STATE OF MICHIGAN

COURT OF APPEALS

RALUCA LOWE,

Plaintiff-Appellee/Cross-Appellant,

v

STEVEN RUSSELL LOWE,

Defendant-Appellant/Cross-Appellee.

UNPUBLISHED
December 14, 2010

No. 298052
Oakland Circuit Court
LC No. 2008-745497-DM

Before: JANSEN, P.J., and SAWYER and O'CONNELL, JJ.

PER CURIAM.

In this domestic relations case, defendant appeals by right the trial court's order granting plaintiff sole legal and physical custody of their son and awarding defendant three nights a week of parenting time. Plaintiff cross-appeals the same order. We affirm.

I

Defendant argues that the trial court erred by finding that the child had an established custodial environment with plaintiff. He also argues that the trial court erred in its consideration and application of the statutory best-interest factors and by granting sole legal and physical custody of the child to plaintiff.

A

Defendant first argues that the trial court erred by finding that an established custodial relationship existed with plaintiff. We disagree. Whether an established custodial environment exists is a question of fact. MCL 722.27(1)(c); *Foskett v Foskett*, 247 Mich App 1, 6; 634 NW2d 363 (2001). The trial court's findings of fact are reviewed under the great weight of the evidence standard and will be affirmed unless the evidence clearly preponderates in the opposite direction. *McIntosh v McIntosh*, 282 Mich App 471, 474-475; 768 NW2d 325 (2009).

An established custodial environment exists if, over an appreciable period of time, the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. MCL 722.27(1)(c); *Pierron v Pierron*, 486 Mich 81, 85-86; 782 NW2d 480 (2010) (*Pierron II*). The existence of a temporary custody order does not preclude a finding that an established custodial environment exists with the noncustodial parent or that an

established custodial environment does not exist with the custodial parent. *Berger v Berger*, 277 Mich App 700, 706-707; 747 NW2d 336 (2008).

The trial court noted that plaintiff and defendant shared joint legal custody and plaintiff had sole physical custody during the course of the divorce proceedings. The trial court found:

> The child has resided with both parties from birth. He is [two] years old. The child seeks emotional support from [p]laintiff. Evidence presented revealed that [the child] spends the majority of his time with [p]laintiff. She is and has been the primary custodian. The child looks to [p]laintiff for guidance, discipline, the necessities of life, and parental comfort . . . . The court has also considered the age of the child, the physical environment, and the inclination of the custodian and the child as to the permanency of the relationship.

The trial court correctly ruled that an established custodial environment existed with plaintiff. When plaintiff and defendant lived together at the marital home, plaintiff was the primary caregiver of the child. Plaintiff and defendant both testified that the child looked to plaintiff for guidance and discipline. It is true that during this period, defendant was solely responsible for plaintiff's and the child's expenses. However, plaintiff was primarily responsible for the child's well-being. She breastfed him, took him to the doctor, and watched him. Plaintiff described asking defendant to take care of the child on at least one occasion when defendant refused because he had plans to go "go-cart racing." In addition, during this period defendant would sometimes not return home at night because of disagreements with plaintiff, leaving plaintiff and the child alone in the marital home. Moreover, defendant initially stopped living with plaintiff as a result of domestic violence he committed against plaintiff for which he was convicted. Defendant was not entitled to return to the marital home as a result of his probation conditions. From April 2008 until November 2008, plaintiff, the child, and plaintiff's mother, Viorica Rusu, resided in the marital home without defendant. During that period, defendant only saw the child on the weekends under the supervision of defendant's parents. As a result, defendant cannot claim that plaintiff altered the established custodial environment when she moved to Grosse Pointe Woods with the child and Viorica. Indeed, at the time of plaintiff's move, defendant was not allowed to live in the marital home and had limited contact with the child. The evidence in the record indicates that defendant adequately cared for the child, but that the child's primary living environment was with plaintiff. We cannot conclude that the evidence clearly preponderates against the trial court's finding that an established custodial environment existed with plaintiff.

B

Defendant next argues that the trial court erred by awarding plaintiff sole legal and physical custody. We disagree. In a child custody dispute, the trial court's findings of fact, including its findings regarding the statutory best interest factors, are reviewed under the great weight of the evidence standard and will be affirmed unless the evidence clearly preponderates in the opposite direction. *McIntosh*, 282 Mich App at 474. In reviewing the trial court's findings, we defer to the trial court's determinations of credibility. *Id*. We review the trial court's legal findings for clear error and reverse only when the trial court incorrectly chooses, interprets, or

applies the law. MCL 722.28; *McIntosh*, 282 Mich App at 475. The trial court's ultimate decision concerning custody of the child is reviewed for an abuse of discretion. *Id*.

Child custody disputes must be resolved in the child's best interests, according to the factors set forth in § 3 of the Child Custody Act (CCA), MCL 722.23. *Harvey v Harvey*, 470 Mich 186, 191-192; 680 NW2d 835 (2004). Section 3 of the CCA sets out "the following factors to be considered, evaluated, and determined by the court" to establish the best interests of a child:

> (a) The love, affection, and other emotional ties existing between the parties involved and the child.
>
> (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
>
> (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
>
> (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
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> (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
>
> (f) The moral fitness of the parties involved.
>
> (g) The mental and physical health of the parties involved.
>
> (h) The home, school, and community record of the child.
>
> (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
>
> (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
>
> (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
>
> (*l*) Any other factor considered by the court to be relevant to a particular child custody dispute. [MCL 722.23.]

In determining the best interests of a child under the CCA, a court must consider each of the statutory factors. *Sinicropi v Mazurek*, 273 Mich App 149, 182; 729 NW2d 256 (2006).

However, the court need not comment on every matter in evidence or declare acceptance or rejection of every proposition argued. *LaFleche v Ybarra*, 242 Mich App 692, 700; 619 NW2d 738 (2000); see also *Baker v Baker*, 411 Mich 567, 583; 309 NW2d 532 (1981).

Defendant contends that the trial court erred in finding that factor d (the stability of the child's environment) favored plaintiff. The trial court found with regard to factor d:

> From the time he was born in 2006, the child has resided with both parents. The child began residing solely with [p]laintiff when she moved out of the marital home. Plaintiff removed all of her belongings from the home in November 2008. Plaintiff, the child, and [p]laintiff's mother moved out of the marital home after [d]efendant made threats to [p]laintiff.
>
> Defendant resides in Waterford. He sees the child every other weekend from Thursday evenings until Saturday evening at the home of paternal grandparents.
>
> This factor favors plaintiff.

The record evidence in this case does not clearly preponderate against the findings of the trial court with regard to factor d. The record indicates that the child always lived with plaintiff, but ceased living with defendant when defendant engaged in domestic violence in April 2008. Thereafter, the child and plaintiff moved out of the marital home in November 2008. The record also establishes that even when the child lived with plaintiff and defendant at the marital home, defendant often did not come home at night because of arguments he had with plaintiff. While it is clear that defendant has been available for the child, plaintiff has primarily taken care of the child and provided him with a stable environment since April 2008. Therefore, the evidence supports the trial court's finding that factor d favored plaintiff.

Defendant also contends that the trial court erred in finding that factor e (the permanence of the proposed custodial home) favored plaintiff. With regard to factor e, a trial court must consider the permanence, as a family unit, of the existing or proposed custodial home, not its acceptability. *Fletcher v Fletcher*, 447 Mich 871, 884-885; 526 NW2d 889 (1994) (opinion of BRICKLEY, J.). With regard to factor e, the trial court found:

> From the time he was born in 2006, the child has resided with both parents. Since [p]laintiff and the minor child left the marital home, the child principally resides with [p]laintiff. Her household consists of herself, [the child], and the maternal grandmother.
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> On alternate weekends, [the child] has supervised visits with [d]efendant at the home of the paternal grandparents.
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> This factor favors plaintiff.

Defendant argues that the trial court erred by providing no findings of fact or conclusions of law to support its determination that this factor favored plaintiff. Defendant further contends that the

trial court ignored the fact that plaintiff's mother does not speak English and does not know how to drive.

Defendant has abandoned his challenge to the trial court's findings concerning factor e by failing to indicate how the trial court erred and why factor e should not favor plaintiff. An appellant may not merely "announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position." *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). Here, defendant merely states that the trial court erred, but does not explain *how* the court erred. At any rate, whether Viorica speaks English has no bearing on the "child's prospects for a stable family environment." See *Ireland v Smith*, 451 Mich 457, 465; 547 NW2d 686 (1996). We perceive no error with respect to the trial court's findings concerning factor e.

Defendant next contends that the trial court erred in finding that factor f (the moral fitness of the parties) favored plaintiff. We disagree. A problem with alcohol consumption is the type of conduct which bears on one's ability to parent, and can be considered as relevant to the moral fitness of a parent under factor f. *McIntosh*, 282 Mich App at 480. Other conduct relevant to this factor includes verbal abuse, driving records, physical or sexual abuse, and other illegal or offensive behavior; however, the conduct may only be considered if it affects how a party functions as a parent. *Berger*, 277 Mich App at 712-713.

The trial court found that factor f favored plaintiff because of defendant's abuse of alcohol and prescription painkillers. Defendant argues that the trial court erred because it failed to consider plaintiff's borderline personality disorder and plaintiff's other actions during the course of the proceedings. Defendant further argues that the trial court failed to consider his denial of alcohol and drug abuse. However, defendant has not shown that the evidence clearly preponderates against the trial court's findings. Whether plaintiff suffers from a personality disorder is irrelevant to her moral fitness to be a parent. It does not amount to verbal abuse, offensive conduct, or anything that would similarly make her "morally unfit." Moreover, whether plaintiff lied or was dishonest during the course of the divorce proceedings amounts a question of credibility. As explained previously, we defer to the trial court's findings with regard to credibility. *McIntosh*, 282 Mich App at 474. In this case, the trial court found plaintiff to be credible and persuasive. Moreover, there was a significant amount of evidence tending to show that defendant regularly abused alcohol and prescription drugs during the course of his marriage to plaintiff. We cannot conclude that the evidence clearly preponderates against the trial court's finding that factor f favored plaintiff.

Defendant further asserts that the trial court erred with regard to factor g (the mental health of the parties). Again, we disagree. The evidence does not clearly preponderate against the trial court's finding that factor g favored neither plaintiff nor defendant. Defendant argues that plaintiff suffers from a borderline personality disorder and has exhibited suicidal tendencies. While there is some evidence in the record to support this assertion, defendant overlooks the evidence in the record—in particular the findings of Dr. Robert Edward Erard—that defendant suffers from alcohol dependence and narcissistic personality disorder, which result in defendant having limited compassion for others. Dr. Erard also made note of defendant's history of violent behavior and his prescription drug abuse. Given the evidence in the record tending to show that

both plaintiff and defendant may suffer from mental health issues, we cannot say that the evidence clearly preponderates against the trial court's finding that factor g did not favor either party.

Defendant also questions the trial court's findings with regard to factor h (the home, school, and community record of the child). Defendant argues that the trial court should not have found this factor to be irrelevant. However, it is well settled that in determining the best interests of a child, a court need not give each factor equal weight. *McCain v McCain*, 229 Mich App 123, 131; 580 NW2d 485 (1998). The trial court determined that factor h was irrelevant given the child's very young age. We cannot conclude that this decision amounted to clear legal error.

With regard to factor j (the willingness of each party to facilitate and encourage a relationship between the child and the other parent), defendant again claims that the trial court erred in finding that the factor favored plaintiff. The trial court found that plaintiff sought defendant's help during the marriage with the child, but that defendant was indifferent. It further found that defendant's parents interfered with plaintiff's relationship with the child by screaming at plaintiff during the exchanges. Although the court recognized one instance when plaintiff refused to allow defendant to visit the child, it concluded that factor j favored plaintiff on the whole. The evidence does not clearly preponderate against this finding. Defendant argues that he informed plaintiff that he would take the child at any time and that he has never refused to help care for the child. Defendant also contends that, once plaintiff left the marital home, she refused to encourage any type of relationship between defendant and the child. However, plaintiff testified that she repeatedly asked defendant to take care of the child while they were married and he refused. It is clear that plaintiff and defendant's parents yelled at each other during exchanges. Moreover, there was a no contact order in place as a result of the domestic violence committed by defendant. Ultimately, this issue involved the credibility of the parties and the trial court found plaintiff to be more credible with respect to her testimony pertaining to factor j. Given our deference to the trial court's findings regarding credibility, we cannot conclude that the record evidence clearly preponderates against the court's findings with respect to factor j.

Defendant asserts that the trial court erred in finding that factor k (domestic violence) favored plaintiff. We disagree. The trial court found that this factor favored plaintiff because of plaintiff's testimony that defendant verbally and physically abused her, as well as plaintiff's descriptions of several incidents of abuse. Moreover, the trial court credited Viorica's testimony that she witnessed defendant physically abusing plaintiff and noted that defendant was convicted of domestic violence. Defendant argues that he was only convicted of domestic violence because of plaintiff's lies and that he did not physically abuse plaintiff. Nonetheless, we conclude that trial court did not err in finding that factor k favored plaintiff. Despite defendant's arguments to the contrary, the fact remains that defendant was convicted of domestic violence. On the basis of this conviction alone, we cannot say that the evidence clearly preponderates against the trial court's findings. Moreover, the trial court found that plaintiff's accusations were credible even though defendant denied them. We defer to those credibility determinations. The trial court did not err in finding that factor k favored plaintiff.

Defendant also contends that the trial court erred with regard to factor *l* (any other relevant factor considered by the trial court) by failing to consider that he wanted to settle the case based on the Friend of the Court recommendation.[1] However, the trial court addressed the Friend of the Court recommendation under factor *l*. The trial court indicated that defendant was willing to adopt the Friend of the Court recommendation though it noted that neither party made a motion to adopt the findings of the Friend of the Court. As a result, defendant's arguments with regard to factor *l* are without merit.

Finally, defendant maintains that the trial court erred by failing to state the reasons why joint custody was not in the child's best interests and by failing to grant joint custody. Again, we disagree. If a parent requests joint custody of a child in a divorce, the trial court is required to consider whether an award of joint custody would be in the child's best interests, and must state on the record the reasons for denying joint custody. MCL 722.26a(1); *Mixon v Mixon*, 237 Mich App 159, 163; 602 NW2d 406 (1999). When a party seeks joint custody of a child, the trial court must consider whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child. MCL 722.26a(1)(b); *McIntosh*, 282 Mich App at 476. For the purpose of joint custody, medical, educational, and religious decisions are important decisions affecting the welfare of a child. *Pierron v Pierron*, 282 Mich App 222, 246-247; 765 NW2d 345 (2009) (*Pierron I*); *Shulick v Richards*, 273 Mich App 320, 327; 729 NW2d 533 (2006); *Fisher v Fisher*, 118 Mich App 227, 233; 324 NW2d 582 (1982). A trial court may properly deny an award of joint custody and grant sole custody to one parent when the parties cannot agree on such important decisions affecting the welfare of the child. *Fisher*, 118 Mich App 233.

The trial court made explicit factual findings with regard to the issue of joint custody. Citing the best-interest factors discussed previously, the fact that the parties had difficulty communicating with one another, and the fact that the parties had differences of opinion on how best to raise the child, the trial court found that joint custody was not in the child's best interests. The court went on to determine, on the basis of the same considerations, that granting sole legal and physical custody to plaintiff was in the child's best interests. The trial court did not abuse its discretion by denying joint legal and physical custody and awarding sole legal and physical custody to plaintiff. As noted earlier, the trial court's factual findings concerning the statutory best-interest factors were supported by the great weight of the evidence. Moreover, the record is replete with evidence that plaintiff and defendant had difficulty communicating regarding the child's welfare. For a long period of time, this communication difficulty resulted from a no-contact arising out of defendant's domestic violence conviction. Even after the no-contact order was lifted, however, the parties were unwilling to cooperate and plaintiff did not trust defendant. Moreover, the record indicates that the parties disagreed about what was in the child's best interests. For example, while plaintiff wanted the child to be vaccinated, defendant stated that he generally opposed vaccinations. The record also indicates that defendant was unwilling to take

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[1] Defendant mistakenly indentifies factor *l* as "factor i" in his brief on appeal. Factor i, which concerns "[t]he reasonable preference of the child," is not at issue in this appeal.

the child to the doctor on at least one occasion. And although plaintiff stated a preference that the child regularly attend orthodox church services, defendant did not indicate a willingness to participate in the child's religious education.[2] The trial court did not abuse its discretion by awarding sole legal and physical custody of the child to plaintiff. See *Fisher*, 118 Mich App at 233.

II

Plaintiff argues on cross-appeal that the trial court erred in its consideration and application of several of the statutory best-interest factors. She also argues that the trial court erred by increasing defendant's parenting time from two nights a week to three nights a week.

A

Plaintiff first contends that the trial court erred by finding that factor a (the love, affection and other emotional ties between the parties and the child) favored neither party when it actually favored her. We disagree. The trial court found that "[b]oth parents express a strong emotional bond with [the child.]" Plaintiff argues that defendant could not establish that he had a strong emotional bond with the child since he often avoided the child during the marriage and would not play with the child or buy the child gifts. However, the record indicates that defendant and the child had a strong emotional bond. Defendant testified that he loved the child and that the child loved him. He described seeing the child for the first time during his weekly visits. He told the trial court that when he picked the child up, the child smiled and laid his head on defendant's shoulder and would not let go of defendant for several minutes. He also testified that at the end of the visits when he told the child that he would be going back to his mother, the child would often become upset and would tell defendant that he did not want to leave. Defendant's father similarly testified that the child loved defendant. The evidence in the record demonstrates an emotional bond between the child and defendant. The trial court correctly determined that factor a favored neither party.

Plaintiff also contends that the trial court erred by finding that factor b (the capacity and disposition of the parties to give the child love, affection and guidance) favored neither party. We disagree. On the basis of the record evidence, the trial court concluded that both parents had the capacity to love and care for the child. Plaintiff argues that defendant's capacity to give the child love, affection, and guidance was negatively impacted by his substance abuse problems, anger management issues, and lack of attention to the child. Thus, plaintiff contends that this factor actually favored her. We cannot agree, and conclude that the trial court's finding concerning this factor was not against the great weight of the evidence. As the trial court correctly determined, both parties clearly had the capacity to love and care for the child.

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[2] We note that there is no evidence in the record to support defendant's concerns that plaintiff might move with the child to Romania. Furthermore, even if there had been evidence to support these concerns, the trial court addressed defendant's concerns by prohibiting the parties from moving out of state without prior court approval.

Plaintiff next asserts that the trial court erred by finding that factor c (the capacity and disposition of the parties to provide the child with food, clothing, medical care or other remedial care) favored neither party. The trial court found that plaintiff and defendant were both employed—plaintiff as a medical resident and defendant as a manager for his father's company. The trial court described the parties' differences of opinion with regard to the child's medical care, stating that "[d]efendant did not want [p]laintiff to get the child vaccinated and objected to all medication." Nevertheless, the trial court still concluded that "although the parties differ as to how to provide for the child, both parties *are able* to provide for the material needs of the child." (Emphasis added.) Despite plaintiff's insistence that only she is able to properly care for the child, the trial court's findings on this factor were not erroneous. The record indicates that defendant has the capacity and disposition to take care of the child's material needs. Defendant testified that he always made sure the child was taken care of, that the child had a house to live in, clothes to wear, and food to eat. Defendant earned $64,000 a year at his job and denied ever failing to provide for the child. Defendant's father testified that, during visits, defendant took proper care of the child. There was also evidence that defendant spends time with the child, cooks for him on occasion, changes his diapers, reads him books, and sings to him. In sum, the record establishes that defendant has the capacity to take care of the child's material needs, and the trial court therefore did not err by determining that factor c favored neither party.

Plaintiff also contends that the trial court erred by finding that factor h (the home, school, and community record of the child) was irrelevant. However, as noted, a court need not give each factor equal weight. *McCain*, 229 Mich App at 131. The trial court determined that factor h was irrelevant given the child's young age. As stated earlier, this determination did not constitute clear legal error.

Plaintiff further asserts that the trial court failed to adequately weigh factors f, j, and k. In considering the statutory best-interest factors, the court may give more weight to certain factors than to others. *Id*. However, each of the factors should be examined and weighed as appropriate to determining the child's best interests. *Id.*

Plaintiff maintains that the trial court should have given more weight to factor f (the moral fitness of the parties). According to plaintiff, factor f alone should have prevented the trial court from increasing defendant's parenting time from two days a week to three days a week. We fully acknowledge that the trial court found that defendant was often under the influence of alcohol and abused prescription painkillers. However, plaintiff has not explained why this factor should outweigh the others or how the trial court abused its discretion by failing to give this factor more weight.

Similarly, plaintiff maintains that the trial court erred by failing to find that factor j (the willingness of each party to facilitate and encourage a relationship between the child and the other parent), alone, weighed against increasing defendant's parenting time. The trial court found that this factor favored plaintiff because of defendant's indifference to the child during the marriage and the actions of defendant's parents when picking up and dropping off the child with plaintiff. But plaintiff argues that the trial court should have gone even further by considering defendant's attempts to alienate the child from plaintiff. The problem with plaintiff's argument in this regard is that the trial court had *already* determined that factor j favored plaintiff, and she

has not explained why factor j should outweigh the other factors, especially given the fact that she was awarded sole legal and physical custody of the child.

Finally, plaintiff contends that the trial court should have given more weight to factor k (domestic violence). Plaintiff contends that, given the violence defendant committed against her, the trial court should not have increased defendant's parenting time. Again, plaintiff has not explained why this factor should outweigh the others, particularly in light of the trial court's award of sole legal and physical custody to her.

B

Plaintiff also argues that the trial court abused its discretion by ultimately increasing defendant's parenting time from two days a week to three days a week. We disagree. Parenting time must be granted in accordance with the best interests of the child. MCL 722.27a(1); *Brown v Loveman*, 260 Mich App 576, 595; 680 NW2d 432 (2004). "It is presumed to be in the best interests of [the] child for the child to have a strong relationship with both of his or her parents." MCL 722.27a(1); see also *Pickering v Pickering*, 268 Mich App 1, 5; 706 NW2d 835 (2005). Parenting time must be granted in a frequency, duration and type reasonably calculated to promote strong parent-child relationships. *Brown*, 260 Mich App at 595.

With regard to parenting time, the trial court found:

> Based on the age of the minor child and the custodial arrangement stated above, the court adopts, in part, the parenting time recommendation of the Friend of the Court Family Counselor . . . . Defendant shall have weekly unsupervised parenting time with [the child] from Wednesday at 4 pm until Saturday at 4 pm, which result[s] in 170 overnights. Defendant shall not consume alcohol or prescription medication during his parent[ing] time unless under the specific care of a doctor.
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> * * *
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> In order to preserve the parenting time of [d]efendant with the minor child and in light of [p]laintiff's prior threats to find employment out of state, the parties are prohibited from moving from their current residences without permission of the court. Additionally, based on the testimony of [d]efendant concerning his overnight female paramour during parenting time with [the child], no unrelated members of the opposite sex are allowed to stay overnight with either party while the parties have [the child] in their care.

Although the trial court found that several of the best-interest factors favored plaintiff, we cannot conclude that the trial court abused its discretion by increasing defendant's parenting time with the child from two nights a week to three nights a week. Given the trial court's award of sole legal and physical custody of the child to plaintiff, it was certainly within the range of principled outcomes to moderately increase defendant's parenting time so as to ensure that the child maintains a strong relationship with his father. See *Shulick*, 273 Mich App at 333; see also MCL 722.27a(1). We perceive no palpable abuse of discretion in the trial court's ultimate decision concerning defendant's parenting time. MCL 722.28.

Plaintiff asserts that the increase in defendant's parenting time amounts to a modification of the established custodial environment and that there was not clear and convincing evidence to support this modification. Under the CCA, if a modification in custody or parenting time would "change the established custodial environment of a child," it must be established by clear and convincing evidence that the modification is in the child's best interests. MCL 722.27(1)(c); *Sinicropi*, 273 Mich App at 178. In this case, plaintiff has not shown that the increase in defendant's parenting time from two nights a week to three nights a week will alter the child's established custodial environment. The child will continue to live primarily with plaintiff and his maternal grandmother, and will continue to spend most of his time with them. He will merely have one more night a week with defendant. This minor alteration in defendant's parenting-time schedule will not "change the established custodial environment of [the] child" within the meaning of MCL 722.27(1)(c). See *Pierron I*, 282 Mich App at 249-250.

Affirmed. No taxable costs under MCR 7.219, neither party having prevailed in full.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Peter D. O'Connell