

Court of Appeals, State of Michigan

ORDER

Adriana Knack-Ruiz v Michael Joseph Knack

Amy Ronayne Krause
Presiding Judge

Docket No. 351969

Stephen L. Borrello

LC No. 19-000024-DM

Brock A. Swartzle
Judges

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

The Court orders that the motion for clarification is GRANTED. This Court having vacated the lower court's order of November 18, 2019, the case is accordingly restored to the status quo as of November 17, 2019. Thus, no order exists, and consequently, mother was without authority to retain the children in Grayling in contravention of the parties' preexisting parenting time agreement. The trial court effectively violated this Court's order by entering a new order perpetuating its previous impermissible disruption to the children's established custodial environment without applying the correct burden of proof. The status quo requires:

1. The children shall live with father in Ontonagon during the school week.
2. The children shall have parenting time with mother every weekend, or by agreement of the parties.
3. Holiday parenting time shall be determined by agreement of the parties.

Therefore, father did not require permission from the trial court or an order granting authority to retrieve the children from Grayling. The Court orders that the parties SHALL RETURN TO THE STATUS QUO no later than January 27, 2020.

This Court DIRECTS the lower court to hold a new hearing on mother's motion filed August 6, 2019, which remains pending on remand. As stated in this Court's December 30, 2019 order, the lower court shall resolve the motion under the clear and convincing evidence standard.

This Court DIRECTS the lower court to expedite its ruling on mother's motion.

This order has immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.

Borrello, J. (dissenting). In this case the majority seeks to set forth what they believe to be the status quo prior to this Court's order of December 30, 2019. Hence, the majority has set aside the trial court's interim order placing the children with their mother in Grayling until the trial court decided mother's initial motion on remand. Even if I presume the trial court's interim order to have been entered erroneously, that is, that the interim order did not correctly set forth the status quo, the order was obviously entered as means to provide consistency for the minor children, a paramount consideration for any Court. See *Shade v Wright*, 291 Mich App 17, 29; 805 NW2d 1 (2010) "...the primary concern in child custody determination is the stability of the child's environment and avoidance of unwarranted and disruptive custody changes..." Further, the trial court's interim order was not contrary to any order by this Court. Rather it was the actions of the father that precipitated the trial court's interim order. Without any Court order allowing him to do so, the father went to the school that the children were attending in Grayling, took the children and returned them to Ontonagon. The trial court issued its interim order in reaction to the father's actions. Rather than reward the extra-judicial actions by the father, I would affirm the trial court's interim order of custody and deny father any relief. I therefore dissent.



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

JAN 17 2020

Date


Chief Clerk