2018 IL App (2d) 170922-U
No. 2-17-0922
Order filed March 14, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re Parentage of N.A., a Minor	)	Appeal from the Circuit Court
	)	of Lake County.
	)	
	)	No. 10-F-794
	)	
(Christopher Allman, Respondent-Appellant,	)	Honorable
v. Leslie Ingersoll, f/k/a Leslie Williams,	)	Elizabeth M. Rochford
Petitioner-Appellee).	)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Justices Hutchinson and Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held*: Father provided an inadequate record to determine whether the trial court erred in either denying or failing to rule upon his motions to continue the trial proceedings below. The record on appeal contained no transcripts of the trial court proceedings, no order(s) denying father's motions to continue or any bystander's report indicating that the trial court either did not rule on the motions or denied them. For those reasons, we affirmed the judgment of the trial court.

¶ 2 Respondent Christopher Allman (Christopher) appeals from an order of the trial court that entered an Allocation Judgment and Parenting Plan (Parenting Plan) by agreement between Christopher and petitioner Leslie Ingersoll (Leslie). At the time that the parties entered into the Parenting Plan they had an eight-year-old son, N.A. Christopher argues on appeal that the trial court abused its discretion in failing to rule on two of his motions for a continuance before he

signed the Parenting Plan. However, in other parts of his brief he also argues that the trial court erred in denying those same motions. In response, Leslie argues that the trial court's order should be affirmed because Christopher failed to provide a report of proceedings or a bystander's report with regard to the issue he raises on appeal. In the alternative, Leslie argues that Christopher has waived this issue on appeal by signing the Parenting Plan when the trial court had not ruled on his motions to continue the proceedings. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The record reflects that in 2013, a Joint Parenting Agreement was entered into by the parties. Christopher received residential custody of N.A., and Leslie had visitation rights. Leslie subsequently moved to modify custody, and in 2016 she filed an amended petition to modify the allocation of parental responsibilities. On March 2, 2017, Leslie filed an emergency petition to restrict Christopher's parenting time, and on March 15, 2017, Christopher's parenting time was ordered to be supervised. Christopher was later granted unsupervised visitation.

¶ 5 On June 27, 2017, Christopher made an oral motion for the court to set a trial date. The court therefore set a trial date for October 16, 2017. In its order the court set a final trial conference for October 3, 2017, and a trial date of October 16, 2017.[1]

¶ 6 On September 29, 2017, the GAL filed his report. On October 6, 2017, Christopher filed a *pro se* motion seeking a three to four week continuance for trial. In the motion he alleged that:

> "[d]uring said time, I humbly requesting [*sic*] that your Honor grant me an audiance [*sic*] (counsel included) so that I my [*sic*] present all the Facts/defend myself & character in hopes that your Honor can make a 100% informed decision on my son's (our son) future and I can avoid a very undeserving 1 sided outcome from the petitioner. The

[1] The order in the record that reflects a trial date of October 16, 2016, is a scrivener's error.

> Extreme level of slander, stretched truths mixed with profuse amounts of left out/unidentified information is horrifying. I never imagined [the GAL's] report to be this unfare [*sic*] ."

The notice of motion and proof of service indicate that the motion was filed on October 6, 2017, served by regular mail and noticed up to be heard that day.

¶ 7 On October 16, 2017, Christopher filed another *pro se* motion requesting a three week continuance "to give my lawyer time to file his appearance and go over the proposal with me. There are things in the proposal I do not understand. With my son's future directly impacted by my decision, I am requesting time to fully understand the proposal made by [Leslie's counsel], so that I can make an educated decision. I just want it to be fare [*sic*] and avoid trial." The notice of motion and proof of service indicate that the motion was filed on October 16, 2017, served by regular mail, and noticed up to be heard that day.

¶ 8 On October 16, 2017, the Parenting Plan was entered. The order entered provided, in pertinent part:

> "This cause coming before the court on this date for trial. The parties having spent the morning and afternoon discussing the terms of resolution. The case being called at approximately 3:00 p.m. and the parties tendering an Allocation Judgment to the court and the court being fully advised in the premises:
>
> IT IS HEREBY ORDERED:
>
> 1) The Allocation Judgment/Parenting Plan is entered under Supreme Court order[.] ***"

The Parenting Plan was signed by the parties and the trial court.

¶ 9 II. ANALYSIS

¶ 10 In the argument section of Christopher's brief he contends that the trial court erred in *failing to rule on his motions* for a continuance of the trial court proceedings. He claims that his requests for continuances were objectively reasonable and that he was prejudiced when the trial court did not rule upon them. However, in other parts of his brief, he argues that the trial court erred in *denying his motions* for a continuance. In either case, he asks this court to reverse the trial court's order entering the Parenting Plan and remand this cause for further proceedings.

¶ 11 In response, Leslie argues, among other things, that: (1) the decision of the trial court must be affirmed because Christopher did not provide a report of proceedings or a bystander's report as support for his claim that the trial court failed to rule on his motions; and (2) even if Christopher had properly presented and argued the motions to the court, and they had been improperly denied, he has waived this claim of error when he entered into the agreed Parenting Plan.

¶ 12 In his reply brief Christopher claims that "the relevant facts, circumstances and timeline of the underlying litigation are clearly discernible on a complete examination of the pleadings, motions, and orders in the Record; read together with applicable law, this Court is presented a sufficiently reliable basis to determine whether the trial court abused its discretion by *denying, or not ruling* on Mr. Allman's motions." (Emphasis added.)

¶ 13 Before we address the sufficiency of the record we must address the strange fact that Christopher does not seem to know whether his motions to continue were denied or not ruled upon. However, the mystery of what Christopher is claiming on appeal is cleared up later in his brief when he alleges, "[u]pon presentation of his second motion, the court recommended Mr. Allman review [the] terms of the proposed Allocation Judgment in court with Mrs. Ingersoll's

counsel and the GAL, or prepare for trial that day." We can assume, then, that Christopher is arguing that the trial court erred in failing to rule on the second motion, and, in the alternative, if the trial court's comment can be construed as denying his motion, then the trial court erred on that basis as well. However, Christopher does not enlighten this court as to whether the trial court failed to rule on his first motion to continue or whether it denied that motion.

¶ 14 It is well settled law in Illinois that the appellant "has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984). In the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis. *Id.* Any doubts which may arise from the incompleteness of the record will be resolved against the appellant. *Id.*

¶ 15 Here, the record contains no transcripts at all. Also, the common law record contains no order(s) denying Christopher's motions to continue or a bystander's report indicating that the trial court either did not rule on the motions or denied them. See Ill. S. Ct. R. 323(c), (d) (eff. July 1, 2017) (allowing for the filing of a bystander's report or agreed statement of facts in lieu of a transcript). Therefore, we reject Christopher's claim that this court has been presented with a sufficiently reliable record to determine whether the trial court erred in either denying or not ruling on his motions to continue. Since any doubts which may arise from the incompleteness of the record will be resolved against the appellant, we will presume that the trial court committed no error in handling Christopher's motions to continue the trial proceedings in this case.

¶ 16 III. CONCLUSION

¶ 17 In sum, Christopher provided an inadequate record to determine whether the trial court erred in either denying or failing to rule upon his motions to continue the trial proceedings

below. The record on appeal contained no transcripts of the proceedings below, no order(s) denying Christopher's motions to continue, or any bystander's report indicating that the trial court either did not rule on the motions or denied them. For those reasons, we affirm.

¶ 18 The judgment of the circuit court of Lake County is affirmed.

¶ 19 Affirmed.