2016 IL App (1st) 151590-U

SECOND DIVISION October 18, 2016

No. 1-15-1590

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

In re CUSTODY OF KEVIN ALLEN, JR.)	Appeal from the
(Kevin T. Allen, Sr.,)	Circuit Court of
)	Cook County.
Petitioner-Appellant,)	
)	
V.)	No. 14 D 079181
)	
CHARLENE GILLS,)	Honorable
)	Melissa A. Durkin,
Respondent-Appellee).)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.

Presiding Justice Hyman and Justice Neville concurred in the judgment.

ORDER

- ¶ 1 *Held*: Where appellant father seeking review of the circuit court's ruling following trial on child custody did not provide a report of proceedings by which such review could be performed, the judgment of the circuit court is affirmed.
- ¶ 2 Petitioner Kevin T. Allen Sr. appeals *pro se* the circuit court's May 2015 order awarding respondent Charlene Gills the sole care, custody and control of their minor child. On appeal, Allen challenges the substance of that order. Although Gills has not filed an appellee's brief, the merits of this appeal can be decided pursuant to *First Capital Mortgage v. Talandis Construction*

- *Corp.*, 63 Ill. 2d 128, 133 (1976) (allowing consideration of appeal on appellant's brief only where the record is simple and errors can be considered without additional briefing).
- ¶ 3 The record on appeal establishes that Allen and Gills are the parents of Kevin Allen Jr., born on October 16, 2007. Allen has appeared *pro se* throughout these proceedings. In March 2014, Allen filed a motion seeking visitation with his son. Gills responded with a *pro se* motion asserting Allen should receive only supervised visitation.
- ¶ 4 On August 4, 2014, Gills, represented by counsel, filed a petition for child custody and support of the child, asserting the child had been in her care since his birth without financial support from Allen. On November 3, 2014, Allen was awarded supervised visitation.
- ¶ 5 On February 23, 2015, a status hearing was held at which the court ordered that Allen's visitation with the child continue to be supervised. The court set a trial date at which custody was to be determined.
- ¶ 6 On May 19, 2015, a trial was held on the issues of custody and visitation. The record on appeal does not include a transcript of those proceedings.
- ¶ 7 In the circuit court's written order filed on the day of trial, the court found that Allen presented "a threat to the minor's mental, physical, moral and psychological health and well being." The court further found that Allen's supervised visits with the child were each terminated due to Allen's actions. The court determined that it was in the child's best interest to award Gills "the sole care, custody and control" of the child. The court ordered that Gills be given sole custody and that the issue of Allen's visitation with the child was reserved "at present." The court further ordered that Allen was "encouraged to seek treatment by a psychiatrist."

- ¶ 8 On June 2, 2015, Allen filed a timely notice of appeal from that order. The notice of appeal states that Allen seeks relief in the form of "a reasonable [trial] and fair hearing for a father and his child (visitation non-supervised)."
- ¶ 9 Before considering Allen's appeal, we note that it is this court's independent duty to consider its appellate jurisdiction, even when no party has raised the issue. *In re Marriage of Harris*, 2015 IL App (2d) 140616, ¶ 12. This court has jurisdiction to consider appeals only from final orders. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994). Pursuant to Illinois Supreme Court Rule 304(b)(6) (eff. Feb. 26, 2010), a permanent custody order, as entered by the circuit court in this case, is a final order. See also *In re Custody of Purdy*, 112 Ill. 2d 1, 4-5 (1986) (reserving a ruling on the issue of visitation does not alter the finality of a child custody order). Accordingly, this court has jurisdiction to decide this appeal.
- ¶ 10 Turning to Allen's *pro se* brief filed on appeal, his status as a *pro se* litigant does not relieve him of the obligation to comply with the Illinois Supreme Court Rules for practice before this court. See, *e.g.*, *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. Allen's filing lacks any cognizable legal arguments or citations to legal authority, thus failing to comply with the mandatory requirements of Illinois Supreme Court Rule 341(h) (eff. Feb. 6, 2013).
- ¶ 11 Nevertheless, we can discern the general nature of Allen's claims of error. Allen stated in his notice of appeal that he seeks a "reasonable [trial] and a fair hearing" in this case. Allen's brief expresses dissatisfaction with the circuit court's ruling. In a child custody proceeding, the determination of the trial court is given considerable deference because the court is in a superior position to evaluate the testimony of the witnesses and assign weight to the evidence. *In re*

Marriage of Iqbal, 2014 IL App (2d) 131306, ¶ 55. Accordingly, the trial court's judgment is not reversed on appeal unless it is contrary to the manifest weight of the evidence. *Id*.

- ¶ 12 The record on appeal establishes that on May 19, 2015, the circuit court held a trial on the issue of custody of the child and that the court awarded sole custody to Gills. The record before this court does not contain a transcript of that proceeding or a bystanders' report by which we are able to review the evidence presented to the circuit court. It is Allen's burden, as the appellant, to present to this court with a sufficiently complete record to support his claims of error. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts or deficiencies arising from the absence of a record are construed against Allen, and it is presumed that the order entered by the circuit court had a sufficient factual basis and conformed with the law. *Id*. For those reasons, this court has no basis to disturb the circuit court's ruling in this case.
- ¶ 13 In his brief, Allen expresses a desire to fulfill his role as a father and we encourage him to pursue that goal. Indeed, the trial court's order reflects a willingness to revisit the issue of Allen's visitation with his son in the future. But nothing in the record before us allows us to second-guess the order entered awarding sole custody to Gills.
- ¶ 14 Accordingly, the judgment of the circuit court of Cook County is affirmed.
- ¶ 15 Affirmed.