

[Cite as *Allen v. Allen*, 2011-Ohio-1478.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
WARREN COUNTY

AARON E. ALLEN,	:	
Plaintiff-Appellee,	:	CASE NO. CA2010-11-107
- vs -	:	<u>OPINION</u>
	:	3/28/2011
DALE S. ALLEN,	:	
Defendant-Appellant.	:	

CIVIL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
Case No. 08DR32166

Jimmy J. Lefton, 3074 Madison Road, Cincinnati, Ohio 45209, for plaintiff-appellee
Jay A. Adams, 424 Patterson Road, Dayton, Ohio 45419, for defendant-appellant

HUTZEL, J.

{¶1} Defendant-appellant, Dale Allen (Mother), appeals the decision of the Warren County Court of Common Pleas, Domestic Relations Division, designating plaintiff-appellee, Aaron Allen (Father), the residential parent of the parties' child for school enrollment purposes.

{¶2} The parties were married in 2003 and have one daughter, Kylie, who was born in April 2005. At the time of Kylie's birth, the parties lived in a house in

Mason, Ohio (the marital home) which they had purchased in part because it was located in the Mason School District. Mother moved out of the marital home in March 2008, while Father continued to live in the marital home.

{¶3} After entering into a shared parenting agreement, the parties were divorced on March 6, 2009. Pursuant to the shared parenting agreement, both parties acted as the residential parent. The shared parenting agreement did not state which parent was the residential parent for school enrollment purposes. Rather, the parties were to decide the appropriate school placement for Kylie by March 2010. The parties were unable to agree by that date and Father moved the trial court to determine the school placement. By then, Mother lived in the Centerville School District in the Dayton, Ohio area. This was her third residence since moving out of the marital home. During this time period, Father continued to live in the marital home in the Mason School District. However, the marital home was for sale per court order.

{¶4} On August 11, 2010, following a hearing, the magistrate designated Father as the residential parent for school enrollment purposes. The magistrate found that:

{¶5} "[B]oth the Mason schools and the Centerville schools are of high quality and this decision is not based on the relative merits of the two schools where Kylie would attend. * * * [E]nrollment in the Mason School District would involve fewer changes and fewer adjustments for Kylie than enrollment in the Centerville School District. She has lived in Mason since her birth. She has family and friends there, as well as medical providers. There is nothing to suggest that Father will leave the Mason area even if the marital residence is sold. Mother's track record in terms

of housing stability is less predictable."

{¶16} Mother filed objections to the magistrate's decision. On October 11, 2010, the trial court overruled the objections and adopted the magistrate's decision.

{¶17} Mother appeals, raising one assignment of error:

{¶18} "THE TRIAL COURT ERRED TO THE PREJUDICE OF THE APPELLANT BY FAILING TO ALLOCATE HER RESIDENTIAL PARENT FOR SCHOOL PURPOSES."

{¶19} Mother argues the trial court abused its discretion in finding it was in Kylie's best interest to designate Father as the residential parent for school enrollment purposes. As she did in her objections, Mother asserts the trial court erred in evaluating the parties' respective housing situation based on past patterns. According to Mother, "[t]o establish the child's school district in [Mason] where the father can neither maintain the current residence nor provide any evidence as to where he will live next," where, in contrast, Mother "ha[s] recently prepaid the rent on a new apartment for six months in a nice area where she [will] be able to keep up with rent and bills without a problem" is not in Kylie's best interest and is an abuse of discretion.

{¶10} When ordering shared parenting, R.C. 3109.04 requires a trial court to designate one of the parties' residences as the child's residence for school enrollment purposes. *Wei v. Shen*, Butler App. No. CA2002-12-300, 2003-Ohio-6253, ¶42; R.C. 3109.04(G). It is well-established that a trial court has broad discretion when allocating parental rights and responsibilities. *Fee v. Fee*, Butler App. No. CA2002-11-274, 2003-Ohio-6781, ¶8. A reviewing court may not reverse an allocation of parental rights absent an abuse of discretion. *Id.* An abuse of

discretion implies that the trial court's decision was arbitrary, unreasonable, or unconscionable. Id.

{¶11} Upon thoroughly reviewing the record, we find the trial court did not abuse its discretion in designating Father as the residential parent for school enrollment purposes. The parties testified they purchased the marital home in Mason in part because of the Mason School District. Kylie has lived in Mason since her birth, attended swim classes, dance classes, and gymnastics as a toddler in Mason, and went to preschool in Mason. Kylie's pediatrician and dentist are in Mason. So are many of her friends.

{¶12} Mother testified that after she moved out of the marital home, it was her decision to move to the Centerville area to be closer to her family in Dayton. Mother agreed it would be best for Kylie if both parents lived in the same school district. She testified, however, that if Kylie were to attend school in Mason, Mother would not consider relocating back to Mason. While the marital home is for sale and he did not know where he would live once the house sold (whether it be a house, a condominium, or an apartment), Father testified he would remain in the Mason area. Notwithstanding Mother's argument, Father's housing situation is similar to Mother's housing situation. While Mother testified she had prepaid six months of rent for her residence in the Centerville School District, she had already lived in her home for five months at the time of the hearing. Although she would pay rent on a month-to-month basis after the initial six months, Mother testified there was no likelihood she would be moving anytime soon.

{¶13} In designating Father as the residential parent for school enrollment purposes, the magistrate found that "going with a known quantity [was] in the child's

best interest." In overruling Mother's objections and adopting the magistrate's decision, the trial court chose to maintain the status quo in Kylie's life given the ties she has to Mason. Having closely reviewed the record, we find no abuse of discretion. See *Fee*, 2003-Ohio-6781. Mother's assignment of error is accordingly overruled.

{¶14} Judgment affirmed.

HENDRICKSON, P.J., and PIPER, J., concur.