COURT OF APPEALS
DECISION
DATED AND FILED

March 3, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 97-0050

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

IN RE THE MARRIAGE OF:

JEFFREY R. WINGAD,

PETITIONER-APPELLANT,

V.

BONNIE P. WINGAD, N/K/A BONNIE P. MCCONNELL, A/K/A ALISON MCCONNELL,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Dunn County: DONNA J. MUZA, Judge. *Affirmed in part; reversed in part, and cause remanded with directions.*

Before Cane, P.J., Myse and Hoover, JJ.

PER CURIAM. Jeffrey Wingad appeals an order denying his motion for change of primary physical placement of his daughter. He also

challenges the order concerning child support, unreimbursed medical expenses, an educational trust, his pension plan and a contribution to his former wife's attorney fees. Because the record reflects an appropriate exercise of discretion with respect to the order denying a change of primary physical placement, child support and medical expenses, we affirm those portions of the order. Because the record and findings do not support the order with respect to the educational trust, pension plan and attorney fees, we reverse those portions of the order and remand for further proceedings. Accordingly, the order is affirmed in part, reversed in part and remanded with directions.

Jeffrey and Alison McConnell were divorced in 1989. They were awarded joint custody and equally shared placement of their daughter, born in 1985. In 1990, Alison married and moved with her husband and daughter to North Dakota. Jeffrey objected to his daughter's move, and the parties negotiated a settlement of their disputes. Their post-judgment order and stipulation provided that the parties would continue to have joint legal custody; physical placement would be with Alison during the school year and from July 15 through August 15, except as otherwise agreed. It also provided that both parents intended to remain flexible and cooperative regarding physical placement and "possible periodic changes to physical placement from time to time," while being sensitive to the child's well-being and "specific desires, wishes, and needs as relates to said physical placement with each of the parties."

Additionally, the parties stipulated that neither party would pay child support and that Alison would be responsible for the child's medical expenses. They also agreed that Jeffrey would establish an educational trust fund and designate the trust as the beneficiary of 50% of his pension plan.

In 1992, Alison filed a motion to modify the order to require Jeffrey to pay child support and one-half of the child's medical expenses; to demonstrate that he had maintained the educational trust fund; and to set a summer visitation schedule. Jeffrey filed a motion to transfer the child's primary placement to him. At about this time, Jeffrey was terminated from his $60,000 per year engineering job due to a layoff. Alison voluntarily terminated her employment as an airline attendant to stay home as a full time parent.

The trial court appointed a guardian ad litem for the child. It ordered that Harlan Heinz, Ph.D., perform a custody study. After receiving Heinz's lengthy report and after nine days of hearings, the court denied Jeffrey's motion for change of primary physical placement. It granted Alison's motion for child support, contribution to the child's health expenses, and specified periods of placement. It further ordered Jeffrey to reimburse $20,000 to his pension fund, deposit $6,000 in the trust fund, and awarded a $7,000 contribution to Alison's attorney fees based upon a finding of "overtrial."

1. Primary physical placement

Jeffrey argues that the trial court erroneously exercised its discretion when it denied his motion to modify his daughter's primary placement. He contends that trial court misinterpreted the 1990 postjudgment order. Jeffrey maintains "that the Trial Court was bound by the terms and intent of [the 1990] Order and failed to implement them," which in his view would require a transfer of physical placement based upon the child's expressed desire to live with her father.

We reject this argument. Custody and placement issues are addressed to trial court discretion. *See* ***Licary v. Licary***, 168 Wis.2d 686, 692, 484

N.W.2d 371, 374 (Ct. App. 1992). While parents may stipulate to custody, the agreement is not binding on the trial court. "A contract between parents … should be given serious consideration by the court as it normally expresses what may be best for the child; nevertheless it does not bind the court or preclude a modification of a decree based thereon." ***King v. King***, 25 Wis.2d 550, 555, 131 N.W.2d 357, 360 (1964).

Because the child has rights which should be protected, the controlling question is not what the parties agreed, but what is in the child's best interests. ***Racine Family Court Comm'r v. M.E.***, 165 Wis.2d 530, 536-37, 478 N.W.2d 21, 23-24 (Ct. App. 1991). The trial court does not solely arbitrate a dispute between two private parties. Rather, in its "role as a family court, the trial court represents the interests of society in promoting the stability and best interests of the family." ***Kritzik v. Kritzik***, 21 Wis.2d 442, 448, 124 N.W.2d 581, 585 (1963). We conclude that the trial court correctly determined that it was not bound by the parties' 1990 post-judgment stipulation.

In a related argument, Jeffrey contends that "whether it is in [the child's] best interests that her primary placement be changed to be with him must be interpreted within the context of the criteria agreed to by the parties" in the 1990 stipulated order.[1] We disagree. Section 767.325(1)(b), STATS., governs modification of placement of a child subsequent to two years from the last placement order. It requires that (1) the modification be in the child's best

[1] Jeffrey contends: "Thus, when Jeff brought his motion for a change in primary placement of [the child] in September, 1992, he requested simply that the Stipulation and Post-Judgment Order be enforced as intended: that is, to promote [the child's] best interests by maintaining flexibility in placement in accord with [the child's] long-standing expression of her desires."

interests and (2) there has been a substantial change in circumstances affecting placement since the last placement order. It establishes a rebuttable presumption that continuing the current placement is in the child's best interests. Section 767.325(1)(b)(2)(b), STATS.; ***Wiederholt v. Fischer***, 169 Wis.2d 524, 530, 485 N.W.2d 442, 444 (Ct. App. 1992). Just as the parties may not bind the court through a custody stipulation, neither may they dictate to the court the criteria it must apply in determining the child's best interests. *See* ***King***, 25 Wis.2d at 555, 131 N.W.2d at 360.

For his contention that a custody stipulation may define the criteria on which to determine placement, Jeffrey largely relies on two cases dealing with child support, ***Zutz v. Zutz***, 208 Wis.2d 338, 559 N.W.2d 919 (Ct. App. 1997), and ***Jacquart v. Jacquart***, 183 Wis.2d 372, 515 N.W.2d 539 (Ct. App. 1994). Neither case is persuasive authority for the proposition that the court is bound by a parties' custody stipulation. In ***Zutz***, we merely upheld the trial court's decision not to upset the existing support agreement because, although there was a substantial change, the agreement was still serving the needs of the parties and child. ***Id***. at 344-45, 559 N.W.2d at 921.

In ***Jacquart***, we rejected the mother's argument that the father was not complying with the flexible support arrangement provided by stipulation in the judgment. ***Id***. at 385-87, 515 N.W.2d at 544. The record demonstrated that his annual child support contributions for their two minor children varied between $22,834 and $45,000 from 1989 to 1992. ***Id***. at 386, 515 N.W.2d at 544. Consequently, we affirmed the trial court's discretionary decision to adhere to the existing flexible support provisions in the judgment. ***Id***. at 387, 515 N.W.2d at 544. Because neither case supports the notion that a court is bound by a stipulated

custody arrangement, Jeffrey's reliance on the 1990 custody stipulation and order as a vehicle to overturn the court's discretionary decision is greatly misplaced.

Next, Jeffrey contends that two substantial changes occurred since the 1990 stipulation and order: (1) the child consistently expressed her unequivocal desire to live with her father, based upon her distrust of Alison and fear of her step-father, and (2) Alison repeatedly interfered and failed to cooperate with Jeffrey's periods of physical placement. Jeffrey argues that the trial court clearly erred when it inferred that the child's statements that she wanted to live with her father were prompted merely by a desire to please him.

The trial court found: "It is undisputed that the minor child has told many people, including both lay witnesses and expert witnesses, that she believes her mother has lied to her, that her stepfather was mean to animals, and that she wished to live" with her father. The court also found that the child's statements "are prompted by her desire to please her father." A trial court erroneously exercises its discretion if its decision is based on a mistaken view of the evidence. *See* ***Thorpe v. Thorpe***, 108 Wis.2d 189, 195-96, 321 N.W.2d 237, 240-41 (1982). Jeffrey's argument does not present grounds for reversal.

The trial court did not base its custody decision on the wishes of the child. The trial court stated: "The court is aware of the fact that the law provides that a child may express her wishes, but that her wishes are not binding upon the court or any of the parties." It also stated that nine- and ten-year-old children are not capable of making the ultimate decision as to where they should live or what is in their best interests. Because the court did not base its discretionary decision on the child's wishes but instead on the child's best interest, Jeffrey's assertion fails to present grounds for reversal.

Jeffrey also argues that the trial court clearly erred when it found that the placement arrangement was going smoothly until Alison filed a motion requesting child support, and that Jeffrey almost immediately thereafter requested a change of placement. Jeffrey recounts numerous instances when things were not going smoothly.[2] It is not necessary for us to review the evidence to determine whether the trial court correctly performed its fact-finding function with respect to changed circumstances because Jeffrey's burden is to show not only a substantial change in circumstances, but also that a modification of the placement was in the child's best interests. *See* § 767.325(1)(b), STATS.; ***Licary***, 168 Wis.2d at 694, 484 N.W.2d at 375. The trial court determined that Jeffrey failed to show that a modification of placement was in the child's best interests.

The record supports the court's determination. What is in a child's best interests is a mixed question of law and fact, with the determination of such matters as psychological factors being a question of fact. ***Wiederholt***, 169 Wis.2d at 530-31, 485 N.W.2d at 444. We defer to the trial court's credibility assessments and affirm its factual findings unless clearly erroneous. Section 805.17(2), STATS. The trial court assessed the weight and credibility of the various expert witnesses, and relied in large part on Heinz's court-ordered custody study. The court pointed out that it was Jeffrey who demanded that Heinz be appointed.[3]

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[2] Despite its statement that things had been going smoothly, the trial court recounted various incidents in 1991 concerning the conflicts between the parties with respect to visits. For example, Alison denied Jeffrey's request to spend time with his daughter on her birthday. Also, after representing that he would return the child after three days, Jeffrey went to Florida with the child and did not return her as scheduled. In context, the court appears to have meant that things were going more smoothly before the court proceedings were filed.

[3] The trial court found that before Jeffrey requested that Heinz be appointed, Jeffery had taken the child to see Heinz on two occasions, without disclosing this information to Alison or the court, in violation of the post-judgment stipulation and order that any counseling done with the child be performed only after the parties' mutual consent.

Heinz's forty-eight-page report detailed his investigation, findings and recommendations. Based on interviews and testing, he set out his opinions with respect to the strengths and weaknesses of each parent. He opined that Alison has demonstrated her ability to have primary placement, has productively contributed to her daughter's development, has established a home for the child in which the child is well adjusted, has established a strong, stable and supportive network in the form of school, church, siblings and grandparents, and has established a family centered lifestyle to provided full-time care for her children. He viewed as Alison's weaknesses her ongoing power struggle with Jeffrey interfering with her co-parenting, and her becoming dependent on her husband to confront problems with Jeffrey, thus promoting a power struggle between them.

Heinz also observed that Jeffrey indicates that he is able and willing to take primary responsibility for the child, has a strong bond with her, has productively contributed to her development and is psychologically, physically and financially able to care for her. As weaknesses, Heinz concluded that Jeffrey has allowed his ongoing power struggle with Alison to affect his daughter's ability to hold unencumbered relationships with both parents and other significant persons in her life. He believed that Jeffrey's lifestyle was somewhat unstable with respect to jobs and relationships. He also concluded that Jeffery shared information inappropriately with his daughter, disclosing items best kept at an adult level in the family. Finally, Heinz concluded that clinical observations suggest that Jeffery has an obsessive-compulsive quality that fuels his quest for primary placement, as indicated by his custody notebook, numerous written and verbal contributions, and his increased conviction that Alison's influence is noxious. Heinz concluded that Jeffrey's interpretations of events appear increasingly distorted to support his belief system, serving to alienate his daughter

from her mother and contributing to the child's confusion. Heinz recommended that the child remain placed primarily with her mother and that disrupting the current placement was not warranted. Her guardian ad litem agreed.

Jeffery called other expert witnesses who refuted Heinz's opinions. Nonetheless, the trial court, not the appellate court, is the ultimate arbiter of weight and credibility. Section 805.17(2), STATS. Its credibility assessments will not be overturned on appeal unless they are inherently or patently incredible, or in conflict with the uniform course of nature or with fully established or conceded facts. *See* ***Chapman v. State***, 69 Wis.2d 581, 583, 230 N.W.2d 824, 825 (1975). Because the record demonstrates support for the trial court's conclusion that maintaining the existing primary placement was in the child's best interests, we do not overturn this determination on appeal.[4]

Jeffrey also argues that without making any specific findings, the court erred when it ordered that Jeffrey not send letters and cards to his daughter at school. He argues that he sent them to the school because Alison was intercepting his letters and not delivering them. He claims that the only evidence on this issue is that his daughter enjoyed receiving the correspondence and that her teacher believed it was beneficial.

We search the record for reasons to support a discretionary decision. ***Loomans v. Milwaukee Mut. Ins. Co.***, 38 Wis.2d 656, 662, 158 N.W.2d 318, 320 (1968). In view of the enormous degree of conflict surrounding the parties'

[4] Jeffrey also argues that the trial court erroneously disallowed testimony of Dr. Schneider because the court mistakenly found that Jeffrey had failed to disclose the expert witness. Because Jeffrey's argument fails to indicate an offer of proof, we do not review this evidentiary issue on appeal. Sections 901.03(1)(b), and 805.18, STATS.

relationships with one another and their daughter, we conclude that the trial court reasonably exercised its discretion. It ordered that Alison make sure that the child receives the items from her father and that her father send the items to the home. It was reasonable for the court to conclude that this order would promote stability in the child's family relationships. It also keeps the school out of the parties' conflicts.[5]

2. Child support and health care payments

Next, Jeffrey argues that the trial court erred when (1) it found that a substantial change in circumstances occurred, (2) imputed an annual income of $28,200 to him, (3) misinterpreted the 1990 stipulation and order, and (4) ordered that he pay child support and contribute to health care costs, contrary to the parties' stipulation, while at the same time upholding the stipulated provision that he contribute to an educational trust fund. We conclude that the court correctly determined that a substantial change in circumstances occurred and imputed a $28,200 annual income. We also conclude, however, that the trial court erroneously enforced the stipulated order with respect to pension plan contributions and trust fund contributions, while at the same time requiring that Jeffrey pay child support. Accordingly, we affirm a portion of the child support order, reverse in part and remand for further proceedings consistent with our opinion.

[5] In his reply brief, Jeffrey argues that the guardian ad litem committed fraud on the court; that together with the judge committed major ethical violations by having ex parte communications; they interfered with placement orders; and that court rulings violated due process. Because these arguments are inadequately developed, we decline to develop them for him. ***State v. Gulrud,*** 140 Wis.2d 721, 730, 412 N.W.2d 139, 142-43 (Ct. App. 1987).

The stipulation provided that each party waived child support in light of certain concessions made by the other: "[B]oth parties specifically desired and decided to contract for a waiver of child support, now and in the future, on any regular basis, regardless of which parent (party) may have physical placement of their minor child for the majority of any given calendar year." In consideration for the waiver of child support, the parties agreed to assume other separate obligations. Alison agreed to pay medical expenses not covered by insurance. Jeffrey agreed to establish a trust fund for their daughter for college, vocational and other needs once the child reaches eighteen. Jeffrey was required to contribute $100 per month, increasing to $300 per month in 1995, and name the trust as beneficiary to 50% of his pension fund.

The trial court found that at the time the agreement was signed, Jeffrey earned $60,000 per year, Alison earned $40,000 per year, and her new husband earned $100,000 per year. After the agreement was entered into, Jeffrey lost his job and Alison decided to leave her employment to become a full-time homemaker. The child's medical expenses were covered by Alison's husband's insurance policy.

In addition, the trial court found that Jeffrey withdrew $40,000 from his pension plan and failed to contribute $6,000 as required to the trust fund. The trial court also held that Jeffrey's attempts at finding employment were not reasonable because he refused to look outside the Eau Claire/Chippewa Falls area. Jeffrey testified that he worked as a carpet salesperson, hot air balloon pilot, and volunteers at a computer software store without pay. The court also found that Jeffrey refused to fully disclose financial information at trial, making it impossible for the court to precisely determine his exact income. Nonetheless, the court found that he likely made $28,200 per year.

The trial court found that there was a substantial change in the parties' circumstances based upon the changes in their employment status. Additionally, it stated: "Regardless of respondent's income or lack thereof, petitioner owed a duty of support to his daughter, and the court finds that he has failed in that duty." It ordered that Jeffrey pay $400 per month, according to percentage standards. *See* WIS. ADM. CODE § HSS 80. The court further ordered that the payments were to commence retroactively as of August 1, 1992, the date Alison filed her child support motion. It calculated an arrearage in the sum of $12,782, to be paid within six months, or accrue interest at 18% per annum.

. In addition, the court required Jeffrey to deposit $6,000 into the trust fund, "to be maintained until [the child] reaches her 18th birthday." Also, the court ordered that Jeffrey "replenish the depleted pension fund by depositing $20,000 in an account in [the child's] name within 60 days of today's date. Said account shall be placed under [Alison's] control" until the child reaches age eighteen. The court further ordered that Jeffrey be responsible for one-half of any uninsured health care costs.

The modification of child support rests within the trial court's discretion. ***Jacquart***, 183 Wis.2d at 381, 515 N.W.2d at 542. "This discretion is properly exercised when the court has considered the needs of the custodial parent and children, and the ability of the noncustodial parent to pay." ***Id***. The party seeking to modify a child support order has the burden of demonstrating that a substantial change in circumstances has occurred and that it justifies a modification of the support order. *See* ***Thibadeau v. Thibadeau***, 150 Wis.2d 109, 115, 441 N.W.2d 281, 283 (Ct. App. 1989).

Jeffrey argues that the trial court could not find a substantial change in circumstances based upon Alison's voluntary decision to quit her job. He further argues that although his involuntary loss of employment is a change of circumstances, it does not justify a modification of the stipulated support order. We disagree. Alison's reduction of income from $40,000 per year to zero is a substantial change in economic circumstances.[6]

The record therefore supports the trial court's finding of a substantial change in circumstances. Whether the substantial change due to her voluntary income reduction justifies a modification of the child support order is, however, a question of fairness. *See* ***Forester v. Forester***, 174 Wis.2d 78, 90-91, 496 N.W.2d 771, 776 (Ct. App. 1993). In evaluating fairness in this case, the trial court was required to consider not only fairness between the parties, but also fairness with respect to the needs of the child. *See* ***Ondrasek v. Tenneson***, 158 Wis.2d 690, 695, 462 N.W.2d 915, 917 (Ct. App. 1990) (The paramount goal of the child support statute is to promote the best interests of the child). We conclude that under the circumstances here, the court properly exercised its discretion in deciding that Alison's decision to remain at home as a full-time homemaker resulting in a voluntary income reduction justified a modification of the existing child support order.

Jeffrey argues that the trial court erroneously imputed to him an earning capacity of $28,200 per year. We disagree. The court based its decision on two factors. First, it found that Jeffrey was not making reasonable efforts to

[6] Jeffrey does not claim that Alison's husband's financial circumstances may be considered in evaluating Alison's total economic circumstances or that his income is a source from which to satisfy her child support obligation.

seek employment because he restricted his search to the Eau Claire/Chippewa Falls area, and second, that Jeffrey was ordered to provide 1993 and 1994 income tax returns and had not done so. The court concluded that his "repeated failure to provide information at trial made it impossible to determine his exact income."

Although Jeffrey's initial loss of employment was involuntary, the trial court's determination that Jeffrey was not making reasonable efforts at obtaining employment amounted to an express finding of shirking, which justifies consideration of his earning capacity. *See* ***Abitz v. Abitz***, 155 Wis.2d 161, 175, 455 N.W.2d 609, 615 (1990). Jeffrey argues that his job search has been diligent. The trial court, not this court, assesses the weight and credibility of testimony. In light of Jeffrey's testimony that his job search has been limited to an area not exceeding a radius of 150 miles and that he is not registered with job service, the court was entitled to conclude his efforts were not diligent.

More significantly, however, the trial court found that Jeffrey failed to make a full and accurate financial disclosure. *See* ***In re Kevin C.,*** 181 Wis.2d 146, 160, 510 N.W.2d 746, 751 (Ct. App. 1993). The court found that Jeffrey failed to provide copies of his 1993 and 1994 tax returns as ordered.[7] The fact that Jeffrey, "by his deliberate conduct frustrated an accurate calculation of his net income, however, does not preclude the trial court from making the appropriate finding of fact." ***Lellman v. Mott,*** 204 Wis.2d 166, 172-73, 554 N.W.2d 525, 528 (Ct. App. 1996). As a result, the court was entitled to make findings based upon the facts that were available, which included Jeffrey's earnings history, educational level, health and previous employment. *See* ***id.***

[7] In his challenge to the court's child support order, Jeffrey does not attack this finding.

Alison testified that Jeffrey worked many years as an engineer, and earned over $60,000 annually, before he was laid off in 1992. Jeffrey testified that he was able to earn $300 per week in carpet sales, and had "some income" giving hot air balloon rides. He also testified that he is an independent dealer for a balloon manufacturer and volunteered some forty hours per week at a computer store. Jeffrey testified that he has rental income from the upper level of his house, which is basically a duplex, of $500 per month, which pays his mortgage payment. Additionally, Jeffrey testified that he is in good health and has no physical or mental limitations that would keep him from working.[8] The trial court imputed a sum which is less than what Jeffrey earned in the past as an engineer, but more than a minimum level salary. Because the record discloses a rational basis for the court's determination that support should be calculated on the basis of $28,200 per year, we do not upset it on appeal. These findings also support that court's order that Jeffrey contribute for one-half of the child's health expenses not covered by Alison's husband's insurance.

Next, Jeffrey argues that the trial court erroneously enforced the portion of the stipulated order that required that he pay $100 a month into a trust fund for his daughter, while at the same time requiring that he pay approximately 17% of his income as child support under the percentage standards. We agree. The trial court ordered that Jeffrey's modified child support obligations are effective as of August 1, 1992, the date that Alison filed her child support motion. *See* § 767.32(1m), STATS. Nonetheless, it also ordered that his child support

[8] Jeffrey also explained that he had not applied for minimum wage jobs because he is working on other projects that have the potential for a much greater return.

obligations[9] under the previous order remained in effect and found that $6,000 was owing to the trust fund at the time of the trial.[10]

The court erred. "The child support … payments modified by the order for revision shall cease to accrue under the original judgment or order from the date on which the order revising such payments is effective." Section 767.32(2w), STATS. Because the revised order became effective August 1, 1992, the previously ordered payments ceased at that time to accrue. As a result, we reverse the trial court's order concerning the trust fund and remand for findings as to the amount of payments that were due as of July 31, 1992. The sum necessary to fund the trust is limited to those amounts accruing as of July 31, 1992.[11]

Next, Jeffrey argues that the trial court erroneously interpreted and enforced the parties' 1990 stipulation and order relating to the his pension fund and, as a result, erroneously required him to deposit $20,000 in an account in his daughter's name, to be managed and controlled by Alison. We agree. With respect to the pension fund, the stipulated order merely provides: "The trust fund shall also be the beneficiary of 50% of the pension fund of the petitioner, Jeffrey R. Wingad, as relates to his employment." Nothing in the stipulated order suggests an intent to transfer any sum from the pension fund to a separate account

[9] The parties agreed on the record that Jeffrey's obligations to contribute to the trust fund and to maintain the trust as a beneficiary to his pension plan were in the nature of child support obligations.

[10] The court made no specific findings as to how much Jeffrey had deposited into the account at the time of the hearing.

[11] We recognize that under § 767.25(2), STATS., the trial court may promote the child's best interests by setting aside a portion of child support in a trust; the trial court did not, however, make findings to support such an order in this case.

in the child's name. It only provides that the trust fund be named a beneficiary of the pension plan.

The trial court, however, held that the best interests of the child required that the parties not be bound by the 1990 stipulated order. Because the trial court revised the stipulated order, its terms are no longer in effect and it would be error for the trial court to continue to enforce it. *See* § 767.32(2w), STATS. As a result, the order requiring Jeffrey to replenish the deleted pension fund and to deposit $20,000 in an account in his daughter's name is reversed.

3. Attorneys fees

Finally, Jeffrey argues that the trial court erroneously ordered that he contribute $7,000 toward Alison's attorney fees based upon its finding of "overtrial." Because the trial court's findings do not support the order, we reverse and remand for further proceedings. The award of a contribution to attorneys fees is addressed to trial court discretion. ***Ondrasek v. Ondrasek,*** 126 Wis.2d 469, 483, 377 N.W.2d 190, 196 (Ct. App. 1985). The trial court is entitled to order a contribution to attorney's fees based upon a finding of "overtrial," defined as "needless days of trial and extra preparation time." ***Id.***

Here, the trial court made no specific findings as to the total amount or reasonableness of Alison's attorney fees. Although the court made general findings that Jeffrey caused an "overtrial" when he failed to provide tax returns; refused to comply with discovery, resulting in motions; caused a delay in trial due to a job interview; called experts to testify who had not interviewed the child; and failed to return the child after summer visitation; the court did not make a specific finding as to the amount of time needed to resolve these issues or the reasonableness of the fees charged for these items. Also, the record is unclear

with respect to the total attorney fees and what portion is attributed to "overtrial." The record also fails to reveal any reason to support the court's finding that calling an expert to testify who has not interviewed the child is "overtrial."

"The failure of a trial court to explain its reasons for reaching a particular result is reversible error or an abuse of discretion unless an appellate court can come to a reasonable conclusion from the record." ***Thorpe***, 108 Wis.2d at 198, 321 N.W.2d at 242. Because the record is unclear as to what portion of Alison's total attorney fee may be legitimately attributable to "overtrial," we reverse and remand for specific findings. The court in its discretion may receive additional evidence on this issue.

In summary, we affirm the trial court's denial of Jeffrey's motion for a change in placement. We also affirm the court's order that Jeffrey contribute $400 per month child support commencing August 1, 1992. We reverse the portion of the order requiring Jeffrey to reimburse the trust fund in the sum of $6,000 and remand for specific findings as to the amount owing as of July 31, 1992, the date that his obligation to contribute to the trust fund would have ceased pursuant to § 767.32(2w), STATS. We further reverse the portion of the order requiring that Jeffrey deposit $20,000 in a fund in the child's name. Finally, we reverse the court's order that Jeffrey contribute $7,000 to Alison's attorney fees and remand for specific findings to show the what proportion of her attorney fees were legitimately attributable to "overtrial."

By the Court.—Order affirmed in part; reversed in part, and caused remanded with directions. No costs on appeal.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.