

STATE OF MICHIGAN
COURT OF APPEALS

CIERA SHAPRICE ARNOLD,
Plaintiff-Appellee,

UNPUBLISHED
July 13, 2010

v

LIN'Z LAMARR BATES,
Defendant-Appellant.

No. 296337
Kalamazoo Circuit Court
LC No. 2005-006898-DP

Before: O'CONNELL, P.J., and METER and OWENS, JJ.

PER CURIAM.

Defendant Lin'z Lamarr Bates appeals as of right *in propria persona* from the trial court's modification of a custody order following an evidentiary hearing. We affirm.

Construing defendant's appellate brief generously, we discern that he has essentially presented two allegations of error: (1) that the trial court failed to follow up with information provided by defendant, and (2) that the January 15, 2010, custody order should be vacated and the previous custody order reinstated. In both cases, defendant has merely announced his positions without providing any discussion of those allegations of error or providing a basis for relief. Defendant "may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give issues cursory treatment with little or no citation of supporting authority." *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003) (internal citations omitted). Defendant's appellate brief almost entirely consists of unsubstantiated complaints against plaintiff regarding alleged conduct that occurred after the entry of the present custody order. This information is not properly within our scope of review on appeal and constitutes an improper attempt at expansion of the record on appeal. *Sherman v Sea Ray Boats, Inc*, 251 Mich App 41, 56; 649 NW2d 783 (2002).¹ Defendant's failure to properly address the merits of his allegations of error constitutes abandonment on appeal. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002).

¹ With respect to the allegations raised by defendant following the present custody order, we believe that these allegations are best raised in a subsequent motion to change custody in the trial court if defendant chooses to do so.

Nevertheless, we have reviewed the issues and find that defendant's claims lack merit. First, the trial court has no duty to verify a party's assertions made at an evidentiary hearing after the fact. If defendant sought to prove a fact at the hearing, or to dispute or undermine plaintiff's factual assertions, then the onus was on him to produce some sort of documentary or testimonial evidence to do so.

Second, after our thorough review of the record, we are satisfied that the trial court did not make findings of fact that were against the great weight of the evidence, commit a palpable abuse of discretion, or make a clear legal error on a major issue in this case. MCL 722.28; *Fletcher v Fletcher*, 447 Mich 871, 876-877; 526 NW2d 889 (1994). In this case, the trial court found that there was a basis to revisit the existing custody order without expressly stating if there was proper cause or a change in circumstances. On the record, we conclude that there was proper cause or a change in circumstances, where plaintiff alleged that defendant had not allowed her to see the minor child for approximately three months. See *Killingbeck v Killingbeck*, 269 Mich App 132, 145; 711 NW2d 759 (2005); *Vodvarka v Grasmeyer*, 259 Mich App 499, 511; 675 NW2d 847 (2003). The trial court failed to determine whether a custodial environment existed in this case. However, based on the record, we conclude that a custodial environment existed with defendant. See *Jack v Jack*, 239 Mich App 668, 670; 610 NW2d 231 (2000). With respect to the best interests factors, the trial court found that factor (a) favored both parties, it found no preference for either party regarding factors (c), (d), (e), and (h), it found that factor (i) did not apply, and it expressed no findings with regard to factors (b), (f), and (g). The trial court did not make an express finding regarding which party factor (j) favored, but the trial court appeared to favor plaintiff with respect to this dispositive factor. The statutory best interests factors need not be given equal weight, *McCain v McCain*, 229 Mich App 123, 131; 580 NW2d 485 (1998), and the trial court need not "'comment upon every matter in evidence or declare acceptance or rejection of every proposition argued.'" *Bowers v Bowers*, 198 Mich App 320, 328; 497 NW2d 602 (1993). The parties produced little evidence at the evidentiary hearing. Significantly, however, it was undisputed that defendant refused to facilitate plaintiff's parenting time for approximately three months. Notably, defendant does not challenge the trial court's findings or conclusions and, ultimately, the facts do not clearly preponderate in a direction other than that taken by the trial court. See *Rittershaus v Rittershaus*, 273 Mich App 462, 473; 730 NW2d 262 (2007). Therefore, the trial court's findings with respect to factor (j) are not against the great weight of the evidence. There is no basis on the record before us to grant defendant the relief he has requested.

Affirmed.

/s/ Peter D. O'Connell
/s/ Patrick M. Meter
/s/ Donald S. Owens