STATE OF MICHIGAN

COURT OF APPEALS

JESSICA DAWSON,

Plaintiff-Appellant,

v

JOSEPH PAUL WIEDENBECK,

Defendant-Appellee.

UNPUBLISHED
June 18, 2020

No. 350795
St. Clair Circuit Court
Family Division
LC No. 2016-002503-DM

Before: MURRAY, C.J., and JANSEN and MARKEY, JJ.

PER CURIAM.

The parties married in 2014, and in 2015, their child WD was born. Plaintiff filed for divorce in 2016. And in 2017, a judgment of divorce was entered. Plaintiff was awarded sole legal and physical custody of WD, and defendant was granted parenting time every other weekend. In 2019, defendant moved for custody of WD. Ultimately, the trial court awarded sole legal and physical custody of the child to defendant. Plaintiff appeals by right, and we affirm.

On January 16, 2019, defendant filed the aforementioned motion to change custody. Defendant attached to his motion respective reports by Children's Protective Services (CPS) and the Marysville Police Department. These reports concerned complaints made by plaintiff in November 2018 that her father had sexually abused WD. Defendant noted that CPS and police investigations concluded that plaintiff's father had *not* abused WD. Defendant argued that plaintiff's false allegations about her father called into question her ability to safely parent WD. Defendant asserted that plaintiff had obvious mental health issues, which were reflected in observations made by numerous persons involved in the investigations. Plaintiff behaved in an apparently manic and paranoid manner when reporting the alleged abuse. Defendant stated that plaintiff contacted numerous police agencies and took WD to more than one hospital to report the alleged abuse. Also, plaintiff informed authorities that cameras in her home had been hacked. Defendant indicated that plaintiff had at times taken WD and her two older children from a different relationship to hotels out of a fear of staying in her home and being spied on. Defendant argued that proper cause existed to revisit the custody arrangement because plaintiff lacked the capacity to provide proper guidance to WD given her untreated mental health issues. Defendant

claimed that plaintiff had subjected WD to more than one intrusive medical examination because of her unfounded belief that WD had been anally penetrated by plaintiff's father and other unknown men. Defendant contended that plaintiff's actions in making unwarranted allegations called into question her moral fitness. Further, defendant maintained that he earned enough income to provide for WD whereas plaintiff did not earn any income. Defendant also noted that plaintiff had at various times impeded defendant's parenting time.

On February 6, 2019, plaintiff filed a response to defendant's motion to change custody. Plaintiff stated that defendant had voluntarily suspended his parenting time in March 2018 and did not see WD again until November 2018 when defendant filed a motion regarding parenting time, which resulted in an agreement by the parties on parenting time. Plaintiff argued that she had concerns about WD's being sexually abused by plaintiff's father and that she was advised by her attorney and an entity called Safe Horizons to take WD to a hospital for an examination and to file a police report, both of which she did. Plaintiff agreed that no physical evidence of abuse was found. Plaintiff asserted that defendant's motion to change custody was predicated merely on his opinions and that defendant is not a therapist, physician, or psychologist qualified to opine on plaintiff's mental health. According to plaintiff, defendant was attempting to punish her for having an investigation performed out of her concern for WD's well-being. Plaintiff maintained that because defendant had not shown a change of circumstances warranting a modification of custody, his motion to change custody should be denied.

A hearing was held before a Friend of the Court (FOC) referee regarding whether defendant had satisfied the threshold for revisiting the existing custody arrangement. The FOC referee found by a preponderance of the evidence that there was proper cause and a change of circumstances warranting reexamination of the established custodial environment. The referee noted concerns about plaintiff's mental well-being, stability, and moral fitness, given her unfounded abuse allegations and behavior. The referee recommended that the matter proceed to an evidentiary hearing regarding the statutory best interest factors.

On March 15, 2019, plaintiff filed an objection to the referee's recommendation regarding the threshold determination and requested a hearing on that matter before the trial court. On April 11, 2019, a hearing was held on plaintiff's objection, and the trial court upheld the referee's finding of proper cause and a change of circumstances. The trial court observed that "the behavior that's described in the police reports of [plaintiff] certainly brings into question whether she's capable of caring for this child to the extent necessary for a custodian."

A two-day evidentiary hearing on defendant's motion to change custody was held in the trial court on June 28, 2019, and July 12, 2019. The parties stipulated that WD's established custodial environment was with plaintiff and that defendant thus bore the burden of proving by clear and convincing evidence that a change of custody was warranted.

On July 29, 2019, the trial court issued a written opinion granting defendant's motion to change custody. On the basis of its analysis of the best interest factors, the trial court found clear and convincing evidence that it was in the best interests of WD to grant sole legal and physical custody to defendant. Plaintiff was awarded parenting time in accordance with the FOC schedule unless the parties agreed otherwise. On August 22, 2019, the trial court entered an order in

accordance with its written opinion. Plaintiff later moved for reconsideration, which the trial court denied. This appeal ensued.

On appeal, plaintiff argues that the trial court erred by determining that defendant had established proper cause and a change of circumstances as necessary to revisit the established custodial environment. Plaintiff further argues that the trial court made findings that were against the great weight of the evidence with respect to the best interest factors and that the court clearly erred by awarding defendant sole legal and physical custody.

In *Sinicropi v Mazurek*, 273 Mich App 149, 155; 729 NW2d 256 (2006), this Court, relying primarily on MCL 722.28, addressed the standards of review applicable in child custody disputes, observing:

> There are three different standards of review applicable to child custody cases. The trial court's factual findings on matters such as the established custodial environment and the best-interests factors are reviewed under the great weight of the evidence standard and will be affirmed unless the evidence clearly preponderates in the opposite direction. In reviewing the findings, this Court defers to the trial court's determination of credibility. A trial court's discretionary rulings, such as the court's determination on the issue of custody, are reviewed for an abuse of discretion. Further, . . . questions of law in custody cases are reviewed for clear legal error. [Quotation marks and citations omitted.[1]]

MCL 722.27(1)(c) provides that in a custody dispute, the trial court, for the best interests of the child at the center of the dispute, may "modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances." The court, however, is not permitted to "modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child." MCL 722.27(1)(c). "These initial steps to changing custody—finding a change of circumstance or proper cause and not changing an established custodial environment without clear and convincing evidence—are intended to erect a barrier against removal of a child from an established custodial environment and to minimize unwarranted and disruptive changes of custody orders." *Vodvarka v Grasmeyer*, 259 Mich App 499, 509; 675 NW2d 847 (2003) (quotation marks omitted).[2]

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[1] A court commits clear legal error when it makes a mistake in its choice, interpretation, or application of the law. *Shade v Wright*, 291 Mich App 17, 21; 805 NW2d 1 (2010). In the child-custody context, the trial court abuses its discretion when its decision is so grossly violative of fact and logic that it evidences passion or bias rather than the exercise of reason. *Shulick v Richards*, 273 Mich App 320, 324; 729 NW2d 533 (2006).

[2] The first step in the analysis is to determine whether the moving party has established proper cause or a change of circumstances, applying a preponderance of the evidence standard. *Vodvarka*, 259 Mich App at 508-509. "This Court reviews a trial court's determination regarding whether a party has demonstrated proper cause or a change of circumstances under the great weight of the

In *McRoberts v Ferguson*, 322 Mich App 125, 131-132; 910 NW2d 721 (2017), this Court explained:

> Proper cause means one or more appropriate grounds that have or could have a significant effect on the child's life to the extent that a reevaluation of the child's custodial situation should be undertaken. In order to establish a change of circumstances, a movant must prove that, since the entry of the last custody order, the conditions surrounding custody of the child, which have or could have a significant effect on the child's well-being, have materially changed. To constitute a change of circumstances under MCL 722.27(1)(c), the evidence must demonstrate something more than the normal life changes (both good and bad) that occur during the life of a child, and there must be at least some evidence that the material changes have had or will almost certainly have an effect on the child. [Quotation marks, citations, and alterations omitted.]

With respect to the issue of "proper cause," the criteria outlined in the statutory best interest factors, MCL 722.23, "should be relied on by a trial court in deciding if a particular fact raised by a party is a 'proper' or 'appropriate' ground to revisit custody orders." *Vodvarka*, 259 Mich App at 512. In regard to "change of circumstances," the relevance of facts should also be "gauged by the statutory best interest factors." *Id*. at 514.

In *Pierron v Pierron*, 486 Mich 81, 92-93; 782 NW2d 480 (2010), our Supreme Court discussed the next step of the analysis if proper cause or a change of circumstances is established, stating:

> If the proposed change would modify the established custodial environment of the child, then the burden is on the parent proposing the change to establish, by clear and convincing evidence, that the change is in the child's best interests. 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.

The statutory best interest factors are set forth in MCL 722.23.

Plaintiff argues on appeal that the evidence used to establish the threshold of proper cause or change of circumstances was based solely on the opinions of defendant and other persons who lacked psychological training. Plaintiff contends that this evidence was insufficient and that her

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evidence standard." *Corporan v Henton*, 282 Mich App 599, 605; 766 NW2d 903 (2009). "Although the threshold consideration of whether there was proper cause or a change of circumstances might be fact-intensive, the court need not necessarily conduct an evidentiary hearing on the topic." *Id.*

alleged mental health problems could only be established by opinion testimony from a mental health professional, which evidence was not presented.

Plaintiff focuses on the mental wellness issue and offers no meaningful argument concerning the referee's additional finding that the evidence called into question plaintiff's moral fitness. The trial court upheld the referee's determination and did not rely solely on mental health concerns; the court stated that plaintiff's behavior called into question her ability to care for WD. Plaintiff thus fails to address the full basis of the trial court's decision. "When an appellant fails to address the basis of a trial court's decision, this Court need not even consider granting relief." *Seifeddine v Jaber*, 327 Mich App 514, 522; 934 NW2d 64 (2019). Moreover, the threshold determination was premised not on mere opinions of untrained witnesses, as plaintiff claims, but on factual observations of plaintiff by skilled professional persons, including the emergency room nurse[3] and police officers who witnessed her behavior and heard her comments. Additionally, a lay person is capable of testifying about odd and worrisome behavior that a court could reasonably view as impacting parenting—a particular mental health diagnosis requiring expertise is not a necessity. In sum, plaintiff fails to establish that the threshold determination made by the trial court relative to proper cause and a change of circumstances was against the great weight of the evidence.

As indicated earlier, there is no dispute that WD's established custodial environment was with plaintiff and that, as a result, defendant had the burden to prove by clear and convincing evidence that it was in WD's best interests to change the custodial environment. With respect to the statutory best interest factors in MCL 722.23, plaintiff argues that the trial court's findings on some of the factors were against the great weight of the evidence.

In child custody cases, the trial court must explicitly state its findings regarding each of the best interest factors outlined in MCL 722.23. *Spires v Bergman*, 276 Mich App 432, 443; 741 NW2d 523 (2007). The first factor addressed by plaintiff on appeal is factor (b), which concerns "[t]he capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his . . . religion or creed, if any." MCL 722.23(b). The trial court found that this factor favored defendant. The court explained that, although both parties had the capacity and disposition to give WD love and affection, only defendant had the capacity to give WD guidance. The trial court found that plaintiff's continuing exposure of WD to a claim of sexual abuse for which there was no evidence did not constitute appropriate guidance. In challenging the trial court's findings on this factor, plaintiff relies on her own testimony regarding what she claimed WD told her about the alleged sexual abuse. Plaintiff also relies on the testimony of WD's mental health therapist, Jennifer Fye, that WD disclosed the alleged abuse after four months of therapy.

Plaintiff's argument regarding this factor is implicitly premised on her disagreement with the trial court's credibility determinations. This Court accords deference to the trial court's credibility assessments. See *Shann v Shann*, 293 Mich App 302, 305; 809 NW2d 435 (2011) ("We defer to the trial court's credibility determinations given its superior position to make these

[3] The emergency room nurse had experience dealing with patients in psychological crisis and went through a psychiatric nursing rotation when she was in nursing school.

judgments."). The trial court was not required to accept plaintiff's testimony regarding her claims of what WD told her. Indeed, plaintiff's testimony regarding WD's statements was inconsistent with what plaintiff reported when she took WD to the hospital on November 11, 2018; at that time, according to the testimony of the emergency room nurse, plaintiff reported rectal bleeding and rectal tearing. Only after no evidence of such abuse was found did plaintiff expand her claims to include that her father put his penis in WD's mouth and eyes.

As for plaintiff's reliance on Fye's testimony, the trial court explicitly discredited her testimony. Given the manner in which Fye testified, the court determined that Fye had taken up plaintiff's cause in believing that plaintiff's father had sexually abused WD "despite the different stories told by the [p]laintiff from rectal penetration to putting a penis in the child's mouth to putting a penis in the child's face." The court found no credibility in Fye's conclusions. The trial court noted that plaintiff gave an incomplete history to Fye and that plaintiff was in the room when WD disclosed the alleged abuse to Fye. To the court, the circumstances suggested either outright coaching of WD by plaintiff or at least that WD was exposed to plaintiff's claims about the abuse. We have no basis to question the trial court's credibility determination. Overall, the trial court's findings on factor (b) were not against the great weight of the evidence.

Plaintiff next challenges the trial court's findings on factor (c), which concerns "[t]he capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care . . ., and other material needs." MCL 722.23(c). The trial court found that this factor favored defendant because he was employed and earned between $95,000 and $110,000 a year, whereas plaintiff had no income of her own and had been living off an insurance settlement. Plaintiff argues that she should not have been punished for being a stay-at-home mother and that she planned to get a job after obtaining further education. Given the evidence regarding defendant's employment and income and considering that plaintiff was unemployed and had only vague plans to obtain employment at some unspecified point in the future, we agree the evidence did not clearly preponderate in the opposite direction of the trial court's findings on factor (c).

Factor (d) concerns "[t]he length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity." MCL 722.23(d). The trial court noted that WD had lived with plaintiff since the divorce and that his needs had been met. According to the court, defendant also had an appropriate home and had shown the ability to care for WD. Although plaintiff's physical home environment was appropriate, the court found that it was not desirable to maintain continuity in plaintiff's home for the reasons the court discussed in connection with factor (g). Plaintiff argues that factor (d) favored her on the basis of her argument challenging the trial court's findings on factor (g). But, as explained below, plaintiff's arguments on factor (g) are unavailing, and her argument on factor (d) thus also fails.

Factor (f) concerns "[t]he moral fitness of the parties involved." MCL 722.23(f). The trial court noted that plaintiff had fixated on her stance that her father had sexually assaulted WD even though there was no evidence to support the fixation, as reflected in the outcomes of the police and CPS investigations. The trial court stated that "making false allegations based upon no evidence at all is not an example of a person with moral fortitude." The trial court observed that plaintiff continued to think that she was spied upon and had expanded her complaints about her father to include "worker guys" who plaintiff claimed were also involved in the sexual abuse. The

court indicated that in obtaining therapy for herself and WD, plaintiff had failed to tell the therapists about her initial complaints concerning WD's having rectal bleeding and tearing, for which no evidence was found, and instead told the therapists about new claims of sexual contact for which there necessarily would be no physical evidence. The trial court believed that plaintiff had exposed WD to all of these claims, which would naturally tend to create in him fear and distrust of strangers. The court thus found that this factor favored defendant.

Plaintiff argues that factor (f) favored her. She again asserts that she was not making false allegations but merely doing what she thought was best for WD. The trial court, however, correctly noted that both the police and CPS investigations found no evidence to support the sexual abuse claims. After two medical examinations and a forensic interview of WD, there was no proof of sexual abuse. Yet plaintiff continued to claim that sexual abuse occurred and expanded her allegations of sexual contact between her father and WD, as well as raising claims regarding the involvement of multiple "worker guys," all of which was beyond her original reports. Plaintiff also argues in regard to this factor that she merely had technical issues with her Internet service. That particular issue, however, was not central to the trial court's findings on this factor. The trial court briefly alluded to plaintiff's continued belief that she was spied upon, which was consistent with testimony at the evidentiary hearing that when plaintiff brought WD to the hospital to report the alleged sexual abuse, she claimed that cameras in her home were being hacked by Comcast or that she was somehow being watched through her Internet service. Plaintiff's contention on appeal that she was discussing a mere technical issue regarding her Internet service is disingenuous. And plaintiff fails to explain why she would bring up such an issue in a hospital emergency room when reporting alleged sexual abuse of her son. The trial court's findings on this factor were not against the great weight of the evidence.

The next factor at issue in this appeal is factor (g), which concerns "[t]he mental and physical health of the parties involved." MCL 722.23(g). The trial court found that plaintiff had untreated mental health issues. The court noted testimony about plaintiff's incoherent claims that national companies were spying on her and her belief that her father and "worker guys" had taken photographs of WD wearing a school uniform in a motel room. The trial court indicated that plaintiff had subjected WD to two rectal examinations at different hospitals because of her repeated claims that he had rectal bleeding and rectal tearing, but she then later changed her claim to assert that her father had put his penis in WD's mouth. A forensic interview of WD found no evidence that he had been sexually assaulted. The trial court stated that plaintiff nonetheless put WD into counseling, and after four months of counseling he indicated that plaintiff's father had put his penis in WD's face. The court remarked that plaintiff's behavior and fixation on her claims had a detrimental effect on WD, which conduct included subjecting WD to multiple physical examinations, counseling—which he may now truly need to treat the trauma that plaintiff created, and moving him from his home to motels for reasons that would naturally cause a young child to fear and distrust people. The trial court gave this factor significant weight and found that it favored defendant.

In challenging the trial court's findings on factor (g), plaintiff relies on the testimony of mental health professionals who testified on her behalf. But plaintiff fails to acknowledge the trial court's findings and credibility determinations regarding these particular witnesses. With respect to Dr. Chilakamarri Ramesch, a psychiatrist who evaluated plaintiff and found no symptoms of paranoia or mania, the court took note of his federal conviction of fraud, the circumstances

underlying that conviction, and his concession that he did not know about plaintiff's claims regarding Comcast and AT&T and that such claims did not concern him much. The trial court stated that Dr. Ramesch's "criminal conviction and the reasons [for] the conviction," along with his lack of concern about plaintiff's irrational and incoherent behavior, did "not lend much to the value or trustworthiness of his testimony." As for Linda Hernandez, plaintiff's mental health therapist, the trial court observed that upon questioning by the court, Hernandez was admittedly unaware of much of the evidence in this case. This included the evidence that plaintiff had taken WD to the hospital complaining of rectal tearing and bleeding and said nothing about fellatio, that the police were called by hospital personnel because of the way plaintiff was behaving, and that plaintiff later dragged WD to another hospital for another rectal examination after the first hospital found no evidence of rectal tearing or bleeding. Hernandez acknowledged that this information would have made a difference in regard to her treatment and diagnosis of plaintiff. The trial court more than adequately explained its reasoning for not relying on the testimony of these witnesses relative to their diagnoses or evaluations of plaintiff. No basis exists to upset the trial court's credibility determinations.

Plaintiff also relies on the opinion of Dr. Larry Friedberg, a psychologist who opined that plaintiff did not have any mental health problems that affected her parenting ability. But Dr. Friedberg did not testify at the evidentiary hearing and did not even see or evaluate plaintiff until after the trial court issued its opinion granting defendant's motion to change custody. It was only when plaintiff moved for reconsideration of the trial court's decision that she provided Dr. Friedberg's report to the court. Plaintiff had ample opportunity to obtain any psychological evaluation she wished before the evidentiary hearing was held and to present this evidence at the hearing. Plaintiff was not permitted to wait until after the evidentiary hearing and the court rendered its decision to obtain and produce a psychological evaluation in an attempt to use the evaluation to show that the trial court's findings were against the great weight of the evidence. Because Dr. Friedberg's evaluation was not part of the evidentiary record that was before the trial court when the court made its decision, that evaluation fails to establish that the evidence clearly preponderated in the opposite direction of the court's findings. Indeed, it is well settled that a trial court generally "has discretion on a motion for reconsideration to decline to consider new legal theories or evidence that could have been presented when the motion was initially decided." *Yoost v Caspari*, 295 Mich App 209, 220; 813 NW2d 783 (2012).

Plaintiff also suggests that the trial court had no evidentiary basis to conclude that plaintiff suffered from untreated mental health disorders. The trial court's finding, however, was supported by the testimony of persons who interacted with and observed plaintiff. Most significantly, Hailey Mannlein, a registered nurse who talked to plaintiff at Lake Huron Medical Center on November 11, 2018, testified that, even though plaintiff brought WD in to report alleged sexual abuse, plaintiff went back and forth between discussing WD and talking about Comcast and her belief that she was being watched. Mannlein contacted the Marysville Police Department and met with Officer Danielle Quain, who came to the hospital. Mannlein told Officer Quain that plaintiff was manic and not making any sense. When asked why she believed that plaintiff was manic, Mannlein testified that plaintiff was speaking extremely fast. While plaintiff and Mannlein were discussing the abuse allegation, plaintiff indicated that a number had popped up on her cellular telephone, and plaintiff said something to the effect of, "see, here this is Comcast." Plaintiff then "said that she believed they were spying on her or she was being watched in some way through Comcast." According to Mannlein, the content of plaintiff's speech, when combined with the speed at which

she was speaking, was not typical for someone trying to explain a story. Mannlein thus told Officer Quain that plaintiff seemed to be manic. When questioned about her experience and training, Mannlein testified that she had been a nurse in the emergency room of Lake Huron Medical Center for nine years. Mannlein had experience dealing with patients who were in the midst of a psychological crisis. Also, Mannlein went through a psychiatric nursing rotation when she was in nursing school. She additionally had annual competency training in this area through her employer. The trial court's findings on this factor were not against the great weight of the evidence.[4]

Plaintiff next challenges the trial court's findings on factor (j), which concerns "[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). On this factor, the trial court noted defendant's testimony that he thought that WD should have a good relationship with plaintiff and that defendant would facilitate a continued bond between WD and plaintiff. The court found that plaintiff had consistently impeded defendant's exercise of his parenting time. The trial court ruled that factor (j) thus favored defendant.

In challenging the trial court's findings on this factor, plaintiff argues that she did not impede defendant's parenting time except when he used a work vehicle to pick up WD, which defendant was not supposed to use. To support this contention, plaintiff relies on her own testimony as well as documents that she appended to her motion for reconsideration. Again, plaintiff fails to appreciate that the trial court was not bound to accept her testimony and that the court was not required to consider evidence presented for the first time with her motion for reconsideration. Defendant testified that plaintiff had obstructed his parenting time. WD twice arrived for parenting time with emergency information written in marker on his arm. On another occasion, WD arrived for parenting time wearing a smart watch with a tracking device. Plaintiff argues that defendant chose to step away from his parenting time for eight months because he was told by the FOC that he was not allowed to have his girlfriend present during parenting time. In making this assertion, plaintiff relies on a text message exchange attached to her motion for

[4] Consistent with our earlier comments, while perhaps the trial court should not have used psychiatric or psychological nomenclature, the fact is that the court was faced with evidence of bizarre and unusual behavior that could reasonably and logically call into question whether plaintiff should continue to have custody of WD. *Pennington v Pennington*, __ Mich App __; __ NW2d __ (2019), though somewhat similar to this matter, is sufficiently different on its facts to not require reversal. In *Pennington*, the defendant alleged that the plaintiff suffered from mental health issues in large part because she, like plaintiff here, took the child to a physician out of concern for child abuse. Other than some parenting time issues, there was not much other evidence regarding the plaintiff or her behavior. *Id.* at __; slip op at 6. Here, however, there was a plethora of objective evidence of *actions* by plaintiff that did not require a medical diagnosis to have relevance to the issues presented. Her repeated statements and actions regarding spying and photographing the child by outside parties, her obsession with concern for child abuse, the disparities in income, and other such evidence presented to the trial court significantly differentiates this case from *Pennington*.

reconsideration. Again, the trial court was not required to consider any evidence presented for the first time on reconsideration. Defendant testified that he stepped away from his parenting time for eight months because he feared being harassed by plaintiff; she had said things that made defendant feel uncomfortable, including that she would be watching him, that she would know everything he did, and that he had better bring WD home unharmed. Plaintiff's actions and statements made defendant feel "very alarmed and worried that I would be like her father, accused of something I didn't do." It was for the trial court to determine the credibility of the witnesses. Overall, the evidence did not clearly preponderate in the opposite direction of the trial court's findings.

Plaintiff next contends that factor (l), which concerns "[a]ny other factor the court considers to be relevant to a particular child custody dispute," should have been weighed neutrally. In addressing this factor, the trial court noted that plaintiff had exhibited continued significant animosity toward defendant, given that she had impeded his parenting time and had sent WD to parenting time with information written on his arm and on another occasion with a smart watch to track his location. The court observed that defendant had declined to pursue enforcement of his parenting time for eight months given his concern that plaintiff would make false accusations against him. Plaintiff makes no new argument on this issue but seems to incorporate her argument that she made on factor (j). That argument lacks merit for the reasons discussed earlier, and her argument for factor (l) thus fails as well.

Finally, plaintiff asserts in cursory fashion that the trial court was "clearly biased" against plaintiff and that the court thus abused its discretion by concluding that it was in WD's best interests to grant defendant sole legal and physical custody. Plaintiff, however, has identified no evidence of judicial bias. It appears she is merely unhappy with the trial court's rulings against her. Judicial bias is not established "merely by repeated rulings against a litigant, even if the rulings are erroneous." *In re MKK*, 286 Mich App 546, 566; 781 NW2d 132 (2009).

We affirm. Having fully prevailed on appeal, defendant may tax costs under MCR 7.219.

/s/ Christopher M. Murray
/s/ Kathleen Jansen
/s/ Jane E. Markey