to Elaina. Peta acknowledged ignoring Barry's emails regarding Elaina's alleged constipation and did not read his correspondence with Elaina's school when she believed it contained personal attacks on her. The foregoing circumstances were relevant to the trial court's determination regarding Peta's ability to make personal and financial decisions in Elaina's best interest, and we will not substitute our judgment for that of the trial court regarding the inferences to be drawn therefrom. See *Best*, 223 Ill. 2d at 350-51.

¶ 32 Peta argues, however, that Barry's "dishonest[y]" precludes him from serving as Elaina's sole guardian where Dr. Rosenfeld denied that she recommended amputation of Elaina's toe or foot and Dr. Amabile's testimony and written report contradicted Barry's claim that Peta told Dr. Amabile that Elaina was a "retard." Peta, at most, has identified conflicts in the testimony that

the trial court, as trier of fact, was obliged to resolve. See *Career Concepts, Inc. v. Synergy, Inc.*, 372 Ill. App. 3d 395, 405 (2007) (noting that the trier of fact determines the credibility of the witnesses, weighs their testimony, and resolves conflicts in the evidence). This court will not substitute its judgment "merely because the trial court could have drawn different inferences and conclusions from the conflicting testimony." *Id*. Consequently, this argument is without merit.

¶ 33 Peta also claims that the trial court misapprehended the role that Lifecare would play if it were appointed to be Elaina's guardian. Specifically, she argues that the trial court's findings indicated that it believed that Lifecare's appointment would necessarily result in Elaina's "removal to a facility" when, in fact, the agency would make decisions for Elaina's care only after receiving input from both of the parties. This argument misconstrues the trial court's findings. In relevant part, the trial court stated:

> "In regard to the proposal of case management by [Lifecare], obviously one problem is the cost; again, eating up the estate. But aside from that, Elaina does have a home and a family who loves her and wants to take care of her.
>
> She is only 18 years old. And I think as long as she has that family, she should be able to live with them and as long as it's medically possible as well."

The trial court's comments, taken in context, do not suggest that appointing Lifecare as Elaina's guardian would result in her automatic removal to a facility. To the contrary, the trial court observed that, because Elaina has family that is willing and able to care for her in the home, Lifecare's involvement in her case, along with the possibility of residential placement, is unnecessary at this juncture. The trial court's conclusion was well-supported by the evidence and its findings do not indicate that it misconstrued the facts. As such, we reject this claim of error.

¶ 34 Next, Peta contends that the trial court erred in allowing Farenga to exceed her role under the Act when, on various occasions, she questioned witnesses, argued the admissibility of evidence, and improperly advocated for Barry. Peta did not object to any of these claimed errors at trial and, therefore, has waived them. *Dienstag v. Margolies*, 396 Ill. App. 3d 25, 41 (2009) (noting that a party waives an issue for review by failing to make an appropriate objection in the trial court).

¶ 35 Peta submits, however, that the trial court also erred in allowing Farenga to make a closing argument in which she referenced evidence that was neither admitted at trial nor subject to cross-examination. The record indicates that Peta's counsel objected to Farenga making a closing argument but did not challenge the accuracy of any statements that she made therein; this claim, therefore, is also waived. *Gausselin v. Commonwealth Edison Corp.*, 260 Ill. App. 3d 1068, 1079 (1994) ("when an objection is made, specific grounds must be stated and other grounds not stated are waived on review."). Notably, Peta does not argue that Farenga's closing argument caused her prejudice and, as we have explained, the trial court's judgment was amply supported by the evidence of record. See *Schaffner v. Chicago and North Western Transportation Co.*, 161 Ill. App. 3d 742, 754 (1987) (the party asserting error "must provide a clear showing of prejudice," and a reviewing court will not presume that the asserted error affected the outcome of the trial).

¶ 36 Finally, Peta contends that the trial court abused its discretion in entering a post-judgment order modifying the visitation schedule that was in effect prior to trial. Barry, in response, argues that the order in question was not appealable and that Peta lacks standing to challenge it, or, alternatively, that she waived the issue in a subsequent agreed order.

¶ 37 Prior to trial, per Farenga's report, the parties agreed to continue Elaina's visitation schedule as set forth in their joint parenting agreement pending resolution of the guardianship issue. On November 20, 2015, the day after the trial court appointed Barry to be Elaina's guardian, the trial court entered a post-judgment order providing that Peta would have overnight visitation with Elaina every other weekend, but that Elaina could not spend the night at Peta's house unless she slept on the same floor as the other family members. In its language, the order stated that it was "final and appealable." On November 30, 2015, however, the trial court entered an agreed order stating that Peta "voluntarily waives" her visitation time with Elaina until January 8, 2016, when the matter was set for status, and that the November 20 order is "discontinued until further order of [the trial] court." The record lacks a transcript from the proceedings on November 30, and the order from that date was not mentioned in Peta's notice of appeal from the order of November 20, which she filed on December 15, 2015.[1]

¶ 38 This court lacks jurisdiction over Peta's appeal from the trial court's order of November 20. The order of November 30, while not mentioned in Peta's notice of appeal, is "reviewable as a step in the procedural progression arising from the judgment specified in the notice of appeal." *March v. Miller-Jesser, Inc.*, 202 Ill. App. 3d 148, 157-58 (1990) (finding that a trial order not identified in the notice of appeal was reviewable where it superseded and replaced the order that was specified in the notice of appeal). Here, the order of November 30 demonstrates that the order of November 20 was not final but, rather, had been "discontinued" pending further action by the trial court. See *In re Rogan M.*, 2014 IL App (1st) 132765, ¶ 9 (a judgment is final if it "fixes absolutely and finally the rights of the parties in the lawsuit; *** [and] determines the

[1] The record does not indicate whether a hearing occurred on January 8, 2016, or whether the trial court took any further action in this case.

litigation on the merits so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment."). As the order of November 20 was not final, this court lacks jurisdiction to review the trial court's ruling on visitation and is unable to address Peta's contention on the merits. See *In re Marriage of Gutman*, 232 Ill. 2d 145, 151 (2008). Therefore, we dismiss Peta's appeal with respect to the trial court's order of November 20, and need not address the issues of standing and waiver.

¶ 39 For the foregoing reasons, we affirm the judgment of the trial court appointing Barry as guardian of Elaina's person and estate and dismiss Peta's appeal with respect to the trial court's order of November 20, 2015.

¶ 40 Affirmed in part and dismissed in part.