STATE OF MICHIGAN

COURT OF APPEALS

JEFFREY DANIEL RENAUDIN, Plaintiff-Appellant,	UNPUBLISHED October 7, 2003
v	No. 246855 Sanilac Circuit Court Family Division
SARAH ELIZABETH HARJU, Defendant-Appellee.	LC No. 01-027932-DC

Before: Bandstra, P.J., and White and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant sole physical custody of the parties' minor daughter, Olivia. We affirm.

Plaintiff argues that the trial court incorrectly determined several of the "best interest" factors set forth in MCL 722.23. We review a trial court's factual findings to determine whether they were against the great weight of the evidence. *Fletcher v Fletcher*, 447 Mich 871, 879; 526 NW2d 889 (1994). A trial court's finding of fact is not against the great weight of the evidence unless the evidence clearly preponderates in the opposite direction. *Id*.

Plaintiff first argues that because he would stay at home with Olivia while defendant would place the child in daycare while she worked, the trial court erred when it found that factor (b), which addresses the capacity and disposition of the parties to give love, affection, and guidance, favored defendant.[1] See MCL 722.23(b). However, a parent's ability to stay at home with a child is not dispositive of the custody issue. *Ireland v Smith*, 451 Mich 457, 467-468; 547 NW2d 686 (1996). Rather, a trial court must consider all the circumstances of custodial care. *Id*.

[1] Contrary to plaintiff's assertion, the trial court found the parties to be equal on this factor. Nonetheless, because plaintiff asserts that the evidence relevant to this factor preponderated in his favor, we address the trial court's findings with respect to factor (b).

Here, each party displayed a loving relationship with Olivia. Defendant, however, nursed Olivia and proffered evidence that nursing physically and emotionally benefits both a mother and her child. Defendant doubted her ability to continue nursing, though, if plaintiff had extensive custody. Moreover, defendant's psychologist testified that defendant, as Olivia's primary caregiver from birth, naturally provided Olivia more emotional stability. Therefore, the evidence did not "clearly preponderate" in favor of plaintiff on this factor, despite his ability to remain at home with Olivia. *Fletcher*, *supra*.

Plaintiff next argues that because his asset accumulation placed him in a superior position to provide for Olivia's material needs, the trial court erred when it found factor (c), which concerns the capacity of the parties to provide the child with food, clothing, and medical care, to favor defendant. See MCL 722.23(c). However, we note that plaintiff repeatedly claimed ignorance or otherwise evaded questions regarding his investments, business interests, and accumulation of real and personal property. Moreover, plaintiff insisted that he only earned $300 a week, and paid only $70 a week in child support despite a reported net worth exceeding $1.8 million a few years earlier. Defendant, on the other hand, frankly stated her income, which rivaled that reported by plaintiff, and, as noted above, also nursed Olivia. Again, the evidence relevant to this factor did not clearly preponderate in favor of plaintiff. Accordingly, the trial court did not err when it found that defendant possessed the greater capacity and disposition to provide Olivia with food and other material necessities.

The trial court similarly did not err in determining factors (d), (j), or (k). Regarding factor (d), which considers "[t]he length of time the child has lived in a stable, satisfactory environment," as well as "the desirability of maintaining continuity," the evidence clearly showed that defendant had remained in one home since Olivia's birth, and that this home had become Olivia's first and most-occupied residence. MCL 722.23(d). The trial court did not err in concluding that these facts warranted primary consideration and that factor (d), therefore, favored defendant. Likewise, the evidence does not demonstrate a strong disparity in either parent's efforts to encourage the other's involvement with Olivia, nor does the record contain any credible allegations of abuse. See MCL 722.23(j), 722.23(k). Consequently, the trial court properly determined factors (j) and (k) to be equally balanced between the parties.

Plaintiff further argues that the trial court incorrectly concluded that factor (l), which permits consideration of any other factor relevant to a particular child custody dispute, favored defendant. See MCL 722.23(l). We disagree. Defendant's son from another relationship, Travis, resides with defendant and the law favors keeping siblings in the same custodial environment. *Weichmann v Weichmann*, 212 Mich App 436, 439-440; 538 NW2d 57 (1995). Plaintiff argues that Olivia's exposure to Travis would not be in her best interests because Travis displays disciplinary and behavioral problems. However, both defendant and a social worker who worked with Travis denied that Travis would ever hurt Olivia, and defendant testified that Travis's relationship with Olivia was one of the reasons that the boy desired to be in defendant's care, rather than that of his father. The trial court did not err in concluding that Olivia would benefit from her relationship with Travis.

Finally, plaintiff's argument that the trial court failed to properly consider defendant's poor mental health, see MCL 722.23(g), does not comport with the evidence or the trial court's actions. While a standardized test indicated strong concerns regarding defendant's mental health, the two psychologists that testified explained that the test, without further analysis, had

limited diagnostic power. Nonetheless, the trial court correctly found that factor (g) favored plaintiff and that defendant's lack of candor on the issue adversely affected her under factor (l).[2] Because the trial court properly considered the issue and weighed it in plaintiff's favor, plaintiff's argument fails.

We affirm.

/s/ Richard A. Bandstra
/s/ Helene N. White
/s/ Pat M. Donofrio

[2] Similarly, the court found that plaintiff's lack of candor regarding his finances weighed against him, and found the parties equally deficient in this regard.