SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1875-16T2

J.C.,

Plaintiff-Appellant,

v.

R.W.E.,

Defendant-Respondent.

Submitted May 31, 2017 – Decided June 29, 2017

Before Judges Koblitz and Rothstadt.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Monmouth County, Docket No. FV-13-1586-13.

Weinberger Law Group, L.L.C., attorneys for appellant (Jessica Ragno Spraque, on the briefs).

John C. Feggeler, Jr., attorney for respondent.

PER CURIAM

Plaintiff J.C. (Judy)[1] appeals from the January 6, 2017[2] order denying her motion for reconsideration of an October 2016 order allowing R.W.E. (Randy) two hours of supervised parenting time per week with the parties' now five-year-old daughter. No visits occurred between the October and January orders. The January order directed supervision on the first six occasions by the "Monmouth County Superior Court Probation Division supervised parenting time program at Monmouth Medical Center."[3] If the program did not provide the court with any report of "negative concerns," the two-hour sessions would continue supervised by Randy's mother and stepfather. We affirm based substantially on the reasons expressed by Judge Angela White Dalton in her sixteen-page written statement of reasons attached to the order denying reconsideration.[4]

On June 7, 2013, after a two-year dating relationship and the birth of their daughter, a Final Restraining Order under the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35, was

[1] We use initials and pseudonyms for the parties because of the underlying domestic violence litigation. R. 1:38-3(d)(13).

[2] The actual order provided was prepared on January 9 to correct the January 6 order.

[3] The trial court ordered that an initial meeting with Randy's mother and stepfather in attendance take place at a local mall.

[4] We accelerated this appeal by order of February 2, 2017.

entered against Randy based on his admission to Judy's sole allegation of harassment, involving threatening comments. Randy was provided five hours a week parenting time supervised by his stepfather. During the next several years, Judy had concerns about physical abuse of the child during Randy's parenting time. Judy brought the child for medical treatment twice for perceived non-responsiveness after a visit with Randy.

Different judges were involved in the litigation that ensued. In August 2014, a psychological evaluation of the parents was ordered. The judge directed that upon receipt of the report, either party could request a plenary hearing. Instead, in May 2015 a consent order was entered granting Randy nine hours per week of therapeutic parenting time, supervised by the Healing Hearts program. At the end of April 2016, that program closed and was unable to continue to provide those services. The program furnished detailed reports to the court concluding: "Overall, interactions between [Randy] and [the child] are appropriate and appear natural." Additionally, the judge's opinion relates that plaintiff was diagnosed as "hyper-vigilant" concerning the child.[5]

After the close of the Healing Hearts program, Randy filed a motion seeking continued and increased parenting time. Upon the

[5] Neither party has provided us with the court-appointed psychologist's report.

request for reconsideration of the order granting supervised visitation with Randy's parents as supervisors, Judge Dalton reviewed the Healing Hearts parenting time reports and the psychologist's report provided in response to a prior court order. She noted that her aim was for the child to have a "meaningful relationship with both parents."

We review the denial of a motion for reconsideration pursuant to Rule 4:49-2 for abuse of discretion. Cummings v. Bahr, 295 N.J. Super. 374, 389 (App. Div. 1996). Reconsideration is appropriate only in those cases "in which either 1) the [c]ourt has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence." Granata v. Broderick, 446 N.J. Super. 449, 468 (App. Div. 2016) (quoting Fusco v. Bd. of Educ., 349 N.J. Super. 455, 462 (App. Div.), certif. denied, 174 N.J. 544 (2002)), certif. granted, ___ N.J. ___ (2017). The proper object of such a motion is to correct a court's error or oversight, and "not to re-argue [a] motion that has already been heard for the purpose of taking the proverbial second bite of the apple." State v. Fitzsimmons, 286 N.J. Super. 141, 147 (App. Div. 1995), remanded on other grounds, 143 N.J. 482 (1996).

Additionally, we customarily do not second-guess the factual findings of judges, particularly judges in the Family Part, given the Family Part's expertise in matters that involve domestic relations and the welfare of children. Cesare v. Cesare, 154 N.J. 394, 411-12 (1998). Ordinarily, a plenary hearing is appropriate before the entry of an order affecting the custody of a child. See, e.g., Entress v. Entress, 376 N.J. Super. 125, 133 (App. Div. 2005). Where a prior court order exists specifying the terms of residential custody and parenting time, as is the case here, a parent seeking to alter those terms has the burden of demonstrating a material change in circumstances that would justify such alteration. Hand v. Hand, 391 N.J. Super. 102, 105 (App. Div. 2007); Borys v. Borys, 76 N.J. 103, 115-16 (1978). "A plenary hearing is required [only] when the submissions show there is a genuine and substantial factual dispute regarding the welfare of the children." Hand, supra, 391 N.J. Super. at 105. Absent such a factual dispute, a plenary hearing is not required. Id. at 105-06; see also R. 5:8-6 (requiring plenary hearings in custody matters only where the contested issues are "genuine and substantial"); cf. Barblock v. Barblock, 383 N.J. Super. 114, 124 (App. Div.) (no plenary hearing was required to authorize mother's relocation of her children out of state, over the father's

objection, where no material factual disputes were demonstrated), certif. denied, 187 N.J. 81 (2006).

Judy was insistent that a plenary hearing was necessary prior to resuming Randy's supervised parenting time with his parents. We are satisfied that Judge Dalton had sufficient reports from neutral sources to support her decision and reviewed at length the findings of the prior judges involved with this family. We affirm substantially for the reasons set forth in her thorough opinion.

Affirmed.