

Court of Appeals, State of Michigan

ORDER

Elizabeth Rivard v Bernard Ibrahim

Docket No. 315896

LC No. 05-010488-DM

Stephen L. Borrello
Presiding Judge

Michael J. Kelly

Amy Ronayne Krause
Judges

The Court orders that the motions for immediate consideration are GRANTED.

The motion to reply to the answer to the application is GRANTED.

The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

Ronayne Krause, J., would grant the delayed application for leave to appeal. The trial court's comments during his ruling on the record that he is not sure what emotional safety means, that emotional safety is a nebulous term and he won't limit father's parenting time on the concept of emotional safety alone, deserve plenary review. Particularly in a case such as this, where after a court-ordered psychological examination of the child, the psychologist rendering the opinion testified that any parenting time by defendant-appellee would not be "emotionally safe" for the child at this time and the court continued to allow parenting time. It is clear from the trial court's statements that Michigan case law is not clear on the concept of emotional well-being and this ought to be addressed by this court to assist trial court's with this issue. Additionally, it is not clear the trial court properly used the change of circumstances standard as set forth in *Shade v Wright*, 291 Mich App 17, 22-23, 805 NW2d 1 (2010), because of the lack of clarity and definition in the law regarding emotional safety of children. Further, there was a physical incident during which defendant-appellee beat the child with a belt and left bruises on the child, which was also a part of the issue regarding the child's emotional well-being. This physically violent incident was substantiated by Child Protective Services. Again, it is my belief this case deserves plenary review.



A true copy entered and certified by Angela P. DiSessa, Acting Chief Clerk, on

MAY 31 2013

Date

Angela P. DiSessa
Acting Chief Clerk