

Court of Appeals, State of Michigan

ORDER

Rachel Ann Mellema v Jon Marc Mellema

Docket No. 329206

LC No. 13-011868-DM

Mark T. Boonstra
Presiding Judge

Jane E. Markey

Jane M. Beckering
Judges

The Court orders that the motion to dismiss the claim of appeal is DENIED without prejudice to appellee raising the issue of this Court's jurisdiction over the claim of appeal before the case call panel because it is not clear that this Court lacks jurisdiction over this appeal as an appeal of right. We assume, without deciding, that appellant is not an aggrieved party with standing to appeal under MCR 7.203(A) as to the portions of the August 21, 2015 order appealed from that referred the case to mediation and dismissed the parties competing custody motions. However, it is manifest that the portion of the August 21, 2015 order providing the children would remain in the Fremont Public Schools does not reflect a decision made by agreement of the parties but rather reflects a decision made by the trial court before the agreement to refer other issues to mediation. It is at least reasonably arguable that this decision about the school district the children would attend affected their custody within the meaning of MCR 7.202(6)(a)(iii) given the practical effect it would entail as to their continued living arrangements, see *Rains v Rains*, 301 Mich App 313, 321-322; 836 NW2d 709 (2013), or because it constitutes an important decision regarding their welfare, *Varran v Granneman*, ___ Mich App ___, ___ NW2d ___ (October 13, 2015), slip op p 6-7. Further, this appeal is not moot because, if this Court ultimately concludes that it is appropriate to do so, it could grant meaningful relief to appellant by reversing the trial court's decision as to the school district issue. We note that the extent to which the trial court's resolution of the school district issue at an earlier point should have been controlling as to its holding on that matter in the August 21, 2015 order concerns the merits of this appeal, not whether this Court has jurisdiction over the appeal.

In accordance with our conclusion that appellant has at least arguable grounds for asserting that the August 21, 2015 order is appealable of right, the motion for sanctions for vexatious proceedings is DENIED.



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

DEC 07 2015

Date


Chief Clerk