



Custody and Parenting Time

2/16/22

In **Kante v. Long**, 184 N.E.3d 658 (Ind. Ct. App. 2022), the Court held that the trial court did not abuse its discretion when it modified the previous parenting time order to accommodate Child's summer basketball schedule.

Mother and Father share a 14-year-old son who lives in Indiana with Mother. Father lives in Texas and exercises parenting time per court order; including seven weeks of summer break in Texas. Mother petitioned the trial court to modify the parenting time order to allow the child to remain in Indiana for the summer so that he could participate in his high school basketball training and AAU league. The original 2019 order was issued when the child was still in middle school and had not yet started competing in AAU and high school basketball. Mother testified at the hearing that the child had practice every day and that once summer practice began it would be very important for him to acclimate to the new coaches and system of play so as not to be left behind in October. Further, Mother explained that the NCAA has exposure weeks where college coaches observe AAU teams, including the child's team. Father argued that an altered parenting time schedule would adversely affect his relationship with his child. He testified that he understood the importance of developing team chemistry but indicated that familial relationships should take precedence and concluded: "I'm raising a man. Not a basketball player." The trial court found that Mother met her burden in demonstrating it was in the child's best interests to modify the parenting time order and noted that the Guidelines outline that a noncustodial parent shall make reasonable efforts to accommodate a teenager's participation in regular academic, extracurricular and social activities. Father was awarded summer parenting time in Texas during any IHSAA moratorium week in addition to various school breaks and holidays. Father appealed arguing the trial court's parenting time award was less than that contemplated by the Guidelines, and therefore not reasonable within the meaning of IC 31-14-14-1 and IC 31-14-14-2.

The trial court did not abuse its discretion because the parenting time modification was reasonable as contemplated by the Indiana Parenting Time Guidelines. *Id.* at 665-7.

According to the Guidelines, "Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) *when parenting time cannot be reasonably scheduled around such events.*" Father argued that the trial court's parenting time award was less than that contemplated by the Guidelines because the time granted only consists of thirty-one overnights in even years and thirty-eight overnights in odd years in Texas; and therefore not reasonable within the meaning of IC 31-14-14-1. Consistent with the Guidelines, Father is entitled to sixty-five days of parenting time per year. Father's calculations of the trial court's parenting time award only included overnights in Texas; but he cited no authority justifying this constraint on his calculations. Thus, the parenting time modification was consistent with the guidelines and reasonable under IC 31-14-14-1.

The Court further explained that the child is entering high school, forging new relationships, and competitively participating in a sport and a high level for the first time; and the previous parenting time order explicitly anticipated this shift, as do the Guidelines. *Id.* at 668. “In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager’s participation in his or her regular academic, extracurricular and social activities.” *Indiana Parenting Time Guidelines* at II(E)(2). Additionally, “where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.” *Id.* at III. Thus, considering the totality of the circumstances and the uniqueness of this family situation, the parenting time award was both consistent and reasonable. *Kante* at 669.