If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

BETHANY M. HILL,

Plaintiff-Appellee,

v

JOSEPH J. HILL,

Defendant-Appellant.

UNPUBLISHED
October 19, 2026
12:21 PM

No. 380072
Muskegon Circuit Court
LC No. 2021-001876-DM

Before: SWARTZLE, P.J., and ACKERMAN and TREBILCOCK, JJ.

PER CURIAM.

After their divorce, the parties received joint legal and physical custody of their three children. Three years later, the trial court awarded plaintiff sole legal custody. Defendant appealed that order, and this Court vacated and remanded for an evidentiary hearing due to the trial court's errors in regard to proper cause, change in circumstances, and best interests. *Hill v Hill*, unpublished per curiam opinion of the Court of Appeals, issued January 16, 2026 (Docket No. 374724). Following an evidentiary hearing, the trial court issued an order that again awarded plaintiff sole legal custody of the children. Defendant now appeals that order, and we affirm.

Leading up to the trial court's original sole custody decision that this Court reversed, plaintiff had filed three different motions regarding disagreements about the children's schooling and medical care. The last motion specifically alleged that defendant terminated counseling for the children in violation of the trial court's order, and the trial court held defendant in contempt for this action. The trial court ultimately concluded that sole legal custody with plaintiff was in the children's best interests given the parties' inability to cooperate on medical care and schooling decisions, defendant's repeated failures to communicate with plaintiff, and defendant's "inconsistency between his words and actions." *Id*. at 3.[1]

Defendant appealed the trial court's decision to this Court, which resulted in a remand. Because the trial court did not make findings as to the children's established custodial environment

[1] For a fuller account of the parties' history, see *Hill*, unpub op at 1-3.

and best-interest factors, this Court vacated the trial court's order and remanded for a new custody hearing to make the appropriate findings using up-to-date information. *Id.* at 6-7.

At the evidentiary hearing after remand, the parties stipulated that the children had a custodial environment with both parents. As for best-interest factors, plaintiff testified that she provided medical insurance for the children and attended school functions when possible. Defendant testified that he provided medical insurance for the children and could not attend school functions because of work or plaintiff's presence. He further claimed that he stopped attending the children's teacher conferences because he no longer received notifications from the school or plaintiff of when they occurred, but he did not ask plaintiff, the school, his attorney, or the trial court whether plaintiff's sole legal custody would prevent him from having this information.

Plaintiff claimed that defendant interfered with her relationships with the children by refusing to take her phone calls due to those calls being automatically recorded by the parenting-time app. She also detailed an instance during defendant's parenting time when defendant refused to allow plaintiff to drive their child to defendant's house after a cross-country meet, and instead, the child had to wait for a bus and walk to defendant's home; defendant denied plaintiff this opportunity because it was not discussed with him prior to the meet. Defendant denied ever speaking poorly of plaintiff in front of the children or limiting the children's ability to contact plaintiff during his parenting time.

Plaintiff testified that appointments and decisions regarding the children resulted in conflict with defendant; that she and defendant were unable to cooperate and generally agree on important decisions; and that she felt "like the only one considering what the kids needed." Defendant claimed that it was not in the children's best interests to deny him legal custody because he would be "cut off from their needs [and] progress," but stated that he saw no change when plaintiff was awarded sole legal custody.

After examining each best-interest factor, the trial court determined that the best-interest factors were equal except for factors (h), (j), and (*l*), which favored plaintiff. Specifically, in regard to factor (*l*), any other relevant factor, the trial court found that if joint legal custody was not viable, plaintiff was "more pliable to the idea of trying to do things in a way that acknowledge[d] and respect[ed] the right relationship that [defendant] should have with his children." The trial court also attempted to address defendant's confusion regarding the effect of plaintiff's sole custody and informed defendant that if he wanted to be engaged and involved in the children's lives, including receiving information from the school, plaintiff's sole custody was not a bar to that access. The trial court ultimately found that sole custody with plaintiff was in the children's best interests.

Defendant now appeals.

On appeal, defendant argues that the trial court, in regard to its best-interest findings, either abused its discretion or its findings were against the great weight of evidence.[2] We affirm the trial court's custody order unless the trial court "made findings of fact against the great weight of

[2] The parties' stipulated that there was an established custodial environment with both parties, and defendant does not challenge this issue on appeal.

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). For a custody order, the trial court commits an abuse of discretion if "the result 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." *Barretta v Zhitkov*, 348 Mich App 539, 549; 19 NW3d 420 (2023).

A trial court decides whether joint custody is in the children's best interests by examining the best-interest factors enumerated in MCL 722.23 and the parents' abilities "to cooperate and generally agree concerning important decisions affecting the welfare of the child[ren]." MCL 722.26a(1). If the trial court's order changes the established custodial environment of the children, then there must be clear and convincing evidence that the change is in the children's best interests. MCL 722.27(1)(c). The trial court may have no alternative but to order sole custody where the parents are "unable to cooperate and to agree generally concerning important decisions affecting the welfare of their children." *Bofysil v Bofysil*, 332 Mich App 232, 249; 956 NW2d 544 (2020) (quoting *Fisher v Fisher*, 118 Mich App 227, 232-233; 324 NW2d 582 (1982)).

The trial court did not make findings against the great weight of the evidence when examining the best-interest factors (h), (j), and (*l*). The trial court properly considered the children's home records, including their relationships with their parents, in accordance with factor (h). For factor (j), the parties' ability and willingness to facilitate relationships between the children and parents, the trial court considered the parties' histories including defendant's past lack of willingness to facilitate the relationships, as well as defendant's more recent unilateral decisions. Finally, for other factors under (*l*), the trial court reasonably found that the parties were unable to cooperate and agree concerning important decisions on the children's welfare such that joint legal custody, compared to sole legal custody, was not in the children's best interests.

The trial court did not abuse its discretion when awarding sole legal custody to plaintiff. With a focus on the children's interests, plaintiff appeared to be the best party to serve the role as sole legal custodian given defendant's previous actions. Furthermore, the trial court debunked defendant's main complaint with plaintiff as the sole legal custodian by explaining that he still had access to the children's school information and thereby could maintain involvement in critical areas of the children's lives.

Affirmed.

/s/ Brock A. Swartzle
/s/ Matthew S. Ackerman
/s/ Christopher M. Trebilcock