

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

BRANDEN JESSEMAN

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

V.

LYNDSY KIRCHMAN

Appellant

: No. 245 WDA 2026

Appeal from the Order Entered January 20, 2026
In the Court of Common Pleas of Beaver County
Civil Division at No: 10343 of 2018

BEFORE: McLAUGHLIN, J., KING, J., and BENDER, P.J.E.

MEMORANDUM BY BENDER, P.J.E.:

FILED: SEPTEMBER 3, 2026

Lyndsy Kirchman (Mother) appeals from the January 20, 2026 order denying the contempt petition she filed against Branden Jesseman (Father) in the underlying custody action.¹ We affirm.

Background

Mother and Father are the parents of three children: two sons, ages 15 and 11, and a daughter, age 9.² Since 2018, the parties' relationship "has been acrimonious, and custody of the children has been the subject of many petitions, motions, hearings, and several trials." Trial Court Opinion (TCO), 3/10/26, at 1.

¹ Mother has also appealed from the trial court's separate custody order at No. 246 WDA 2026.

² The children were born in January 2011, November 2014, and June 2017.

Father has had primary physical custody of the children since April 2023. On December 19, 2024, Mother filed a petition for modification of custody in which she sought "sole legal custody and primary physical custody during the school year and shared physical custody during the summer." Petition for Modification of Custody, 12/19/24, at 3. The trial court held a three-day trial from December 15-17, 2025. Prior to trial, on September 3, 2025, Mother filed a petition for contempt alleging that Father was not complying with the existing custody order.

Following trial, the parties and counsel convened for the trial court to verbally communicate its findings. The court "declined based on the evidence that was presented to find Father in contempt." N.T., 1/20/26, at 32. That same day, the trial court issued a written order stating:

AND NOW, this 20th day of January 2026, upon consideration of [Mother's] Petition for Contempt filed September 3, 2025, the evidence and testimony presented in this case on December 15, 16, and 17, 2025, and based on the finding of the [c]ourt placed on the record this date, which is incorporated by reference, the [c]ourt does not find [] Father in [c]ontempt for failing to follow the Order. I find that he made efforts, followed recommendations of therapists and the guardian *ad litem* to coerce the [parties' sons] to visit. For a finding of [c]ontempt, the [c]ourt must find that Father's actions were volitional and that he acted with wrongful intent and I do not find this [from] the facts presented at trial.

Order, 1/20/26.

On February 17, 2026, Mother filed a notice of appeal and concise statement of errors pursuant to Pa.R.A.P. 1925. Mother presents the following issue:

The [trial c]ourt erred and/or abused its discretion by refusing to enforce the [c]ourt's own custody Order by denying Mother's Petition for Contempt to enforce the existing custody Order, by disregarding the evidence of Father's repeated, continued, constant lack of cooperation with and disobedience of the custody order, continuing over the course of more than two years, disregarding Father's continued, constant, failure, over the course of more than two years, to encourage Mother's custody of the parties' minor sons, disregarding the testimony of evaluators Dr. Bernstein and Dr. Chambers, and the evidence in the record, regarding Father's constant, continuing alienation of the children, in disobedience of the existing custody order, for a period of more than two years.

Mother's Brief at 4.

Discussion

This Court will reverse an order denying a contempt petition only upon a showing that the trial court misapplied the law or exercised its discretion in a manner that lacked reason. **MacDougall v. MacDougall**, 49 A.3d 890, 892 (Pa. Super. 2012). Our standard of review regarding a trial court's contempt finding is "very narrow" and "limited to a determination of whether the trial court abused its discretion." **Gross v. Mintz**, 284 A.3d 479, 489 (Pa. Super. 2022). An abuse of discretion occurs where the trial court, "in reaching its conclusion, overrides or misapplies the law or exercises judgment which is manifestly unreasonable, or reaches a conclusion that is the result of partiality, prejudice, bias, or ill will as shown by the evidence of record." **Id.**

The "normal means" of enforcing a custody order is by contempt proceedings. **Rosenberg v. Rosenberg**, 504 A.2d 350, 353 (Pa. Super. 1986) (citing Pa.R.C.P. 1915.12). The Domestic Relations Code provides that

a party “who willfully fails to comply with any custody order may, as prescribed by general rule, be adjudged in contempt.” 23 Pa.C.S. § 5323(g)(1).

In proceedings for civil contempt of court, the general rule is that the burden of proof rests with the complaining party to demonstrate that the defendant is in noncompliance with a court order. To sustain a finding of civil contempt, the complainant must prove, by a preponderance of the evidence, that: (1) the contemnor had notice of the specific order or decree which he is alleged to have disobeyed; (2) the act constituting the contemnor’s violation was volitional; and (3) the contemnor acted with wrongful intent.

Thomas v. Thomas, 194 A.3d 220, 226 (Pa. Super. 2018) (citations and quotation marks omitted).

Mother claims the trial court abused its discretion by finding that Father did not willfully or volitionally violate the custody order. Mother states:

[The trial court] said, on the record, that “once custody changed to Father, significant time passed while the children were permitted to determine when and if they would visit with [M]other. That needs to stop now.” [The trial court] said that “Father must recognize that the Court Order must be followed and if not, then he must address the issue and simply not ignore it, which he has done for the past year.” ...

[The trial court] failed to hold Father in contempt or impose sanctions against him, stating that his actions were not volitional acts nor did he act with wrongful intent--as though he is a child, instead of an adult with minor children.

Mother’s Brief at 42-43 (citations omitted).

Mother disregards the evidence that the trial court considered about Father’s efforts to comply with the custody order, as well as Mother’s role in the custody conflict. As Father states, the “professionals” testified “that the anger and hostility of Mother is a factor for many of the problems in this case.”

Father's Brief at 5-6. The record also supports the trial court's determination that Father "made efforts" and "followed recommendations" of therapists and the guardian *ad litem*. TCO at 5. The trial court observed:

Despite efforts, the children were refusing to visit with Mother. Evidence demonstrated that Mother was not compliant with the recommendations of the therapist Moreover, credible evidence shows that Mother was antagonistic at pick-ups and drop-offs, which behavior was witnessed by the children. The [c]ourt found credible Father's efforts to coerce the boys to follow the Order. Notably, [the parties' daughter] visited Mother as directed in the Order despite her brothers' refusal.

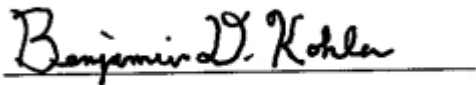
Furthermore, the court noted on the record, "[f]or a finding of contempt, the court must find that Father's actions were volitional and that he acted with wrongful intent, and I did not find this [based on] the facts presented at trial."

Id. at 5-6 (footnotes omitted).

Our review confirms that the trial court's "findings and conclusions were based upon evidence and credibility of the witnesses." ***Id.*** at 6. Thus, the trial court did not abuse its discretion in denying Mother's contempt petition.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 9/3/2026