

STATE OF MICHIGAN
COURT OF APPEALS

DANIEL EDWARD GROH,

Plaintiff-Appellee,

v

MICHELLE ANNE GROH,

Defendant-Appellant.

UNPUBLISHED

June 14, 2011

No. 300560

Kent Circuit Court

LC No. 09-002211-DM

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

PER CURIAM.

Defendant appeals by right the trial court's judgment granting plaintiff sole physical and legal custody of the parties' child. Defendant also appeals the trial court's parenting time order, the property disposition, and the award of attorney fees and sanctions. We affirm.

The parties married in 2001, and their child was born in 2003. When the parties purchased a home in the Lansing area, defendant's parents loaned them approximately \$27,000 for the down payment. The parties later sold the Lansing home and used the proceeds for living expenses. The parties separated in 2009.

Defendant first argues that the trial court's custody and parenting time decisions were against the great weight of the evidence. We disagree. MCR 722.28 requires us to affirm the trial court's decision unless its findings were against the great weight of the evidence or its decision was violative of fact and logic. *Fletcher v Fletcher*, 447 Mich 871, 877; 526 NW2d 889 (1994). Here, the trial court's oral ruling demonstrates that before rendering the custody decision, the court carefully considered evidence with respect to the statutory best interest factors of MCL 722.23. In particular, the evidence supported the court's decision on factors (a) (emotional bonds), (g) (mental and physical health of the parties), (j) (willingness to foster parent-child relationship) and (k) (domestic violence). That evidence, combined with the parties' acrimony, supported the trial court's custody decision. See *Wright v Wright*, 279 Mich App 291, 299-300; 761 NW2d 443 (2008). Similarly, when deciding the parenting time issue, the trial court properly considered admissible evidence concerning MCL 722.27a(i). We find no abuse of discretion in the parenting time decision.

Defendant next argues the trial court erred in failing to consider the criminal definitions of domestic abuse and child abuse when assessing MCL 722.23(k) (domestic violence). This argument presents a question of law, which we review for clear error. MCL 722.28; *Fletcher*,

447 Mich at 881. We find no clear error. Nothing in the evidence presented to the trial court established that the law enforcement entities found any facts to support criminal domestic abuse or child abuse charges. Absent any factual support, the trial court was not required to consider the criminal statutes when assessing defendant's domestic violence allegations.

Defendant also argues that the trial court's findings are erroneous on the ground that the court's evidentiary ruling precluded defendant from introducing the testimony of Dr. Holsteg. This Court resolved the evidentiary issue on the merits in defendant's interlocutory appeal. The law of the case doctrine prevents this Court from reconsidering the merits of the evidentiary ruling. *Grievance Adm'r v Lopatin*, 462 Mich 235, 259-260; 612 NW2d 120 (2000).

We also reject defendant's arguments concerning the property disposition, the attorney fee award, and the sanctions. We review the trial court's factual findings on the valuation of assets for clear error. *Woodington v Shokoohi*, 288 Mich App 352, 355; 792 NW2d 63 (2010). If there is no clear error in the factual findings, we must affirm the property disposition unless we find the disposition to be clearly inequitable. *Id.* We review the attorney fee award for abuse of discretion. *Id.* at 369. We also review the award of discovery sanctions for abuse of discretion. *Linsell v Applied Handling, Inc*, 266 Mich App 1, 21; 697 NW2d 913 (2005).

The parties presented conflicting testimony with regard to the value of the marital bank account and with regard to whether defendant's parents had forgiven the loan they had made to the parties. The conflicting testimony presented credibility issues. A trial court has authority to weigh witnesses' credibility to resolve property issues. See *Reed v Reed*, 265 Mich App 131, 157; 693 NW2d 825 (2005). Given the lack of documentation to support the parties' property claims, the trial court was within its discretion to resolve the property issues based upon the court's assessment of the parties' credibility. We defer to the trial court's credibility assessments. *Sinicropi v Mazurek*, 273 Mich App 149, 155; 729 NW2d 256 (2006).

Regarding the attorney fee issue, a trial court may award attorney fees if the fees "were incurred because the other party refused to comply with a previous court order, despite having the ability to comply." MCR 3.206(C)(2)(b). The trial court must determine whether a party's unreasonable conduct was causally connected to the fees incurred, and must determine whether the fees were reasonable. *Reed*, 265 Mich App at 165. Here, the court found that defendant had acted unreasonably with regard to the production of documents and with regard to the presentation of evidence to support her claims. We find no abuse of discretion in the trial court's determination. The court expressly followed the *Reed* standards and correctly applied those standards on the basis of defendant's conduct.

We also find no abuse of discretion in the award of sanctions. A trial court may impose sanctions upon finding that a party or an attorney engaged in misconduct. See *Farmers Ins Exch v Kurzmann*, 257 Mich App 412, 424; 668 NW2d 199 (2003). The record demonstrates that defendant repeatedly and intentionally failed to comply with the court's orders concerning the authorization to release medical records. Under these circumstances, the court was within its discretion to award sanctions.

Affirmed.

/s/ Douglas B. Shapiro

/s/ Peter D. O'Connell

/s/ Donald S. Owens