Court of Appeals, State of Michigan

ORDER

Mary Annette Czewski v Daniel Earl Durkee

Docket No. 261184

LC No. 01-002894-DM

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Brian K. Zahra
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court considers the delayed application for leave to appeal and orders, pursuant to MCR 7.205(D)(2), that the temporary order of the St. Clair Circuit Court is VACATED to the extent that it is reviewable in one year. Pursuant to *Schlender v Schlender*, 235 Mich App 230, 233; 596 NW2d 643 (1999), the circuit court should hold a full hearing on the merits to determine the best interests of the child. The cause is REMANDED and the circuit court is directed to hold an evidentiary hearing, regarding the best interests of the child pursuant to MCL 722.23, within six weeks of the Clerk's certification of this order and issue its decision within four weeks thereafter.

The Court further orders that application is DENIED with regard to plaintiff's request that this case be remanded to a different judge. The trial judge's statements on the record do not indicate that he would have difficulty putting aside previously-expressed views. See *Feaheny v Caldwell*, 175 Mich App 291, 309-310; 437 NW2d 358 (1989).

The Court retains no further jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 31 2005
Date

Sandra Schultz Mengel
Chief Clerk