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STATE OF MICHIGAN

COURT OF APPEALS

BRYAN EDWARD LITTLE, Plaintiff-Appellee,	UNPUBLISHED November 13, 2026 12:48 PM
v	No. 377686 Wayne Circuit Court
LINDA JOYCE LITTLE Defendant-Appellant.	LC No. 20-110373-DM

Before: LIEVENSE, P.J., and SWARTZLE and MARIANI, JJ.

PER CURIAM.

Defendant, the mother of the minor child, appeals as of right the trial court's order granting plaintiff, the child's father, sole legal and physical custody under the Child Custody Act (CCA), MCL 722.21, *et seq*. We affirm.

I. FACTUAL BACKGROUND

Following acrimonious divorce proceedings, the parties entered into a consent judgment of divorce. Under this judgment, entered in December 2021, the parties shared joint legal custody of their daughter, then four years old. The order provided increased parenting time to father in three graduated phases. When the parties reached the third phase in February 2022, father had overnight parenting time on one night during the week and weekend visitation on alternate weekends.

Between 2023 and 2025, the child was the subject of five complaints of child abuse allegedly perpetrated by father. For these complaints, mother took the child to a medical provider to report that the child had disclosed physical and/or sexual abuse by father, or that she discovered bruises on the child's body. The providers reported the alleged abuse to Children's Protective Services (CPS), and law enforcement got involved. The child underwent forensic interviews with law enforcement and child advocacy agencies, including Kids TALK in Wayne County and CARE House in Oakland County. In some interviews, the child answered "no" when asked if anyone had touched her inappropriately. The child reported abuse in other interviews, but CPS workers found her disclosures to be vague or peculiar. For example, an officer testified that in the first forensic interview with the Detroit Police Department (DPD), the child disclosed that mother told her what to say. A CPS caseworker also quoted the child to have said "mommy told me that I was coming

to talk about my brother hitting me and my dad pinching me. She said I have to go. I didn't want to." Later on, while disclosing sexual abuse to law enforcement in an interview in April 2024, the child did not know "what her private parts were," and when asked to explain certain details, the child kept saying "I don't know. I don't know." CPS workers and police detectives did not find it credible that the child had been abused by father because the child showed signs of having been coached by mother to make allegations against father and father's teenage son from a prior marriage. After investigation, the complaints were found to be unsubstantiated.

Mother, meanwhile, believed that a DPD detective improperly influenced the CPS and DPD investigations to make findings in father's favor, although the detective recused himself from the investigation after he discovered that father's first wife was the detective's physician. During the course of these investigations, mother filed motions to restrict father's parenting time and for other relief. She alleged that the child was in danger when she was in father's care. Father filed a motion to modify the custody order to grant him sole physical and legal custody based on unsubstantiated claims of abuse and because mother had denied him parenting time. The trial court held an evidentiary hearing that spanned several dates in April 2024, February 2025, and September 2025.[1] It included testimony from almost 20 witnesses as well as an *in camera* interview with the then-7 year old child.

Thereafter, the trial court first found that mother coached the child to make unsubstantiated allegations of abuse and denied father parenting time, which it held constituted a "proper cause or a change in circumstances" to consider modifying the prior custody order. MCL 722.27(1)(c). The court then found that the child's established custodial environment was with mother, which meant any change sought by father would need to be proven by clear and convincing evidence under MCL 722.27(1)(c). Then, the court determined that several of the statutory best-interest factors in MCL 722.23 weighed in father's favor and concluded that father established by clear and convincing evidence that granting him sole physical and legal custody was in the child's best interests. The trial court entered an order reflecting that decision. Mother now appeals.

II. TRIAL COURT'S FACT-FINDING RESPONSIBILITY

Mother first argues that the trial court improperly delegated its fact-finding responsibility related to the abuse allegations by deferring to CPS's findings that the complaints were unsubstantiated. We disagree with mother's characterization of the trial court's actions.

In a child custody and parenting time disputes, "all 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 evidence or committed a palpable abuse of discretion or a clear legal error on a major issue." *Barretta v Zhitkov*, 348 Mich App 539, 549; 19 NW3d 420 (2023) (citations omitted); see also MCL 722.28. Mother's argument that the trial court improperly delegated its fact-finding role to CPS is a claim of clear legal error. "A trial court commits legal error when it incorrectly chooses, interprets, or applies the law." *Id*. (citation omitted). This issue also indirectly implicates whether

[1] The trial court scheduled and rescheduled the evidentiary hearing several times due to various scheduling difficulties among the parties and witnesses.

the trial court's findings of fact were against the great weight of the evidence. *Merecki v Merecki*, 336 Mich App 639, 645; 971 NW2d 659 (2021). "A finding of fact is against the great weight of the evidence if the evidence clearly preponderates in the opposite direction." *Barretta*, 348 Mich App at 549, quoting *Merecki*, 336 Mich App at 645.

MCL 722.628(1) provides that the Department of Health and Human Services must commence an investigation of abuse and neglect within 24 hours of receiving a report. "In the course of its investigation, the department must determine if the child is abused or neglected." MCL 722.628(2). MCL 722.628d provides five categories of abuse or neglect findings, and actions to be undertaken for each category. The lowest level of concern, Category V, is a finding "that there is no evidence of child abuse or neglect." MCL 722.628d(1)(a). Categories II, III, and IV involve findings of harm or risk of harm and require increasing degrees of the family's compliance with services and ongoing supervision by CPS. MCL 722.628d(1)(b) to (d). Category I is the most serious and applies as follows:

> (e) Category I—court petition required. The department determines that there is evidence of child abuse or child neglect and 1 or more of the following are true:
>
> (*i*) A court petition is required under another provision of this act.
>
> (*ii*) The child is not safe and a petition for removal is needed.
>
> (*iii*) The department previously classified the case as category II and the child's family does not voluntarily participate in services.
>
> (*iv*) There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d), or (f) or of child abuse in the first or second degree as prescribed by section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.
>
> (2) In response to a category I classification, the department must do both of the following:
>
> (a) If a court petition is not required under another provision of this act, submit a petition for authorization by the court under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
>
> (b) Open a protective services case and provide the services necessary under this act.

The trial court grants the petition for jurisdiction over the minor child if statutory grounds for jurisdiction exist under MCL 712A.2(b).

Mother characterizes the trial court's statement in the order granting father sole physical and legal custody that it "will not displace the investigatory functions of CPS and police," as well as similar statements the trial court made during the hearings, as the trial court saying it was "constitutionally prohibited from second-guessing CPS's decisions." There is no known caselaw

addressing whether, or to what degree, a trial court must consider a CPS finding of no abuse or neglect under MCL 722.628d(1)(a) when deciding a motion to modify custody under the CCA. But because the trial court heard testimony and made its own factual findings as to whether the evidence mother presented was credible, and did not just adopt CPS's conclusion, we decline to reach that question. The trial court emphasized that "MCL 722.628 vests . . . the Department of Health and Human Services," and its investigatory arm CPS, "with statutory authority to investigate child maltreatment." Mother notes that, if CPS proceeds, it is the trial court's role to adjudicate CPS's petitions to determine jurisdiction over the child and petitioner must prove jurisdictional grounds by a preponderance of the evidence. MCR 3.972(C). Thus, a CPS finding that abuse did occur is not dispositive because the trial court might find insufficient evidence of grounds for jurisdiction. Mother argues, by analogy, that a CPS finding an allegation is not substantiated also should not be the final word in custody cases.

Ultimately, mother's argument fails because the trial court did not simply defer to the result of CPS's investigations. The trial court's statement that it would not displace CPS's investigatory function was not a decision prohibiting mother from presenting evidence of abuse. In fact, she did so: mother presented multiple witnesses, including her colleagues, the child's babysitter, and several exhibits, including videos, audio recordings, and pictures, for the trial court to weigh. The court indicated in its order that it assessed witnesses' credibility. The court also found that the CPS investigators credibly testified that the child's statements in forensic interviews appeared coerced; the court cited the testimony of CPS Investigator Rochelle Cowart that the child told her, "Mommy told me I was coming to talk" about father and brother hitting and pinching her. The court commented on the thoroughness of CPS's investigations. The court noted that in the recordings of the parenting time exchanges, mother "loudly and in an angry voice" yelled at father that the child did not want to go with him, while the child was "generally mumbling." The court further found that mother's "testimony that she encouraged the child to go with Plaintiff/Father was not credible." After hearing all of the evidence mother presented, the court found mother's allegations incredible, demonstrating that it weighed the evidence and thereby retained its fact-finding responsibility. We see no reversible error in the trial court's statements about or performance of its fact-finding role.

III. IMPROPER ROLE OF GUARDIAN AD LITEM

Mother next argues that Katherine Zopf, the child's appointed guardian ad litem (GAL), improperly acted more as a lawyer-guardian ad litem (L-GAL), and that the trial court improperly considered Zopf's reports and opinions. We disagree.

Mother did not object to Zopf's participation in the evidentiary hearing as a witness or as a GAL or L-GAL who questioned witnesses. She did not object to admitting Zopf's reports. This issue is therefore unpreserved. This Court reviews unpreserved issues involving the welfare of children, such as a child-custody proceeding, for plain error. *Quint v Quint*, 351 Mich App 162, 174-175; 34 NW3d 616 (2024). To show plain error warranting reversal, mother must establish that error occurred, the error was plain, and the plain error affected substantial rights. If these three requirements are met, this Court may reverse the trial court's order if the plain error affected the fairness, integrity or public reputation of judicial proceedings. *Id*.

The CCA defines "guardian ad litem" as "an individual whom the court appoints to assist the court in determining the child's best interests" and provides that a GAL "does not need to be an attorney." MCL 722.22(g). MCL 722.27(1)(d) authorizes the trial court in a child custody dispute to "[u]tilize a guardian ad litem or the community resources . . . in the investigation and study of custody disputes and consider their recommendations for the resolution of the disputes."

An L-GAL is defined as "an attorney appointed under section 4." An L-GAL "represents the child, and has the powers and duties set forth in [MCL 722.24]." MCL 722.22(h). MCL 722.24 provides that the court may appoint an L-GAL at any time in the proceedings if it determines "that the child's best interests are inadequately represented" and further provides that an L-GAL has powers and duties "as set forth in [MCL 712A.17d.]" MCL 722.24(2). MCL 712A.17d specifies the powers and duties of an L-GAL. These include serving "as the independent representative for the child's best interests," "conducting an independent investigation" to determine the facts of the case, assessing the child's needs, and advocating for the child's best interests. MCL 712A.17d(1)(b), (c), and (d). Although MCL 712A.17d is part of the probate code and is applicable in child protection proceedings, it also applies to the appointment of L-GALs in child custody proceedings under the CCA. See MCL 712A.13a(1)(g)(*ii*) and MCL 722.24.

The fundamental difference between the two, in sum, is that the GAL's duty is to assist the court in its decisions, MCL 722.22, while the L-GAL's duty is to represent the child's best interests regardless of whether those interests reflect the child's wishes, MCL 722.24. See also *Farris v McKaig*, 324 Mich App 349, 358-359; 920 NW2d 377 (2018) (outlining the differences between the GAL and L-GAL).

The order appointing Zopf referred to her as a GAL. However, at the evidentiary hearing, the trial court mistakenly referred to her at least once as the "lawyer guardian ad litem who represents the best interests of the child." The trial court permitted Zopf to cross-examine witnesses at the April 2024 hearings and the 2025 hearings, and she testified as a witness and the court questioned her. Mother did not object to Zopf doing either of these things. She now objects to the lack of clarity regarding Zopf's status as a GAL or L-GAL, but she does not identify an error causing an unjust result.

Mother also argues that the trial court improperly considered Zopf's reports, which she contends were inadmissible hearsay. Generally, all relevant evidence is admissible, unless excluded by the state or federal constitution, by the Rules of Evidence, or by other Supreme Court authority. MRE 402. Under MRE 802, hearsay evidence is not admissible unless it falls within an exception provided in the court rules. Hearsay is defined as a statement that:

> (1) the declarant does not make while testifying at the current trial or hearing; and
>
> (2) a party offers in evidence to prove the truth of the matter asserted in the statement. [MRE 801(c).]

In *Kuebler v Kuebler*, 346 Mich App 633, 655; 13 NW3d 339 (2023), this Court held that GAL reports in a custody trial contained hearsay and were not admissible under the "catch-all exception"

for hearsay under MRE 803(24); however, this Court did not broadly state that all GAL reports are inadmissible.

Mother did not object to the reports on hearsay grounds at the evidentiary hearing. More important, she does not identify any parts of the reports as being hearsay in her brief on appeal. Furthermore, the court merely stated in its opinion that it "received and considered five reports from the GAL," which were shared with counsel. The court's only substantive reference to any GAL report was in a footnote, when it remarked that mother's adult son interfered with father's attempt to pick up the child from school and take her to therapy. Mother therefore fails to establish that the trial court committed plain error affecting her substantial rights by considering the GAL reports. *Quint*, 351 Mich App at 175-176.

As a final error, Mother argues that Zopf was biased in favor of father and against her. "[A] GAL's bias against a parent or other findings that a GAL was not functioning as a neutral party to aid in the resolution of disputes would potentially provide a basis for terminating the GAL." *Kuebler*, 346 Mich App at 698. This Court held in *Kuebler* that a parent failed to demonstrate bias, and outlined the facts that tend to show or not show bias:

> None of what defendant describes, however, appears to evince that the GAL was not acting as a neutral party. She was not, for example, inflaming the custody dispute, nor had she become so personally enmeshed as to preclude her from assisting the parties in resolving disputes. At most, defendant notes that the GAL reached opinions that were sometimes unfavorable to him, and he challenges the correctness of her recommendations as not comporting with the standards that govern a motion to change custody. However, unfavorable opinions and recommendations are not generally evidence of a deep-seated favoritism or bias that would make fair judgment impossible. See *Gates v Gates*, 256 Mich App 420, 440; 664 NW2d 231 (2003). Moreover, regardless of the involvement of a third-party investigator, such as a GAL or the [Friend of the Court], a trial court remains obligated to reach its own conclusions. See *Truitt v Truitt*, 172 Mich App 38, 42; 431 NW2d 454 (1988). [*Kuebler*, 346 Mich App at 698-699.]

Similarly, the substance of mother's allegations of Zopf's biases is that Zopf had a favorable opinion of father's parenting. Based on that, mother accuses Zopf of "advocating" for father at the February 4, 2025 evidentiary hearing, when Zopf stated her opinion of the child's interactions with father:

> I think that [the child] enjoys her dad. I think that he engages with her in a warm, appropriate, loving manner. I think that he attempts to maintain appropriate boundaries with her. I think that she is a very precocious, energetic, bubbly little girl and I observed [father] and [the child]—it's just a very nice parent-child relationship.

Mother's counsel cross-examined Zopf and suggested to Zopf that she had lost objectivity. Zopf responded by denying that forming a positive opinion of a party was a bias.

This record establishes only that Zopf developed a positive opinion of father's parenting, contrary to mother's perception of the relationship. That does not establish bias under *Kuebler*. There is no indication that Zopf lacked partiality for any reason. Furthermore, mother does not argue, and there is no evidence to suggest, that the trial court adopted Zopf's opinion instead of reaching its own conclusions. *Kuebler*, 346 Mich App at 700. Mother's claim of bias therefore fails.

IV. TRIAL COURT'S BEST-INTEREST FINDINGS

Mother argues that the trial court's finding, with which she disagrees, that she coached the child to make abuse allegations caused the court to erroneously find that the best-interest factors favored father. We disagree.

As stated, this Court must affirm custody-related orders and judgments unless, among other things, the trial court's findings of fact are contrary to the great weight of the evidence, i.e. the evidence "clearly preponderates in the opposite direction." *Barretta*, 348 Mich App at 549 (citation omitted).

The CCA governs custody and parenting time for minor children in Michigan, "and it is the exclusive means of pursuing child custody rights." *Id*. 550 (quotation marks and citation omitted). The CCA "provides a comprehensive scheme for resolving child-custody disputes, including specific procedural requirements and factual findings under MCL 722.27(1)(c) that must be made before a trial court may modify a child's established custodial environment." *Kuebler*, 346 Mich App at 667-668. Before a trial court can modify a previous judgment, it must determine whether a proper cause or change in circumstances necessitates a change. If a modification or amendment to a previous custody order changes the child's established custodial environment, there must be clear and convincing evidence that the change is in the child's best interests. MCL 722.27(1)(c). "Under such circumstances, the trial court must consider all the best-interest factors because a case in which the proposed change would modify the custodial environment is essentially a change-of-custody case." *Sabatine v Sabatine*, 513 Mich 276, 286; 15 NW3d 204 (2024) (quotation marks and citation omitted).

MCL 722.23 provides the best-interest factors that the court must consider once it has made the threshold finding that granting father's request would change the child's established custodial environment. The court found that these factors favored father: "[t]he love, affection, and other emotional ties existing between the parties involved and the child," MCL 722.23(a); "[t]he capacity and disposition of the parties involved to give the child love, affection, and guidance," MCL 722.23(b); "[t]he capacity and disposition of the parties involved to provide the child with . . . medical care," MCL 722.23(c); "[t]he moral fitness of the parties," MCL 722.23(f); and "[t]he willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent," MCL 722.23(j). The remaining best-interest factors were neutral between the parties.

Mother broadly argues that all of the trial court's findings regarding a change of the established custodial environment and each of the best-interest factors were contrary to the great weight of the evidence because they all related to the court's finding that mother coached the child.

It is true that the trial court relied heavily on that finding, but that does not mean the trial court's analysis or conclusion was erroneous.

The court thoroughly considered all of the best-interest factors based on the evidence presented during the evidentiary hearing, which spanned more than a year. And it found that mother's coaching of their child was relevant to evaluating, and ultimately concluding, that father prevailed on five of the statutory best-interest factors, factors (a), (b), (c), (f), and (j).

Mother emphasizes that under factor (j), willingness to facilitate the relationship between child and other parent, the court violated the requirement that it "may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent." MCL 722.23(j). She also contends that the trial court's findings ignored photographic evidence and medical records that documented bruises, that the child disclosed abuse in forensic interviews and to other persons, an audio recording mother made showing the child's fear of father, and a drawing the child created depicting father hurting her. The trial court, however, considered this evidence, but ultimately found that mother, who had brought forth the evidence, was not credible. The court commented that mother's audio recording raised questions as to why it was created and was not convincing, and that the context of the drawing was not explained. The court also noted that mother did not call any witnesses from the child's school to testify regarding the child's alleged disclosures at school. Moreover, the child did not consistently allege abuse in the forensic interviews—CPS investigators testified that the allegations were vague or peculiar.

In reviewing a trial court's decision to modify a custody order, "[t]his Court gives deference to the trial court's factual judgments and special deference to the trial court's credibility assessments." *Brown v Brown*, 332 Mich App 1, 9; 955 NW2d 515 (2020). After the parties presented testimony, exhibits, and arguments, the trial court had to decide which party and what evidence was more credible to determine whether clear and convincing evidence supported the requested change. Weighing that evidence, the trial court found father more credible. At most, mother's objective evidence of abuse consisted of photographs of bruising that she interpreted as signs of abuse. She presented no medical evidence to establish that abuse caused the bruises. The bulk of the evidence, from both parties, consisted of subjective testimony arising out of an acrimonious divorce. The evidence presented to the trial court did not "clearly preponderate" in either direction, which demonstrates that the trial court's factual findings cannot be said to be against the great weight of the evidence. *Barretta*, 348 Mich App at 539.

Finally, mother cites *Pennington v Pennington*, 329 Mich App 562, 574-575; 944 NW2d 131 (2019), in which this Court reversed a trial court's order granting a plaintiff's petition to change custody on the ground that the mother was mentally ill and that she influenced the child to falsely report abuse. This Court stated:

> [A] review of the record indicates that plaintiff, rightly or wrongly, suspected abuse of the child and took the child to her pediatrician, which set in motion the process involving CPS and law enforcement. Defendant, after learning that plaintiff had set this process in motion, moved to change custody, alleging that plaintiff had mental health problems. No medical evidence of plaintiff's mental health was presented; the trial court heard only the opinion testimony of the CPS investigator that

> plaintiff's level of concern was irrational. On this record, the trial court's conclusion in its March 2018 order that a change of circumstances and proper cause had been proved by a preponderance of the evidence was against the great weight of the evidence. [*Id*. at 574-575.]

Pennington, however, is factually distinguishable. Father did not seek custody on the ground that mother was mentally ill, but rather on the ground that mother tried to sabotage his relationship with the child with false accusations. Both father and mother attacked the other's mental health, not with facts or expert testimony, but with unsupported allegations and insinuations, such as mother's therapist's opinion that father showed signs of a personality disorder despite having never met him. And father's accusation that mother was coaching the child did not involve one instance in which mother allegedly showed a rational or irrational level of concern like in *Pennington*, but it was based on a pattern of escalating claims first of physical abuse and then sexual abuse. Mother fails to establish that the trial court's factual findings were against the great weight of the evidence.[2]

Affirmed.

/s/ Andrew J. Lievense
/s/ Brock A. Swartzle
/s/ Philip P. Mariani

[2] In her request for relief in her brief on appeal, mother asks that this Court vacate the order and remand the case for a new evidentiary hearing before a new judge pursuant to MCR 7.216(A)(7). This Court "may remand to a different judge if the original judge would have difficulty in putting aside previously expressed views or findings, if reassignment is advisable to preserve the appearance of justice, and if reassignment will not entail excessive waste or duplication." *Kuebler*, 346 Mich App at 696. Although mother's brief criticizes the merits of the trial court's decisions, she has not demonstrated or explained why "the judge would be unable to rule fairly on remand given [their] past comments or expressed views." *Bayati v Bayati*, 264 Mich App 595, 603; 961 NW2d 812 (2004). And because mother has not presented a standalone argument that she is entitled to appellate relief based on judicial bias, nor does she include any such issue in her statement of questions presented, such a claim is abandoned on appeal. *Seifeddine v Jaber*, 327 Mich App 514, 519-521; 934 NW2d 64 (2019) ("Failure to adequately brief an issue constitutes abandonment.").