

STATE OF MICHIGAN
COURT OF APPEALS

YANA KREFMAN,

Plaintiff-Appellant,

V

MICHAEL KREFMAN,

Defendant-Appellee.

UNPUBLISHED

September 21, 2026

10:28 AM

Nos. 378938; 378999

Oakland Circuit Court

LC No. 2019-872601-DM

Before: BAZZI, P.J., and PATEL and ACKERMAN, JJ.

PER CURIAM.

In these consolidated appeals, plaintiff appeals by right the order denying her motion for sole legal custody and by leave granted the same order denying her motion for suspended parenting time.¹ We affirm.

I. FACTUAL BACKGROUND

The parties married in 2016. The parties had two minor children. Plaintiff filed for divorce in 2019. After submitting the case to arbitration, the parties stipulated to custody and parenting time in March 2020. The parties agreed plaintiff would have sole physical custody and the parties would have joint legal custody of the minor children. The agreement set forth a parenting-time schedule for defendant and specified that defendant was not permitted to ingest alcohol or drugs before parenting visits. Defendant agreed to comply with the directives of his psychiatrist, physicians, and therapists and continue to take prescription medications. He also agreed to coordinate with his psychiatrist to send quarterly letters to the arbitrator regarding his compliance with his treatment.

¹ *Krefman v Krefman*, unpublished order of the Court of Appeals, entered February 5, 2026 (Docket Nos. 378938 and 378999).

In December 2020, the final judgment of divorce was entered. The judgment reiterated that plaintiff had sole physical custody and the parties had joint legal custody of the minor children. The judgment included the requirement that defendant comply with the directives of the psychiatrist and send quarterly letters to the arbitrator.

On September 29, 2025, defendant filed a notice of unavailability for “parenting time and for any communications or case-related matters between September 24, 2025 and November 4, 2025, due to personal health reasons.”

The arbitrator withdrew from the case in November 2025. In an e-mail to plaintiff dated November 5, 2025, the arbitrator stated that he received “5 pieces of recent written correspondence from health care providers that attest to [defendant]’s compliance.”

In November and December 2025, plaintiff filed motions for sole legal custody and suspended parenting time for defendant. She argued that defendant’s unavailability for parenting time during the six-week period between September 24, 2025 and November 4, 2025 was because of inpatient psychiatric hospitalization for bipolar disorder and substance abuse. Plaintiff contended that defendant was increasingly engaging in erratic behavior as demonstrated by interactions with police. She asserted that the psychiatric treatment, along with interactions with police, amounted to a substantial change of circumstances warranting a change in legal custody and parenting time. In a supplemental brief, plaintiff requested an evidentiary hearing on the issue of custody.

Following a hearing, the trial court concluded that plaintiff’s arguments did not meet the threshold to change legal custody and restrict parenting time. The trial court found that the documentation from medical professionals demonstrated father’s compliance with his mental-health treatment and that there were no concerns about his judgment or ability to function as a parent. Plaintiff now appeals.

II. STANDARDS OF REVIEW

In a child-custody dispute, “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.” MCL 722.28; see also *Pierron v Pierron*, 486 Mich 81, 85; 782 NW2d 480 (2010). As this Court has explained:

We apply three standards of review in custody cases. The great weight of the evidence standard applies to all findings of fact. A trial court’s findings regarding the existence of an established custodial environment and regarding each custody factor should be affirmed unless the evidence clearly preponderates in the opposite direction. An abuse of discretion standard applies to the trial court’s discretionary rulings such as custody decisions. Questions of law are reviewed for clear legal error. A trial court commits clear legal error when it incorrectly chooses, interprets, or applies to the law.

The trial court's determination whether a party has demonstrated proper cause or a change of circumstances is also reviewed under the great-weight-of-the-evidence standard. A finding of fact is against the great weight of the evidence if the evidence clearly preponderates in the opposite direction.

Similarly, orders concerning parenting time must be affirmed on appeal unless the trial court's findings were against the great weight of the evidence, the court committed a palpable abuse of discretion, or the court made a clear legal error on a major issue. In child custody cases, [a]n abuse of discretion exists when the trial court's decision is so palpably and grossly violative of fact and logic that it evidences a perversity of will, a defiance of judgment, or the exercise of passion or bias. [*Stoudemire v Thomas*, 344 Mich App 34, 42-43; 999 NW2d 43 (2022) (cleaned up).]

III. CUSTODY

Plaintiff argues that she established a proper cause or change of circumstances to modify custody, and that the trial court erred by dismissing her motion without holding an evidentiary hearing. We disagree.

A party seeking to modify a custody order must establish by a preponderance of the evidence that there is proper cause or a change of circumstances to warrant revisiting the custody arrangement. *Vodvarka v Grasmeyer*, 259 Mich App 499, 509; 675 NW2d 847 (2003). This threshold must be met “*before* the trial court can consider whether an established custodial environment exists . . . and conduct a review of the best interest factors.” *Id.* at 509. A proper cause to modify a child's custody exists if there are “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.” *Id.* at 511. “[T]o 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.” *Id.* at 513. To warrant revisiting the custody arrangement, “the change of circumstances must have occurred *after* entry of the last custody order.” *Id.* at 514. Importantly, this Court concluded that an evidentiary hearing is not necessary to resolve the initial factual question whether proper cause or change in circumstances exist—“[o]ften times, the facts alleged to constitute proper cause or a change of circumstances will be undisputed, or the court can accept as true the facts allegedly comprising proper cause or a change of circumstances, and then decide if they are legally sufficient to satisfy the standard.” *Id.* at 512.

In this case, plaintiff maintains that the status of defendant's mental health was a change in circumstances that warranted a change in legal custody. She argues that at the time of the judgment of divorce, defendant's mental-health issues “were being managed with therapy and medication.” She claims that defendant's unavailability for six weeks, his recreational use of laughing gas, and his interactions with the police all demonstrate that defendant was unable to make positive child-rearing decisions and safely parent the children. According to defendant, his unavailability for six weeks was “due to personal health reasons.” Defendant claimed that he participated in a voluntary partial hospitalization program and an intensive outpatient program for his physical and emotional health.

In denying plaintiff's motion, the trial court noted that it had long been aware of defendant's mental-health issues, which had been addressed in the judgment. Defendant's treatment in 2025 was consistent with the treatment contemplated by the judgment of divorce and demonstrates that defendant was complying with the requirements of the judgment of divorce by seeking treatment as needed. Plaintiff's claims regarding defendant's mental-health issues and treatments do nothing more than verify that defendant is a person who struggles with mental-health issues. If anything, defendant's decision to deal with his mental-health problems and leave his children safely with plaintiff supports that defendant *is* capable of making adequate child-rearing decisions. The trial court concluded that defendant's mental-health issues were not proper cause or change of circumstances to warrant revisiting legal custody, and we cannot conclude that this finding was against the great weight of the evidence. See *Stoudemire*, 344 Mich App at 42.

Next, plaintiff argues that several police reports documenting defendant's erratic behavior demonstrate a change in circumstances. But details surrounding the incidents are vague and plaintiff presented no evidence suggesting that defendant was ever charged or convicted of any crimes.

Plaintiff also contends that defendant recreationally used laughing gas and that his mental-health status was unstable as demonstrated by a September 12, 2025 police report. Although the officers responded to a complaint alleging that defendant had "self-destructive tendencies" and "use[d] laughing gas recreationally," there is nothing in the report that verified the truth of those allegations. Defendant informed the responding officers that he had "been experiencing hardship since his divorce" and had been "assaulted the night before." Defendant denied using laughing gas and denied emergency services. Though plaintiff alleges that these incidents establish a concerning pattern of erratic behavior, the trial court concluded that the incidents "did not rise to the level where his mental health hadn't been treated or addressed." Because the police reports do not establish that defendant's mental health was in an unstable state, we cannot conclude that the trial court's findings were against the great weight of the evidence. See *Stoudemire*, 344 Mich App at 42.

Plaintiff further argues that the trial court's consideration of letters documenting defendant's mental-health treatment status violated her due-process rights. This argument was not presented in the trial court and is unpreserved. "[O]rdinarily in civil cases, we would decline to reach an unpreserved claim on appeal under our raise-or-waive jurisprudence." *Quint v Quint*, 351 Mich App 162, 174-175; 34 NW3d 616 (2024), citing *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 289; 14 NW3d 472 (2023). But "judicial prudence favors applying the plain-error standard to an unpreserved claim in a child-custody proceeding." *Id.* at 175.

"Parents have a significant interest in the companionship, care, custody, and management of their children, and the interest is an element of liberty protected by due process." *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). "Due process is a flexible concept, the essence of which requires fundamental fairness. The basic requirements of due process in a civil case include notice of the proceeding and a meaningful opportunity to be heard." *Al-Maliki v LaGrant*, 286 Mich App 483, 485; 781 NW2d 853 (2009) (cleaned up).

Under the terms of the stipulated order regarding custody and parenting time and the judgment of divorce, the arbitrator was to be provided quarterly letters from defendant's mental-health treatment providers. After the arbitrator withdrew from the case, the trial court confirmed that defendant had submitted the letters to the arbitrator and then to the trial court. In light of plaintiff's implicit agreement with the stipulated arbitration award and custody order, which permitted and required the letters to be sent to the arbitrator, plaintiff has not demonstrated plain error in the trial court's consideration of the letters after the arbitrator's withdrawal from the case. See *Quint*, 351 Mich App at 175.

Plaintiff further argues that the trial court erred by considering the letters from defendant's mental-health treatment providers that were hearsay in violation of her Sixth Amendment right of confrontation. This argument is also unpreserved and thus reviewed for plain error. "Hearsay" is "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). First, "[t]he Confrontation Clause does not apply to civil proceedings." *Demski v Petlick*, 309 Mich App 404, 458; 873 NW2d 596 (2015) (cleaned up). Even if the letters were hearsay, plaintiff has not demonstrated that the trial court was not permitted to consider hearsay statements when considering the threshold question of whether plaintiff had demonstrated that there was proper cause or a change in circumstances. The trial court was permitted to consider the facts "allegedly comprising proper cause or a change of circumstances, and then decide if they are legally sufficient to satisfy the standard." *Vodvarka*, 259 Mich App at 512. Plaintiff has failed to demonstrate plain error in this regard. See *Quint*, 351 Mich App at 175.

Plaintiff relies on *In re Conservatorship of GT*, ___ Mich App ___, ___ NW3d ___ (2026) (Docket Nos. 371518, 371519, and 371523) to support her argument regarding the letters. In that case, this Court interpreted a probate court rule. The rule provides, "[a]ny interested person shall be afforded an opportunity to examine and controvert reports received into evidence." MCR 5.121(D)(2)(a). This Court noted that "it was procedurally unfair for the court to consider and rely on information that was not made available to all interested persons." *In re Conservatorship of GT*, ___ Mich App at ___, slip op at 3 n 3. But plaintiff fails to identify a rule that establishes that she was entitled to receive the letters from defendant's psychiatrist. *In re Conservatorship of GT* is factually and legally distinguishable from the present matter and does not address constitutional issues related to due process or confrontation.

Finally, plaintiff argues that she is entitled to an evidentiary hearing on the issue of whether there should be a change in legal custody of the children. We disagree. "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." *Corporan*, 282 Mich App at 605. A party is not entitled to an evidentiary hearing on her motion for change of custody when she fails "to make the required threshold showing of a change of circumstances" *Id.* at 609. Because plaintiff has not made a threshold showing of proper cause or a change of circumstances, the trial court did not err in declining to hold an evidentiary hearing on the custody issue.

III. PARENTING TIME

Plaintiff asserts that the trial court erred by denying her request for defendant's suspended parenting time pending mental-health and substance-abuse evaluations. We disagree.

In *Shade v Wright*, 291 Mich App 17, 22; 805 NW2d 1 (2010), this Court analyzed what constituted proper cause or change of circumstances sufficient to warrant a hearing to consider a change in parenting time. This Court concluded that the *Vodvarka* threshold should not apply to a request for a change in parenting time unless the change in parenting time results in a change in the established custodial environment. *Id.* at 25-27. Instead, this Court concluded and explained as follows:

[A] more expansive definition of “proper cause” or “change of circumstances” is appropriate for determinations regarding parenting time when a modification in parenting time does not alter the established custodial environment.

The *Vodvarka* definitions of “proper cause” and “change of circumstances” are inapplicable to this case, in part, because the rationale for imposing more stringent constructions on the terms “proper cause” and “change of circumstances” with respect to custody determinations is far less applicable with respect to parenting time determinations. With respect to child custody disputes, “[t]he goal of MCL 722.27 is to minimize unwarranted and disruptive changes of custody orders, except under the most compelling circumstances.” *Corporan v Henton*, 282 Mich App 599, 603; 766 NW2d 903 (2009). “Providing a stable environment for children that is free of unwarranted custody changes . . . is a paramount purpose of the Child Custody Act. . . .” *Vodvarka*, 259 Mich App at 511. Therefore, in the context of a child custody dispute, the purpose of the proper cause or change of circumstances requirement is “to ‘erect a barrier against removal of a child from an established custodial environment and to minimize unwarranted and disruptive changes of custody orders.’” *Id.* at 509, quoting *Heid v AAASulewski (After Remand)*, 209 Mich App 587, 593-594; 532 NW2d 205 (1995).

Such concerns do not exist, however, when a modification of parenting time does not alter the established custodial environment because determinations regarding child custody and parenting time serve different purposes. Whereas the primary concern in child custody determinations is the stability of the child's environment and avoidance of unwarranted and disruptive custody changes, the focus of parenting time is to foster a strong relationship between the child and the child's parents. . . . [*Shade*, 291 Mich App at 28.]

In this case, parenting time was governed by the judgment of divorce. Plaintiff sought suspension of defendant's parenting time. On appeal, plaintiff claims that she was merely requesting a temporary modification so that parenting time with defendant would be supervised pending independent substance-abuse and psychological evaluations. However, in the trial court, plaintiff sought suspended parenting time pending independent substance-abuse and psychological evaluations. Thus, the trial court was considering the suspension of parenting time, not a request for supervised parenting time.

In concluding that plaintiff had not established proper cause or a change of circumstances regarding custody or parenting time, the trial court did not identify whether the children had an established custodial environment with defendant or whether the proposed parenting-time restrictions would amount to a substantial modification of parenting time such that it would result in a change in the children's established custodial environment. "An established custodial environment exists 'if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort.'" *Pierron v Pierron*, 282 Mich App 222, 244; 765 NW2d 345 (2009), *aff'd* 486 Mich 81 (2010), quoting MCL 722.27(1)(c). The parties did not address whether defendant had an established custodial environment with the children. Because defendant had joint legal custody and weekly overnight parenting time, the children likely had an established custodial environment with defendant.

Despite the trial court's failure to identify whether the proposed change was a substantial modification, an indefinite suspension of defendant's parenting time amounts to a substantial modification of parenting time because it would significantly reduce the amount of time that defendant, with whom the children had an established custodial environment, would spend with the children.² "If a change in parenting time results in a change in the established custodial environment, then the *Vodvarka* framework is appropriate." *Shade*, 291 Mich App at 27. Thus, before the trial court could substantially alter plaintiff's parenting time, the court needed to first determine whether there was proper cause or changed circumstances under *Vodvarka*, 259 Mich App at 508.

As explained above, plaintiff has failed to make a threshold showing under *Vodvarka* that there was proper cause or change in circumstances. The trial court determined that the police contacts and defendant's six-week treatment were not a change in circumstances. Because plaintiff identifies no evidence that demonstrates that defendant's mental-health status had declined or that

² In *Lieberman v Orr*, 319 Mich App 68, 90; 900 NW2d 130 (2017), this Court provided several examples of what types of changes to parenting time constitute changes to a custodial environment:

Rains v Rains, 301 Mich App 313, 323-324, 836 NW2d 709 (2013) (indicating that even when parents have joint physical custody and have established a "joint custodial environment," changes that "substantially reduce the time a parent spends with a child would potentially cause a [change] in the established custodial environment"); *Shade*, 291 Mich App at 25-28 (stating that a change in parenting time did not affect the established custodial environment because it left the parties with approximately the same number of parenting-time days); *Powery v Wells*, 278 Mich App 526, 528; 752 NW2d 47 (2008) (holding that a modification of parenting time that would relegate a parent who had been equally active in the child's life to the role of a "weekend parent" would amount to a change in the child's established custodial environment with that parent); *Brown v Loveman*, 260 Mich App 576, 596; 680 NW2d 432 (2004) (indicating that the modification of parenting time from each parent having nearly equal parenting time to one parent having parenting time during the school year and the other having parenting time during the summer "necessarily would amount to a change in the established custodial environment").

he was unable to parent the children, she failed to establish that the trial court's decision was against the great weight of evidence. See *Stoudemire*, 344 Mich App at 42-43.

Affirmed.

/s/ Mariam S. Bazzi
/s/ Sima G. Patel
/s/ Matthew S. Ackerman