

Order

Michigan Supreme Court
Lansing, Michigan

November 27, 2024

Elizabeth T. Clement,
Chief Justice

167316 & (111)(112)(113)(114)(122)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

NOSSONAL KLEINFELDT,
Plaintiff-Appellant/
Cross-Appellee,

v

SC: 167316
COA: 365506, 366777
Oakland CC: 2022-511266-DC

NICOLE STERN,
Defendant-Appellee/
Cross-Appellant.

On order of the Court, the motions for immediate consideration and to extend the time to answer the cross-application are GRANTED. The application for leave to appeal the April 18, 2024 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE Part IV(A) of the judgment of the Court of Appeals and REMAND this case to that court to consider the domicile issue in a manner consistent with this order. The Court of Appeals was correct that the acknowledgment of parentage executed by the parties granted the defendant initial custody of the child. See MCL 722.1006. The Court of Appeals was also correct that the execution of the acknowledgment of parentage is not an initial custody order. See *Foster v Wolkowitz*, 486 Mich 356, 358 (2010). The Court of Appeals erred, however, by directing the trial court to apply MCL 722.31 when determining the child's domicile. MCL 722.31 applies only to children "whose parental custody is governed by court order" MCL 722.31(1). In this case, the statutorily required presumptive award of custody to the mother did not serve as an initial custody determination. See *Foster*, 486 Mich at 358. MCL 722.27, by contrast, applies to a child custody dispute that is "submitted to the circuit court as an original action" under the Child Custody Act, MCL 722.21 *et seq.* MCL 722.27(1). Because the instant dispute was submitted to the circuit court as an original action under the Child Custody Act, MCL 722.27 controls for the custody determination. See *id.* We therefore remand this case to the Court of Appeals to consider the domicile issue and its effect on the Oakland Circuit Court's custody order in a manner consistent with this order. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The motions to file under seal and to give the Court of Appeals judgment immediate effect are DENIED.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 27, 2024

Clerk