

STATE OF MICHIGAN
COURT OF APPEALS

PAUL SCHUDLICH,

Plaintiff-Appellee,

v

BEVERLY JEAN SCHUDLICH, a/k/a BEVERLY JEAN
BABCOCK,

Defendant-Appellant.

UNPUBLISHED
August 27, 1999

No. 215999
Macomb Circuit Court
LC No. 83-003734 DM

Before: Hoekstra, P.J., and O’Connell and R. J. Danhof*, JJ.

MEMORANDUM.

Defendant appeals as of right from an order finding her in contempt of court, suspending punishment and establishing supervised reacquaintance visitation time between the minor child and plaintiff. We affirm.

A three-day evidentiary hearing was conducted in order to determine whether defendant would be punished for being in contempt of court. The trial court indicated from the outset of the hearing that it had already determined that defendant had violated an earlier order regarding plaintiff’s rights of visitation. Thus, the court indicated that the *sole* purpose of the hearing was to determine defendant’s motivation in violating the order and to determine whether defendant would be punished. At the conclusion of the hearing, the court still found defendant in contempt of court, but suspended her punishment because it was obvious defendant acted in reliance upon third-party representations. The court reinstated an earlier visitation order, the only change being a mandatory sixty-day supervised reacquaintance period, or in the alternative, provided that either party could petition the court to modify the visitation order.

Defendant maintains that the trial court abused its discretion when it upheld the earlier order granting plaintiff unsupervised parenting time with the couple’s minor daughter. Defendant argues that the trial court failed to determine what was in the child’s best interest, considering the fact that the fourteen-year-old child complained of past physical, emotional and sexual abuse. Defendant contends that there was clear and convincing evidence that continued visitation would endanger the child.

We find defendant’s claim without merit because defendant has failed to preserve the issue for appellate review. In order to preserve an issue for appellate review, the issue must be raised before and addressed by the trial court. *Environair v Steelcase*, 190 Mich App 289, 295; 475 NW2d 366 (1991). Here, defendant never made a motion to modify the visitation order. The evidentiary hearing was conducted solely to determine whether defendant would be punished for her contempt. To the extent the trial court’s order addressed visitation, it merely reaffirmed its prior order and added a provision that allowed supervised reacquaintance visits and invited either party to challenge the previous visitation order, if they so desired.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Hearings to determine the appropriate sanction for a party's contempt are separate and distinct from those to determine visitation rights. Plaintiff's interest in the outcome of a sanctioning hearing differs significantly from his interest in a hearing on visitation rights. If we review the hearing as though it was conducted to determine plaintiff's visitation rights, plaintiff will be prejudiced. Further, we cannot determine, on this record, whether the prior visitation schedule, as modified, serves the child's best interest. The parties must litigate that question separately.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Peter D. O'Connell

/s/ Robert J. Danhof