Court of Appeals, State of Michigan

ORDER

DAVID SOVA V JANICE SOVA

Docket No. 378725

LC No. 22-335523-DM

Kathleen A. Feeney
Presiding Judge

Stephen L. Borrello

Anica Letica
Judges

The motion for immediate consideration is GRANTED. Pursuant to MCR 7.205(E)(2), in lieu of granting leave to appeal, the Court VACATES the trial court's August 26, 2025 order, in part, and REMANDS for further proceedings not inconsistent with this order. The trial court committed clear legal err by setting aside the existing custody and parenting-time order without following the procedures in the Child Custody Act (CCA), MCL 722.21 *et seq*. Although the trial court briefly addressed proper cause or a change in circumstances, the trial court failed to consider (1) the existence of an established custodial environment, (2) the appropriate burden of proof, and (3) the children's best interests. See *Barretta v Zhitkov*, 348 Mich App 539, 564; 19 NW3d 420 (2023). In concluding that defendant's alleged fraud warranted setting aside the existing order and reinstating the parenting-time arrangement under the parties' divorce judgment, the trial court also abused its discretion by failing to hold an evidentiary hearing, particularly when defendant's alleged fraud is merely one of many potentially relevant considerations bearing on the children's best interests. See *Kiefer v Kiefer*, 212 Mich App 176, 179; 536 NW2d 873 (1995). On remand, the trial court shall hold an evidentiary hearing and make the requisite findings in compliance with the CCA. The attorney-fee award is also vacated. On remand, if the trial court again determines that defendant engaged in fraud, the trial court may only award attorney fees insofar as plaintiff's legal expenses were incurred "as a result" of the fraudulent conduct. See *International Outdoor, Inc v SS Mitx, LLC*, 349 Mich App 212, 244; 27 NW3d 365 (2023) (quotation marks and citation omitted). To avoid further unwarranted disruption to the children's lives, pending proceedings on remand in compliance with the CCA, we leave intact the current parenting-time arrangement pursuant to the parties' divorce judgment. See *Barretta*, 348 Mich App at 563. Proceedings on remand shall commence within 56 days of the Clerk's certification of this order, and they shall be given priority on remand until they are concluded. This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Kathleen A. Feeney
Presiding Judge

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

January 16, 2026
Date

Jerome W. Zimmer Jr.
Chief Clerk