STATE OF MICHIGAN

COURT OF APPEALS

MARGARET PITTMAN,

Plaintiff-Appellant,

v

JASON J. WILLS,

Defendant-Appellee,

and

LEE ANNIE LANDRUM,

Defendant.

UNPUBLISHED
March 21, 2000

No. 210784
Wayne Circuit Court
LC No. 94-416887 DC

Before: Murphy, P.J., and Hood and Fitzgerald, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order denying her petition for custody of minor child, Janai Landrum. We affirm.

Plaintiff first argues that the circuit court erred in failing to award custody to one of the two parties seeking custody of the minor child. We disagree. MCL 722.27(1)(e); MSA 25.312(7)(1)(e) provides that the circuit court, when acting for the best interests of the child, may "[t]ake any other action necessary in a particular child custody dispute." Plaintiff's contention that the statutory language requires that custody be awarded to a party is without merit. We avoid any construction of a statute that would produce absurd or an unjust result. *Kurz v Michigan Wheel Corp*, 236 Mich App 508, 514-515; 601 NW2d 130 (1999). Following plaintiff's interpretation, the circuit court would be required to award custody to a party when both parties were deemed to be unable to care for the best interests of the child. The statute clearly addresses awarding custody to foster the growth and development of a child and does not require an award of custody to the lesser of unsuitable choices. Accordingly, plaintiff's contention that an award of custody had to be given to one of the two parties is without merit. *Kurz, supra*.

Plaintiff next argues that the circuit court erred in failing to make specific findings relative to each factor and that the findings of fact were against the great weight of the evidence. We disagree. In a child custody determination, the court must make specific findings of fact regarding each factor to be taken into account in determining the best interests of the child. *McCain v McCain*, 229 Mich App 123, 124; 580 NW2d 485 (1998). However, the circuit court is not required to comment upon every matter in evidence or make a declaration regarding every proposition argued. *Bowers v Bowers*, 198 Mich App 320, 328; 497 NW2d 602 (1993). Therefore, a circuit court's findings, although terse, will satisfy its obligation to state the factual basis for its findings and conclusions regarding the factors. *Id.*

In the present case, the circuit court expressly listed and acknowledged that it had considered all relevant factors. The circuit court then proceeded to apply the evidence presented to the individual factors, although at times, the particular factor was not specifically correlated to its statutory subsection. The findings as rendered by the circuit court, although terse, satisfied its obligation. *Bowers*, *supra*. Furthermore, the circuit court was entitled to weigh some factors above others. *McCain*, *supra* at 131. In the present case, the circuit court expressly noted that plaintiff was unwilling to facilitate a relationship between the minor child and defendant and failed to abide by visitation orders which were in place. Accordingly, the trial court's findings of fact were sufficient. Furthermore, plaintiff's contention, that the findings were against the great weight of the evidence, is without merit. Due deference is given to the circuit court's special opportunity to judge the credibility of the witnesses who appeared before it. *Bowers*, *supra* at 324. We must affirm the circuit court's findings of fact where the explanations offered for the status of plaintiff's relationship with her husband, her living arrangements, and her reason for placing the minor child on medication were questionable at best. *Id.*

Plaintiff also argues that the circuit court erred in failing to interview the minor child and take into account the minor child's preferences. We disagree. There is no indication in the record that plaintiff requested that the circuit court interview the minor child. Accordingly, this allegation of error is not preserved for review. *Miller v Inglis*, 223 Mich App 159, 168; 567 NW2d 253 (1997). Where the preference of the minor child, in and of itself, will not meet the burden of establishing the child's best interests, reversal is not required for failing to interview the minor child. *Treutle v Treutle*, 197 Mich App 690, 696; 495 NW2d 836 (1992).[1]

Affirmed.[2]

/s/ William B. Murphy
/s/ Harold Hood
/s/ E. Thomas Fitzgerald

[1] Plaintiff also argued that the circuit court erred in "failing to place the burden of persuasion on defendant" because of an established custodial environment. Where an established custodial environment exists, the circuit court may only change custody if clear and convincing evidence establishes that a change is in the child's best interest. *Heid v AAASulewski (After Remand)*, 209 Mich App 587, 593; 532 NW2d 205 (1995). In the present case, there is no evidence in the record

that the circuit court inappropriately placed the burden of persuasion on plaintiff instead of defendant. Therefore, this contention is without merit.

[2] At oral argument, it was indicated that a petition to remove the guardian was held in abeyance pending resolution of this appeal. We recommend that that proceeding go forward without delay.