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2016 IL App (3d) 160226-U

Order filed September 26, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2016

ASHLEY C. JAY, n/k/a ASHLEY C. FLUCK,)	Appeal from the Circuit Court of the 10th Judicial Circuit, Tazewell County, Illinois.
Petitioner/Cross-Respondent-Appellee,)	
v.)	Appeal No. 3-16-0226 Circuit No. 10-F-163
JAMES T. RULE,)	
Respondent/Cross-Petitioner-Appellant)	Honorable David J. Dubicki, Judge, Presiding

PRESIDING JUSTICE O'BRIEN delivered the judgment of the court.
Justices McDade and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court erred in granting mother's petition to remove child to Indiana where *Eckert* factors did not support removal. In light of removal reversal, trial court's denial of father's petition to modify custody is vacated and the cause remanded.

¶ 2 Petitioner/cross-respondent Ashley Jay, n/k/a Ashley Fluck, filed a petition to remove Isabella (Bella), her daughter with respondent/cross-petitioner James Rule, from Washington, Illinois, to Indianapolis, Indiana. James filed a petition to modify primary residential custody. After the parties' petitions were heard in a joint hearing, the trial court granted Ashley's petition

to remove and denied James's petition to modify custody. He appealed. We reverse the trial court's removal order, vacate its denial of the petition to modify custody and remand for further proceedings on the custody modification.

¶ 3

FACTS

¶ 4

Petitioner/cross-respondent Ashley Jay, n/k/a Ashley Fluck, and respondent/cross-petitioner James Rule had a daughter, Bella, together. Bella was born on April 6, 2010. Ashley and James never married and James's parentage was established by petition on June 25, 2010. A final custody order was entered on September 14, 2010, which granted joint legal custody of Bella to Ashley and James, with primary residential custody awarded to Ashley. The order granted visitation to James of two days each week from 8 a.m. to 6 p.m., one night each week from after work until 8 p.m. and one overnight visit every other weekend. The parties were to alternate holidays and school breaks. James was ordered to pay \$188.08 bi-weekly for child support and to repay a \$393 arrearage in \$15 installments.

¶ 5

Incorporated with the final custody and visitation order was the parties' joint parenting agreement. The agreement stated that "[t]he parties hereto recognize that the maximum involvement and cooperation of both parents regarding the physical, mental, moral, emotional and spiritual well-being" of Bella is in her best interests, that "joint legal custody will aid and assist the involvement and cooperation of both parties," and that joint legal custody is in Bella's best interests. The agreement covered specifics regarding Bella's education, medical and health care, religion, and their own conduct. Per the agreement, Ashley and James were to attempt to negotiate any disagreements between each other, and if they were unsuccessful in reaching a resolution, they agreed to mediate the dispute prior to filing a court action.

¶ 6 On James’s December 2013 petition, the trial court reduced James’s child support obligation to \$110 every two weeks with a \$22 per period arrearage amount. In the spring of 2015, Ashely and James were unsuccessful in their attempt to mediate the issue of Ashley’s proposed move to Indiana. Ashley filed a petition for leave to remove on May 14, 2015. In the petition, she stated that her present employer, Tricoci University of Beauty Culture, offered her a promotion to a position as student success advisor at its Lafayette, Indiana campus; that her husband, Chad Fluck, secured employment in Indianapolis as head painter at Indy Powder Coating; that she had secured a three-bedroom, two and one-half bathroom rental house in Indianapolis, located in a safe neighborhood, with two police officers living on the block; and that Bella would attend Rosa Parks-Edison Elementary School, a magnet school with a good rating located near the rental home.

¶ 7 The petition asserted that the move would not affect James’s parenting time, as he could “still exercise visitation every other weekend, during holiday’s [*sic*] and breaks from school, as well as during the summer,” which would result in James enjoying more visitation than he was awarded in the original joint parenting agreement. Also, Ashley claimed that James failed to contribute to Bella’s daycare and preschool costs since 2011, which burdened her financially; that Tara Kerker, who lived across the street from the Indianapolis rental house, offered to provide free daycare for Bella; and that Ashley’s sister lived 45 minutes away in New Richmond, Indiana, and would also be available to assist Ashley and to visit Bella. The petition finally stated that the benefits of removal outweighed the benefits of staying in Illinois and that it was in Bella’s best interest to grant the petition for removal.

¶ 8 On May 21, 2015, James filed a petition to modify custody, arguing a substantial change in circumstances warranted a change in primary custody from Ashley to him as follows:

Ashley's instability in maintaining a residence, her prior unstable "bad relationships with men," her denial of visitation and failure to encourage a close and continuing relationship between Bella and James, and her refusal to allow Bella to be with James when Ashley worked. Finally, James argued that he "ascertained, through Facebook" that Ashley had accepted a job in Lafayette and that he believed Ashley may move Bella to Indiana without court permission. He asked the court to transfer custody of Bella to him.

¶ 9 On May 28, Ashley filed an emergency petition to temporarily remove Bella from Illinois to Indiana for residential purposes. The petition stated that Ashley was scheduled to begin her new job with Tricoci in Lafayette on June 8, 2015; that she had secured a rental house in Indianapolis; and that it would be in Bella's best interest that Ashley be allowed to temporarily remove her to Indiana. The petition also stated that the move would not cause James to lose any parenting time and that Ashley would transport Bella to Illinois for visitation. In response, James filed a petition for temporary relief, seeking an order prohibiting Ashley from removing Bella to Indiana and stating that Bella was enrolled in school in Illinois for the school year beginning fall 2015.

¶ 10 The trial court issued a temporary order on June 3, 2015, granting Bella's removal. The order provided a schedule for parenting time until the removal petition and custody modification petition were decided; established that the parties exchange Bella at a location halfway between their residences; and required Bella to be available for Skype/Facetime a minimum of three times per week while she was with the other parent.

¶ 11 In July 2015, Ashley filed a petition for rule to show cause, complaining that James failed to pay one half of Bella's daycare costs for preschool and daycare at the Washington Park

District for 2014 and 2015, and that his share of the costs was \$1,922.50. She also filed a petition to increase child support. The trial court did not rule on these two issues.

¶ 12 A hearing ensued on the parties' petitions for removal and custody. Ashley's mother testified that Ashley and Bella lived with her for the first three years of Bella's life and she fully supported their move to Indianapolis.

¶ 13 Chad Fluck testified. He and Ashley were married in July 2014, while he was in the Army stationed in Hawaii. He left the Army with a general discharge under honorable conditions after he and Ashley were married. He unsuccessfully applied for a couple of jobs after returning to Washington and was currently employed in Indianapolis, earning \$15 per hour, with a \$3 per hour increase when his 90-day probationary period ended. He and Ashley moved to Indianapolis because of Ashley's job offer and the better schools there. His friend from high school, Joshua Kerker, lived across the street from his and Ashley's rental house, with his wife, Tara, and two children. Bella was his "little buddy."

¶ 14 On cross-examination, he admitted his termination from the service was due to a traffic incident in which he was traveling on his motorcycle at 83 or 84 miles per hour (mph) in a 55 mph zone and where he failed to stop for police. Prior to the excessive speeding incident, he had considered becoming an Army recruiter in Indianapolis. He belonged to a motorcycle club in Hawaii and hoped to start a chapter in Indianapolis. He attended college in Indianapolis and graduated with an associate degree in auto technology and service management and a diploma in collision repair finish. He acknowledged that when he was applying for jobs in Washington, Ashley had already accepted the position in Lafayette and that his friend Joshua's presence was a factor in the decision to move to Indianapolis.

¶ 15 Ashley testified. She earned her esthetician's license in 2011 from Tricoci University and began her employment with Tricoci in 2013 with a front desk position. She accepted the job in Lafayette on April 2, 2015 for the position as student success advisor. The promotion included a \$3 per hour pay raise and she hoped someday to become a campus director, preferably in Indianapolis. Her sister lived in Indiana, about 40 minutes away. Bella and James used Facetime for calls and texted each other.

¶ 16 Despite the language of the original joint parenting agreement, James and Ashley practiced a far more liberal visitation/parenting schedule so that Bella spent Wednesday through Sunday with James every other week, and after Bella started preschool, from Thursday through Sunday every other week. Although Ashley testified she hoped Bella would attend the Rosa Parks magnet school in Indianapolis, she was not accepted there. She submitted report cards on the school Bella attended in Indianapolis, and the elementary schools in Washington and Pekin, where James lived. The information indicated that the Washington and Indianapolis schools were similarly rated.

¶ 17 She admitted on cross-examination that Joshua Kerker was Chad's best friend and that she knew him before she and Chad moved across the street from him and Tara. Joshua had told her he had no prior troubles with the law and she was unaware he had pleaded guilty to two counts of possession of cannabis and driving under the influence (DUI) until she learned of his convictions at a deposition two months before the hearing. His past was of no concern to her.

¶ 18 She acknowledged that she signed Bella up for preschool against James's wishes and in violation of the joint parenting agreement and that the choice of preschool curtailed James's visitation, eliminating one overnight visit. James had offered daycare options, and when he refused to pay for the daycare she chose, she told him she would pay for it herself. In her view,

the move would not affect the relationship between Bella and James. She told James of her possible move one and a half or two years before the hearing. She knew in the spring 2014 that James was considering a move to Washington to be closer to Bella. She also acknowledged that she was discussing Bella's school registration in Washington with James when she knew she was moving to Indianapolis.

¶ 19 Ashley admitted that she attested in her petition that she had secured the house in Indianapolis at the time she filed the document but she had not. The rent for the house in Indianapolis was \$1,100 per month as opposed to the \$300 per month she and Chad were paying while living in his parents' basement. There was no release in the lease but Ashley believed she could find work for Tricoci in the Chicago area if she left the Lafayette campus. She also admitted Bella did not attend Rosa Parks magnet school and that the neighborhood school Bella attended demonstrated a downward trend in ratings over the last few years. In addition, she admitted that she only lived with her mother for one year, not three, and that she lived with another boyfriend in an apartment for a year and with his parents for seven months and that there was an episode of domestic violence when she left him.

¶ 20 Despite her statement at her deposition that she did not know Chad's friend, Corey Stock, he had come over and played poker at the rental house. She learned at the deposition about Stock's criminal history with her husband and had since changed her mind about him. Her marriage to Chad was his third; his first marriage lasted two years and his second marriage lasted a few months. Chad saw Bella approximately five times before Ashley married him but they enjoyed a great bond. She also acknowledged that Bella had a three-year-old half-sister at James's house and two sets of grandparents as well as great grandparents in the Washington area.

¶ 21 The parties then presented evidence on James's petition to modify custody. James testified that he had a three-year-old daughter, Aila, with his wife Anna. They rented a house in Pekin at \$825 per month but were hoping to buy a home in the future. He talked to Ashley in the fall of 2014 about moving with his family to Washington to be closer to Bella. His research showed that the neighborhood school in Indianapolis was ranked 543/1142 and the Pekin school where he lived was rated 73/2453. In addition, the Pekin school district was awarded an excellence award by the United States Department of Education (USDE) in 2015. He enrolled Bella in the Pekin schools for the 2015-2016 school year and the local elementary school had a before and after school daycare program they would use for daycare.

¶ 22 He had been interested in splitting custody with Ashley from Bella's birth. James's parents were divorced when he was a child and they split custody 50/50 and the arrangement continued to work through the present time. He has two stepbrothers and a stepsister in the area and Bella and Aila have three cousins, and they engage in family gatherings and activities. He and his family, including Bella, were involved in church. He did seasonal construction work, generally working from 7 a.m. to 3 p.m. and earned \$12 per hour plus a deferential. James admitted he received court supervision and paid a fine for a cannabis possession charge in 2006.

¶ 23 James stated that he kept a journal of interactions with Ashley regarding Bella. He had he experienced some visitation issues with Ashley over the years that he recorded in the journal. On September 17, 2014, Ashley said the removal of Bella to Indianapolis was what happened when you had a child with someone with whom you did not have a relationship. She first told him about job in Indiana on April 22, 2015, and he learned that Ashley accepted the job through a Facebook posting on May 8. After Ashley moved Bella to Indianapolis, the Flucks did not have Wi-Fi set up and he could not Skype with Bella from June 3 to June 25.

¶ 24 Chad again testified. He was arrested in 2004 in Indianapolis for driving under the influence and in 2008 in Washington for possession with intent to deliver, including MDMA, mushroom, and cannabis. Those charges were dismissed in exchange for his entry into the Army. The drugs were discovered during a search of his parents' house per a warrant. At that time, he told the police that Stock, his college friend, was his supplier. Stock was subsequently sentenced to a three-to-four year term in prison. He was unaware that his friend Kerker had past arrests.

¶ 25 James Rule, Bella's grandfather, testified that he was James's father and saw Bella approximately 15 to 20 times in the past 2 years or perhaps more often, stating Bella had "performed *Frozen* about 955 times for us." A friend of James's testified and Bella's daycare provider/babysitter when she was with James also testified.

¶ 26 During the parties' closing arguments on both petitions, the trial court made the following remarks: Ashley and Chad were basically newlyweds as far as living together; it appeared their focus was on Indianapolis all along; more time for James equated to more time for Bella to spend time with her paternal grandparents and extended family; Ashley providing James additional visitation time supported the court's conclusion that Ashley's move was not a ruse to thwart James's parenting time; the day-to-day interactions James complained he will miss actually constituted Ashley's parenting time; Ashley underestimated her 70-mile trip to work, finding it took more than an hour to travel that distance unless the driver was speeding; and James had not contributed much economically.

¶ 27 In response to Ashley's claim that James and Bella had the option of electronic communication, the trial court noted that Ashley violated the terms of the temporary order and stated, "And that's kind of a foretelling of what might happen in the future." As to Chad, the trial

court stated that he was in the Army for seven years and “apparently served his country appropriately,” noting that there was the “motorcycle thing.”

¶ 28 The trial court took the petitions under advisement and issued an order on August 20, 2015, granting Ashley’s petition to remove and denying James’s petition to modify custody. The order expressly incorporated its oral ruling on the parties’ petitions. The order directed the parties to work together on a visitation schedule, including participating in mediation on the visitation issue.

¶ 29 The parties engaged in mediation and reached a full agreement on custody and a partial agreement on visitation. The trial court entered a final parenting order on April 1, 2016, permitting Ashley to remove Bella for “permanent residential purposes.” The order included the parties’ general expression of intent that the parties “share and make all significant decisions regarding the child,” including education and medical; their general intent to “use their best efforts to foster the respect, love, and affection of the child for both of the parents by encouraging frequent contact and communication between the other parent and the minor child,” and make all efforts to encourage respect and affection for her parents and that they agree “maximizing each parent’s involvement and contact with the minor child is in the best interest of the child.”

¶ 30 James was awarded parenting time during the first weekend of the month from 6:30 p.m. Friday to 6:30 p.m. Sunday, spring and fall school breaks, with the following weekend designated as his monthly visitation, and summer breaks from the second Friday after school was out until the Friday before school began. The parties switched the Easter holiday every other year and shared Christmas break as follows: on even-numbered years, James would have parenting time with Bella from the day school ends until 12 p.m. on December 26 and vice-versa on odd-

numbered years. James was awarded Father's Day and Ashley was awarded Mother's Day. Ashley would provide 100% of the transportation for the weekend visitations and the parties would split the transportation the rest of the time and meet halfway for custody exchanges.

¶ 31 The parties were also awarded visitation during special occasions and family events. In addition, James was awarded reasonable visitation in Indianapolis with 24-hour notice to Ashley and Ashley was required to give James reasonable 24-hour notice when she would be in Tazewell, Peoria, Woodford, or McLean counties and offer him reasonable parenting time. Ashley was provided all times not specifically awarded to James during the school year, and during summer break, James was awarded all time not specifically designated as Ashley's parenting time. The order included other provisions, such as general rules of parental conduct, and the obligation of the parties to attempt to resolve disputes themselves and then through mediation before resorting to the trial court.

¶ 32 James appealed the removal and custody decisions.

¶ 33 ANALYSIS

¶ 34 There are two issues on appeal: whether the trial court erred when it granted Ashley's petition for removal and when it denied James's petition to modify custody. James maintains that Bella's best interests would be served by reversal of the removal order and making him the primary custodial parent.

¶ 35 A court will grant a parent's petition for removal when it is in the child's best interest to move. 750 ILCS 5/609(a) (West 2014). The parent seeking the move bears the burden of proving the move is in the child's best interest. 750 ILCS 5/609(a) (West 2014). Each case must be determined on its own facts and circumstances. *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 521 (2003) (quoting *In re Marriage of Eckert*, 119 Ill. 2d 316, 326 (1988)). We will not reverse a

trial court's decision regarding removal unless it was against the manifest weight of the evidence. *In re Marriage of Tedrick*, 2015 IL App (4th) 140773, § 51.

¶ 36 There are several factors the court considers when ruling on a removal petition: (1) whether the move would enhance the quality of life for the child and the custodial parent; (2) whether the custodial parent's motives for the move are a ruse intended to defeat or frustrate visitation; (3) the noncustodial parent's motives in objecting to the removal; (4) whether the move affects the visitation rights of the noncustodial parent; and (5) whether a realistic and reasonable visitation schedule may be established. *Eckert*, 119 Ill. 2d at 326-27. A reasonable visitation schedule is one that preserves and fosters the child's relationship with her noncustodial parent. *Eckert*, 119 Ill. 2d at 327.

¶ 37 We begin with the trial court's determination that the *Eckert* factors supported removal. All of the evidence presented by Ashley to support the first *Eckert* factor fails to show the move will enhance the quality of life for Bella and, in fact, shows the move will have a detrimental impact on the quality of life she will enjoy as opposed to the quality of life she enjoyed in Washington, Illinois. The trial court found that Ashley's new job would provide an opportunity for her to advance in her career with Tricoci University and ultimately would provide for a better quality of life for herself and Bella. However, the court's findings do not support such a ruling. Ashley did accept a position with Tricoci at a higher rate of pay, but as the trial court noted, the increase would be eaten up by increased transportation costs due to the 70-mile commute from her new home to her new job. As such, the increase in pay does not support removal. In addition, the 140-mile round trip commute necessarily decreases the amount of time Ashley will spend with Bella each day and requires someone other than a parent to provide care for Bella. Furthermore, Ashley has no commitment from her employer that she will advance further in the

near future, but rather is only hopeful that an opening will come available and that she would be offered the position. Ashley testified that the very same opportunity may become available to her in Illinois but she did not look into that option.

¶ 38 The only evidence presented about the school districts in Indianapolis and Washington demonstrated that the school in Indianapolis where Bella would attend did not perform as well as the school in Illinois. The schools in Pekin and Washington were rated equal to or better than the school in Illinois. The schools in Pekin and Washington were rated equal to or better than the neighborhood school in Indianapolis which Bella attended. The Pekin school district received a Blue Ribbon Award from the USDE for the dedication of its staff to student excellence. The court stated there were no advantages in the schools in one location over the other, concluding that although the academic performance ratings were not as good at the Indianapolis school as at the Washington school, the Indianapolis school was more diverse. Placing a child in a lower performing school district does not meet the standard of increasing the quality of life set forth in *Eckert*, and to the extent the trial court found Bella's new school to be a factor in favor of removal, we must set it aside. *In re Marriage of Sale*, 347 Ill. App. 3d 1083, 1088 (2004) (affirming trial court's rejection that first *Eckert* factor supported removal where evidence on schools did not show they were better in removal state). Lastly, the trial court found that while Ashley and Chad rented a nice house in Indianapolis, they could have done the same in Washington. Moreover, the rent at their new house was \$700 more per month than Ashley and Chad paid while living in Washington.

¶ 39 The trial court considered that although there was no direct evidence about Indianapolis or the opportunities it afforded its residents, the court would take judicial notice that it was bigger than Washington or Peoria, Illinois, and the "reasonable inference is there are more recreational and cultural activities there than would be found in Central Illinois." This was not a

proper matter for judicial notice. A court may take judicial notice of matters commonly known within its community or in the public record. See *Cook County Dept. of Environmental Control v. Tomar Industries*, 29 Ill. App. 3d 751, 754 (1975); *Muller v. Zollar*, 267 Ill. App. 3d 339, 341 (1994). However, as even the trial court expressed, Ashley presented no evidence of the available recreation and culture in the Indianapolis area. There was no evidence that Bella was involved in any extracurricular activities, much less any activities that were unique to Indianapolis. Moreover, taking judicial notice of Indianapolis's larger size does not equate to evidence the area offers more recreational and cultural opportunities.

¶ 40 The trial court found Ashley's marriage to Chad created a new family unit that enhanced Bella's quality of life and as such was a factor that weighed in favor of removal. But the evidence presented at trial shows that their marriage was not dependent on the granting of the removal petition. Ashley and Chad were married prior to the removal and Chad was continuing to seek work in the Peoria area even after Ashley accepted the job in Indiana.

¶ 41 In addition, after hearing testimony that Chad continued to maintain relationships with some of the same people he sold drugs with in the past, the court felt compelled to advise Ashley that she would likely lose custody of Bella if drugs were sold from the residence Ashley and Bella shared with Chad. In contrast, the court seemingly placed no weight on the stability offered by James's family unit, which included Bella, James, his wife and Bella's half-sister.

¶ 42 There was no testimony that Chad and Ashley would not continue to live together if the removal petition was denied. Further, there was no evidence that Chad associated with convicted drug dealers while the parties resided in Illinois. The situation that concerned the trial court enough to admonish Ashley occurred as a result of the move to Indianapolis and, as such, cannot

be a factor that objectively weighs in favor of removal as increasing Bella and Ashley's quality of life.

¶ 43 Next, the trial court considered the second *Eckert* factor, finding the move was not a ruse by Ashley aimed to thwart James's visitation. However, there are instances in the record that belie these findings. First, while the judge found if there had been a position in Illinois Ashley would have taken it, Ashley testified she did not look for any other job in Illinois. There was, however, testimony that Ashley did not always work to foster a strong parental relationship between James and Bella. In violation of the joint parenting agreement, Ashley registered Bella for a preschool program without consulting James. Not only did this result in less time that James could spend with Bella, it was also costly for Ashley since by enrolling Bella without James' approval, Ashley could not compel James to share the expense. Also, Ashley did not comply with court orders requiring video visits between James and Bella. Although Ashley testified the video visits did not occur because she did not yet have Wi-Fi installed at her new home, she failed to make any other arrangements in order to comply with the court order and to make sure Bella had contact with James. The trial court specifically found that Ashley's non-compliance with the temporary removal order was foretelling of what might occur in the future.

¶ 44 Moreover, also contrary to the trial court's findings, there are instances in the record that lead us to question Ashley's motives. James complained that she would fail to inform him or misinformed him about Bella's appointments and other events and copies of text message exchanges about Bella's daycare or school registration support his claim. Also supported by text messages, James told Ashley he and Anna were considering moving to Washington to be closer to Bella in fall 2014 and she did not inform him in the text conversation that she was planning to move to Indianapolis, despite her claim he was aware of her possible move. After agreeing to

fund Bella's daycare herself, Ashley did not seek reimbursement from James until this action was pending. This factor does not support removal.

¶ 45 As acknowledged by the trial court but also contrary to its finding, other factors seemingly contributed to the choice of Indianapolis other than Ashley's career advancement. Chad had previously lived and attended college there. The rental house Ashley and Chad found was located across the street from his high school best friend and not near either Ashley's or Chad's jobs. Chad had considered pursuing a position as an Army recruiter in Indianapolis while he was still in the service.

¶ 46 The third factor concerns the motives behind James's objection to the move. We agree with the trial court that James's motives in objecting to the removal were genuine and fostered by a legitimate concern for Bella, particularly in regard to his parenting time and the extra transportation to which she would be subjected in order for him to exercise his parenting time. The trial court, however, found that James's visitation rights were not negatively affected by the move, noting that all moves will affect visitation and that James would ultimately have more parenting time than initially afforded him in the joint parenting agreement. The trial court's findings ignore the testimony of both parties, that James and Ashley had established a pattern of visitation/parenting for James that was greatly in excess of the minimum provided in the joint parenting agreement. James has consistently exercised his parenting time and maintained a day-to-day relationship with Bella that included four or five days in a row together every other week. Giving James more time in the summer does not make up for the loss of daily interactions and the opportunities afforded him to be involved in Bella's school and other activities.

¶ 47 Similar concerns instruct our determination regarding the final *Eckert* factor. The court considered the parties could work out a reasonable visitation schedule and that Ashley deserved

the benefit of the doubt as the primary custodial parent that her move was in Bella's best interest. The trial court stated that James's extended family could share his parenting time and that he and Ashley could joint parent through Skype, especially since the majority of their communications were through electronic means. The parties reached a visitation schedule which afforded James the majority of Bella's summer breaks and school holidays and one weekend a month but diminished his ability to be engaged in Bella's day-to-day life. In addition, rather than a short drive to exchange custody, Bella and James must travel three hours each way to see each other. One weekend a month and a series of holiday stays and summer breaks do not equate to the quality of parenting time James and Bella have experienced by seeing each other regularly.

¶ 48 The evidence presented does not support the trial court's determination that removal would be in Bella's best interest. Accordingly, we reverse its grant of removal and order that Bella be returned to Illinois for residential purposes. In light of our finding regarding removal, we vacate the denial of James's petition to change custody and remand for further proceedings in light of the reversal.

¶ 49 For the foregoing reasons, the judgment of the circuit court of Tazewell County is reversed in part, vacated in part, and remanded.

¶ 50 Reversed in part, vacated in part, and remanded.