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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> MARRIAGE OF JOHN G. BURROWS,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County.
)	
and)	No. 11 D 7929
)	
SIMONE L. BURROWS,)	Honorable
)	Raul Vega,
Respondent-Appellee.)	Judge, presiding.
)	

JUSTICE COBBS delivered the judgment of the court.

Presiding Justice McBride and Justice Ellis concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in denying petitioner's motion to limit respondent's authority and finding that respondent appropriately exercised her authority to terminate children's therapist and choose an alternate provider of therapy.

¶ 2 Petitioner John G. Burrows (John) appeals an order of the trial court denying his motion to limit respondent's authority and finding that respondent Simone L. Burrows (Simone) properly exercised her authority in terminating Dr. Corey Skidmore as their three children's therapist and selecting a new therapist, Dr. Lisberg. John contends: 1) the trial court exceeded its authority and entered a void order when it denied his motion to limit authority

and found *sua sponte* that Simone had the authority to terminate their children's therapy with Dr. Skidmore; and 2) the court erred in its interpretation of section 610 of the Illinois Marriage and Marriage Dissolution Act (Act) (750 ILCS 6/610 (West 2012)) when it modified the custody judgment *sua sponte*, and without making specific factual findings that the statutory factors supported a modification.

¶ 3

BACKGROUND

¶ 4

John and Simone were married in 2002. Three children were born of the marriage prior to John filing a Petition for Dissolution of Marriage in August 2010. A Custody Judgment / Joint Parenting Agreement (JPA) was entered into on December 18, 2013. The JPA provides, *inter alia*:

"The Parties covenant and agree that both parents wish to be involved in all major decisions regarding their children's health, including, but not limited to, psychological, social services, therapy, dental and the like, religious training and welfare and that all major decisions in these areas will be made after consultation and conference between the Parents as to these decisions.

Except as otherwise provided herein in Section 3, the parents agree herein that after the parties have jointly communicated in regard to a specific issue regarding the above areas, in the event of a disagreement between the parents as to a major decision in the children's lives then the Mother will be responsible for casting the tie-breaking vote and thus responsible for resolving the disagreement in order to reach a final decision. In the event the Father disagrees with a major decision made by Mother, he shall have 7 days to file a petition with the court pursuant to Section 608 of the Illinois Marriage and Dissolution of Marriage Act. In the event the Father does not succeed in having a court

rule on and change Mother's decision, he shall be liable for attorneys' fees, expert's fees and costs of both parties.

* * *

The parents agree that the change in selection of health care professionals to care for the children, such as physicians, psychologists, psychiatrists, therapists, and dentists, shall be a major decision under this Agreement.

* * *

The parents agree that the children shall continue with Dr. Skidmore through February, 2014 at the frequency recommended by Dr. Skidmore. After February, 2014, if Dr. Skidmore recommends, either parent may continue to bring the children to Dr. Skidmore, but it shall be at the parent's sole expense after application of insurance and any appointment(s) shall be scheduled during the parenting time of the parent wanting to continue therapy as recommended."

¶ 5 On December 16, 2014, John filed a motion to limit Simone's authority pursuant to section 508(b) of the Act (750 ILCS 5/508(b) (West 2012)), contending that Simone had notified him that she intended to terminate the children's relationship with Dr. Skidmore and take them to a different therapist. John asserted that he did not agree with Simone's "major decision." He argued that it was not in the best interests of the parties' children to remove them from their current therapist, who they had been seeing for approximately two years, and with whom they had developed a "trusting and comfortable" relationship. John requested the court to enter an order compelling Simone to keep the children with Dr. Skidmore and not introduce them to a new therapist, and "for such other, further relief as this Honorable Court may find to be equitable and just." Subsequently, Simone filed a motion to strike and dismiss

John's motion to limit authority, which was denied. Both parties filed petitions for rule to show cause to hold the other party in contempt for allegedly failing to comply with the JPA.¹

¶ 6 Thereafter, a hearing was held on the motion to limit authority and the petitions for rule to show cause. Both parties were found to be in indirect civil contempt of court for failing to comply with the JPA. The court then heard arguments regarding the motion to limit authority. John did not present any evidence or testimony. He argued that by the JPA's terms, he was permitted to continue the children's psychotherapy with Dr. Skidmore, provided that it was during his time with the children and at his own expense. Simone contended that, per the JPA, she had the absolute right, after consultation with John, to make major medical decisions. This right included selecting a new therapist for the children. She maintained that she consulted with John regarding terminating therapy with Dr. Skidmore and beginning therapy with Dr. Lisberg but that she had the final vote in the matter.

¶ 7 The court inquired about the reasons Simone decided to change therapists. Simone informed the court that the children were fearful of Dr. Skidmore and no longer trusted him. In addition, she asserted that Dr. Skidmore was aligned with John's interests and might seek to take the children away from her. John disputed these allegations and responded that the children had been seeing Dr. Skidmore for years and had never resisted or indicated they were fearful. John further argued that the JPA specifically gave him the right to continue his children's treatment with Dr. Skidmore.

¶ 8 Ultimately, the court entered an order finding both parties in indirect civil contempt and denying John's motion to limit authority. The court's order states, "[t]he Court finds that, pursuant to the terms of the [JPA] *** [Simone] is appropriately exercising her right and

¹ The petitions for rule to show cause to hold both parties in contempt are not at issue on appeal.

authority to terminate Dr. Skidmore as therapist for the children and choose an alternate provider of therapy pursuant to the [JPA]." The court also appointed a parenting coordinator as a purge for the finding of indirect civil contempt against both parties.

¶ 9

ANALYSIS

¶ 10

Initially, John contends that the court lacked jurisdiction to enter an order stating that Simone had authority to terminate Dr. Skidmore. He asserts that the court acted *sua sponte* in ruling that Simone acted within her authority because his requested relief was limited to compelling Simone to "keep [the] children with Dr. Skidmore and not introduce them to a new therapist." Specifically, he argues that his prayer for relief limited the court to finding Simone could take the children to a new therapist but that she was prevented from terminating treatment with Dr. Skidmore.

¶ 11

The court has original jurisdiction over all justiciable matters. *In re Custody of Ayala*, 344 Ill. App. 3d 574, 584 (2003). The court's authority to exercise its jurisdiction and resolve a justiciable matter is invoked by filing a pleading bringing the matter before the court. *Id.* Here, John's own motion expressly raised the issue of terminating the children's therapy with Dr. Skidmore and beginning therapy with a different therapist. In fact, John's prayer for relief requested both that Simone be compelled to continue treatment with Dr. Skidmore and to not introduce the children to a new therapist. John's contention that the only appropriate outcome "would be that [Simone] would not be compelled to take the children to see Dr. Skidmore, and that she would not be barred from introducing a new therapist" is illogical. John filed the motion so that the court could review Simone's "major decision" of terminating Dr. Skidmore. It was within the court's power to uphold that decision, which included finding that Simone had the authority to end Dr. Skidmore's treatment. The court's judgment was not

limited to the exact phrasing of John's requested order to compel merely because the court found against him. Moreover, John's prayer for relief also requested "for such other, further relief as this Honorable Court may find to be equitable and just." Thus, the requested relief allowed for the court to find that Simone acted within her authority under the JPA.

¶ 12 Additionally, we note that John's reliance on *Suriano v. Lafeber*, 386 Ill. App. 3d 490, 493 (2008), *In re Custody of Ayala*, 344 Ill. App. 3d 574 (2003), *Ligon v. Williams*, 264 Ill. App. 3d 701 (1994), *In re Marriage of Zukauskys*, 244 Ill. App. 3d 614 (1993), and *In re Marriage of Fox*, 191 Ill. App. 3d 514, 521 (1989), is misplaced. These cases involve situations where the court's order went beyond issues raised in the pleadings. In contrast, here, as discussed above, Simone's authority to change the children's therapist was directly raised in John's motion.

¶ 13 John next contends that the court erred when it denied his motion to limit Simone's authority. Specifically, he argues that the court improperly modified the JPA when it found that Simone acted within her authority in changing the children's therapy provider. Simone argues that the court did not err in denying the motion and that the court was enforcing the JPA, not modifying it.

¶ 14 We must first determine if the JPA was, in fact, modified. The court's order is clear that it found Simone appropriately exercised her authority pursuant to the JPA. The order makes no mention of modifying the JPA's terms. Thus, we must determine whether the trial court's interpretation of the JPA effectively modified the judgment or whether, in finding that Simone had authority to terminate Dr. Skidmore and begin the children's treatment with Dr. Lisberg, the rights and obligations of the parties under the JPA remained the same. "A JPA *** is a contract between the parties and, as such, a court's primary objective is to give effect

to the intent of the parties, which must be determined only by the language of the agreement, absent an ambiguity." *In re Marriage of Coulter and Trinidad*, 2012 IL 113474, ¶ 19. We review the trial court's interpretation of a JPA *de novo*. *Id.*

¶ 15 Here, the JPA indicates that the parties intended to co-parent and to make major parenting decisions together. To carry out this goal, the JPA established a procedure by which John and Simone would make "major decisions." When one parent considers making a "major decision," the other parent must be consulted. The JPA contemplates the inevitable circumstance of disagreements. Pursuant to the JPA, when a disagreement arises, in the interest of a decision being made, Simone has the "tie-breaking" vote. Thus, Simone has the authority to make the final decision. John then has 7 days to file a petition seeking judicial review of the decision. If the court does not rule on and change Simone's decision, John is liable for attorneys' fees, expert's fees, and costs of both parties.

¶ 16 The JPA defines decisions regarding the children's healthcare, including therapy, to be a "major decision." It explicitly states that "[t]he parents agree that the *change in selection* of health care professionals to care for the children, such as physicians, psychologists, psychiatrist, *therapists*, and dentists, shall be a major decision under this Agreement." (Emphasis added.) In a separate paragraph, it also specifically provides for treatment by Dr. Skidmore. The children were required to continue treatment with Dr. Skidmore until February 2014. After that date, either parent could continue to bring the children to Dr. Skidmore if he recommended that therapy continue, but it would be at the sole expense of that parent and appointments must occur when the children are scheduled to be with that parent.

¶ 17 The children were treated by Dr. Skidmore through February 2014. At some point subsequent to February 2014, Simone sent John an email informing him that she decided to terminate the children's therapy provider and that she had selected a new therapist, Dr. Lisberg. John disagreed with Simone's "major decision" of selecting a new therapist, triggering the JPA's procedure for disagreements. Consistent with this procedure, John filed a petition with the court to review Simone's decision, and the court upheld that decision.

¶ 18 John now argues that the disagreement procedure does not apply because the parties chose to treat Dr. Skidmore differently than other health care providers. He argues that this difference is demonstrated by the fact that the continuation of Dr. Skidmore's services was discussed in a separate paragraph. He maintains that pursuant to that paragraph, he has the right to continue the children's treatment with Dr. Skidmore, even if they also see another therapist. We do not agree. John's interpretation is in direct conflict with the provision defining the selection of a therapist as a "major decision" and the procedure by which major decisions are made under the JPA. The paragraph mentioning Dr. Skidmore required that the children be treated by him until February 2014, and allowed either parent to continue the children's therapy if Dr. Skidmore recommended therapy continue. There is no reason to conclude that when a disagreement arose regarding this provision that the disagreement procedure that governs the entire JPA would not apply. Moreover, John did not present evidence that Dr. Skidmore recommended that therapy continue with him specifically, or that Dr. Skidmore recommended that therapy continue at all. Thus, pursuant to the JPA, Simone had the final vote in the matter. Accordingly, the trial court's interpretation of the JPA – that Simone had the authority to terminate Dr. Skidmore and select a new therapist for their children – did not change the rights and obligations of the parties. Therefore, the court's order

did not act as a modification of the JPA. It follows that we reject John's argument that the court erred because it did not list specific factual findings justifying a modification as required by the Act. 750 ILCS 5/508 (West 2012).

¶ 19

CONCLUSION

¶ 20

For the foregoing reasons, we affirm the judgment of the trial court.

¶ 21

Affirmed.