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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

In re the Marriage of ANJALI ALVING
and ASHISH KATREKAR.

H037399
(Santa Clara County
Super. Ct. No. FL136943)

ANJALI ALVING,

Appellant,

v.

ASHISH KATREKAR,

Respondent.

Appellant Anjali Alving appeals from an order awarding physical custody of the parties' two children to respondent Ashish Katrekar, her former husband. We find no error and affirm.

I. Background

Appellant and respondent were married in 1995 and separated in October 2006. They have two minor sons. Pursuant to a judgment of dissolution that was filed in December 2007, the parties had joint legal and physical custody of the children.

After appellant remarried, she accepted a position in the Boston area in November 2009. Appellant then filed an order to show cause in which she requested that

she be allowed to move to the Boston area with the children. In December 2009, appellant moved to the Boston area. The children remained with respondent in California and visited with appellant pursuant to a December 10, 2009 order.

The matter was referred to Family Court Services for an evaluation of physical custody, visitation, and move-away issues. Patricia Coil prepared an evaluation report with recommendations. After the evaluator interviewed appellant, respondent, and both children, and observed the children with each party, she recommended that the children, who were then 11 and seven years old, continue to live with respondent and have visitation with appellant.

After the trial court held a hearing, it found that it was in the children's best interests to stay in California with respondent and have visitation with appellant.

II. Discussion

Appellant contends that there were significant errors in the evaluation report, and that she was prevented from establishing these errors because the evaluator, who was not subpoenaed by either party, did not appear at the hearing. Appellant contends that since she was a self-represented litigant the trial court erred by failing to advise her that she could request that the hearing be continued to allow her to subpoena the evaluator.

Self-represented litigants are "held to the same standards as attorneys. [Citation.]" (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543.) As the California Supreme Court has stated, "[S]elf-representation is not a ground for exceptionally lenient treatment." (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984.) The court explained that "[a] doctrine generally requiring or permitting exceptional treatment of parties who represent themselves would lead to a quagmire in the trial courts, and would be unfair to the other parties to litigation." (*Id.* at p. 985.) Since self-representation alone is not a ground for lenient treatment, we conclude that the trial court did not err by failing to advise appellant that she could seek a continuance in order to subpoena the evaluator.

Appellant next contends that it “is the judiciary’s preference to resolve matters on their merits rather than by procedural default.” (Boldface omitted.) We reject this contention. It is well-settled that “[t]he court may grant a continuance only on an affirmative showing of good cause requiring a continuance.” (Cal. Rules of Court, rule 3.1332(c).) This court reviews the trial court’s determination under the abuse of discretion standard. (*Oliveros v. County of Los Angeles* (2004) 120 Cal.App.4th 1389, 1395.) Thus, even if appellant had been aware that she could request a continuance, she could not establish good cause for a continuance because she failed to subpoena the evaluator.

Appellant also contends that the trial court failed in its duties “to avoid a miscarriage of justice” and to ensure that “‘verbal instructions given in court and written notices are clear and understandable by a layperson,’” quoting *Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1284. (Boldface & italics omitted.) She further contends that the trial court abused its discretion by failing: to review her proposed visitation schedule; “to include a clause specifying that she under circumstances of excusable absence would not be responsible for the children during the scheduled visitation time;” and to include a provision that allowed the children to visit each parent during the festival of Diwali.

We presume that the judgment is correct and the appellant has the burden of overcoming this presumption by affirmatively showing error on an adequate record. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141.) Here, we are unable to review appellant’s contentions, since she has failed to provide a reporter’s transcript of the hearing. Accordingly, we reject these contentions.

III. Disposition

The order is affirmed.

Mihara, J.

WE CONCUR:

Bamattre-Manoukian, Acting P. J.

Duffy, J.*

* Retired Associate Justice of the Court of Appeal, Sixth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.