

No. 1-18-1894

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CHERUN HAMPTON,)
)
 Petitioner-Appellee,) Appeal from the Circuit Court
) of Cook County,
)
 v.) No. 13 D 6050572
)
 MARK WILLIAMS,) Honorable
) Fredrick H. Bates,
 Respondent-Appellant.) Judge Presiding.

PRESIDING JUSTICE MIKVA delivered the judgment of the court.
Presiding Justice Griffin and Justice Pierce concurred in the judgment.

ORDER

¶ 1 *Held:* Where no hearing transcripts or acceptable substitutes were included in the record on appeal, the circuit court’s allocation of parenting time and decision not to remove the court-appointed guardian *ad litem* are affirmed.

¶ 2 This case comes before us on an order of the circuit court resuming a prior agreed custody judgment and parenting arrangement between Cherun Hampton and Mark Williams, with respect to their minor child Daylan, after years of contentious custody litigation. On appeal, Mr. Williams argues *pro se* that the trial court erred (1) by giving Ms. Hampton the majority of parenting time with Daylan and (2) by not removing the appointed guardian *ad litem*. For the following reasons, we affirm the judgment of the trial court.

¶ 3

I. BACKGROUND

¶ 4 This case involves a four-year-long battle between petitioner Cherun Hampton and respondent Mark Williams regarding the custody and parenting of their son Daylan. Numerous petitions, emergency motions, and other requests for relief were filed by both parents. Ms. Hampton was represented by three different lawyers: she fired the first and the second was granted leave to withdraw from the case due to irreconcilable differences. Mr. Williams was represented by seven different lawyers, his prior counsel withdrawing from the case due to irreconcilable differences, disagreements, and, in one instance, concern that “continued representation of [Mr. Williams] would place counsel in violation” of certain rules of professional conduct. All of this culminated an order entered on August 17, 2018, in which the court refused to discharge the guardian *ad litem* (GAL) that it had appointed on Daylan’s behalf and an order entered on August 22, 2018 in which Ms. Hampton was allowed to resume the majority of parenting time.

¶ 5

A. Overview of the Custody Dispute

¶ 6 Mr. Williams’s paternity was established and he was ordered to pay child support beginning in May 2014. On December 28, 2015, the parties entered into a lengthy and detailed custody judgment and parenting agreement that gave Ms. Hampton sole custody and made her home Daylan’s primary residence. Even before that agreement was reached, Mr. Williams began expressing concern about Daylan living with Ms. Hampton, all related to the conduct by her older son D.J., who was Daylan’s half brother. Mr. Williams first expressed concern that he and Ms. Hampton had seen D.J. abuse an unidentified two-year-old child. Beginning in 2016, Mr. Williams made allegations that D.J. was also abusing Daylan. Those allegations were serious.

They included reports that Daylan told him that D.J. caused marks on Daylan's neck and cuts on Daylan's leg, and that D.J. "placed his penis in [Daylan's] mouth and told him that it taste like pineapple juice" and "rubbed his genitals on [Daylan's] face." Mr. Williams alleged that D.J. hit Daylan, causing "black eyes, split lips, strangulation marks on [Daylan's] neck, bit[e] marks on his back, and bruises on his arms," that Daylan told a forensic examiner that D.J. hit him so hard that Ms. Hampton had to put ice on the bruises, and that Ms. Hampton continued to endanger Daylan by leaving him home alone with D.J. in violation of several court orders.

¶ 7 Ms. Hampton has consistently denied these allegations, accusing Mr. Williams of filing false reports with the Department of Children and Family Services (DCFS) to harass her. Ms. Hampton claimed that Daylan had denied Mr. Williams's allegations of abuse to her and that Daylan's teacher said that Daylan "show[ed] no signs of abuse." Ms. Hampton claimed that Mr. Williams had filed multiple DCFS complaints with respect to Daylan's safety and all had been unfounded, and Mr. Williams had previously coached Daylan "to make inaccurate claims concerning [Ms. Hampton]." Early in the proceedings Ms. Hampton also alleged that Mr. Williams would often appear intoxicated when he dropped Daylan off to her after his scheduled parenting time.

¶ 8 B. Relevant Procedural History in the Circuit Court

¶ 9 On December 28, 2015, the parties reached the joint custody agreement naming Ms. Hampton the custodial parent and Mr. Williams the non-custodial parent of Daylan (2015 Custody Judgment). One issue left open by the parties was Mr. Williams's objection to D.J. caring for Daylan.

¶ 10 As the parties filed motions and petitions throughout 2016, 2017, and 2018, the court

made a number of temporary adjustments to Daylan's primary residence and the parties' respective parenting time. The court also entered multiple orders limiting or prohibiting contact between Daylan and D.J. On April 14, 2017, in response to Mr. Williams's allegations of abuse by D.J., the court named Mr. Williams as the "temporary primary residential parent." On April 18, 2017, after a hearing, the court ordered that Daylan should be returned to live with Ms. Hampton, but that she was not allowed to leave Daylan alone with D.J. "under any circumstances." That same day the court also appointed GAL Masah Renwick on behalf of Daylan.

¶ 11 On October 12, 2017, Mr. Williams filed an emergency motion to suspend Ms. Hampton's parenting time with Daylan. According to Mr. Williams, Daylan was questioned by a DCFS investigator and Daylan "confirmed" that D.J. "had inappropriate sexual contact" with him, and that DCFS told Mr. Williams that Daylan was not to return to Ms. Hampton's residence without further notice. The court order entered on that date says that Daylan and D.J. were to have "no contact whatsoever" until further notice of the court and that Ms. Hampton would have four hours of supervised parenting time with Daylan per week.

¶ 12 On November 17, 2017, the circuit court ordered that Daylan's residence would remain with Mr. Williams "on a temporary basis" and that Ms. Hampton was to undergo family counseling "for herself as to issues and allegations in this case." On November 20, 2017, the court also entered a visitation schedule for Thanksgiving and the weeks after.

¶ 13 On April 23, 2018, Ms. Hampton filed a motion asking for the parties' agreed custody arrangement to resume, pursuant to which she would have the majority of parenting time with Daylan and Daylan would again reside with her. Ms. Hampton alleged that the most recent

DCFS report Mr. Williams filed was determined to be unfounded, a criminal complaint based on Daylan's treatment had been dismissed, Mr. Williams had filed "at least three prior DCFS complaints" against her that were determined unfounded, and there was no danger to Daylan if he were to reside with her.

¶ 14 On April 25 and again on June 25, 2018, Mr. Williams filed petitions for a rule to show cause as to why Ms. Hampton should not be held in indirect civil contempt for her failure to comply with the multiple court orders directing her to not leave Daylan alone or allow him to have contact with D.J.

¶ 15 On August 14, 2018, Mr. Williams also filed a *pro se* motion to remove GAL Renwick, who Mr. Williams accused of lying and failing to protect Daylan from physical and sexual abuse. Mr. Williams alleged that GAL Renwick had failed to make the court aware of a new DCFS investigation stemming from an incident on June 14, 2018, when, according to Mr. Williams, Daylan told his therapist Joanna Griffin that "his half-brother [D.J.] sexually assaulted/raped him." Mr. Williams further alleged that GAL Renwick had convinced a DCFS investigator to go against DCFS policies and procedures.

¶ 16 Mr. Williams attached to his motion the reports of various mental health professionals, email correspondence between GAL Renwick and others involved in the case, and DVDs of forensic interviews Daylan had participated in at LaRabida Children's Trauma Center.

¶ 17 Three reports completed by Tillary Blackman, QMHP, indicated that on November 23, 2016, Daylan "endorsed experiencing physical abuse and identified his older brother as the perpetrator," that on November 28, 2016, Daylan's "father also reports that he client has been physically abused by his 16-year-old brother while at his mother's house," which included

“hitting, biting, and choking the client,” and Daylan “also reported that his brother had hurt him in these ways,” and that on November 30, 2016, she “called [Daylan’s] DCFS worker to provide information regarding the case.”

¶ 18 Two reports completed by Joanna Griffin, LCSW, LPHA, on October 13, 2017, noted that Daylan “expressed feelings regarding his brother, saying ‘brother bad’ while having the brother Lego run over people while driving an ambulance.” In the second report, Ms. Griffin said that she had updated Dr. Bob Hirsch, “who previously supervised the case, regarding new DCFS involvement” by providing “updates to the case, including that [Daylan] made allegations regarding sexual abuse by his half-brother and was deemed unable to return to his mother’s home.”

¶ 19 In an email sent by GAL Renwick to one of Mr. Williams’s attorneys on November 3, 2017, the GAL said she had had “numerous conversation with the DCFS caseworker,” was “present for a two part forensics interview of [Daylan]” and the debriefing of Mr. Williams by the forensics interviewers, and that she could not “reach any conclusions on this matter” because “[t]he investigation (police and DCFS) [wa]s ongoing and [she] want[e]d them to finalize their investigation.” GAL Renwick also stated: “What I will say is that everyone, DCFS, police detective and I all agree that mother can and should have contact with the child. So I am going to advocate heavily for that in court.”

¶ 20 Another report from Ms. Griffin dated November 17, 2017, noted:

“Clinician contacted Client’s guardian *ad litem* over the phone to provide consultation and amend information shared during their previous phone call. Clinician reported that, when they spoke yesterday, Client had not verbally disclosed abuse by his

half-brother. Clinician stated that, during today's session while updating the Mental Health Assessment alone with Clinician, Client verbally stated that it made him 'mad when [his] brother hit him' and 'sad when [his] brother made him touch his lizard.' "

¶ 21 In an email to the parties and their attorneys on November 19, 2017, GAL Renwick stated that she had twice spoken to Daylan's psychotherapist, who had originally, on "11/17," relayed to her that Daylan "ha[d] not disclosed anything about sexual abuse." According to GAL Renwick, when Mr. Williams then brought Daylan to therapy on "10/17," Daylan "without prompting, and to [his] counselor's surprise," mentioned " 'being hit,' by his brother." The GAL recommended in this email that Daylan be returned to Ms. Hampton and the "prior parenting time schedule be restored," "[D.J.] not be left alone unsupervised with Daylan," a "215 mental health and substance abuse exam be conducted for both parties (based on mother's allegations of alcohol abuse by father, and father's allegations of mother being unfit)," and a "604.10 evaluation be conducted *** to help determine the credibility of the witnesses for these serious allegations (mother – alleges domestic violence and alcoholism and father – alleges sexual and physical abuse occurring by [D.J.] to Daylan, and mother covering up)."

¶ 22 In her report, GAL Renwick indicated that she met with Ms. Hampton and Mr. Williams, (individually and with Daylan), attended the forensic interviews with Daylan on October 23 and 24, 2017, had a teleconference with Ms. Griffin on November 15, 2017, and visited Ms. Hampton's mother's home where she met with Ms. Hampton, Ms. Hampton's mother, and D.J. With respect to her telephone conversation with Ms. Griffin, GAL Renwick said that Ms. Griffin indicated that in their play therapy sessions, "Daylan made no disclosures but his play was grotesque in nature." Ms. Griffin also stated that she had not seen Ms. Hampton and Daylan

enough “to form an opinion about that interaction,” but noted that Mr. Williams “need[ed] to have boundaries set” because he “was using the therapy to discuss inappropriate court-related matters with Daylan.”

¶ 23 GAL Renwick noted that Mr. Williams believed D.J. was sexually abusing Daylan and did not want D.J. to have contact with Daylan, and that he had made “at least 2 prior DCFS allegations” against Ms. Hampton, “both of which were unfounded.” She also said that the “only parenting concern” Mr. Williams had mentioned about Ms. Hampton was “her ability to protect Daylan from [D.J.], inasmuch as he d[id] not believe she w[ould] honor the court’s order for no contact.”

¶ 24 GAL Renwick noted that Ms. Hampton denied the allegations against D.J. and accused Mr. Williams of being “very controlling,” “abusive,” and “violent.” Ms. Hampton believed that Mr. Williams was “trying to ruin [D.J.’s] life to get back at her for breaking up with him.” Ms. Hampton “ha[d] no concerns about [D.J.’s] fitness to be in contact or alone with Daylan.” GAL Renwick also met Ms. Hampton’s mother, Trevon, who said she was “willing to let [D.J.] reside with her, and ensure that there is no contact between the boys if [that] is the order of the court.”

¶ 25 GAL Renwick described Daylan as “a very lovely child,” who appeared “very well fed, well cared-for, well-dressed and groomed,” observations she made “when he was with both parties.” She said that when asked about D.J., “Daylan expressed feelings of love for his brother and he did not seem scared of him, or reluctant to talk about him.” The GAL also observed that Daylan well-bonded with both of his parents.

¶ 26 GAL Renwick concluded by stating that she had “serious concerns” about Mr. Williams’s “willingness or ability to foster a mother-child relationship if he were granted the

permanent allocation of parental responsibilities.” In her opinion, Mr. Williams “seem[ed] extremely angry and hostile towards [Ms. Hampton] and the GAL.” GAL Renwick also noted, however, that Ms. Hampton was “very much in denial that any abuse occurred, let alone that it was perpetrated by [D.J.]” As to D.J., GAL Renwick said that he “appeared to be a nice, well-adjusted, ‘normal’ teenager” and that “[n]o one has reported any issues with criminal activity, truancy, etc. to the GAL” so that it was “quite hard to believe the allegations lodged against him.” The GAL recommended that Daylan continue with psychotherapy and be returned to Ms. Hampton but, because it would be “prudent for the court to err on the side of caution,” she further recommended that D.J. should reside with his grandmother and there should be “a total prohibition on any unsupervised contact between [D.J.] and Daylan, until such time that [D.J.] [could] be evaluated and cleared of the allegations by a therapist (not just by DCFS and the police).” GAL Renwick believed that, “even if the sexual abuse did occur and a therapist confirm[ed] [Mr. Williams’s] suspicions, that [Ms. Hampton] care[d] enough for Daylan, and ha[d] been so upset by the abrupt separation for Daylan,” that she would do “everything in her power to make sure Daylan [was] protected and insulated from any further abuse.”

¶ 27 Two additional reports from June 20, 2018, were also included with Mr. Williams’s motion. The signature pages were not made a part of the record, so it cannot be determined who wrote them. The reporter in the first report indicated that Daylan said that his brother “had put his ‘pee pee’ in [Daylan’s] mouth” and, when asked whether it had happened on his most recent weekend visit, Daylan said, “ ‘on some weekends when I go there.’ ” The reports indicated that, as required by law, the unidentified author reported what Daylan had said to DCFS.

¶ 28 Finally, Mr. Williams included DVDs of the forensic interviews Daylan participated in at

LaRabida Children’s Trauma Center on March 2, 2017, and October 23 and 24, 2017. Daylan was four years old at the time of all three interviews. During the interviews, Daylan made multiple statements about D.J. abusing him, for example, Daylan said that D.J. “hits [him],” and when asked whether anyone was hitting him, responded, “D.J.!” Daylan also said that D.J. “[b]ites [his] back,” hit him with a bat on the legs and that it had left marks that “look[ed] like bleeding,” and “pee peed” in Daylan’s mouth 10 times.

¶ 29 On August 17, 2018, the court denied Mr. Williams’s motion to remove the GAL. There is no transcript of the court hearing and the court’s two-sentence order does not include an explanation of the court’s reasoning.

¶ 30 On August 22, 2018, all parties agreed to waive the therapist-patient privilege, and the court ordered Ms. Griffin to testify, with the understanding that her testimony would be kept confidential. Following a hearing, for which we also do not have a transcript, the trial court entered a five-page handwritten order. That order granted Ms. Hampton’s motion to resume majority parenting time with Daylan and allowing him to again reside with her. The court indicated in its order that it had considered all of the factors of section 602.7 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/602.7 (West 2016)) “as reviewed in open court,” and that it found it was in the best interest of Daylan to grant Ms. Hampton’s motion. The court order further stated:

“Dad has engaged in a systematic practice of filing unsubstantiated police reports leading to unfounded DCFS allegations. ***

These false allegations, as testified to by the GAL weigh heavily on factor #13—the willingness of each parent to facilitate and encourage a close relationship between the

other parent and the child and militate overwhelmingly against Mr. Williams in this case.”

¶ 31 In that court order, the parties were directed to resume the visitation schedule from the 2015 Custody Agreement. Ms. Hampton was instructed that she “shall not under any circumstance leave [D.J.] alone with [Daylan]” and “shall enroll [D.J.] in a program to assess whether he poses any risk to [Daylan] or have him reside with his grandmother as previously proposed.”

¶ 32 Finally, the court order denied Mr. Williams’s motion for a rule to show cause why Ms. Hampton should not be found in contempt of court, explaining that “there was no credible evidence to support the petition and [Ms. Hampton], on oath, credibly denied the allegations.”

¶ 33 II. JURISDICTION

¶ 34 On September 4, 2018, Mr. Williams timely filed his notice of appeal from the circuit court’s denial of his motion to remove the GAL and granting of Ms. Hampton’s motion to resume majority parenting time. We have jurisdiction to Rule 304(b)(6), governing appeals from judgments allocating parental responsibilities. Ill. S. Ct. R. 304(b)(6) (eff. Mar. 8, 2016).

¶ 35 III. ANALYSIS

¶ 36 On appeal, Mr. Williams argues that the trial court erred by (1) transferring the majority of parenting time to Ms. Hampton on August 22, 2018, and (2) by not removing GAL Renwick. We consider and reject each of these arguments.

¶ 37 Ms. Hampton has not filed a brief in response to this appeal, and on June 25, 2019, we entered an order taking the case on Mr. Williams’s *pro se* brief only. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (“if the record is simple and the claimed

errors are such that the court can easily decide them without the aid of an appellee's brief, the court of review should decide the merits of the appeal").

¶ 38 Mr. Williams first argues that the trial court erred when it transferred the majority of parenting time to Ms. Hampton without holding an evidentiary hearing. He bases his argument on the "standard rule of modification" under section 610.5 of the Marriage Act, which provides that after the initial visitation schedule, "[p]arenting time may be modified at any time *** upon a showing of changed circumstances that necessitates modification to serve the best interests of the child." 750 ILCS 5/610.5(a) (West 2014).

¶ 39 However, before the court entered its August 22, 2018 order, it did hold an evidentiary hearing. While we do not know who else testified or what was said, we know that Ms. Griffin testified at that hearing. Moreover, the circuit court's August 22, 2018, order was not a modification of parenting time. It was a resumption of the only permanent parenting time schedule ever established in this case: the 2015 Custody Judgment. As the record makes clear, the orders granting Mr. Williams primary residential custody of Daylan did so on only a temporary basis. The court's April 14, 2017, order, for example, named Mr. Williams the "temporary primary residential parent" for Daylan and noted that the 2015 Custody Judgment schedule was "temporarily suspended until further order of court." In its November 7, 2017, order, the court again stated that Daylan's residence would remain with Mr. Williams "on a temporary basis." At no time did the court make Mr. Williams the permanent primary residential parent of Daylan. Mr. Williams directs our attention to a November 20, 2017, visitation schedule for the Thanksgiving holiday and further alternate weekends, but nothing in that order suggests the court was modifying the 2015 Custody Judgment or naming Mr. Williams the permanent

residential parent.

¶ 40 To the extent that Mr. Williams is contesting the substance of the court’s ruling on August 22, 2018, we have no basis for reversing the decision of the circuit court. While we appreciate Mr. Williams’s serious concerns for his son’s safety, it is clear from the incomplete record presented that the professional involved had concerns both with the father’s behavior and with the mother’s failure to protect Daylan from her older son. As our supreme court has held, “[t]he standard of review [for] custody modification judgments is the manifest weight of the evidence.” *In re Marriage of Bates*, 212 Ill. 2d 489, 515 (2004). “The trial court is in the best position to review the evidence and to weigh the credibility of the witnesses.” *Id.* And “[i]n determining whether a judgment is contrary to the manifest weight of the evidence, the reviewing court reviews the evidence in the light most favorable to the appellee.” *Id.* at 516. “A custody determination, in particular, is afforded great deference because the trial court is in a superior position to judge the credibility of witnesses and determine the best interests of the child.” (Internal quotation marks omitted.) *Id.*

¶ 41 We cannot consider whether the court’s judgment was against the manifest weight of the evidence because we have no transcripts or an acceptable substitute such as a bystander’s report or agreed statement of facts (see Ill. S. Ct. R. 323 (eff. July 1, 2017)) from the hearing that resulted in the court’s decision of August 22, 2018, to resume the 2015 Custody Judgment. As our supreme court has made clear, the “appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with the law and had a sufficient factual basis.” *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92

(1984). “Any doubts which may arise from the incompleteness of the record will be resolved against the appellant.” *Id.* at 392.

¶ 42 Because we do not know what testimony was presented at the hearing on August 22, 2018, or why the circuit court ruled the way it did, we must presume that the court’s judgment had a sufficient factual basis. Particularly in a case like this, where the court heard witness testimony and made credibility determinations, we cannot find that such a determination was against the manifest weight of the evidence without a transcript or an acceptable substitute.

¶ 43 Mr. Williams also argues that the circuit court’s transfer of the majority of parenting time back to Ms. Hampton was erroneous because the court did not first have D.J. evaluated to see if he posed a risk to Daylan. But the circuit court ordered on August 22, 2019, that Ms. Hampton “shall enroll [D.J.] in a program to assess whether he poses any risk to [Daylan] or have him reside with his grandmother as previously proposed.” Although Mr. Williams claims that this order was not complied with, the record is silent regarding whether D.J. was ever enrolled in a program or evaluated. Any remedy for Ms. Hampton’s refusal to comply with a circuit court order lies, in the first instance, with the circuit court.

¶ 44 The same lack of a transcript or substitute precludes us from any meaningful review of the circuit court’s denial of Mr. Williams’s motion to remove GAL Renwick. Again, we certainly understand some of Mr. Williams’s concerns about the accuracy of GAL Renwick observations. For example, in the email sent to the parties on November 19, 2017, GAL Renwick states that Ms. Griffin said that “Daylan had not disclosed anything about sexual abuse to her.” But in Ms. Griffin’s report from October 13, 2017, Ms. Griffin says that she is aware that Daylan “made allegations regarding sexual abuse by his half-brother,” and in her report from November

17, 2017, Daylan said that it made him “ ‘sad when [his] brother made him touch his lizard.’ ” GAL Renwick’s email certainly appears to be inconsistent with Ms. Griffin’s reports.

¶ 45 However, a circuit court’s appointment or removal of a GAL is within the sound discretion of that court. See *In re Marriage of Petrik*, 2012 IL App (2d) 110495, ¶ 19 (“The decision to appointment a GAL is subject to the sound discretion of the trial court.”). Without a transcript of the hearing, we have no idea whether the circuit court was aware of this seeming inconsistency, whether there was an explanation for it, or on what basis the circuit court declined to remove GAL Renwick. Absent a record to the contrary, we must presume the court’s decision “was in conformity with the law.” *Foutch*, 99 Ill. 2d at 391-92. Accordingly, we cannot find that the circuit court abused its discretion when it denied Mr. Williams’s motion to remove GAL Renwick.

¶ 46

IV. CONCLUSION

¶ 47 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 48 Affirmed.