

Court of Appeals, State of Michigan

ORDER

Demetrio Picerno v Patricia Strimpel

Docket No. 311619

LC No. 12-001417-DM

Douglas B. Shapiro
Presiding Judge

David H. Sawyer

Jane E. Markey
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court VACATES the trial court's July 13, 2012 order. The parenting time schedule imposed by the court effectively awarded joint physical custody. The trial court committed a clear legal error on a major issue when the court made such initial custody determination without an evidentiary hearing, without determining whether there was an established custodial environment with either or both parents, MCL 722.27, and without making the requisite statutory findings under MCL 722.23. *Harvey v Harvey*, 470 Mich 186, 187, 192; 680 NW2d 835 (2004); *Kessler v Kessler*, 295 Mich App 54, 61; 811 NW2d 39 (2011); *Shade v Wright*, 291 Mich App 17, 32; 805 NW2d 1 (2010); *Berger v Berger*, 277 Mich App 700, 705; 747 NW2d 336 (2008); *Schlender v Schlender*, 235 Mich App 230, 233; 596 NW2d 643 (1999). This matter is REMANDED to the trial court for a redetermination of the custody and parenting time issues following an evidentiary hearing. The motion for peremptory reversal is DENIED as MOOT. This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

AUG 28 2012

Date


Chief Clerk