



L.M. (Grandmother) appeals from the trial court's order denying her Verified Petition for Grandparent Visitation. Grandmother presents one issue for our review: Did the trial court abuse its discretion in denying her petition without setting forth findings of fact and conclusions of law?

We affirm.

A.R.P., born December 22, 2005, is the biological child of B.S. (Mother) and K.P. (Father). It is apparent from the record that Mother and Father are not together and that Mother has custody of A.R.P. L.M. is A.R.P.'s maternal grandmother. Mother and Father agree that Grandmother has, at times, been involved in the child's life. The child would have overnight visits with Grandmother and Grandmother would take the child to and pick the child up from nursery school. At one point, Grandmother provided daycare for the child. Father testified that Grandmother has had "more contact with A.R.P. than I have at certain points" and that he believed it was in the child's best interest that Grandmother have some sort of structured visitation with A.R.P. *Transcript* at 7. In May 2010, Mother and Grandmother got into an argument and, as a result, Mother cut off all contact between Grandmother and the child. Since that time, Grandmother has spent time with the child on a few occasions when Father coordinated the visits. Mother was unaware that the child was visiting with Grandmother.

On September 1, 2010, Grandmother filed a Verified Petition for Grandparent Visitation. The court held a hearing on the petition on September 15, 2010. During the hearing, Father did not oppose Grandmother's request for visitation and indeed, agreed that Grandmother's request to have visitation with the child every Tuesday afternoon for a couple

of hours and also one weekend a month was in the child's best interest. Mother called her sister and brother as witnesses and both testified that they did not believe that visitation between Grandmother and the child was in the child's best interests.

Mother also addressed the court and vehemently expressed her opinion that visitation between Grandmother and the child was not in the child's best interest. Mother noted her concerns about Grandmother's prior alcohol abuse and possible psychological problems. Mother then explained the situation that led to her argument with Grandmother in May 2010 and why she cut off contact between Grandmother and the child. Mother told the court that "after a lifetime of being hurt and being in the midst of all of this I am now an adult and I can chose [sic] whether to keep myself in this situation or I can remove myself from it and I now do have a little girl that I need to protect." *Id.* at 17.

At the conclusion of the hearing, the court acknowledged Father's agreement to Grandmother's visitation request, but noted the fundamental right of the custodial parent to raise the child as she saw fit. The trial court further found that Grandmother had not carried her burden of proof to show that visitation was in the child's best interest. The court noted, "I just think that there's too much going on here emotionally, psychologically, if that is the right term, to allow - - to go against what the mother feels is in the best interest of her child." *Id.* at 20. The court therefore denied Grandmother's petition. Grandmother's attorney offered to submit a proposed order to the court and in fact did so on September 23, 2010. The court approved the order that same day. The order is set forth in its entirety below:

Grandmother appears in person and by her attorney of record. Mother appears in her own proper person, pro-se. Father appears in his own proper person, pro-se. Father waives any conflict of interest in light of his being represented

by Aric Rutkowski of ZAPPIA, ZAPPIA & STIPP in the past. Hearing had on Grandmother's Verified Petition for Grandparent Visitation. Evidence commenced and concluded. The following Order is recommended:

1. Grandmother's Verified Petition for Grandparent Visitation is denied.

*Appellant's Appendix* at 3.

Grandmother appeals, arguing that the trial court's denial of her petition for grandparent visitation was in error because the trial court failed to follow the statutory requirement to issue findings of fact and conclusions of law.

The Grandparent Visitation Act<sup>1</sup> sets forth, among other things, the requirement that the trial court take into account the child's best interest in determining if grandparent visitation is appropriate (*see* I.C. § 31-17-5-2) and that the trial court "shall enter a decree setting forth the court's findings and conclusions" (*see* I.C. § 31-17-5-6). In those findings and conclusions, the trial court must address: (1) the presumption that a fit parent acts in his or her child's best interests; (2) the special weight that must be given to a fit parent's decision to deny or limit visitation; (3) whether the grandparent has established that visitation is in the child's best interests; and (4) whether the parent has denied visitation or has simply limited visitation. *K.I. ex rel. J.I. v. J.H.*, 903 N.E.2d 453 (Ind. 2009).

Here, the trial court explained its decision at the conclusion of the hearing and then Grandmother's counsel offered to submit an order to the court reflecting the court's determination. Grandmother's counsel did in fact submit an order to the court, which the

---

<sup>1</sup> Ind. Code Ann. §§ 31-17-5 through -10 (West, Westlaw through 2010 2nd Regular Sess.).

trial court approved. The order is set forth above in its entirety. Her own counsel having drafted and submitted the proposed order, it is disingenuous for Grandmother to now claim that the trial court's order denying her petition for grandparent visitation was in error because it does not contain the court's findings of fact and conclusions of law. This is invited error. *See In re Adoption of L.C.E.*, 940 N.E.2d 1224 (Ind. Ct. App. 2011).

Judgment affirmed.

BAILEY, J., and BROWN, J., concur.