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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

In re the Marriage of STEVEN E. and MELISSA M.
ADAMS.

STEVEN E. ADAMS,

Respondent,

v.

MELISSA M. ADAMS,

Appellant.

C074554

(Super. Ct. No. 172061)

Appellant Melissa M. Adams (mother) appeals from a court order modifying the court’s prior order for visitation. Mother raises three claims on appeal. First, she claims the trial court abused its discretion in “failing to apply the best interest of the child standard properly.” She also claims the trial court applied the wrong legal standard by not requiring respondent Steven E. Adams (father) to “demonstrate a change was essential to the children’s welfare.” Finally, mother claims the court’s order is not supported by the facts or the law.

Mother has elected to proceed on a clerk’s transcript. (Cal. Rules of Court, rule 8.121.) Thus, the appellate record does not include a reporter’s transcript of the hearing in this matter. This is referred to as a “judgment roll” appeal. (*Allen v. Toten*

(1985) 172 Cal.App.3d 1079, 1082-1083; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.) Mother's claims are not supported by the record. Accordingly, we affirm the trial court's order.

FACTUAL AND PROCEDURAL SUMMARY

A judgment of dissolution of the parties' marriage was entered on February 2, 2012. Included within that judgment was an order granting the parties joint legal and physical custody of their two minor children and laying out a detailed visitation schedule for mother.

On December 11, 2012, father filed a motion to modify the court's order for custody and visitation, asking the court to grant him sole legal and physical custody of the children. Father further requested that the court modify the visitation schedule, allowing mother to have the children in her care on "alternating weeks for mother until return of school." In support of his motion, father noted mother no longer lived in Redding, California, but moved to Napa, California. The current schedule, father argued, would not be feasible once school began. Father also indicated he thought mother was "not a stable person," but recognized weekend visitation was in the children's best interest. Father described his close-knit family and support system in Redding, California, arguing it was the better living situation for the children.

On January 9, 2013, mother filed her own motion seeking sole legal and physical custody of the children, and asking the court to modify the visitation schedule. In support of her motion, mother said she was a stay-at-home mom who would be there for the children. She indicated there was a "long history of domestic violence and abuse" between her and father, including a history of both parents abusing alcohol. Mother noted she currently had a restraining order against father and described what she perceived as father's ongoing alcohol abuse.

Mother also explained to the court she was living on the first floor of her parents' "three story country home in Napa." She has three older children who live with her; she

was working for her parents, and working to renew her nursing license. Mother said she was no longer drinking alcohol and now realized how her drinking had negatively impacted all of her children. She noted the children had a physician in Napa and she and the children received aid from Napa County. In sum, she argued the children's best interests were served by living primarily with her.

The trial court referred mother and father to family court services for "Child Custody Recommending Counseling [(CCRC)]." In the interim, the court ordered visitation to be "alternating weeks between parents." Mother and father returned to court on March 25, 2013, but they had not yet been to CCRC so the matter was continued. When they returned on May 28, 2013, the court denied mother's request to change venue and set the matter for trial.

On June 25, 2013, the parties appeared for trial on their motions. Both mother and father were sworn and both testified. Father called another witness who testified on father's behalf. The court reviewed the recommendation made following the CCRC, and mother and father each presented closing argument to the court.

According to the minutes from the trial, the court noted its "obligation is to make a choice that is in the best interests of the children . . . [and] both parties' homes would be adequate for the children to live in." The court then adopted the recommendations of the CCRC counselor. The court ordered mother and father to continue to share joint legal and physical custody of the children. The court further ordered both children would be in father's care and custody during the week when school is in session, and with mother on alternating weekends. During the summer, mother would have custody and care of the children during the week and father would have them on "[a]lternate Mondays at 7:00 p.m. to Wednesdays at 7:00 p.m."

Each parent also would be allowed two consecutive weeks of vacation with the children, so long as the appropriate notice was given to the other parent, and mother would have the children each year for spring break. The court gave the parties a detailed

order for the holidays, exchanging the children, and the parents' personal conduct. The court further ordered the parties to complete 10 sessions of co-parenting counseling.

Mother appeals from this order.

DISCUSSION

On appeal, we must presume the trial court's judgment is correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, we must adopt all inferences in favor of the judgment, unless the record expressly contradicts them. (See *Brewer v. Simpson* (1960) 53 Cal.2d 567, 583.)

It is the burden of the party challenging a judgment to provide an adequate record to assess claims of error. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141.) When an appeal is "on the judgment roll" (*Allen v. Toten, supra*, 172 Cal.App.3d at pp. 1082-1083), we must conclusively presume evidence was presented that is sufficient to support the court's findings. (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154.) Our review is limited to determining whether any error "appears on the face of the record." (*National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521; Cal. Rules of Court, rule 8.163.)

These restrictive rules of appellate procedure apply to mother even though she is representing herself on appeal. (*Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 795; *Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121; see also *Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639.)

Mother contends the trial court abused its discretion and applied the wrong legal standard in modifying the visitation schedule. Absent a reporter's transcript, we presume official duties have been regularly performed (Evid. Code, § 664), and this presumption applies to the actions of trial judges. (*People v. Duran* (2002) 97 Cal.App.4th 1448, 1461-1462, fn. 5; *Olivia v. Suglio* (1956) 139 Cal.App.2d 7, 9 ["If the invalidity does not appear on the face of the record, it will be presumed that what ought to have been done was not only done but rightly done"].) Accordingly, we presume on this record that the

trial court properly exercised its discretion by correctly applying the law and giving due consideration to the evidence before it, including both the written submissions by the parties and the testimony given at the hearing. (See *Olivia v. Suglio*, at p. 9.) We further presume the evidence was sufficient to support the order. (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.)

DISPOSITION

The trial court's June 25, 2013 order is affirmed. The parties each shall bear their own costs on appeal.

HOCH, J.

We concur:

BLEASE, Acting P. J.

MAURO, J.