

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs May 1, 2026

MIKE OLIVER v. ANDREW GOODMAN**Appeal from the Chancery Court for Williamson County**
No. 24CV-53992 David Henry Veile, Judge

No. M2025-01916-COA-R3-CV

This appeal requires us to determine whether the trial court applied the correct legal standard in concluding that the father severely reduced the maternal grandfather's visitation under Tennessee Code Annotated section 36-6-306. Appellant/Father appeals the trial court's grant of visitation to his children's maternal grandfather. Appellee/Grandfather appeals the trial court's denial of his request for attorney's fees under Tennessee Code Annotated section 36-6-306(g). Because the trial court applied an incorrect legal standard in finding that Appellant severely reduced Appellee's visitation with the children, we vacate its order and remand with instructions to re-evaluate whether there has been a severe reduction in visitation in accordance with Tennessee Code Annotated sections 36-6-306(a), (f), and 36-1-102(1)(C).

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court
Vacated and Remanded

STEVEN W. MARONEY, J., delivered the opinion of the court, in which W. NEAL MCBRAYER and WILLIAM E. PHILLIPS, II, JJ., joined.

Andrew B. Goodman, Spring Hill, Tennessee, appellant, pro se.

Joanie L. Abernathy, Franklin, Tennessee, for the appellee, Mike Oliver.

OPINION**I. BACKGROUND**

Andrew Goodman ("Appellant") is the father of three minor children, aged fifteen, thirteen, and ten at the time of the trial in this matter. The children's mother is Sarah Goodman. In 2015, the couple moved from California to Middle Tennessee. Mrs. Goodman's father, Mike Oliver ("Grandfather," or "Appellee"), and her stepmother moved

to Middle Tennessee two years later to be closer to their grandchildren. In 2019, Appellant and Mrs. Goodman divorced.

Mrs. Goodman died on June 13, 2023. In the initial period following Mrs. Goodman's death, Appellant and Appellee worked cooperatively to ensure Appellee was able to maintain meaningful contact with the children. However, beginning in early 2024, Appellee perceived a change in the frequency, duration, and quality of his involvement with the children.

On October 11, 2024, Appellee filed a petition for grandparent visitation pursuant to Tennessee Code Annotated section 36-6-306. In his petition, which was filed in the Williamson County Chancery Court ("trial court"), Appellee asserted:

7. Prior to the Mother's death, the minor children's contact with the Maternal Grandfather and Maternal Step Grandmother was almost weekly, consisting of in person or phone contact.
8. Prior to the Mother's death, the Father did not object to the Grandfather's interaction with the minor children.
9. Even after Mother's death, the minor children remained in constant contact with the Grandfather. Grandfather maintained a calendar of time spent with the grandchildren which reflects the children were with him 13 days in June 2023, 20 days in July 2023, 4 days in August, 2023, 7 days in September 2023, 7 days in October 2023, 6 days in November 2023, and 6 days in December 2023.
10. However, in January 2024, Father began restricting the time that the children spent with Grandfather and Step Grandmother, and in January 2024 Grandfather only saw the children 3 days in January 2024, one day in February 2024, 7 days in March 2024, zero days in April 2024 and 2 days in May 2024.
11. Since May 2024, the Grandfather has only seen the children 2 days for lunch and even though the Grandfather pays the children's cell phone service, the Father has prevented telephone contact between Grandfather and children.

Appellee further stated that he was "unaware of any reasons that caused the Father to terminate his visitation with the children or prevent contact by blocking [his] telephone number from the children's telephone" but asserted that "Father's action of cutting off visitation and contact between Grandfather and children is likely to result in substantial harm to the children." Appellee was later granted leave to amend his petition to state a claim for attorney's fees under Tennessee Code Annotated section 36-6-306(g)

The trial court heard Appellee's petition on November 12, 2025. Appellee testified that, for a period of time after the children's mother died, he and Appellant worked together

to ensure the children saw Appellee. A calendar of visits between the children and Appellee was entered into evidence. It showed, among other things, that the children spent several nights each month with Appellee, including some holidays and school breaks.

However, Appellee testified that, in January of 2024, Appellant “started pushing back” regarding visitation and “refused to bring the kids over anymore.” The calendar of visitation, Appellee’s testimony, text messages, and emails established that, from January 2024, Appellant reduced Appellee’s visits to soccer games, a handful of visits supervised by Appellant, and almost no overnight visits or holidays. Additionally, Appellant blocked Appellee’s phone number from the oldest child’s phone.

On November 21, 2025, the trial court entered an order granting Appellee’s petition for grandparent visitation. The trial court correctly observed that it “must first determine whether there has been a denial or severe reduction of the [Appellee’s] visitation . . .” and went on to find that,

based on the calendar of visitation introduced by [Appellee], as well as [his] testimony, it appears the contact between [Appellee] and the three children was severely reduced. Specifically, the Court finds that [his] overnight visitation and loss of trips with the grandchildren was severely reduced for far longer than 12 months.

The trial court then turned to “determine the likelihood of harm to the children if the visitation is not granted” and noted that “there is a presumption of substantial harm” in cases where a grandparent seeks visitation upon the death of a parent. The trial court found that “[i]n this case the evidence supports that conclusion[,] and [Appellant] has not rebutted that presumption.”

Having found that Appellant severely reduced Appellee’s visitation and that such reduction posed the likelihood of substantial harm, the trial court went on to evaluate the best interest factors set out at Tennessee Code Annotated section 36-6-107 and concluded that the relevant factors weighed in favor of awarding visitation to Appellee. As such, the trial court awarded Appellee the following visitation schedule: (1) “one weekend each month from Friday at 6:00 pm until Sunday at 6:00 pm”; (2) “two dinners each month with the children” on those weeks he does not have weekend over-night visits; (3) “one overnight visitation from 6:00 pm until 6:00 pm the following day around the date of each child’s birthday”; (4) “visitation on the children’s mother’s birthday for a dinner”; (5) “7 days each summer and said visitation is in addition to [Appellee’s] regular weekend visitation and at [Appellee’s] election he may combine his weekend time with the 7 day period”; (6) “visitation each Thanksgiving from the Friday after Thanksgiving at 11:00 am until Saturday at 6:00 pm”; (7) “visitation each Christmas holiday from December 26 at noon until December 27 at 8:00 pm”; and (8) “telephone communication with the children no less than once per week for up to 30 minutes and said telephone communication shall

not be monitored by [Appellant].” The trial court also ordered that “[n]either party shall make derogatory or disparaging comments about the other party in the presence of the children and [Appellee] shall not make any comment about [Appellant’s] parenting decisions to the children.”

The trial court denied Appellee’s request for attorney fees but ordered that “any unpaid court costs shall be paid by” Appellant. On November 25, 2025, Appellant filed a motion to stay enforcement of the trial court’s order pending appeal; the trial court denied the motion on December 29, 2025. Appellant appeals

II. ISSUES

Appellant raises the following issues for review:

III. Whether the trial court erred in finding that Appellee’s visitation with the minor children had been “severely reduced” within the meaning of Tenn. Code Ann. § 36-6-306(a) and (f), where the undisputed evidence established that Appellee maintained ongoing and meaningful contact with the children, including weekly attendance at their soccer games, unrestricted text messaging access with two of the three children, in-person visits, and continuous communication with the Appellant, during the period preceding the filing of the Petition.

II. Whether the trial court erred in applying the rebuttable presumption of substantial harm under Tenn. Code Ann. § 36-6-306(b)(4) without first making a legally sufficient threshold finding of “severe reduction” as required by the statutory framework and as interpreted in *Coleman v. Olson*, 551, S.W.3d 686 (Tenn. 2018), and *In re Trinity P.*, 2021 WL 5868896 (Tenn. Ct. App. 2021).

III. Whether the visitation schedule ordered by the trial court, comprising one weekend per month, two additional dinners per month, birthday overnights, summer visitation, and holiday visitation totaling approximately 50-60 days per year, is unreasonable under *Lovelace v. Copley*, 418 S.W.3d 1 (Tenn. 2013), the 2024 amendment to § 36-6-306I, and constitutes an undue interference with the Appellee’s constitutionally protected parental rights.

Appellee raises the following additional issues for review:

III. Whether the Trial Court erred in failing to award [Appellee] his attorney fees at trial in accordance with Tenn. Code Ann. § 36-6-306(g).

II. Whether [Appellee] should be awarded his attorney fees incurred on appeal.

III. STANDARD OF REVIEW

We will review the trial court’s findings of fact in this non-jury trial de novo with a presumption of correctness, “unless the preponderance of the evidence is otherwise.” **Lovelace v. Copley**, 418 S.W.3d 1, 16 (Tenn. 2013) (citing Tenn. R. App. P. 13(d)). Because “[a] determination of visitation ‘often hinges on subtle factors such as the [parties’] demeanor and credibility during the trial proceedings,” we give “considerable deference” to the trial court as “the trial judge had the opportunity to observe the witness’ demeanor and . . . hear in-court testimony.” **Lovelace**, 418 S.W.3d at 16 (quoting **Battleson v. Battleson**, 223 S.W.3d 278, 282 (Tenn. Ct. App. 2006) (quoting **Morrison v. Allen**, 338 S.W.3d 417, 426 (Tenn. 2011))).

We will review the trial court’s conclusions of law de novo “without any presumption of correctness.” *Id.* However, as the Tennessee Supreme Court has explained:

Review of a trial court’s decision regarding visitation is governed by an abuse of discretion standard. **Smallwood v. Mann**, 205 S.W.3d 358, 361 (Tenn. 2006). “An abuse of discretion occurs when the trial court causes an injustice by applying an incorrect legal standard, reaches an illogical result, resolves the case on a clearly erroneous assessment of the evidence, or relies on reasoning that causes an injustice.” **Gonsewski v. Gonsewski**, 350 S.W.3d 99, 105 (Tenn. 2011) (citing **Wright ex rel. Wright v. Wright**, 337 S.W.3d 166, 176 (Tenn. 2011)). In determining whether the trial court abused its discretion, an appellate court “should presume that the [trial court’s] decision is correct and should review the evidence in the light most favorable to the decision.” *Id.* at 105–06; see also Tenn. R. App. P. 13(d).

Lovelace, 418 S.W.3d at 16-17. At 16-17.

IV. ANALYSIS

A. Grandparent Visitation (Tennessee Code Annotated section 36-6-306)

Because “parents have a fundamental right to raise a child as they see fit,” the state legislature only affords courts the ability to order grandparent visitation when discreet parameters are met. **In re Trinity P.**, M2020-01481-COA-R3-JV, 2021 WL 5816456, at *3 (Tenn. Ct. App. Dec. 8, 2021). These parameters are set out in Tennessee Code Annotated section 36-6-306 (the “Grandparent Visitation Statute”).

As a threshold inquiry, the Grandparent Visitation Statute is only applicable if

certain enumerated “circumstances” are present. As relevant here, “[t]he . . . mother of an unmarried child is deceased.” Tenn. Code Ann. § 36-6-306(a)(1). If, as in this case, an enumerated circumstance is present, then the court must hear the petition for grandparent visitation if “grandparent visitation is opposed by the custodial parent . . . **or** if the grandparent visitation has been severely reduced by the custodial parent” Tenn. Code Ann. § 36-6-306(a) (emphasis added). The petitioning grandparent carries the burden of establishing opposition or severe reduction. *Morisch v. Maenner*, No. W2020-00362-COA-R3-JV, 2021 WL 1102364, at *3 (Tenn. Ct. App. Mar. 23, 2021). If the petitioning grandparent can meet this burden, the trial court then must determine whether substantial harm exists, *see* Tenn. Code Ann. § 36-6-306(b), and, if so, whether visitation would be in grandchild’s best interest. *See* Tenn. Code Ann. § 36-6-306(c). However, “[i]f the petitioner is unable to make this showing [of opposition or severe reduction], a trial court has no basis for engaging in a substantial harm analysis or awarding the petitioner any relief.” *Id.* at *3 (citing *Manning v. Manning*, 474 S.W.3d 252, at 257-58 (Tenn. Ct. App. 2015)).

B. Severe Reduction

Here, our analysis begins with whether the trial court applied the correct legal standard in making its finding of a “severe reduction” within the meaning of Tennessee Code Annotated section 36-6-306(a) and (f). We conclude it did not.

As set out in context above, in granting Appellee’s petition for grandparent visitation, the trial court made no finding that Appellant opposed or denied Appellee’s visitation. Rather, the trial court found a severe reduction in Appellee’s visitation. However, the trial court based that finding “on the calendar of visitation introduced by [Appellee],” which showed that Appellee’s “overnight visitation and loss of trips with the grandchildren was severely reduced for far longer than 12 months.” Respectfully, the trial court applied an incorrect legal standard in making the threshold determination of severe reduction.

The Grandparent Visitation Statute defines “severe reduction” or “severely reduced” to “mean[] reduction to no contact or token visitation as defined in § 36-1-102.” Tenn. Code Ann. § 36-6-306(f). Here, Appellee’s visits have not been reduced to “no contact,” and so the trial court was charged to determine whether Appellee’s contact had been reduced to “token visitation.”

As referenced in Tennessee Code Annotated section 36-6-306(f), Tennessee Code Annotated section 36-1-102 defines “token visitation” to “mean[] that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child[.]” Tenn. Code Ann. §36-1-102(1)©. Here, the trial court’s order makes no reference to the statutory definition of “token visitation,” which definition drives the question of “severe reduction,” or “severely

reduced” in this case.

As we have noted, “[w]hether visitation is “token” under [the statutory] definition is a fact-intensive inquiry to be decided on a case-by-case basis,’ which ‘requires that we examine the frequency, duration, and quality of the visits that occurred.’” **Clark v. Johnson**, E2017-01286-COA-R3-CV, 2018 WL 2411203, at *10 (Tenn. Ct. App. May 29, 2018). (quoting *In re Keri C.*, 384 S.W.3d 731, 748-50 (Tenn. Ct. App. Nov. 22, 2010)). “In the context of grandparent visitation allowed by a custodial parent, however, we note that the perfunctory nature of a visit would more likely be characterized by superficiality in the type of visit the grandparent is allowed.” **Clark**, 2018 WL 2411203 at *10. As discussed below, the trial court did not engage in this type of analysis. Rather, it simply compared the number of visits set out in the previous visitation calendar to the number of Appellee’s current visits.¹ Indeed, Appellant argues that the trial court’s finding of severe reduction was based on a comparative analysis, whereas the proper measure of “severe reduction” should have been made pursuant to the statutory definition of “token visitation.” We agree.

Appellee correctly notes that “token visitation” allows for consideration of the particular facts of a case. He argues that, although he was allowed to see the children at soccer games, “incidental contact at [those] games does not constitute meaningful visitation; such perfunctory, brief interactions qualify as ‘token visitation’ under Tenn. Code Ann. § 36-1-102(1)(C).” Indeed, the statutory definition of “token support,” requires the fact finder to analyze whether “under the circumstances of the individual case, [the amount of visitation granted to the grandparent] constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely

¹ Although we usually “do not review the court’s oral statements, unless incorporated in a decree” **Cunningham v. Cunningham**, No. W2006-02685-COA-R3-CV, 2008 WL 2521425, at *5 (Tenn. Ct. App. June 25, 2008) (citing *Broadway Motor Co, Inc. v. Public Fire Ins. Co.*, 12 Tenn. App. 278, 280 (1930)), here, the trial court’s statements from the bench provide further proof that it applied a comparative analysis to the question of severe reduction as opposed to the statutory definition of token visitation, to-wit:

Based on the sworn testimony and the calendar that recounted the various overnight visitations even taking into consideration the later testimony that the calendar does not include soccer games and other opportunities where [Appellee] was able to see the grandchildren, based on the uncontroverted and sworn evidence before the Court, it does appear to the Court that the contact between the children and [Appellee] has been severely reduced from what it was previously.

So the Court does make a preliminary finding based on the number of overnights, in addition to the reduction of phone contact between [Appellee] and [the eldest of the three minor children], and the reduction from having overnight visits and trips to now supervised visits on very limited occasions, the Court does make a finding – a factual finding that there was a significant existing relationship between all three children and [Appellee] for far longer than 12 months preceding the reduction of that relationship, and that the relationship has been severely reduced.

establish minimal or insubstantial contact with the child[.]” Tenn. Code Ann. § 36-1-102(1)(C). So, while Appellee’s visits at soccer games may be relevant to the question of token visitation, the trial court did not engage in such analysis. Rather, it engaged in an analysis by comparison, which this Court has cautioned against, noting that “statutory definition [of token visitation] does not describe a reduction in visitation in comparison to any visitation the grandparents may have enjoyed previously.” *Clark*, 2018 WL 2411203, at *13.

Because the trial court did not evaluate whether the visitation afforded to Appellee after January 2024 amounted to token visitation as defined by Tennessee Code Annotated § 36-1-102(1)© and merely engaged in a comparison of Appellee’s visitation pre-January 2024 and post-January 2024, we conclude that it applied an incorrect legal standard to the threshold question of whether there was a severe reduction in Appellee’s visits. As noted above, when a trial court applies an incorrect legal standard, it abuses its discretion. *Gonsewski v. Gonsewski*, 350 S.W.3d 99, 105 (Tenn. 2011) (citation omitted) (“An abuse of discretion occurs when the trial court causes an injustice by applying an incorrect legal standard, reaches an illogical result, resolves the case on a clearly erroneous assessment of the evidence, or relies on reasoning that causes an injustice.”).

Because the trial court applied an incorrect legal standard, we vacate its order granting Appellee’s petition for grandparent visitation and pretermite Appellant’s remaining issue concerning whether the visitation awarded to Appellee is unreasonable and interferes with his constitutional right to parent. On remand, the trial court is instructed to engage in the severe reduction analysis by applying the correct statutory procedure, as outlined above. If the trial court reaches the same conclusion (by application of the correct standard) that there has been a severe reduction in Appellee’s visits insofar as they have been reduced to token visits, only then should the trial court engage in the substantial harm analysis contemplated under Tennessee Code Annotated section 36-6-306(b)(1), and, only if it finds substantial harm, should it engage in the best interest analysis contemplated at section 36-6-306(c). For clarity’s sake, should the trial court, upon remand, reach the step of a substantial harm analysis, or a subsequent best interest analysis, our ruling does not require the trial court to reopen evidence for the purpose of making its determination; it may make this determination based upon the evidence generated in the hearing below.

C. Attorney’s Fees

Appellee asserts that the trial court erred in denying his request for attorney’s fees under Tennessee Code Annotated section 36-6-306(g), which provides that, “[t]he court may award reasonable attorney’s fees and other litigation expenses to either party in an action for grandparent visitation brought under this section.” Having vacated the trial court’s order granting Appellee’s petition for grandparent visitation, we also vacate its denial of Appellee’s request for attorney’s fees. The trial court may reconsider the award of attorney’s fees on remand if necessary. However, as a point of practice, we note that

the trial court's order denying Appellee's request for attorney's fees is insufficient insofar as it fails to make sufficient findings concerning the trial court's reasons for the decision as required under Tennessee Rule of Civil Procedure Rule 52.01 ("In all actions tried upon the facts without a jury, the court *shall* find the facts specially and state separately its conclusions of law and direct the entry of the appropriate judgment.") (emphasis added). Should the trial court revisit the question of attorney's fees on remand, it should endeavor to enter an order compliant with Rule 52.01.

D. Frivolous Appeal

Finally, Appellee requests an award of attorney's fees, expenses, and frivolous appeal damages related to this appeal. Concerning frivolous appeal damages, Tennessee Code Annotated section 27-1-122 provides:

When it appears to any reviewing court that the appeal from any court of record was frivolous or taken solely for delay, the court may, either upon motion of a party or of its own motion, award just damages against the appellant, which may include, but need not be limited to, costs, interest on the judgment, and expenses incurred by the appellee as a result of the appeal.

Tenn. Code Ann. § 27-1-122. "An appeal is frivolous when it has 'no reasonable chance of success,' *Jackson v. Aldridge*, 6 S.W.3d 501, 504 (Tenn. Ct. App. 1999), or is 'so utterly devoid of merit as to justify the imposition of a penalty.'" *Whalum v. Marshall*, 224 S.W.3d 169, 181 (Tenn. Ct. App. 2006) (quoting *Combustion Eng'g, Inc. v. Kennedy*, 562 S.W.2d 202, 205 (Tenn. 1978)). Whether we award frivolous appeal damages rests solely in this Court's discretion, *Chiozza v. Chiozza*, 315 S.W.3d 482, 493 (Tenn. Ct. App. 2009), and we exercise such discretion "sparingly so as not to discourage legitimate appeals." *Whalum*, 224 S.W.3d at 181. Based on our review of the record, our decision to vacate the trial court's order and remand for further proceedings, and in the exercise of our discretion, we decline to award damages on the basis of frivolous appeal.

V. CONCLUSION

For the foregoing reasons, we vacate the trial court's order. Appellee's request for frivolous appeal damages is denied. The case is remanded for such further proceedings as may be necessary and are consistent with this opinion, including, but not limited to, correct application of the statutory scheme set out in Tennessee Code Annotated section 36-6-306, and entry of an order that is compliant with Tennessee Rule of Civil Procedure 52.01. Costs of the appeal are assessed to the Appellee, Mike Oliver. Execution for costs may issue if necessary.

s/ Steven Maroney
STEVEN W. MARONEY, JUDGE