

STATE OF MICHIGAN
COURT OF APPEALS

KARA LYNN PARR, a/k/a KARA LYNN
ZELDA,

UNPUBLISHED
February 14, 2003

Plaintiff-Appellant,

v

RONALD SCOTT PARR,

No. 236001
Macomb Circuit Court
LC No. 99-006982-DM

Defendant-Appellee.

Before: O’Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Plaintiff appeals by leave granted from a circuit court order modifying the judgment of divorce to grant defendant increased parenting time. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

When a custody dispute has been submitted to the court as an original action or in connection with another action, the court may make a decision regarding custody, child support and parenting time. MCL 722.27(1)(a), (b). The parents’ parenting time is governed by § 7a of the Child Custody Act. MCL 722.27(1)(b). Section 7a provides that parenting time is to be granted in accordance with the child’s best interests. It is presumed to be in the child’s best interests to have a strong relationship with both parents and thus the child has a right to parenting time with both parents “unless it is shown on the record by clear and convincing evidence that it would endanger the child’s physical, mental, or emotional health.” MCL 722.27a(1), (3). The court may modify or amend a previous judgment or order “for proper cause shown or because of change of circumstances... .” MCL 722.27(1)(c). All child custody orders and judgments of the circuit court “shall be affirmed on appeal unless the trial judge made findings of fact against the great weight of the evidence or committed a palpable abuse of discretion or a clear legal error on a major issue.” MCL 722.28.

The parties stipulated to a parenting time schedule as set forth in the judgment. Defendant sought a modification of that schedule because he believed that it did not provide him sufficient parenting time but did not show proper cause or a change of circumstances apart from his dissatisfaction with the judgment. The court nevertheless agreed to modify the parenting time schedule because it determined that it was not in the children’s best interests. However, an agreement between the parties regarding parenting time is to be adopted by the court unless it “determines on the record by clear and convincing evidence that the parenting time terms are not

in the best interests of the child.” MCL 722.27a(2). At the time the judgment was entered, the court made a specific finding that the custody, support and parenting time provisions were in the children’s best interests. Having determined that the parenting time schedule was in the children’s best interests, it was error for the court to conclude that it was no longer in the children’s best interest absent any evidence to support that determination.

Reversed.

/s/ Peter D. O’Connell
/s/ E. Thomas Fitzgerald
/s/ Christopher M. Murray