

Court of Appeals, State of Michigan

ORDER

Suzanne Annette Hendricks-Celuch v Joseph Frank Devyak, Jr.

Docket No. 323048

LC No. 2004-000900-DM

David H. Sawyer
Presiding Judge

William B. Murphy, C.J.

Joel P. Hoekstra
Judges

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

The Court further orders that the motion to stay proceedings is DENIED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court VACATES the June 27, 2014 order of the Calhoun Circuit Court and REMANDS this matter for reconsideration of defendant's motion to modify parenting time. The trial court committed a clear legal error on a major issue when it modified parenting time based on an application of MCL 722.31(4)(c). *Shade v Wright*, 291 Mich App 17; 805 NW2d 1 (2010). This provision applies only to a determination whether a requested change of domicile should be granted. *Kessler v Kessler*, 295 Mich App 54, 58; 811 NW2d 39 (2011). Instead, when a motion for change of parenting time is brought in conjunction with request for a change of domicile, the parenting time motion is to be determined based on the standards that generally govern motions seeking modification of parenting time. See *Rains v Rains*, 301 Mich App 313; 836 NW2d 709 (2013). On remand, the trial court shall evaluate the merits of defendant's motion under the proper analytical framework. This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

AUG 22 2014

Date

Chief Clerk