

marriage. Petitioner sought custody of their two daughters: Hayley, born October 10, 2005, and Taylor, born August 10, 2007. She also sought child support, spousal support, attorney fees, and the equitable distribution of marital assets. Respondent answered the petition and filed a counterpetition, also seeking custody of the children.

¶ 5 Beginning in April 2011 and continuing through July 2011, over the course of six separate hearing dates, the trial court conducted the trial in this matter. The primary contested issue was the custody of the children.

¶ 6 A. Petitioner's Case

¶ 7 Petitioner called six witnesses on her behalf: (1) herself, (2) a deacon at her church and a family friend, (3) her sister, (4) her father, (5) her mother, and (6) Hayley's preschool teacher. The following is a summary of the relevant evidence presented.

¶ 8 1. *Testimony of Petitioner*

¶ 9 Petitioner testified she was 25 years old and was living in a home purchased by her parents, Thomas and Mary Ann Beck in Dalton City, Illinois. She and respondent had married in June 2005. They lived together in the marital home in Decatur, Illinois. In 2009, they separated, but reconciled and then separated for a final time in June 2010. At that time, petitioner left the marital home with her children and moved in with her parents in Mt. Zion, Illinois. In December 2010, she and the children moved into her home in Dalton City.

¶ 10 Petitioner was enrolled in the paramedic program at Richland Community College in Decatur, attending classes on Monday and Wednesday evenings, with an anticipated graduation date of August 2012. She was also employed part-time as an aerobics instructor at 121 Fitness in Mt. Zion, a job she has had since before the marriage. She taught aerobics on Tuesday and Thursday

evenings, working four hours per week. Between October 2005 and February 2008, she did not teach aerobics due to the birth of the children, but for a few months beginning in January 2007, she worked as a secretary at D & R Roofing, a business owned by respondent's parents.

¶ 11 Petitioner relied heavily on her parents for child care. For example, on Monday and Wednesday evenings, her parents kept the children while she attended school. Because she got out of class after the children's bedtime, they stayed overnight. Her parents also watched the children whenever she required the services of a baby-sitter. Additionally, the family also enjoyed dinner at her parents' house every Sunday evening.

¶ 12 According to petitioner, she has been the children's primary caretaker. During the marriage, she gave them their baths, prepared their meals, did the grocery shopping, cleaned the house, cared for them during the day, and prepared them for bedtime. She said respondent occasionally cared for the children.

¶ 13 Respondent worked for his family at D & R Roofing. He would be laid off during the winter months and receive unemployment benefits. Because of his work schedule, during the roofing season, he would see the children at dinner and until bedtime. He would also see them on Saturdays after work and Sundays after church. Petitioner said respondent did not regularly attend church with them.

¶ 14 Petitioner explained that both girls have eczema and "different skin irritations." She treats their skin with care to avoid breakouts or irritations.

¶ 15 Petitioner described several incidents of confrontations between her and respondent during the marriage. For example, when she was pregnant with Hayley, she and respondent argued. He reportedly pushed her against the wall and told her that, if she was not pregnant with his child,

he would hit her. In another incident, when Hayley was approximately one year old and being held by petitioner, respondent allegedly threw an ottoman at them. That night, petitioner and Hayley spent the night in a hotel. In a third incident, in the parking lot of a restaurant in the presence of the two children, respondent called petitioner "a f___ing lesbian" for talking on her telephone to a friend he did not care for. In a fourth incident, petitioner was driving the car to one of the girls' doctor's appointment, with respondent in the passenger seat and the two children in the backseat. Respondent swung his hand at petitioner's face, causing the vehicle to swerve. Petitioner drove home and told respondent to get out of the car. He did so, calling her "some other names" and said he "hoped [she] died on the way." The parties separated that day.

¶ 16 During the parties' first separation in 2009, respondent left petitioner a voice mail message, stating he was planning to kill himself. Petitioner and her sister went to the house and found him unconscious on the bed with an empty bottle of alcohol and pills. She successfully roused him and did not call the police or an ambulance at his request.

¶ 17 In June 2010, after they had separated again, petitioner dropped the children off with respondent so he could watch them while she taught her aerobics class. Respondent called soon after, asking her to pick the children up because he felt he wanted to harm himself and did not trust himself around the children. Petitioner took the children to her parents' house.

¶ 18 In February 2010, she, respondent, the children, and respondent's parents went to Disney World. While shopping, petitioner asked respondent to watch the children while she went into a store. Petitioner saw Hayley "roaming around the store by herself." She took Hayley outside to respondent and they argued about whether respondent should have let Hayley enter the store by herself. Respondent told petitioner "to shut the f__k up." According to petitioner, respondent used

"this type of language regularly" in the children's presence.

¶ 19 Petitioner believed awarding custody to respondent would not be in the children's best interests. During the marriage, he had not shown any interest in being part of the children's lives. Since separation, she had discovered that he questioned the children regarding her and her parents' activities. She believed his work schedule, his attitude, his language, and his failure to take part in caring for the children during the marriage were sufficient reasons to deny his request for custody. She believed she should be awarded custody because she had been the children's primary caretaker.

¶ 20 During cross-examination, petitioner denied that "on many occasions" during the marriage, she would leave the marital home, without notice to respondent, to go out for the evening with friends. She clarified her answer by stating that it was never without notice, as respondent always knew when she was gone.

¶ 21 She acknowledged she had received a letter from Hayley's principal in February 2011 threatening to drop Hayley from the preschool program because she had been tardy 16 days and absent 9 days.

¶ 22 Petitioner denied going out with her friends at night on a "number of instances" when she was to have the care of the children. However, she acknowledged that investigator Robert Pittenger had conducted surveillance of her activities and documented the same on December 24, 2010, and January 8, 2011. (It is unclear from the testimony whether these nights were nights she had custody.) She also acknowledged she was to have custody of the children in February 2011 on Super Bowl Sunday but her parents kept them while she watched the game at Sliders tavern.

¶ 23 Respondent's counsel showed petitioner a photograph of Taylor's bottom dated January 25, 2011, depicting a severe case of diaper rash. Petitioner acknowledged that either she or

her mother had care of Taylor for the five consecutive days prior to when the photograph was taken.

¶ 24 She also acknowledged that on January 18, 2011, she was unable to pick up her children from respondent after his visitation on time, so she asked her parents to do so. She did not arrive at her parents' house until 11 p.m. because she was having dinner with friends. She also acknowledged that, on Wednesday evenings, she had class at Richland until 8 p.m. After class, she typically drove to her parents' home and put the children to bed. She then would attend her dance class at 8:30 p.m. She admitted that, occasionally, she went to her boyfriend Michael Seldat's house after dance class to use his computer until 2 or 3 a.m.

¶ 25 Petitioner also admitted her water had been turned off for her failure to pay the bill. In addition, petitioner admitted that, on one occasion, she and her children were at her sister's home when her sister's ex-boyfriend broke down the door, an incident which resulted in an order of protection. However, petitioner continued to allow her sister to care for the children after this incident.

¶ 26 On re-direct, petitioner also admitted she went to Seldat's house on Monday nights as well when she left school at 10 p.m. to work on her homework. At that time, the children were in bed at her parents' house. She stayed late, but she always drove to her parents' house so she was there when the children woke up.

¶ 27 On re-cross-examination, petitioner acknowledged that, on June 10, 2011, a weekend she was to have custody of the children, she went to Six Flags without them. She also admitted she went to a bachelorette party and Timbuktu tavern on June 23, 2011, another night she had custody of the children. She admitted she did not attend Hayley's preschool graduation because she was picking up a friend from the airport in Chicago on that day.

¶ 28 Further, petitioner explained that on January 18, 2011, when she asked her father to pick up the children from respondent, her father had left Taylor sleeping in the vehicle while Hayley went inside the house with him (contrary to other testimony which suggested that both girls were left in the vehicle). She said her mother sat in the vehicle with Taylor until petitioner arrived.

¶ 29 *2. Testimony of Church Deacon*

¶ 30 James Ghiglione, the pastoral leader or deacon at the Catholic church in Mt. Zion where petitioner is a member, testified he had officiated the parties' wedding ceremony and baptized their two children. He was also "very good friends" with petitioner's parents, who were also parishioners at the church. He described petitioner's relationship with her children as "loving," and, in his opinion, the children "seem[ed] to be excited when they [were] with mommy." He described the grandparents' relationship with the children as "loving" as well.

¶ 31 *3. Testimony of Petitioner's Sister*

¶ 32 According to Trisha Freed, petitioner has always been the children's primary caregiver. The children have a good relationship with respondent, but he did not take part in any of the care-taking responsibilities during the marriage. Freed said petitioner kept a neat and orderly home and should be awarded custody. She stated as follows: "I have observed [petitioner] being the mother for [the] last five years. I know she loves being a mother, and I know those girls love her. She takes care of her girls just fine. She gives them everything that they need, all their basic needs."

¶ 33 *4. Testimony of Petitioner's Father*

¶ 34 Thomas Beck testified to his frequent involvement in the lives of petitioner and the children. He described his idea of raising children as a "three-legged stool: mind, body, and spirituality. You pull one out, it is gone." In his opinion, petitioner did "an excellent job on all

three." He said she develops the children's mind by reading books and cares for all of their physical needs as well. He described petitioner as "meticulous" about her and the children's physical appearance. He and his wife help petitioner with child care, as they were currently caring for the children four nights per week. He did not recall picking up the children from respondent on January 18, 2011, at petitioner's request or leaving them outside in the vehicle.

¶ 35 *5. Testimony of Petitioner's Mother*

¶ 36 Mary Ann Beck testified consistently with her husband's testimony regarding the children's relationship with petitioner and petitioner's skills as their caretaker. She described petitioner as the primary caretaker and respondent's role regarding the children during the marriage as "aloof." In her opinion, petitioner should be awarded custody "[b]ecause she is a good mother. She cares about the children very much. She's a very good nurturer. They adore their mother, especially Hayley."

¶ 37 On cross-examination, Mary Ann said, in February 2011, she had gone to petitioner's house to talk to petitioner after her deposition in this case. She was there when respondent and his parents picked up the children for visitation. Because she was upset about what petitioner reported from the deposition, she wanted to speak with respondent. She followed them to respondent's house but was not sure how close her car came to respondent's vehicle.

¶ 38 Mary Ann denied telling respondent he needed to discipline Hayley after a reported incident when she had "lost" Hayley for 20 minutes. She denied Hayley had been missing at all. Further, she was not aware of Taylor's severe diaper rash. She admitted there were times Hayley had been in the unfenced yard out of sight.

¶ 39 *6. Testimony of Hayley's Preschool Teacher*

¶ 40 Lindsey Beck (who is no relation to petitioner's family) discussed Hayley's attendance at preschool at McGaughey Elementary School. She said Hayley had been tardy more than a majority of the other students. In terms of Hayley's relationship with each parent, the teacher said Hayley was excited to see both parents. She showed them around the classroom and the projects she had worked on. Hayley reportedly had a "very good relationship with both" parents. She was always appropriately dressed and clean. She was "very bright," "very creative," "very well-spoken," well-behaved, and polite. She entered preschool "very well ahead" of most of the other students in terms of behavior and knowledge. Petitioner attended the initial school interview with Hayley, but both parents attended orientation day. Respondent volunteered at the school on days during the winter when he did not work.

¶ 41 B. Respondent's Case

¶ 42 After petitioner rested, respondent presented the testimony of eight witnesses: (1) two witnesses to petitioner's conduct of leaving children unattended in the vehicle, (2) his mother, (3) his long-time friend, (4) his brother-in-law, (5) his cousin, (6) his father, and (7) himself. The following is a summary of the testimony presented.

¶ 43 1. *Testimony of Witnesses to Petitioner's Conduct of Leaving Children in Vehicle*

¶ 44 Jill Marie Johnson testified that in February 2111, she was eating lunch in Dalton City at Harley's Hideout, a restaurant directly across the street from the bank. She watched as petitioner parked in front of the bank and went inside, leaving the vehicle running and the two children inside. Johnson said petitioner was inside the bank for 15 to 20 minutes. She was familiar with petitioner through her boyfriend's friendship with defendant.

¶ 45 Janet Sue Collins saw petitioner's vehicle at the Huck's convenience store in January 2011 at approximately 9 p.m. Petitioner was inside the store, while the children were left in the vehicle with the engine running. Collins had determined she would not call police until the children remained unattended for 10 minutes. Petitioner exited the store after a nine-minute wait. Collins told her son-in-law about what she saw and he, in turn, told his friend, respondent.

¶ 46 *2. Testimony of Respondent's Mother*

¶ 47 Rhonda Beiler testified that, prior to the parties' separation, she had a "good relationship" with petitioner. She baby-sat for the parties, visited often, and they traveled on family vacations together. Since separation, she does not see the children as much as she would like. Respondent and the children typically visit during his periods of visitation, but he has never had her watch the children when he was not present. Respondent and the two girls often stay overnight on Saturdays. She and her husband live approximately one block from the parties' former marital residence, where respondent now resides. She described her son as "a real good father." She said respondent was "able to give the children's baths, able to take care of them when they're sick. He spends good quality time with them and does things with them." She denied respondent ever acted "aloof" regarding the care of his children. She said respondent was "pretty overwhelmed with the situation" immediately following separation, as he missed his wife and children.

¶ 48 Rhonda testified she helped respondent straighten up the marital home after petitioner moved out. As she was doing so one day, petitioner and petitioner's mother came inside and told her to leave. When she refused, petitioner telephoned the police. The police refused to force Rhonda to leave because respondent had given her permission to enter.

¶ 49 According to Rhonda, there had been a number of occasions during the winter months

when petitioner had sent the children without proper coats, shoes, or socks. On one occasion, Hayley was wearing underwear that was too small and was pinching her. She said the children have told her on several occasions they did not like their maternal grandparents' house. Hayley told her "'Grandpa Beck was mean'" and "'not nice.'" Several times, the children have said they did not want to return to petitioner's care. In Rhonda's opinion, the children's best interests would be better served with respondent, but she would continue to provide for them no matter who was awarded custody—she just wanted "the girls to be safe and happy."

¶ 50 Rhonda saw Taylor's bottom in the same condition depicted in the photograph and noted that Taylor had not been in respondent's care for the five days preceding. She also noted that, sometime in February 2011, after petitioner's deposition in this case, petitioner stopped sending clothes with the children for their weekend visitation with respondent.

¶ 51 Rhonda testified to the incident in February 2011 when Mary Ann Beck pursued their vehicle. Mary Ann got within a half a car length. She would back off and then "lunge" at the back of their vehicle, doing it multiple times until they got home. Respondent approached Mary Ann to ask if she was okay, but Mary Ann refused to look at him or speak to him. She sat in her vehicle in front of respondent's house for 15 to 20 minutes. The next day, Rhonda saw petitioner's parents sitting in a vehicle in front of her house so she telephoned the police to avoid another vehicle pursuit.

¶ 52 *3. Testimony of Respondent's Friend*

¶ 53 Christopher Lee Cooper testified as to the good character of respondent and his parents. He had been a long-time friend of respondent's, so he was familiar with respondent's family as well. He often watched pay-per-view fights on television at respondent's house during the parties' marriage. Petitioner was usually out with friends. On occasion, when one of the girls would wake

up, respondent would care for the child and return her to bed. Respondent would often bring Hayley into Cooper's restaurant for "daddy daughter dates." He recalled a few days in May 2010 when petitioner left the children in respondent's care while she traveled to Texas with friends. He described respondent as a "fantastic dad." He had not observed petitioner with the children.

¶ 54 *4. Testimony of Respondent's Brother-In-Law*

¶ 55 Christopher Schrodt testified he was married to respondent's sister. As a family, during the parties' marriage, they would get together every Monday night. He said petitioner and respondent split the household duties. Schrodt described respondent as a "good dad" and continued with the following: "[T]he kids love him. They always, you know, they'd come to him. You know, he'd get off work and he would take care of the kids a lot of times. He would be there for them. I mean, he would, like I said, change their clothes, he could bathe them, he could do about everything with them. He would, you know, he would always [be] there for them."

¶ 56 Schrodt said he had a Halloween party in 2008. Petitioner wanted to leave the party and go to Sliders tavern to visit her friends. Respondent did not want to leave the party, but he took her to Sliders and returned to Schrodt's party. In March 2009, Schrodt saw petitioner kissing another man at a bar. He told his wife about the incident, who then told respondent. Schrodt said he and his wife then had a "falling out" with petitioner.

¶ 57 After the parties separated, Schrodt saw respondent and the children on Tuesdays and Thursdays during respondent's visitation periods. On January 18, 2011, he and respondent's father followed petitioner's father after he had picked up the children from respondent. They saw Tom Beck leave the children in the vehicle in his driveway for approximately one hour until petitioner arrived. They watched as the girls were transferred from Beck's car to petitioner's car. The roads

were "very, very icy" and it was very cold. Schrodts and respondent's father followed petitioner home, where she sat in front of her house in her vehicle texting on her telephone for approximately 30 minutes. Schrodts said in March 2011, he saw petitioner drop off Hayley at school approximately 10 minutes late. He said petitioner drove off before Hayley entered the building.

¶ 58 *5. Testimony of Respondent's Cousin*

¶ 59 Matthew Lee Beiler was at Schrodts's 2008 Halloween party and knew respondent had taken petitioner to Sliders. Later in the evening, he went with respondent to Sliders to meet petitioner. She was "highly intoxicated." Petitioner and respondent argued because respondent wanted petitioner to leave. She stormed off and was unable to be located.

¶ 60 During the parties' marriage and after they separated, Beiler saw petitioner numerous times at Katz, Sliders, and Timbuktu taverns. He described respondent as a "good dad," and respondent's parents as "very good grandparents."

¶ 61 *6. Testimony of Respondent's Father*

¶ 62 Donald L. Beiler, Jr., testified regarding the nature of respondent's employment at the family business. He said respondent would have the ability to leave work whenever he needed for the purpose of caring for the children. In his opinion, respondent was a good father and would do a great job caring for the girls. Respondent and the children spent most Saturday nights overnight at his parents' home during respondent's weekends. He described himself as a "proud grandpa." He and his wife live only one block from respondent.

¶ 63 Respondent's father said he had seen Hayley outside unsupervised both at petitioner's residence and petitioner's parents' residence. Hayley has told him that "'Grandma Beck "whipped" Taylor for spilling a drink.' "

¶ 64 Donald described the incident on January 18, 2011, when he followed petitioner's father after he picked up the children from respondent. He watched as Tom Beck exited the vehicle and entered the house, leaving the children in the vehicle. Beck went outside to the vehicle to check on the kids once before petitioner arrived, approximately one hour later. When petitioner arrived, at approximately 11 p.m., Donald watched as Beck carried the children from his vehicle to petitioner's. The roads were slippery, so they followed petitioner to Dalton City. When she arrived home, she sat in the vehicle "apparently texting or talking on her phone" for 15 to 30 minutes until Donald left. The children were still in the vehicle. Donald recalled that Beck had complained to him sometime after separation that he was raising his grandchildren.

¶ 65 Donald also described an incident in January 2011 when he followed petitioner from her friend's house to her house in Dalton City. When she arrived home, after dark, she exited the vehicle and went inside. Hayley was not with her, but Taylor was. Taylor eventually exited the vehicle on her own and wandered around outside for at least five minutes before entering the house.

¶ 66 On cross-examination, Donald admitted he had given Hayley a ride on his lawn tractor but, he insisted the blades were not engaged. He stopped this practice after respondent advised him that petitioner requested he stop.

¶ 67 *7. Testimony of Respondent*

¶ 68 Respondent who was 30 years old had been employed at his family's business since high school. His work hours vary, depending on the season. During the marriage, petitioner taught aerobics on Tuesday and Thursday evenings. She worked out at the same gym on Monday and Wednesday evenings. If he was home from work, respondent would care for the children during these times. Otherwise, petitioner's parents would baby-sit. Beginning in the spring of 2008,

petitioner began going out after the children went to bed and staying out until after midnight. Respondent estimated this occurred approximately 50 times. On one occasion during the summer of 2008, respondent's mother telephoned him in the middle of the night, advising the police had telephoned her reporting that petitioner's vehicle had hit another vehicle, but petitioner could not be found. Apparently, petitioner had abandoned the vehicle and retrieved it later because, as she explained to respondent, she had been drinking.

¶ 69 At the local Fourth of July celebration, which was actually on July 3, 2009, the parties met respondent's cousin, Matthew Beiler, at the festivities. Matthew confronted petitioner with the fact he saw her kissing another man the night before at the Lock, Stock, and Barrel tavern. Petitioner and respondent argued, and petitioner walked away from respondent and the children and watched the fireworks with her friends. The next day, petitioner left the marital home around noon and did not return until 4 a.m. She reportedly was on a boat with other men. Respondent was upset and embarrassed when others would report that petitioner was in taverns with other men during their marriage.

¶ 70 Respondent denied he ever telephoned petitioner asking her to pick up the children because he did not trust himself with them. He also denied the incident to which petitioner testified about him wanting to commit suicide, calling petitioner, and her finding him unconscious in bed with alcohol and pills. He said neither incident happened. He further denied sending Hayley into a crowded store alone at Disney World. He also denied "taking a swing" at petitioner in the vehicle on the way to the children's doctor appointment. He said he drove separately, met petitioner at the appointment, and was never in the same vehicle that day.

¶ 71 Respondent stated that Hayley had told him she saw petitioner and Seldat kissing.

Respondent was also concerned when he heard Hayley making what he considered to be sexual noises. He told her to stop and advised her they were inappropriate sounds. Respondent admitted he had a girlfriend, but he said the children had not met her. He thought it was inappropriate to bring her around the children when he and petitioner were still married and the children were still adjusting to the situation. He stated:

"Right now, my kids—right now and always, and they always have been my number one priority, not somebody that I'm having a relationship with. It's all about my kids. They need my full attention now, and the Parenting class we had to go to at Webster Hall, I can remember one of the topics they stressed a lot was not to bring other people in the relationship. They said your kids are suffering enough from loss; that it's not good while you're going through a divorce to bring new people into their lives."

¶ 72 Respondent said he had learned that, during the marriage, Hayley had been locked in her room while petitioner slept. Petitioner had asked him to reverse the doorknobs on the interior doors to the children's rooms, so the children could not lock themselves in their room. Respondent did so, but now realized that was not a good decision. Sometime during the spring of 2007, Hayley had gotten out of the house while petitioner slept. In a separate occasion, petitioner's mother told respondent he should discipline Hayley because she had "lost" Hayley for approximately 20 minutes, after Hayley had "just ran off."

¶ 73 In February 2011, respondent had arranged to meet petitioner to exchange the girls. On the way, he saw petitioner's vehicle at Casey's General Store. He drove over, expecting to pick

up Taylor from petitioner, as Hayley was at her grandparents' home. When he approached the vehicle, he found Taylor alone in an unlocked vehicle, while petitioner was inside the store.

¶ 74 Respondent was seeking custody of the children because he felt they were not in a stable environment with petitioner. He worried about their safety.

¶ 75 Though Hayley had not said anything negative about her maternal grandmother, other than she had "whipped" Taylor for spilling a drink, she said her grandfather was "mean." Respondent had seen what appeared to be pinch marks on the children and assumed they were imposed by their grandmother, as petitioner had described that such behavior occurred when she was a child.

¶ 76 During the marriage, petitioner and respondent discussed petitioner's habit of going out at night after the children were in bed. Respondent did not think it was appropriate for a wife and mother to be out until after midnight. However, petitioner did not see anything wrong with it and blamed respondent's feelings on the fact he did not want to go out.

¶ 77 Respondent said both children had told him that petitioner had told them they would not be getting Christmas presents because their father was a "jerk" and had not given her any money to buy presents. He assured the children that was not true.

¶ 78 C. Trial Court's Decision

¶ 79 After the close of the evidence and the parties' closing arguments, the trial court took the matter under advisement. On August 9, 2011, the court removed the matter from advisement and entered a written order, disposing of all pending issues. With regard to custody of the children, the court separately identified and analyzed the relevant statutory factors, finding, in particular, as follows:

"After considering the evidence, the relevant authorities, and the arguments of counsel, the court finds that it is in the best interests of the children that custody should be awarded to [respondent] based on the following reasons:

* * *

c. As to the child's relationship with parents, siblings[,] and others: The court finds this factor very important in its[] analysis. The court notes that [petitioner] has had custody of the children pursuant to a non-prejudicial temporary order, subject to [respondent]'s right of visitation. While the court believes that [petitioner] loves her children, the evidence is also clear that she has engaged in a course of conduct that has led her to spend a great deal of time away from the children. There is substantial credible evidence in the record that [petitioner] has left the children at home, either with [respondent] before the separation, or with her parents ***, after the separation, while she stayed out until very late hours of the night or early morning, drinking with friends. Several witnesses testified about their observations of [petitioner] in bars late in the night in a state of intoxication. While the court does not find such behavior is presumptively harmful to the children, the court does find that such evidence bears on the stability of the child's environment. Indeed, the court does find that [petitioner]'s frequent absences have

led to a measurable degree of instability in the children['s] environment.

There is additional credible evidence that [petitioner] has demonstrated a lack of sound judgment in properly caring for the children."

The court cited the testimony of several witnesses regarding instances when petitioner reportedly left the children in the vehicle unattended.

¶ 80 Noting that both maternal and paternal grandparents have been greatly involved and will most likely continue to be involved in the caring for the children, the trial court pointed to its concern regarding the maternal grandparents. Namely, that credible evidence suggested the children were not always closely supervised while in their care. Further, the court noted the "most disturbing" incident related to the maternal grandmother was the testimony regarding the car chase—when Mary Ann Beck followed the Beiler vehicle to their residence at an unsafe distance, "lunging" at the Beiler's vehicle with her own. She then sat outside respondent's home, refusing to acknowledge respondent when he approached and questioned her behavior. The court stated: "This incident, which occurred while the children were in the [Beiler's] vehicle, causes the court to have very serious concerns for the safety of the children while in the presence of [Mary Ann] Beck."

¶ 81 The trial court also noted its concern regarding the testimony of the preschool teacher that petitioner repeatedly caused Hayley to be late for school despite the letter warning of such behavior. The court further found concerning the evidence that Taylor had developed a severe diaper rash while in the care of petitioner. The court found respondent would better foster a close relationship between the children and petitioner, noting the evidence that (1) petitioner reportedly

informed the children there would be no Christmas gifts, and (2) petitioner stopped sending clothes with the children during respondent's visitation.

¶ 82 The order continued as follows:

"h. Summary of factors: The court finds that [petitioner] has demonstrated, by her actions, an unwillingness to place the needs of her children above her own interests and desires. The evidence demonstrates that she does not exercise sound judgment for the care, safety, and well-being of the children. The incidents of leaving the children alone in a running vehicle, failing to send clothing for visitation, leaving the children home late at night with her parents while out with friends, and failing to prevent or properly treat the serious rash as shown in [respondent's exhibit], all suggest to the court a lack of maturity on the part of [petitioner]. While the court believes that [petitioner] has the ability to properly parent the children, her actions have introduced a degree of instability in the lives of the children and a lack of consistent concern for their safety and well-being, such that it is not in the best interest of the children that [petitioner] be awarded custody of the children.

As to [respondent], the court finds that while it is true that he spends a significant portion of his time working, he has credibly testified to the arrangements that he has made to provide for the proper care of the children while he is away at work. The evidence

demonstrated that he has a close and loving bond with the children. Perhaps most importantly, the evidence clearly showed that he has, by his actions, placed the interests of his children above his own interests. The court found his testimony particularly compelling and credible when, after admitting that he has a girlfriend, that he has not had his girlfriend in the presence of the children because , 'I am still married and the children don't need this—the children are my number one priority, not my girlfriend.' According to [respondent], this was something he learned in the transparenting class.

For these reasons, the court finds that [respondent] is in the best position to provide the greatest degree of stability and continuity to Hayley and Taylor. Therefore, the court finds that it is in the best interests of the children for custody to be awarded to [respondent], subject to [petitioner]'s right of reasonable visitation."

¶ 83 Respondent filed a posttrial motion on issues not related to child custody. In April 2012, the trial court entered an order on respondent's motion. This appeal followed.

¶ 84 II. ANALYSIS

¶ 85 On appeal, petitioner argues the trial court erred in granting custody to respondent because the decision was against the manifest weight of the evidence. Rather than challenging the court's specific findings as they relate to each of the statutory best-interest factors, petitioner argues primarily that, in the interest of the children's stability and continuity, she should have been awarded custody. Based on the evidence presented, we disagree and affirm the court's judgment.

¶86 "In cases regarding custody, a strong presumption favors the result reached by the trial court." *In re Marriage of Seitzinger*, 333 Ill. App. 3d 103, 108 (2002). The court's best-interest findings are entitled to great deference because it is in a better position than a reviewing court "to observe the temperaments and personalities of the parties and assess the credibility of witnesses." *In re Marriage of Stopher*, 328 Ill. App. 3d 1037, 1041 (2002). "A reviewing court will not overturn a trial court's custody determination unless it is against the manifest weight of the evidence, is manifestly unjust, or results from a clear abuse of discretion." *Stopher*, 328 Ill. App. 3d at 1041. A trial court abuses its discretion only when it " 'acted arbitrarily without conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of law so that substantial injustice resulted.' " *In re Marriage of Marsh*, 343 Ill. App. 3d 1235, 1240, (2003) (quoting *In re Marriage of Suriano*, 34 Ill. App. 3d 839, 846 (2001)). "Findings are against the manifest weight of the evidence when the correctness of an opposite finding is clearly evident." *Marsh*, 343 Ill. App. 3d at 1241. Thus, we will affirm the trial court if there is any basis to support the court's judgement. *In re Marriage of Divelbiss*, 308 Ill. App. 3d 198, 207 (1999).

¶87 Petitioner argues the trial court should have awarded her custody of the children when she had been the primary caretaker and where the children had lived with her since separation. She claims that in the interests of "stability and continuity," custody of the children would be better with her. She relies upon the "absence of change" definition of stability as a basis for her argument. See *In re Marriage of Wycoff*, 266 Ill. App. 3d 408, 410 (1994) (" 'Stability' is also used in the sense of continuity, the absence of change.") Indeed, many child-development experts believe interrupting a child's bonded, loving, and continuous relationship with one parent permanently harms the child. *Wycoff*, 266 Ill. App. 3d at 410. However, there is another definition of "stability." "Some decisions

suggest that 'stability' is achieved when a child is moved from a home where there is turmoil to one where there is quiet." *Wycoff*, 266 Ill. App. 3d at 410. This latter definition is the one the trial court applied to this case.

¶ 88 The trial court noted three major concerns regarding petitioner's conduct: (1) she spent a significant amount of time away from the children; (2) she demonstrated a lack of judgment by leaving the children unattended or unsupervised; and (3) she and her family had not demonstrated a willingness to encourage the children's close relationship with respondent and his family. Evidence presented at trial sufficiently supported the court's findings. Several witnesses testified to incidents that presented valid concerns for the safety and well-being of the children when in the care of petitioner and/or her parents. Testimony regarding (1) the children being unattended in vehicles or unsupervised outside, (2) the development of Taylor's severe diaper rash, (3) the incident when the maternal grandmother "chased" respondent's vehicle with the children inside, and (4) petitioner's habitual practice of taking Hayley to school late amply supports the court's judgment. The court found no safety concerns relating to respondent's or his parents' care of the children.

¶ 89 The fact the children were displaced every other night with their alternating sleeping arrangements between their maternal grandparents' home and petitioner's home further supports the trial court's decision. Although it is admirable that petitioner relies upon her parents, rather than non-family members, to provide care for the children, the evidence suggested the grandparents were the primary caregivers, not petitioner. As the trial court noted, petitioner "has demonstrated, by her actions, an unwillingness to place the needs of her children above her own interests and desires." Her decision to engage in a course of conduct that caused her to spend a great deal of time away from her children cannot be condoned or support an award of custody. Further, the fact that petitioner,

