

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

CRYSTAL BAKER,	:	APPEAL NO. C-190686
	:	TRIAL NO. DR0701852
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ANTHONY EDWARDS,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Mother appeals the decision of the Hamilton County Court of Common Pleas, Domestic Relations Division, denying her motions for a change of parental rights and responsibilities, for additional relief including visitation, and for contempt against father. She also appeals the court’s decision granting father’s motion to set child support. We find no merit in her four assignments of error, and we affirm the trial court’s judgment.

In her first assignment of error, mother contends that the trial court erred in denying her motion for contempt. She argues that father violated the court’s order to take the child for a psychological evaluation by canceling the appointment with the psychologist without an explanation. This assignment of error is not well taken.

The trial court did not abuse its discretion in finding that father had not violated its order and in overruling mother’s motion to find father in contempt. *See*

Denovchek v. Bd. of Trumbull Cty. Commrs., 36 Ohio St.3d 14, 16, 520 N.E.2d 1362 (1988); *Wolf v. Wolf*, 1st District Hamilton No. C-090587, 2010-Ohio-2762, ¶ 4. “If the court has the inherent power to summarily punish contempts, it must by the same token have the power to determine the kind and character of conduct which will constitute contempt.” *In re Ayer*, 119 Ohio App.3d 571, 576, 695 N.E.2d 1180 (1st Dist.1997), quoting *State ex rel. Turner v. Albin*, 118 Ohio St. 527, 535, 161 N.E. 792 (1928). Consequently, we overrule mother’s first assignment of error.

In her second assignment of error, mother contends that the trial court abused its discretion in denying her motion to establish parenting time and in falsely reporting in the judgment that she failed to show up for the hearings. This assignment of error is not well taken.

The trial court has broad discretion regarding the modification of parental visitation rights, and a reviewing court will not reverse its decision absent an abuse of discretion. *Appleby v. Appleby*, 24 Ohio St.3d 39, 41, 492 N.E.2d 831 (1986); *In re T.M.*, 1st Dist. Hamilton No. C-200209, 2020-Ohio-6950, ¶ 22. That discretion includes the power to restrict the time and place of visitation, to determine the conditions under which visitation will occur, and to deny visitation all together if it would not be in the child’s best interest. *In re Bailey*, 1st Dist. Hamilton Nos. C-040014 and C-040479, 2005-Ohio-3039, ¶ 25.

Nevertheless, a noncustodial parent’s right of visitation with his or her children is a natural right and should be denied only under extraordinary circumstances. Extraordinary circumstances include unfitness of the noncustodial parent or a showing that visitation with the child would cause harm. *Guliano v. Guliano*, 11th Dist. Trumbull No. 2010-T-0031, 2011-Ohio-6853, ¶ 54. “If there is clear and convincing evidence that visitation presents a significant risk of serious emotional or physical harm to the child, or a showing of some justification for

preventing visitation, the court may deny visitation.” *Linde v. Linde*, 1st Dist. Hamilton No. C-940944, 1996 WL 97563, *5 (Mar. 6, 1996).

This case presents those extraordinary circumstances. Mother had supervised visitation with the child. Her own inability or refusal to understand the child’s trauma caused the child’s mental health to deteriorate. Mother has not demonstrated an understanding of the child’s mental-health issues or mother’s role in those issues. The record shows that mother’s visits with the child caused the child serious emotional harm. Under the circumstances, the trial court’s restriction on visitation was not so arbitrary, unreasonable or unconscionable as to connote an abuse of discretion. *See Blakemore v. Blakemore*, 5 Ohio St.3d 217, 218, 450 N.E.2d 1140 (1983); *In re Bailey*, 1st Dist. Hamilton Nos. C-040014 and C-040479, at ¶ 26.

Mother also argues that the court falsely reported in its judgment entry that she had failed to show up at the hearings on the custody and visitation motions. She argues that the court’s statements showed bias against her. The record shows that the court’s statements were supported by the record. Mother had a history of failing to appear at the various hearings and in arriving very late to the proceedings.

A trial court is presumed to be impartial. *In re Disqualification of Kilpatrick*, 47 Ohio St.3d 605, 606, 546 N.E.2d 929 (1989); *State v. Khamsi*, 2020-Ohio-1472, 153 N.E.3d 900, ¶ 56 (1st Dist.). While the court may have been frustrated with mother’s lateness and failure to appear, nothing in the record shows that the court acted with such ill will or favoritism to overcome the presumption that a trial court is fair and impartial. *See State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 132 N.E.2d 191 (1956), paragraph four of the syllabus; *Khamsi* at ¶ 55.

The record shows that by the time of the hearings, the various motions had been pending for quite a while. The court’s decision not to grant any more continuances was within its discretion. *See State v. Unger*, 67 Ohio St.2d 65, 67, 423

N.E.2d 1078 (1981); *Stricker v. Stricker*, 1st Dist. Hamilton No. C-060435, 2007-Ohio-3309, ¶ 9. Therefore, we overrule mother's second assignment of error.

In her third assignment of error, mother contends that the trial court improperly calculated child support. She argues that she did not make as much money as father claimed that she did, and that father was not actually supporting the child, who spent most of her time with father's mother. This assignment of error is not well taken.

Generally, decisions regarding child support lie within the trial court's discretion. An appellate court will not reverse the trial court's decision absent an abuse of discretion. *Pauly v. Pauly*, 80 Ohio St.3d 386, 390, 686 N.E.2d 1108 (1997); *Sapinsley v. Sapinsley*, 171 Ohio App.3d 74, 2007-Ohio-1320, 869 N.E.2d 702, ¶ 8 (1st Dist.). But the court's discretion is not unfettered. The statutory child-support guidelines are mandatory and must be followed literally and technically in all respects. *Marker v. Grimm*, 65 Ohio St.3d 139, 601 N.E.2d 496 (1992), paragraph two of the syllabus; *Sweeney v. Sweeney*, 2019-Ohio-1750, 135 N.E.2d 1189, ¶ 42 (1st Dist.).

Father presented into evidence mother's pay stubs and 2018 income tax return that he had received from mother through discovery. The trial court calculated mother's income using those documents. No other evidence regarding mother's income was presented. Thus, the trial court's determination of mother's income was supported by competent, credible evidence.

The trial court then determined the amount of child support using the applicable worksheet as required by R.C. 3119.021. Under the circumstances, the trial court did not err in determining the amount of child support, and we overrule mother's third assignment of error.

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In her fourth assignment of error, mother contends that the custody investigation ordered by the court was faulty and that the court should not have relied upon it in making its decision. This assignment of error is not well taken.

R.C. 3109.04(C) provides that “[p]rior to trial, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability, and financial worth of each parent and may order the parents and their minor children to submit to medical, psychological, and psychiatric examinations.” The weight to be given to the report lies with the trial court’s discretion. *See Teufel v. Teufel*, 1st Dist. Hamilton No. C-160373, 2017-Ohio-5732, ¶ 18.

Mother is simply arguing that the parenting report is not credible. But matters as to the credibility of the evidence are for the trial court to decide. *See Davis v. Flickinger*, 77 Ohio St.3d 415, 419, 674 N.E.2d 1159 (1997); *In re T.K.M.*, 1st Dist. Hamilton No. C-190020, 2019-Ohio-5076, ¶ 31. Consequently, we overrule mother’s fourth assignment of error and affirm the trial court’s judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MYERS, P.J., WINKLER and BOCK, JJ.

To the clerk:

Enter upon the journal of the court on May 26, 2021,
per order of the court _____.
Administrative Judge