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October 16, 2018
Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 180364-U

NO. 4-18-0364

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

KARI DANKO, Petitioner-Appellant, v. MARK MARADA and CLARISSA MARADA, Respondents-Appellees.	)	Appeal from the Circuit Court of Sangamon County No. 16F374 Honorable Jack D. Davis II, Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Harris and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court dismissed the appeal, concluding it was without jurisdiction.

¶ 2 Kari Danko appeals from various decisions of the trial court concerning her child, A.S. (born February 4, 2016). Based on the record presented, we lack jurisdiction to address the merits of this appeal.

¶ 3 I. BACKGROUND

¶ 4 On June 13, 2016, Kari filed a petition to establish parentage in Sangamon County case No. 16-F-374, asserting Mark Marada was the minor's father. On June 20, 2016, Mark filed a petition for an order of protection against Kari in Sangamon County case No. 16-

OP-1025. On June 30, 2016, the trial court consolidated case No. 16-OP-1025 with case No. 16-F-374, entered an *ex parte* order of protection against Kari, and awarded temporary custody of the minor to Mark, with supervised visitation to Kari. Shortly thereafter, the Department of Children and Family Services issued an indicated finding of abuse against Kari. Mark and the minor lived with Mark's mother, Clarissa Marada. On November 28, 2016, Mark died.

¶ 5 Following Mark's death, Kari, Clarissa, and Rhonda Smith (Kari's mother) all sought custody of the minor. Rhonda filed a petition for guardianship in Sangamon County case No 16-P-657, which the trial court later consolidated with case No. 16-F-374. Clarissa filed a petition for the allocation of parental responsibilities or, in the alternative, guardianship. After the court found Clarissa had "standing" to proceed with her request for the allocation of parental responsibilities (whereby she sought primary decision-making responsibilities and the majority of parenting time), Kari expressed, in open court, her consent to her mother having guardianship of the minor.

¶ 6 The trial court found both Rhonda and Clarissa had "standing" to proceed with their requests for guardianship. The court ultimately rejected those requests, finding any such appointment would not be in the minor's best interests. Instead, the court found the minor's interests would be best served by an allocation of parental responsibilities between Clarissa and Kari. The court allocated primary decision-making responsibilities and the majority of parenting time to Clarissa, with a progressive parenting-time schedule in favor of Kari. The court noted:

> "Kari's conduct over the past year causes the [c]ourt concern. Nevertheless, Kari has taken steps to improve her lifestyle, the stability of her home and employment situation. The [c]ourt is

> optimistic that Kari will continue her improvement in all aspects of her life and will ultimately be able to carry out day-to-day caretaking functions for [A.S.] If this substantial change in circumstances occurs, Kari may seek modification of the [c]ourt's allocation of parental responsibilities."

¶ 7 On April 23, 2018, the trial court entered orders establishing parentage and allocating decision-making responsibilities and parenting time. On May 21, 2018, Clarissa filed a motion to reconsider, arguing the progressive parenting-time schedule was not in the minor's best interests. On May 23, 2018, Kari filed a notice of appeal.

¶ 8 II. ANALYSIS

¶ 9 On appeal, Kari argues the trial court erred by (1) finding Clarissa had standing to seek the allocation of parental responsibilities, (2) denying Rhonda's petition for guardianship, and (3) finding Clarissa had standing to proceed with her request for guardianship.

¶ 10 This court has a *sua sponte* duty to consider its jurisdiction prior to addressing the merits of an appeal and to dismiss the appeal if it finds jurisdiction is lacking. *Brentine v. DaimlerChrysler Corp.*, 356 Ill. App. 3d 760, 765, 826 N.E.2d 1057, 1062 (2005); *Cangemi v. Advocate South Suburban Hospital*, 364 Ill. App. 3d 446, 453, 845 N.E.2d 792, 800 (2006).

¶ 11 Kari asserts this court has jurisdiction to address the merits of this appeal. Kari acknowledges Clarissa's timely motion to reconsider but asserts on June 8, 2018, the trial court held a hearing on Clarissa's motion and entered an order denying that motion. Clarissa does not address this court's jurisdiction or Kari's assertion. We find Kari's assertion inaccurate based on the record before us.

¶ 12 The docket entries in the record on appeal indicate, after multiple continuances, argument on Clarissa's timely motion to reconsider was scheduled for June 29, 2018, with "Reporter required." The final docket entry in the record is dated June 26, 2018. The record on appeal does not contain transcripts from a hearing on the motion to reconsider or a docket entry, or other written order disposing of that motion.

¶ 13 Because Clarissa filed a timely postjudgment motion calling into question the trial court's decision, and that motion remains pending in the trial court based on the record presented, we lack jurisdiction to address the merits of this appeal. Ill. S. Ct. R. 303(a)(1), (a)(2) (eff. July 1, 2017).

¶ 14 III. CONCLUSION

¶ 15 We dismiss the appeal as the record shows a pending postjudgment motion remains in the trial court.

¶ 16 Appeal dismissed.