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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-577

Filed 21 May 2025

Forsyth County, No. 23CVD000220-330

HONOREE McGRAW, Plaintiff,

v.

MATTHEW MAYER, Defendant.

Appeal by plaintiff from order entered 5 January 2024 and amended order entered 8 January 2024 by Judge Kristin Kelly Broyles in Forsyth County District Court. Heard in the Court of Appeals 26 February 2025.

Bullock Clay & Furr, PLLC, by Jessica S. Bullock, for plaintiff-appellant.

No brief filed for defendant-appellee.

ZACHARY, Judge.

Plaintiff Honoree McGraw appeals from the trial court’s order awarding Defendant Matthew Mayer sole legal custody of their daughter, “Faye.”¹ After careful review, we affirm.

I. Background

¹ For clarity and ease of reading—as well as to protect the identity of the minor child in this case—we employ a pseudonym in this opinion. See N.C.R. App. P. 42(b).

Plaintiff and Defendant met online and began dating in December 2021. Plaintiff lives in Winston-Salem and Defendant lives in Candler. Within months, they were discussing the possibility of getting engaged and conceiving a child together. Plaintiff became pregnant in April 2022, but the parties' relationship deteriorated shortly thereafter. The parties continued to communicate about the upcoming birth and their respective wishes for the child through their attorneys and Our Family Wizard.²

In December 2022, Faye was born in Winston-Salem. On 11 January 2023, Plaintiff filed a complaint against Defendant in which she sought "sole legal and primary physical custody of" Faye. On 17 February 2023, Defendant filed his answer and counterclaim in which he sought "joint legal custody and shared care, custody, and control of" Faye. Both also sought such other and further relief as the court may deem just and proper.

The parties subsequently entered into a temporary agreement regarding custody of Faye, which the trial court entered as a memorandum of judgment/order on 13 March 2023. The agreement stated, *inter alia*, that the parties would "equally share legal custody" of Faye on a temporary basis. The agreement also established a

² "Our Family Wizard is an online application which provides tools to facilitate communications between parents, including a message board and calendar." *Waly v. Alkamary*, 279 N.C. App. 73, 104, 864 S.E.2d 763, 781–82 (2021), *appeal dismissed and disc. review denied*, 383 N.C. 693, 881 S.E.2d 297 (2022). It "does not require the parents to communicate directly with one another but provides a secure platform to share messages, and the messages cannot be edited or deleted after they are sent, thus providing a record for the court, if needed." *Id.* at 104, 864 S.E.2d at 782.

regular schedule for Defendant to have physical custody of Faye for a few days per week, with predetermined exceptions, while Plaintiff would have “[a]ll other custodial times.”

This matter came on for hearing in Forsyth County District Court on 8 November 2023. On 5 January 2024, the court entered its child custody order, which it subsequently amended on 8 January. The court made extensive findings of fact and conclusions of law before, *inter alia*, awarding sole legal custody and primary physical custody of Faye to Defendant and secondary physical custody to Plaintiff.

Plaintiff timely filed notice of appeal.

II. Discussion

Plaintiff argues that the trial court abused its discretion by awarding sole legal custody of Faye to Defendant and by “overriding a binding stipulation regarding equal custody when rendering its order.” She also challenges a significant number of the court’s findings of fact and its conclusion of law that “Defendant is a fit and proper person to have sole legal custody” and “primary physical custody of” Faye.

A. Standard of Review

“It is a long-standing rule that the trial court is vested with broad discretion in cases involving child custody.” *Pulliam v. Smith*, 348 N.C. 616, 624, 501 S.E.2d 898, 902 (1998). “This discretion is based upon the trial courts’ opportunity to see the parties; to hear the witnesses; and to detect tenors, tones, and flavors that are lost in the bare printed record read months later by appellate judges.” *Shipman v. Shipman*,

357 N.C. 471, 474, 586 S.E.2d 250, 253 (2003) (cleaned up).

“Accordingly, we review a trial court’s custody determination for an abuse of discretion, meaning that a trial court’s decision must be accorded great deference and will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision.” *Madison v. Gonzalez-Madison*, 295 N.C. App. 131, 132–33, 905 S.E.2d 725, 726 (2024) (cleaned up). Additionally, “[t]he trial court’s findings of fact must be supported by competent evidence and are considered conclusive even when the evidence is conflicting.” *Efstathiadis v. Efstathiadis*, ___ N.C. App. ___, ___, 909 S.E.2d 737, 740 (2024) (cleaned up).

B. Legal Custody

Plaintiff first argues that the trial court erred by awarding sole legal custody of Faye to Defendant. Within this broader argument, she specifically alleges that the court “abused its discretion by essentially ignoring the parties’ stipulation or agreement that equal custody was in [Faye]’s best interest.”

“Although not defined in the North Carolina General Statutes, our case law employs the term ‘legal custody’ to refer generally to the right and responsibility to make decisions with important and long-term implications for a child’s best interest and welfare.” *Hall v. Hall*, 188 N.C. App. 527, 534, 655 S.E.2d 901, 906 (2008) (citation omitted). “As a general matter, the trial court has discretion to distribute certain decision-making authority that would normally fall within the ambit of joint legal custody to one party rather than another based upon the specifics of the case.”

Id. (cleaned up).

Plaintiff's argument is primarily based on the premise that there is a presumption in favor of joint legal custody. For support, she cites *Hall* and other cases in which this Court has recognized "that upon an order granting joint legal custody, the trial court may only deviate from 'pure' legal custody after making specific findings of fact." *Id.* at 535, 655 S.E.2d at 906. However, "[t]here is no presumption in favor of joint custody." *Id.* at 536 n.3, 655 S.E.2d at 907 n.3. Our General Statutes provide that "[j]oint custody to the parents shall be considered upon the request of either parent." N.C. Gen. Stat. § 50-13.2(a) (2023). But "the trial court may grant legal custody only to one party, joint custody to both, or, if proper findings are made, joint legal custody with a split in decision-making authority." *Hall*, 188 N.C. App. at 536 n.3, 655 S.E.2d at 907 n.3.

The cases on which Plaintiff relies, such as *Hall*, concern child custody orders in which the court awarded "joint legal custody with a split in decision-making authority" but did not make proper findings of fact. *Id.*; see also *Diehl v. Diehl*, 177 N.C. App. 642, 630 S.E.2d 25 (2006). Plaintiff's attempt to compare the court's custody order in this matter to these cited cases is inapt, as the trial court here did not award joint legal custody with a split in decision-making authority.

We may similarly dispense with Plaintiff's claim that the court "overr[ode] a binding stipulation regarding equal custody when rendering its order." Plaintiff contends that the court abused its discretion by awarding sole legal custody to

Defendant because “the parties stipulated in open court that equal custody was in the best interest of” Faye. However, this supposed “stipulation”—merely the parties’ shared expressions at the hearing in support of “equal” custody—is ineffective to bind the trial court’s considerable discretion in a custody hearing.

“[C]hild custody issues are uniquely within the purview of the trial court, despite contractual agreements between a mother and father.” *Scott v. Scott*, 293 N.C. App. 639, 644, 901 S.E.2d 846, 850 (2024). For example, this Court has repeatedly recognized that

while it is clear that a husband and wife may bind themselves by a separation agreement, it is equally clear that no agreement or contract between husband and wife will serve to deprive the courts of their inherent as well as their statutory authority to protect the interests and provide for the welfare of infants.

Id. at 645, 901 S.E.2d at 850 (cleaned up).

Agreements between parties in a child custody dispute cannot immutably bind the trial court “because the welfare of the child is the polar star which guides the court’s discretion in custody determinations.” *Id.* at 645, 901 S.E.2d at 851 (cleaned up). Consequently, as the court retained its “inherent as well as . . . statutory authority to protect the interests and provide for the welfare of” Faye, *id.* at 645, 901 S.E.2d at 850 (citation omitted), Plaintiff cannot show that the trial court abused its discretion by “overriding [an allegedly] binding stipulation regarding equal custody” and awarding sole legal custody of Faye to Defendant.

Plaintiff also suggests that “Defendant’s counterclaim requesting joint legal and shared physical custody, coupled with his stipulation at the beginning of [the hearing], confirmed by the court, put Plaintiff on notice that this [hearing] was about the fashion in which the parties would share custody of their child and nothing else.” She thus contends that she “was not on notice that the [c]ourt did not intend to honor the parties’ stipulation” in its determination of legal custody. To the contrary, Defendant also requested “such other and further relief as the [c]ourt may deem just and proper.” Plaintiff was clearly on notice that the issue of legal custody was before the court, considering that she requested sole legal custody in her complaint, and the court evidently deemed it “just and proper” to grant Defendant such relief. Accordingly, these arguments fail.

C. Findings of Fact and Conclusions of Law

We next consider whether the court’s findings of fact support its conclusions of law in its determination of Faye’s best interests. Plaintiff challenges the evidentiary support for 28 of the trial court’s findings of fact, as well as one conclusion of law. Indeed, Plaintiff correctly observes that a number of the challenged findings are not supported by evidence in the record. However, several of these findings—such as one that misidentifies the location where the father of Plaintiff’s other child resides and another that misstates when Plaintiff began accepting more employment opportunities east of Winston-Salem—are not necessary to support the trial court’s

conclusions.³ Thus, “those findings need not be reviewed on appeal.” *Conroy v. Conroy*, 291 N.C. App. 145, 161, 895 S.E.2d 418, 429 (2023) (cleaned up).

Plaintiff also challenges several other findings of fact, for which she marshals evidence suggesting that the findings are incorrect, but which are nevertheless supported by competent evidence in the record. For example, Plaintiff challenges the court’s finding that “when [Faye] was five (5) weeks old, Plaintiff left [Faye] with third-party babysitters for a trip to Colorado for forty-eight (48) hours.” Although Plaintiff testified that this trip was for “one night” and that Faye was left with her “newborn care specialist,” Defendant testified that Plaintiff “was gone for about 48 hours” and that Faye “would have been with babysitters during that time.” The challenged findings, such as this one, which are “supported by competent evidence . . . are considered conclusive” despite the conflicting evidence that Plaintiff highlights.⁴ *Efstathiadis*, ___ N.C. App. at ___, 909 S.E.2d at 740 (cleaned up).

Plaintiff also challenges findings of fact #90 and 91, which are actually conclusions of law and will be treated as such on appeal. “[T]he labels ‘findings of fact’ and ‘conclusions of law’ employed by the trial court in a written order do not determine the nature of our review.” *Walsh v. Jones*, 263 N.C. App. 582, 589, 824 S.E.2d 129, 134 (2019) (citation omitted).

The critical portion of Plaintiff’s appeal concerns a series of findings of fact that

³ This category includes findings of fact #14, 47, 55–56, 74, and 77.

⁴ This category includes findings of fact #25, 28, 44, 51, and 54.

detail deeply disputed issues involving Faye’s birth, medical care, and the parties’ communication problems.⁵ These findings include factual statements that have support in the evidentiary record, but which Plaintiff maintains “reflect[] the trial court’s enhancement of the evidence presented to support [its] displeasure towards Plaintiff.” Plaintiff also challenges findings that bear on the court’s determinations of her credibility and character, including that “Plaintiff’s terms and conditions . . . [for Defendant to visit Faye] were extremely unreasonable”; that certain messages “from Plaintiff to Defendant [we]re fraught with misrepresentations by Plaintiff” regarding Faye’s health; and that “Plaintiff was deliberately evasive” at the hearing.

For example, in one challenged finding of fact, the trial court articulated what it deemed to be “Plaintiff’s ill-conceived, systematic campaign to degrade and disparage Defendant through medical providers and medical records for” Faye, which resulted in Plaintiff taking actions that were “not in [Faye]’s best interests.” The court further found that Plaintiff’s “actions have been deliberate, unnecessary, and conniving and have served no legitimate purpose other than to alienate Defendant and interfere with the development and bonding between father and daughter,” and that “[w]ithout court intervention, it is likely that Plaintiff’s behavior would continue[,] resulting in Defendant being alienated from [Faye] especially as she gets older.”

⁵ This category includes findings of fact #35, 38, 40, 48, 51, 61–65, 78–79, and 83–85.

These findings implicate the oft-repeated principle, stated above, that the trial court is in the best position to make determinations as to witnesses' credibility, due to the court's "opportunity to see the parties; to hear the witnesses; and to detect tenors, tones, and flavors that are lost in the bare printed record read months later by appellate judges." *Shipman*, 357 N.C. at 474, 586 S.E.2d at 253 (cleaned up). Although Plaintiff objects to the court's depiction of her character and conduct, "the paramount consideration of the court is the welfare of the child." *Smithwick v. Frame*, 62 N.C. App. 387, 392, 303 S.E.2d 217, 221 (1983). Our substantial deference to the court's "discretion with regard to the weight and credibility of the evidence is bolstered by its responsibility for the welfare of the child." *Id.* We thus will not reexamine any determinations as to the relative credibility of the parties, which constitute a great part of Plaintiff's challenges to the findings of fact.

Ultimately, Plaintiff fails to show that the trial court's order "was so arbitrary that it could not have been the result of a reasoned decision." *Madison*, 295 N.C. App. at 132–33, 905 S.E.2d at 726 (citation omitted). Accordingly, Plaintiff has not demonstrated that the court abused its discretion.

III. Conclusion

For the foregoing reasons, the trial court's order is affirmed.

AFFIRMED.

Judges COLLINS and GORE concur.

Report per Rule 30(e).