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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-721

Filed 7 May 2025

Mecklenburg County, No. 23CVD011323-590

RHEEA WRIGHT, Plaintiff,

v.

KHYLE ALSTON, Defendant.

Appeal by plaintiff from order entered 10 January 2024 by Judge Alyssa M. Levine in Superior Court, Mecklenburg County. Heard in the Court of Appeals 19 March 2025.

*King Law Offices, P.C., by Krista S. Peace & Patrick K. Bryan, for the plaintiff-appellant.*

*No brief filed on behalf of Khyle Alston, pro-se defendant-appellee.*

ARROWOOD, Judge.

Rheea Wright (“plaintiff”) appeals from an order entered 10 January 2024 awarding Khyle Alston (“defendant”) permanent primary custody of J.A. On appeal, plaintiff argues: (1) the trial court erred in awarding defendant primary physical and legal custody of the minor child; (2) the trial court erred in failing to consider the effect of relocation on J.A.; and (3) the trial court failed to resolve questions raised by

the evidence. For the following reasons, we vacate and remand for actions consistent with this opinion.

I. Background

Plaintiff and defendant married on 25 February 2021. They share one child, J.A., born on 16 July 2021. The family resided in Charlotte, North Carolina. They separated in June 2023. In June 2023, plaintiff took J.A. and moved to Philadelphia, Pennsylvania. At the time of trial, plaintiff and J.A. had lived in Philadelphia with plaintiff's brother for six months. On 29 June 2023, plaintiff filed a complaint for child custody or visitation with the Mecklenburg County District Court.

On 10 January 2024, the trial court held a hearing adjudicating a permanent solution for the custody of J.A. Both plaintiff and defendant represented themselves *pro se* during the custody hearing. Plaintiff requested joint custody with defendant getting long weekends and alternating holidays and visitation during the summer. Defendant requested he either be granted full custody or joint custody if plaintiff moved back to Charlotte. The trial court heard relevant evidence and testimony from both parties, which tended to show the following facts. Plaintiff stated that when the couple lived together in Charlotte, she was the primary caregiver and was responsible for taking J.A. to all her appointments. She also confirmed to the trial court that she took J.A. and moved to Philadelphia without notifying defendant because plaintiff and defendant were having issues with their marriage.

Plaintiff worked as a sterile processor at Jefferson Hospital in Philadelphia.

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Defendant worked as an optician and DJ in Charlotte. After plaintiff moved to Philadelphia, defendant would FaceTime J.A. about three to four times per week. Both plaintiff and defendant said they did not communicate directly with one another at the time of the hearing. Defendant stated that if J.A. remained with plaintiff in Philadelphia, he was unsure how he would get parenting time with J.A. because his extracurricular activities, including DJ'ing for a non-profit and coaching a basketball team, would not give him time to visit J.A. in Philadelphia.

During the hearing, defendant stated that he filed a domestic violence protective order ("DVPO") against plaintiff after they had a dispute one night in the presence of J.A. The DVPO was eventually dismissed because defendant was unable to serve plaintiff. The trial court asked defendant if he was injured from the incident and he stated he had a few scratches on his neck and his undershirt was torn. Plaintiff stated that the incident was not "one-sided" and that she was also "shoved around" by defendant.

Plaintiff stated that both plaintiff and defendant were not originally from Charlotte and much of their support system remains up north. Defendant stated that he does have family around North Carolina and that plaintiff had previously requested child support from him because "she has no help and support up there."

After hearing from both parties, the trial court found that it was in the child's best interest for defendant to have primary care, custody, and control of J.A. Plaintiff was awarded extended visitation every other weekend from Friday through Monday

and seven weeks during the summer. Both parents were to make major decisions affecting J.A. together with defendant having the final say.

The trial court entered a permanent custody and visitation order in a pre-printed form on 10 January 2024. The form included the following finding of fact:

Both parties were actively involved in the child's life before Mother unilaterally took the child to Philadelphia, PA in June 2023 without notice to Father when she decided to separate from Father. Father would take her to church, park. Mother took child to doctor appointments. Both parties work full-time - Father as an Optician with additional part-time jobs as assistant coach for peeewe football and DJ and Mother in sterile processing. Mother has facilitated calls between the child and Father. Father has called Mother to speak with the child although not as frequently as Mother has called him for the child. Father filed DVPO Complaint against Mother after Mother physically assaulted Father while he was holding the child, trying to get her phone back from Father. Father had scratches and undershirt torn. DVPO dismissed after failed attempts to serve Mother. Mother justified move to Pennsylvania and did not deny incident that led to filing of DVPO except alleged it was not "one-sided."

In the custody order form, the trial court indicated that defendant is a fit and proper person to have primary care, custody, and control over J.A. and awarded defendant primary physical and legal custody of J.A. Plaintiff filed written notice of appeal on 8 February 2024.

## II. Discussion

On appeal, defendant argues: (1) the trial court erred in awarding defendant primary physical and legal custody of the minor child; (2) the trial court erred in

failing to consider the effect of relocation on J.A.; and (3) the trial court failed to resolve questions raised by evidence presented on domestic violence allegations. We address each argument in turn.

A. Standard of Review

“Absent an abuse of discretion, the trial court’s decision in matters of child custody should not be upset on appeal.” *Everette v. Collins*, 176 N.C. App. 168, 171 (2006) (citation omitted). “Before awarding custody of a child to a particular party, the trial court must conclude as a matter of law that the award of custody to that particular party ‘will promote the interest and welfare of the child.’” *Steele v. Steele*, 36 N.C. App. 601, 604 (1978) (quoting N.C.G.S. § 50-13.2(a)). We review this conclusion of law *de novo* to determine whether it is adequately supported by the trial court’s findings of fact. *Hall v. Hall*, 188 N.C. App. 527, 530 (2008) (citation omitted).

The findings of fact are conclusive on appeal if there is evidence to support them, even if evidence might sustain findings to the contrary. The evidence upon which the trial court relies must be substantial evidence and be such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

*Everette*, 176 N.C. App. at 170 (internal citations omitted).

B. Custody Order

1. Primary Physical and Legal Custody

Plaintiff first argues the trial court erred in awarding defendant primary physical and legal custody of J.A. Specifically, plaintiff argues the trial court merely

made one conclusory finding of fact in making its determination and this statement does not shed light on the trial court's rationale for awarding custody to defendant.

We agree.

An order for custody of a minor child entered pursuant to this section shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party. An order for custody must include written findings of fact that reflect the consideration of each of these factors and that support the determination of what is in the best interest of the child.

N.C.G.S. § 50-13.2(a).

[A] custody order is fatally defective where it fails to make detailed findings of fact from which an appellate court can determine that the order is in the best interest of the child, and custody orders are routinely vacated where the "findings of fact" consist of mere conclusory statements that the party being awarded custody is a fit and proper person to have custody and that it will be in the best interest of the child to award custody to that person. A custody order will also be vacated where the findings of fact are too meager to support the award.

*Dixon v. Dixon*, 67 N.C. App. 73, 76–77 (1984) (internal citations omitted).

Here, the trial court used a pre-printed form, which includes only one substantive finding of fact, to make its determination to award defendant primary physical and legal custody. This finding of fact stated:

Both parties were actively involved in the child's life before

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Mother unilaterally took the child to Philadelphia, PA in June 2023 without notice to Father when she decided to separate from Father. Father would take her to church, park. Mother took child to doctor appointments. Both parties work full-time - Father as an Optician with additional part-time jobs as assistant coach for peeewe football and DJ and Mother in sterile processing. Mother has facilitated calls between the child and Father. Father has called Mother to speak with the child although not as frequently as Mother has called him for the child. Father filed DVPO Complaint against Mother after Mother physically assaulted Father while he was holding the child, trying to get her phone back from Father. Father had scratches and undershirt torn. DVPO dismissed after failed attempts to serve Mother. Mother justified move to Pennsylvania and did not deny incident that led to filing of DVPO except alleged it was not “one-sided”.

This finding of fact merely states the evidence presented at trial and does not shed any light on the trial court’s decision to award defendant primary physical and legal custody of J.A. Furthermore, the finding of fact even noted that the domestic violence dispute between plaintiff and defendant was not “one-sided,” but did not clarify why the trial court chose to award primary custody to defendant. This finding of fact is too meager to support the trial court’s conclusion.

Accordingly, because the trial court’s one substantive finding of fact was inadequate to support its conclusion to award defendant primary physical and legal custody of J.A., we vacate the order and remand for further findings.

We also caution trial courts about using pre-printed forms to enter child custody orders because the forms are to a large extent inadequate to cover the necessary factual determinations that are required, especially in situations, such as

here, where one party has unilaterally relocated the child outside the jurisdiction. While we recognize that in situations such as we have here where both parties appear *pro se*, it is many times difficult to obtain the necessary evidence to make the necessary findings, and it is critical that all the relevant issues be decided in an order. That being said, we also reject plaintiff-appellant's argument that the trial court had an obligation to assist her in presenting her case *pro se*. Parties who choose to appear *pro se* have the same burdens as those who appear by counsel to present evidence from which the trial court can make the required relevant facts.

2. Ramirez-Barker Factors

Plaintiff further argues the trial court erred in awarding defendant primary physical and legal custody of J.A. without considering the effects of relocation on J.A. We agree.

In exercising its discretion in determining the best interest of the child in a relocation case, factors appropriately considered by the trial court include but are not limited to: [1] the advantages of the relocation in terms of its capacity to improve the life of the child; [2] the motives of the custodial parent in seeking the move; [3] the likelihood that the custodial parent will comply with visitation orders when he or she is no longer subject to the jurisdiction of the courts of North Carolina; [4] the integrity of the noncustodial parent in resisting the relocation; and [5] the likelihood that a realistic visitation schedule can be arranged which will preserve and foster the parental relationship with the noncustodial parent. Although most relocations will present both advantages and disadvantages for the child, when the disadvantages are outweighed by the advantages, as determined and weighed by the trial court, the trial court is well within its discretion



to permit the relocation.

*Ramirez-Barker v. Barker*, 107 N.C. App. 71, 79–80 (1992) (internal citations omitted). Although the trial court does not need “to make explicit findings addressing each and every *Ramirez-Barker* factor[,] . . . these factors will be highly relevant to the best interest of the child in nearly all [relocation] situations.” *Tuel v. Tuel*, 270 N.C. App. 629, 632–33 (2020).

Here, the trial court noted that J.A. currently lived with plaintiff in Philadelphia, but failed to articulate its consideration of the *Ramirez-Barker* factors in its one substantive finding of fact to show how relocating J.A. from Philadelphia to Charlotte would be in J.A.’s best interest. The trial court made no findings related to the advantages or disadvantages of moving J.A. back to Charlotte and made no mention of support systems in either location, despite both parties testifying to their respective support systems during the custody hearing. Finally, the trial court made no findings of fact related to plaintiff’s ability to comply with the prescribed visitation schedule. Accordingly, the trial court must make further findings on the advantages and disadvantages of relocating J.A.

C. Domestic Violence Testimony

Defendant further argues the trial court erred in failing to inquire or allow plaintiff to provide additional information regarding allegations of domestic violence made during the custody hearing. In view of the fact that we are vacating this custody order, we decline to address this issue.

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III. Conclusion

For the foregoing reasons, we vacate the order and remand to the trial court for actions consistent with this opinion.

VACATED AND REMANDED.

Judges WOOD and FLOOD concur.

Report per Rule 30(e).