

STATE OF MICHIGAN
COURT OF APPEALS

RAECHEL ANNE ROWLAND,

Plaintiff-Appellant,

v

JAMES MATTHEW MURPHY, JR.,

Defendant-Appellee.

UNPUBLISHED

March 12, 2002

No. 232359

Marquette Circuit Court

LC No. 99-035660-DM

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Plaintiff appeals by delayed leave granted the order denying her motion to change domicile of the parties' two children. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff lives in Ishpeming and defendant lives in Jackson. They have a custody arrangement for their two daughters that involves regular monthly or bimonthly weekend visits with defendant. Plaintiff filed a motion for change of domicile to allow her to move to Florida with the children. Plaintiff proposed that defendant have custody for summer break and some holidays in lieu of regular periodic visits. The trial court denied the motion, finding that the move had a modest capacity to improve the quality of life of plaintiff and the children, which was outweighed by the denial of a realistic opportunity for parenting time for defendant to preserve the parental relationship.

The moving party has the burden to establish by a preponderance of the evidence that the change in domicile was warranted. *Mogle v Scriver*, 241 Mich App 192, 203; 614 NW2d 696 (2000). This Court will review the trial court's decision under an abuse of discretion standard. *Id.*, 202.

In determining whether to grant a request to change a child's state of domicile, the court must consider four factors:

(1) whether the prospective move has the capacity to improve the quality of life for both the custodial parent and the child; (2) whether the move is inspired by the custodial parent's desire to defeat or frustrate visitation by the noncustodial parent and whether the custodial parent is likely to comply with the substitute visitation orders where he or she is no longer subject to the jurisdiction of the courts of this

state; (3) the extent to which the noncustodial parent, in resisting the move, is motivated by the desire to secure a financial advantage in respect of a continuing support obligation; and (4) the degree to which the court is satisfied that there will be a realistic opportunity in lieu of the weekly pattern which can provide an adequate basis for preserving and fostering the parental relationship with the noncustodial parent if removal is allowed. [*Overall v Overall*, 203 Mich App 450, 458-459; 512 NW2d 851 (1994), quoting *Anderson v Anderson*, 170 Mich App 305, 309; 427 NW2d 627 (1988).]

There is no showing that the trial court abused its discretion in weighing the appropriate factors. The court focused on the first and fourth factors. Although plaintiff would receive an increase in pay and benefits with the move and a change in work schedule, there is no showing that the trial court erred in finding that these facts only established a modest improvement in quality of life. Defendant would lose the opportunity for regular visitation, to be replaced by a more extended summer visit. Only the parties' opinions were offered as to how the change would affect defendant's relationship with the children. Given the nature of the evidence presented, there is no showing that the trial court abused its discretion in finding that the lost opportunity for defendant to preserve and foster his parental relationship with the children outweighed the modest improvement in the quality of life for plaintiff and the children.

We affirm.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray