SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1300-17T2

TRACY KEMPSKI, n/k/a TRACY SCHWAGO,

Plaintiff-Respondent,

v.

JAMES KEMPSKI,

Defendant-Appellant.

Submitted May 1, 2018 – Decided May 11, 2018

Before Judges Fisher and Moynihan.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Morris County, Docket No. FM-14-1290-13.

The DeTommaso Law Group, LLC, attorneys for appellant (John J. Hays II, on the brief).

Donahue, Hagan, Klein & Weisberg, LLC, attorneys for respondent (Alyssa Engleberg, on the brief).

PER CURIAM

The parties' 2009 marriage, which produced one child, was dissolved by a 2016 judgment that incorporated a parenting-time schedule incorporated in their marital settlement agreement (MSA).

During the marriage, the family resided in Morris County. Following the divorce, plaintiff Tracy Kempski moved to Parsippany, also in Morris County, and defendant James Kempski moved to Springfield, in Union County.

In April 2017, Tracy advised James that she would be moving to her fiancé's Randolph home, which is in Morris County, approximately twelve miles from Tracy's Parsippany residence, and only seven miles from the former marital residence. She sought James's agreement to enroll their child in the Randolph school system; James did not consent. Believing Tracy's move to Randolph constituted a change in circumstances of sufficient significance to impact their parenting-time schedule, the parties engaged a parenting coordinator as called for by their MSA. While the parties engaged in mediation, James moved from Springfield to Mt. Laurel, approximately eighty-seven miles south of Tracy's Randolph residence.

In July 2017, the parenting coordinator reported to the family court that the parties had resolved their differences. Tracy, however, contested that assertion and, as the family judge later recognized, there was evidence to support Tracy's claim that no agreement was reached. James disputed Tracy's position and moved for enforcement and implementation of the alleged agreement described by the parenting coordinator. Tracy cross-moved,

claiming no agreement was reached, urging the modification of their MSA to allow for the child's enrollment in kindergarten in Randolph, and requesting additional adjustments to the parenting-time schedule in light of the distance between the parties' residences.

After hearing the argument of counsel, the family judge denied in part James's motion for enforcement of the alleged agreement; he enforced only the undisputed parts and declined the invitation to conduct an evidentiary hearing as to whether a settlement had been reached. The judge also modified the parenting-time schedule but with the understanding that the parties would, as he memorialized in paragraph eight of his October 3, 2017 order, "agree upon a new parenting coordinator."

James appeals and argues:

> I. THE TRIAL COURT ERRED IN REFUSING TO HOLD A PLENARY HEARING OVER WHETHER AN AGREEMENT WAS REACHED BETWEEN THE PARTIES IN PARENTING COORDINATION.
>
> II. THE TRIAL COURT ERRED IN FAILING TO HOLD A PLENARY HEARING, OR TO RENDER FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO THE STATUTORY CUSTODY FACTORS ADDRESSING WHY IT MODIFIED [JAMES'S] PARENTING TIME (Not Raised Below).

We find insufficient merit in these arguments to warrant further discussion in a written opinion. R. 2:11-3(e)(1)(E). We add only the following few comments.

We reject the argument in Point I because the parenting coordinator's written description of what she claimed was the parties' agreement was not signed by the parties and, therefore, was unenforceable. Willingboro Mall, Ltd. v. 240/242 Franklin Ave., LLC, 215 N.J. 242, 262-63 (2013).

And we reject the argument in Point II — that the judge was required to conduct an evidentiary hearing in order to ascertain what schedule would be in the child's best interests — not only because it was not raised in the family court,[1] as James acknowledges, but also because it presupposes that a family judge must conduct an evidentiary hearing every time facts are disputed or whenever the circumstances are convoluted. While the parties may have had disagreements, the circumstances were relatively simple and the basic facts regarding the child's enrollment, the parties' daily schedules, and the locations of their residences were not disputed. As observed, Tracy moved only a short distance: from Parsippany to Randolph, both in Morris County and both within a short distance from the former marital home. James moved from Springfield to Mt. Laurel, thereby creating the relatively greater

[1] We discern from the motion papers and from the argument on the motion's return date that James urged an evidentiary hearing only as to whether the parties settled the parenting-time dispute and not on how the parenting-time schedule should have been modified absent a settlement in light of the new circumstances.

distance between the parties that generated the difficulties encountered when the judge ruled on the parties' cross-motions.

These concerns and disagreements did not require the conducting of an evidentiary hearing. While the resolution of such disputes often generate hard feelings, the question before the judge — how to adjust the parenting-time schedule and the logistics surrounding the increased distance between the parties' residences — wasn't rocket science. The judge was entitled to resolve the dispute by employing common sense and his life experiences in ascertaining how the parties' parenting-time schedule might be adjusted to accommodate the existing circumstances without unreasonably burdening the child. We defer to such discretionary determinations, absent an abuse of that discretion, because family judges possess great expertise in such matters. Cesare v. Cesare, 154 N.J. 394, 412 (1998). We believe the judge did not abuse his discretion. To the contrary, he fairly and reasonably accomplished the task before him and properly declined to expend further scarce judicial resources by conducting an evidentiary hearing in this simple matter. See Fischer v. Fischer, 375 N.J. Super. 278, 290-91 (App. Div. 2005); Kozak v. Kozak, 280 N.J. Super. 272, 278 (Ch. Div. 1994).

We lastly note that the judge directed the parties to agree on a new parenting coordinator, and he further held that if they

failed to agree he would appoint a new coordinator. That order was entered approximately seven months ago and we assume that by now the parties have engaged this new parenting coordinator and that the judge's solution to the parties' impasse either has already been or soon will be in the hands of a coordinator who might further refine the schedule to the extent still warranted — yet another reason why we should not intervene or compel the family judge to conduct an evidentiary hearing to deal with this minor squabble.

Affirmed.