FIRST DIVISION
PHIPPS, C. J.,
ELLINGTON, P.J., and MILLER, J.

November 21, 2013

NOT TO BE OFFICIALLY REPORTED

In the Court of Appeals of Georgia

A13A1073. LUNSFORD v. ROBERTS.

MILLER, Judge.

Jacqueline A. Lunsford, proceeding pro se, filed a petition for modification of custody and child support against Wylie H. Roberts. Following a hearing, the trial court denied Lunsford's petition with respect to the custody modification, designated Roberts rather than Lunsford as the primary physical custodian, reduced Lunsford's parenting time, and ordered Lunsford to pay child support. Lunsford appeals from the denial of her motion for new trial, contending that the evidence did not support the trial court's custody decision, and that the trial court erred by refusing to allow her to play a certain audio recording during the hearing and by limiting the number of witnesses she could call. Lunsford also contends that the trial court erred in its calculation of child support payments. We discern no error and affirm.

"When reviewing a child custody decision, this court views the evidence presented in the light most favorable to upholding the trial court's order. . . . If the record contains any reasonable evidence to support the trial court's decision on a petition to modify custody, it will be affirmed on appeal." (Footnotes and punctuation omitted.) *Mitcham v. Spry*, 300 Ga. App. 386, 386-387, (685 SE2d 374) (2009).

So viewed, the record reflects that Lunsford and Roberts are the parents of a daughter, Z. L., who was born November 8, 2005. Roberts filed a petition to legitimate and for custody of Z. L., and the parties entered into a consent agreement on July 22, 2009. Pursuant to that agreement, Z. L. was declared the legitimate daughter of Roberts. The parents shared legal and physical custody of Z. L., but Lunsford was the primary physical custodian and had final decision-making power on matters of education, extracurricular activities, religion and medical care. The parties agreed to a parenting time schedule under which Lunsford had parenting time equivalent to 51% of the year, while Roberts had custody the remaining 49% of the year. Roberts was required to pay child support to Lunsford in the amount of $825 per month.

In September 2010, Lunsford filed a petition for change of custody and child support. She sought sole legal and physical custody of Z. L., and asked that Roberts

be limited to only supervised visitation until he completed a family violence class and was deemed a sound parent following completion of a psychological evaluation. Lunsford alleged that a material change in circumstances had occurred because, among other things: Roberts's ex-fiancee had obtained a Family Violence Protective Order against him; Z. L. had witnessed the incident giving rise to the protective order; and Roberts had spanked Z. L., contrary to the parents' agreement not to use corporal punishment.

In his answer, Roberts initially denied that a material change in circumstances had occurred. He subsequently amended his answer to assert a counterclaim for change of custody and contempt, alleging that Lunsford was attempting to alienate Z. L. from him and that she had violated the anti-disparagement provision of the parties' consent agreement. Roberts requested that he be awarded primary physical custody of Z. L.

The parties subsequently entered into a temporary consent order which provided that they would have joint legal custody of Z. L., and Roberts would have primary physical custody and final decision-making authority. Lunsford and Roberts also agreed to retain a parent coordinator and to attend at least eight joint sessions with the parent coordinator.

During the hearing on Lunsford's petition, Z. L.'s therapist, Susan Boyan, testified that Lunsford contacted her to schedule an appointment for Z. L. At that time, Lunsford told Boyan that Z. L. was anxious about visiting Roberts and was afraid of him. Lunsford also indicated that Z. L. had been traumatized by having been spanked by Roberts and having witnessed a violent incident between Roberts and his fiancee, which resulted in a protective order. Following a total of fourteen sessions with Z. L.,[1] Boyan concluded that Lunsford's allegations against Roberts were contradicted by Z. L.'s statements. Z. L. spoke favorably of both parents. As to the spanking allegation, Boyan concluded that Roberts had spanked Z. L. on one occasion for not telling him the truth, but Z. L. was not traumatized by the incident. Regarding the altercation that led to entry of a Family Violence Protective Order, Boyan described it as a "scuffle," and concluded that Z. L. seemed most upset that she would no longer see Roberts's fiancee and her daughter. According to Boyan, Z. L. did not witness very much of the incident and did not understand "that there was something physical going on." Boyan believed that Z. L. had been "traumatized by all she's been put through," but not by anything her father had done. Boyan stated

[1] Boyan also met with Lunsford and Roberts individually.

that based on her interviews with Z. L. and Roberts, she did not believe that Roberts posed any danger to Z. L., or that his visitation with her should be supervised.

Boyan, who was recognized by the trial court as an expert in parental alienation , further testified that Lunsford was engaging in acts designed to estrange Z. L. from Roberts. In support of this conclusion, Boyan cited Lunsford's negative comments about Roberts to Z. L., evidence that Lunsford had coached Z. L. in preparing for the interviews, evidence that Lunsford had punished Z. L. for telling Roberts she loved him, and Lunsford's statements that she wanted Boyan to prove that Z. L. was afraid of her dad. Ultimately, Boyan believed that it would be better for Z. L. to be in the primary care of Roberts.

Leslie Gresham, who has been a guardian ad litem since 1997 and who had been involved in the parties' prior legitimation and custody action, testified that her investigation of Lunsford's allegations revealed no basis for stripping Roberts of custody. As to the incident that led to the Family Violence Protective Order, Gresham had spoken with Roberts's ex-fiancee about this matter. Even under the account provided by the ex-fiancee, the incident was a scuffle, not a fight. As to the spanking incident, Gresham concluded that it was isolated event. Overall, Gresham did not believe that Z. L. was exposed to violence in her father's care. Although Gresham

advised Lunsford that her allegations did not support terminating the father's custody, Lunsford insisted on litigating the issue and would not accept others' opinions that there was no basis for depriving Roberts of custody.

Gresham further testified that Lunsford and Roberts were unable to co-parent effectively, and, as a result, one parent needed to take the lead. Gresham believed that Roberts would be the better lead parent, and she recommended that he be awarded primary custody of Z. L. The parties' parent coordinator also testified that she supported Gresham's recommendation.

Following a hearing, the trial court issued a final order finding that the conditions surrounding Z. L. had changed such that Lunsford was no longer suited to be her primary physical custodian. Accordingly, the trial court awarded the parents joint legal custody, but gave primary physical custody and final decision-making authority to Roberts.

As to child support, the court ordered Lunsford to pay Roberts $426 per month. This amount was based on Roberts's annual gross salary of $83,392.53, and Lunsford's income of $19.50 per hour at 40 hours per week.

1. In four enumerations of error, Lunsford challenges the sufficiency of the evidence underlying the trial court's custody decision. As noted above, we review the

trial court's custody decision in the light most favorable to upholding that decision, and will affirm if the record contains any reasonable evidence in support. *Mitcham*, supra, 300 Ga. App. at 386-387.

"A trial court is authorized to modify an original custody award upon a showing of new and material changes in the conditions and circumstances substantially affecting the interest and welfare of the child. Any change in custody is subject to the trial court's discretion based on the best interests of the child." (Citations and punctuation omitted.) *Fifadara v. Goyal*, 318 Ga. App. 196, 197 (733 SE2d 478) (2012). "Where the trial court exercises its discretion and awards custody of a child to one fit parent over the other fit parent, this Court will not interfere with that decision unless the evidence shows the trial court clearly abused its discretion." (Citation omitted). *Mitcham*, supra, 300 Ga. App. at 390 (2).

(a) Lunsford argues, first, that the trial court erred by rejecting her contention that Roberts is a violent person. She contends that the court did not give appropriate weight to evidence suggesting that Roberts has a history of violence. We disagree.

Lunsford's argument is not persuasive. The weight and credibility to afford any particular piece of evidence is a matter that falls within the sound discretion of the trial court. See *Mitcham*, supra, 300 Ga. App. at 386. Although Lunsford has

identified some evidence supporting her characterization of Roberts as violent, there was also evidence to the contrary. For example, Gresham, who was familiar with both parties, testified that she did not believe Roberts was a violent person, and, further, she recommended that he be given primary custody of Z. L. In addition, both the child's therapist and the parenting coordinator also believed that Roberts should have primary custody. All three of these professionals were familiar with the parties and facts of this case, and the trial court did not abuse its broad discretion by relying on their assessments when making its decision.

(b) Second, Lunsford contends that the trial court did not give adequate consideration to evidence suggesting that Roberts was not providing Z. L. with a safe, moral, and wholesome environment. Her argument on this point, however, is not supported by the record. The trial court's reference to a moral home was made as a directive in its final order, where the court stated that the parents shall have a full and active role in providing a sound moral environment for Z. L. The trial court did not make a finding that Roberts was currently providing such a home, or that Lunsford was not. Accordingly, to the extent Lunsford is attacking this statement as a factual finding, her argument lacks merit.

(c) Lunsford also argues that the trial court erred by finding that she was engaging in parental alienation, because it was actually Roberts who was doing so. Contrary to Lunsford's argument, however, the evidence clearly supports the trial court's conclusion that she was engaging in parental alienation. Boyan, an expert in parental alienation , testified that it was Lunsford, not Roberts, who was engaging in acts designed to alienate Z. L. from the other parent. Boyan also testified that, in light of Lunsford's alienation efforts, it would be better for Roberts to have primary custody. In addition, Gresham testified that Lunsford seemed intent on litigating, and that she refused to accept opinions which differed from her own. Under these circumstances, there was ample evidence to support the trial court's conclusion that Lunsford was engaging in acts designed to estrange Z. L. from Roberts.

(d) Lunsford argues that the trial court erred in concluding that conditions had changed to the extent that she was no longer suited to be Z. L.'s primary physical custodian. We disagree.

As discussed above, the record supports the court's finding that Lunsford was engaging in acts designed to alienate Z. L. from Roberts. In addition, the guardian ad litem, Z. L.'s therapist, and the parenting coordinator all recommended that Roberts be granted primary physical custody of Z. L. The testimony of these professionals

supports the trial court's conclusion that material changes in the conditions and circumstances affecting the welfare of Z. L. had occurred, and that a change of custody would be in her best interest. See *Viskup v. Viskup*, 291 Ga. 103, 105 (2) (727 SE2d 97) (2012) (trial court's award of custody of child to one fit parent over another was supported by evidence, including evidence of father's steps to undermine mother); see also OCGA § 19-9-3 (a) (3) (N) & (O).

2. In two related enumerations of error, Lunsford challenges the trial court's refusal to allow her to play a particular audio recording during the hearing. She contends that this recording would have impeached Boyan's testimony.

The transcript shows that, during the hearing, Lunsford cross-examined Boyan as to whether she had seen photographs of Z. L.'s diaper rash, and as to whether she had counseled Lunsford on how to introduce those photos in a court proceeding. Boyan denied seeing any such photos and denied advising Lunsford on their admissibility. Lunsford's counsel then told the trial court that he wanted to play an audio recording to refresh Boyan's memory. The court denied Lunsford permission to play the recording, because it was not ready to be played and the court did not have time for counsel to find it on a laptop.

(a) Lunsford argues that, by refusing to allow her to play this recording, the trial court erroneously denied her an opportunity to impeach Boyan. We disagree.

The burden of establishing admissibility of a particular piece of evidence lies with the party seeking to admit it – not with the trial court. Here, counsel gave no proffer as to what the recording would show. Accordingly, we cannot review Lunsford's contention that the trial court erred by refusing to allow the recording to be admitted. See *Sherls v. State*, 272 Ga. App. 152, 153-154 (2) (611 SE2d 780) (2005) (claim that trial court erred in refusing to allow defense counsel to play videotape containing prior inconsistent statements by victim presented nothing for appellate review when defense counsel failed to proffer excluded evidence).

Moreover, Lunsford did not preserve an argument that the recording was admissible as evidence on the basis that it contained a prior inconsistent statement, because she wanted to play it only to refresh Boyan's memory. Counsel never asserted that the recording was admissible as evidence, and he did not lay a foundation for doing so. Instead, counsel stated only that he wanted to use the recording to refresh Boyan's memory. As a result, Lunsford is now barred from arguing that the recording was admissible as a prior inconsistent statement. See *Boatman v. State*, 272 Ga. 139, 141 (5) (527 SE2d 560) (2000) (appellant was barred

from arguing on appeal that evidence was admissible to impeach witness for bias when he argued at trial that evidence was admissible as prior inconsistent statement).

(b) In a related enumeration, Lunsford contends that the court erred by failing to apply the seven-step test set forth in *Willett v. Stookey*, 256 Ga. App. 403, 407 (3) (568 SE2d 520) (2002), to determine whether the recording was admissible. That test, however, did not apply in this case because Lunsford did not move to admit the recording into evidence. To the extent Lunsford argues that the trial court erroneously prevented her attorney from presenting the *Willett* factors, her argument is not persuasive because she never objected on this basis. Accordingly, this contention is waived. See *RNW Family Partnership, Ltd. v. Department of Transp.*, 307 Ga. App. 108, 112 (6) (704 SE2d 211) (2010) (objections not raised at trial cannot be raised for the first time on appeal).

3. Lunsford argues that the court erred by limiting the number of witnesses she could call at trial. She contends that, by limiting her witnesses in this manner, the court prevented her from presenting evidence as to what disposition would be in Z. L.'s best interests. We disagree.

The record reflects that at the conclusion of the first day of the hearing, the trial court held a bench conference with counsel. This conference was not transcribed.

However, based on a colloquy between the court and counsel the next morning, it is apparent that the court told Lunsford's counsel it would permit Lunsford to call only three additional fact witnesses. Lunsford's counsel did not object to this ruling. Instead, he informed the trial court that he only had three fact witnesses he wished to call. Counsel and the trial court also discussed an additional witness, who was under subpoena. The witness was not available to testify until a few days later. Based on the witness's unavailability, Lunsford's attorney indicated that he was willing to release her from testifying. Although he requested permission to revisit the issue later in the day, he did not subsequently raise any objection to her release.

Under these circumstances, the record does not support Lunsford's contention that the trial court prevented her from calling important witnesses. Instead, the record shows that, although the court apparently set parameters on witness testimony, Lunsford's attorney agreed to those limits. Given counsel's failure to object below, Lunsford is barred from raising this argument on appeal. See *RNW Family Partnership, Ltd.*, supra, 307 Ga. App. at 112 (6).

4. Lunsford argues that the court erred in determining that her monthly income was $3,393. She asserts that the trial court erroneously relied on the financial affidavit

she submitted when she filed her petition, rather than on the updated income information she provided during the hearing.

When reviewing a trial court's finding as to a party's income, appellate courts are to apply a deferential "any evidence" standard. See *Singh v. Hammond*, 292 Ga. 579, 581 (2) (740 SE2d 126) (2013).

In this case, the record does not support Lunsford's contention that the trial court relied on outdated financial information. Instead, the final order itself shows that the trial court based its calculations on evidence that was presented during the hearing. At the hearing, Lunsford testified that, at the time of the hearing, she was earning $19.50 per hour and that, at one point, she had been working 40 hours per week. To calculate Lunsford's monthly income, the trial court multiplied $19.50 per hour by 40 hours per week, and then multiplied that figure by 4.35 weeks per month. Using this method, the trial court calculated Lunsford's monthly income to be $3,393.[2]

As the trial court's order makes clear, its calculation of Lunsford's monthly income was based on evidence it received during the hearing. Accordingly, we reject

[2] We note that although Roberts was unemployed at the time of the hearing, the trial court considered his prior salary of $83,392.50 to calculate his monthly income.

Lunsford's argument that the court improperly based its calculation on her earlier financial affidavit.

Judgment affirmed. Phipps, C. J., and Ellington, P. J., concur.