

STATE OF MICHIGAN
COURT OF APPEALS

MARY M. WILLIAMS,

Plaintiff-Counter-Defendant-
Appellee,

v

STEVEN PRICE,

Defendant-Counter-Plaintiff-
Appellant.

UNPUBLISHED

October 28, 2004

No. 255997

Saginaw Circuit Court

LC No. 91-047386-DM

Before: Griffin, P.J., and Saad and O'Connell, JJ.

MEMORANDUM.

Defendant appeals as of right the order denying his motion to change custody. We affirm.

A custody award may be modified on a showing of proper cause or change of circumstances that convincingly establishes that the modification is in the child's best interest. MCL 722.27(1)(c); *Foskett v Foskett*, 247 Mich App 1, 5; 634 NW2d 363 (2001). The party seeking the change must establish proper cause or a change in circumstances before the court will consider the existence of an established custodial environment and the best interest factors. *Vodvarka v Grasmeyer*, 259 Mich App 499, 508-509; 675 NW2d 847 (2003). To constitute a change of circumstances warranting a custody change, there must have been a change in conditions since the entry of the last custody order. *Id.* at 513. The change must relate to the child's custody and significantly affect the child's well-being. *Id.*

Whether an established custodial environment exists is a question of fact, which the trial court must address before it determines the child's best interest. *Mogle v Scriver*, 241 Mich App 192, 197; 614 NW2d 696 (2000). A custodial environment is established 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. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered. [MCL 722.27(1)(c).]

An established custodial environment is one of significant duration, both physical and psychological, in which the relationship between the custodian and child is marked by security, stability and permanence. *Baker v Baker*, 411 Mich 567, 579-580; 309 NW2d 532 (1981); *Mogle, supra*.

Defendant filed a previous motion that raised the same basis for a change in custody: the child's preference. The trial court resolved that issue in plaintiff's favor, and defendant fails to raise a novel and compelling argument for revisiting that initial resolution. The trial court properly found that defendant failed to present evidence showing a change of conditions since the entry of the last custody order.

Affirmed.

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O'Connell