

COURT OF APPEALS
PERRY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

PATRICIA STOREY

Plaintiff-Appellant

-vs-

BRIAN ADKINS

Defendant-Appellee

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JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. John W. Wise, J.

Hon. Craig R. Baldwin, J.

Case No. 15-CA-00001

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Court of Common
Pleas, Juvenile Division, Case No.
2013 H 1004

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT:

June 5, 2015

APPEARANCES:

For Plaintiff-Appellant

ANGELA J. SEIMER
124 West Main Street, Suite 201
Lancaster, OH 43130

Guardian Ad Litem

JESSICA MONGOLD
125 South Broad Street, Suite 206
Lancaster, OH 43130

For Defendant-Appellee

KYLE C. HENDERSON
30 West Hunter Street
Logan, OH 43138

Farmer, P.J.

{¶1} Appellant, Patricia Storey, and appellee, Brian Adkins, were never married and have two children together. The couple ended their relationship in 2012. On January 30, 2013, appellee filed a complaint for custody of the children. On March 26, 2013, appellant filed her answer and a counterclaim for custody.

{¶2} On September 17, 2013, an agreed temporary order was approved by the trial court, alternating custody of the children between the two parties on a weekly basis. On May 6, 2014, appellant filed a motion for shared parenting, requesting the designation of residential parent.

{¶3} Hearings were held on May 7, and July 18, 2014. By judgment entry filed August 25, 2014, the trial court determined neither party presented enough evidence to change the current custody situation, granted shared parenting, and continued the current arrangement minus the Wednesday night visitation. The trial court granted the tax exemptions to appellant due to the disparity of income between the parties.

{¶4} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶5} "THE TRIAL COURT ERRED IN FAILING TO CONSIDER THE BEST INTERESTS OF THE MINOR CHILDREN AS REQUIRED BY O.R.C. 3109.04(F)."

II

{¶6} "THE TRIAL COURT ERRED IN MAKING AN ORDER OF SHARED PARENTING ABSENT AN APPROVED SHARED PARENTING PLAN."

III

{¶7} "THE DECISION OF THE TRIAL COURT IS NOT ADEQUATELY SUPPORTED BY, AND IS CONTRARY TO, THE MANIFEST WEIGHT OF THE EVIDENCE AND THE TRIAL COURT ERRED IN FAILING TO NAME THE MOTHER PATRICIA STOREY AS THE SOLE RESIDENTIAL PARENT AND LEGAL CUSTODIAN OF THE MINOR CHILDREN."

I, II, III

{¶8} Appellant challenges the trial court's failure to make specific findings pursuant to best interest and R.C. 3109.04(F). Appellant also challenges the trial court's decision to grant shared parenting absent an approved shared parenting plan. Appellee agrees, and argues the shared parenting plan was untimely filed as it was filed one day prior to hearing in violation of R.C. 3109.04(G). Appellee's Brief at 11. Appellee also argues the trial court failed to determine child support and health insurance benefits.

{¶9} Upon review of the trial court's August 25, 2014 judgment entry, the matter is remanded to the trial court to enter best interest findings and enter a proper shared parenting plan.

{¶10} Assignments of Error I and II are granted, and the matter is remanded to the trial court for action consistent with this opinion.

{¶11} In light of our decision for remand, Assignment of Error III is premature.

{¶12} The judgment of the Court of Common Pleas of Perry County, Ohio, Juvenile Division, is hereby reversed and remanded.

By Farmer, P.J.

Wise, J. and

Baldwin, J. concur.

SGF/sg