2016 IL App (4th) 160307-U

NO. 4-16-0307

FILED
September 19, 2016
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: the MATTER of:	)	Appeal from
CARANDA BEVINS,	)	Circuit Court of
Petitioner-Appellant,	)	McLean County
and	)	No. 13F23
JON SHRIVER,	)	
Respondent-Appellee.	)	Honorable
	)	William A. Yoder,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Harris and Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the trial court's judgment, which allocated decision-making authority to respondent, allocated the majority of parenting time to respondent, and allowed his request to relocate with his daughter.

¶ 2 In May 2015, petitioner, Caranda Bevins, filed a petition for temporary child custody of her daughter, S.S. In February 2016, respondent, Jon Shriver, filed a request to relocate with S.S. to Milton, Illinois. Caranda then filed a petition for injunctive relief, seeking to enjoin Jon from relocating with S.S. In March 2016, the trial court issued a judgment of allocation of parenting responsibilities and a parenting plan and allowed Jon to relocate.

¶ 3 On appeal, Caranda argues the trial court erred in (1) its allocation of decision-making authority to Jon, (2) its allocation of the majority of parenting time to Jon, and (3) allowing the relocation of the child. We affirm.

¶ 4 I. BACKGROUND

¶ 5 S.S. was born in December 2011, the daughter of Caranda and Jon, who were never married. In March 2013, Jon filed an emergency petition for temporary custody of S.S. The petition alleged S.S. had a relationship with Jon since her birth and they had lived together until September 2012. The petition also alleged Caranda had multiple arrests and pending criminal cases, including aggravated driving under the influence (DUI). Jon alleged he was fully capable of providing a sound, stable, safe, and nurturing environment for S.S.

¶ 6 Also in March 2013, Melissa Bevins, the maternal grandmother of S.S., filed a petition for temporary and permanent child custody. The petition alleged Caranda voluntarily placed S.S. in Melissa's care for approximately four months in November 2012. Melissa also alleged she had provided for the care and well-being of S.S. with minimal financial assistance from either of the child's parents. She stated she was fit to care for S.S. Melissa also filed a motion to intervene, alleging Caranda was then incarcerated on several pending charges. Thereafter, Jon filed a motion to dismiss the motion to intervene.

¶ 7 On April 1, 2013, the trial court found Caranda left S.S. in the care of her mother when Caranda was incarcerated and S.S. was in Melissa's care at the time of her petition for temporary and permanent child custody. The court granted Melissa's motion to intervene and denied Jon's motion to dismiss.

¶ 8 On April 12, 2013, the trial court awarded temporary custody of S.S. to Jon. The court also ordered the parties to attend parent education classes and mediation. Visitation for Caranda was reserved until further order. The court ordered the parties to attempt to work out visitation with Melissa.

¶ 9 In December 2014, the trial court ordered Caranda to have custody of S.S. on alternating weekends. In May 2015, Caranda filed a petition for temporary and permanent child

custody. In February 2016, Jon filed a request to relocate to Milton, Illinois. Also in February 2016, Caranda filed a petition for injunctive relief, stating Jon's actions in relocating S.S. without notice were not in good faith and in violation of section 609.2(d) of the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) (750 ILCS 5/609.2(d) (West Supp. 2015)). Caranda asked that Jon be enjoined from relocating S.S. during the pendency of the matter.

¶ 10 In March 2016, the trial court conducted a hearing on the pending motions. Melissa Bevins testified Caranda lives down the hall from her in an apartment complex in Normal, Illinois. She stated Caranda and S.S. are "very close" and described Caranda as "a very good mother." Melissa stated Caranda and Jon lived with her until 2012. Both were employed when S.S. was born. Melissa stated she and Caranda spent a lot of time taking care of S.S. after her birth but Jon was "not very active" in caring for her.

¶ 11 Melissa became concerned with Caranda's drinking and noted she was arrested for her fourth DUI in 2013. Melissa took S.S. to visit with Caranda while she was in jail. She was unable to take S.S. to visit Caranda in the Department of Corrections because Jon objected, stating it would confuse S.S. to see her mother in prison.

¶ 12 Caranda testified she and Jon met in 2006, when she was 16 years old. They lived together until 2012. Caranda stated she was charged with illegal consumption when she was 17 years old and obstructing justice in 2010. Their relationship started "to get pretty rocky" in early 2011 and they "fought a lot." Caranda received two DUIs in 2011 and was sentenced to probation. After her second DUI, she found out she was pregnant. In 2013, Caranda received two more DUIs and was ultimately sentenced to prison, serving from March 2013 to August 2014. While in jail and prison, Caranda attended Alcoholics Anonymous (AA) meetings. Since her release from prison, Caranda stated she has been employed at McDonald's and regularly

attends AA meetings. She stated she has a lot of support from her family and friends and "they try and keep [her] sober."

¶ 13 After Caranda was released from prison, Jon began dictating the terms of when she could see S.S. Jon told her he did not want S.S. around her roommate's husband, David Sandefur, who had been in prison. Caranda agreed to that restriction. Caranda also stated her roommate was temporary and would probably be moving out within a week.

¶ 14 Caranda testified Jon never gave her notice of his move to Milton. She stated it would not be practical for her to have parenting time and be involved in S.S.'s life if S.S. lived in Milton, a drive of over two hours from McLean County. Caranda stated she works from 10 p.m. to 6 a.m. on Sundays and Mondays and then 10 a.m. to 6 p.m. the rest of the week. Given her transportation issues, Caranda stated her mother and friends would help her with rides and she could also use public transportation. Caranda sought to be responsible for S.S.'s health-care decisions, stating S.S. had no medical insurance with Jon.

¶ 15 Narius Chirila, the general manager at a McDonald's in Normal, testified Caranda works as a swing manager at the restaurant. Chirila stated she is a "good worker" and reliable.

¶ 16 Matthew Helfer, a probation officer in McLean County, testified he became Caranda's probation officer after her fourth DUI conviction. Helfer found her to be cooperative and "willing to do whatever it was to get the job done." He stated there was nothing that caused him any concern as to Caranda's ability to care for S.S.

¶ 17 Ron Shriver, Jon's father, testified he was a police officer in Bloomington before he retired in 2013. He then moved to Wisconsin and became involved with Our Home Christian Ministries. At the time of the hearing, he was set to move to Griggsville, Illinois, where he would be a senior pastor at Griggsville Christian Church. His son Wesley lives in Milton and is

a senior pastor at Milton Christian Church. Ron stated Jon "works hard" at raising S.S. Ron stated he would assist Jon in transporting S.S. from Milton to her visitations with Caranda.

¶ 18 Jon testified he resides in Milton with his brother, sister-in-law, and their family. He could have found a place of his own but was awaiting the outcome of the case. From April 2013 to June 2014, he lived in El Paso, Illinois. He had lived with his parents in Wisconsin from June 2014 to November 2014. Prior to moving to Milton, he lived in an apartment in Normal. He has had custody of S.S. since April 2013. Since then, Jon has taken S.S. to her medical checkups and eye doctor. Jon desired that S.S. continue her medical care with her current doctor. Jon stated his company provides maintenance for commercial retailers and he is "allowed to do everything from [his] own office." He also stated the home office allowed him to "live generally anywhere in Illinois."

¶ 19 If primary parenting responsibilities were given to Caranda, Jon worried for "the future and stability" of S.S. because he had been the constant in her life. He stated "there is always a chance" Caranda's drinking problem could resurface. Jon had noticed behavioral changes with S.S. following her visits with Caranda, stating S.S. "doesn't like to sleep," "gets a little bit more defiant," and "kind of forgets the rules at [his] house." He has looked into having S.S. homeschooled or attend a private school.

¶ 20 Jon stated he was arrested for burglary in 2006 and received two years of probation, which he did not complete successfully. He was also arrested for possession of alcohol by a minor and drug paraphernalia in 2007. He has not had any arrests since 2007. He has not used marijuana since 2012.

¶ 21 Jon testified S.S. has no health insurance. He had received a medical card for her in 2013, but when he opened his own company in 2014, the medical card was denied. He has

since sought private insurance.

¶ 22 In her rebuttal testimony, Caranda stated it would not be feasible for her to take S.S. via Amtrak to Springfield, Illinois, every other weekend for S.S.'s time with Jon. She also expressed concern about S.S. being homeschooled.

¶ 23 In its oral ruling, the trial court noted the new law, taking effect on January 1, 2016, regarding the allocation of parental responsibilities in section 602.5 of the Dissolution Act (750 ILCS 5/602.5 (West Supp. 2015)) and regarding relocation in section 609.2 of the Dissolution Act (750 ILCS 5/609.2 (West Supp. 2015)). The court found both parents love their daughter and want to have strong relationships with her. The court noted Caranda's history with alcohol and Jon's criminal record. The court stated it was "very impressed with Jon's willingness and desire to step up in this case and take on the responsibility of father."

¶ 24 In its written order, the trial court allocated decision-making authority regarding S.S.'s education and health to Jon. As to religion and extracurricular activities, the court made both parents responsible during their respective parenting time. The court required Jon to obtain health insurance for S.S. and both parties were to split the cost. The court allocated parenting time to Caranda for three out of every five weekends. All other parenting time was allocated to Jon, except for holidays, summer vacation, and school breaks, as provided in the order. The court required Caranda to attend two AA meetings per week and not consume or have alcohol in her home. In terms of relocation, the trial court allowed Jon to relocate to Milton. This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 A. Allocation of Decision-making Authority to Jon

¶ 27 Caranda argues the trial court's allocation of decision-making authority to Jon is

not in the child's best interests and is contrary to the manifest weight of the evidence. We disagree.

¶ 28 Since the parties were never married, the Illinois Parentage Act of 2015 (Parentage Act) (750 ILCS 46/101 to 905 (West Supp. 2015)) governed the proceedings in this case. In determining custodial matters, the trial court is required to apply the relevant standards found in the Dissolution Act. 750 ILCS 46/802(a) (West Supp. 2015). Section 602.5(a) of the Dissolution Act (750 ILCS 5/602.5(a) (West Supp. 2015)) requires the trial court to allocate decision-making responsibilities according to the child's best interests. Section 602.5(b) of the Dissolution Act permits the court to allocate to one or both of the parents the significant decision-making responsibility for significant issues affecting the child and lists those significant issues, without limitation, as ones involving education, health, religion, and extracurricular activities. 750 ILCS 5/602.5(b) (West Supp. 2015).

> "In determining the child's best interests for purposes of allocating significant decision-making responsibilities, the court shall consider all relevant factors, including, without limitation, the following:
>
> (1) the wishes of the child, taking into account the child's maturity and ability to express reasoned independent preferences as to decision-making;
>
> (2) the child's adjustment to his or her home, school, and community;
>
> (3) the mental and physical health of all

individuals involved;

(4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;

(5) the level of each parent's participation in past significant decision-making with respect to the child;

(6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;

(7) the wishes of the parents;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on decision-making is appropriate under Section 603.10;

(11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent

and the child;

(12) the physical violence or threat of physical violence by the child's parent directed against the child;

(13) the occurrence of abuse against the child or other member of the child's household;

(14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and

(15) any other factor that the court expressly finds to be relevant." 750 ILCS 5/602.5(c) (West Supp. 2015).

¶ 29 "On appeal, we give great deference to the trial court's best-interest findings because that court had a better position than we do to observe the temperaments and personalities of the parties and assess the credibility of witnesses." (Internal quotation marks omitted.) *In re B.B.*, 2011 IL App (4th) 110521, ¶ 32, 960 N.E.2d 646. "[A] reviewing court will not reverse a trial court's custody determination unless it (1) is against the manifest weight of the evidence, (2) is manifestly unjust, or (3) results from a clear abuse of discretion." *B.B.*, 2011 IL App (4th) 110521, ¶ 32, 960 N.E.2d 646.

¶ 30 In the case *sub judice*, the trial court allocated full responsibility for S.S.'s education and health care to Jon. In its oral ruling, the court utilized the best-interests factors set forth in the current law. The court stated S.S. was too young to express her wishes on the matter.

As to S.S.'s adjustment to her home and community, the court found her well-adjusted to both homes. The court did, however, express concern over Caranda's roommate, whose husband was a sex offender. While Caranda's counsel indicated the roommate would be moving out shortly, the court noted, given Caranda's problematic history with alcohol, the importance of "surrounding yourself with good people."

¶ 31 As to the parties' mental and physical health, the trial court noted Caranda's alcoholism and "some issues with suicide attempts or thoughts." Although it found both parties had made poor decisions in the past, the court found this factor favored Jon "a little bit over mother just because of mother's ongoing alcoholism."

¶ 32 On the ability of the parents to cooperate to make decisions, the trial court found Jon "had been very rigid and very inflexible" and Caranda "pretty much accepted that," perhaps in hopes of avoiding conflict. The court stated Jon needed "to loosen up his control a little bit and be more flexible" when it comes to S.S. and her contact with Caranda.

¶ 33 In looking at each parents' past participation in significant decision-making, the trial court stated it was "very impressed" with Jon "stepping up three years ago on behalf of his daughter." While Caranda had been absent from her daughter's life because of her time spent in prison, the court found she had made substantial steps to reintegrate.

¶ 34 As to the parents' wishes, the trial court stated both parents wanted the decision-making responsibility. The court also stated S.S. needs "two parents to be actively involved in her life and to consider her best interests." The court stated it would discuss the factor relating to the distance between the parties' residences and transportation in its ruling on relocation.

¶ 35 As to the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and S.S., the trial court stated "[b]oth

parties need to do this" and ordered that neither parent "should negatively discuss the other parent in front of the child."

¶ 36 In looking at other factors, the trial court discussed the relocation issue. The court found Jon's relocation with S.S. had not been done "properly or correctly." The court then cited the best-interests factors set forth in section 609.2 of the Dissolution Act (750 ILCS 5/609.2 (West Supp. 2015)) as they related to parental relocation. In looking at S.S.'s best interests, the court found allowing Jon to relocate to Milton, to be closer to his support system, would make S.S.'s life better because it would make it easier for Jon to provide for her. In noting the two-hour travel time from McLean County to Milton, the court indicated it understood the inconvenience and difficulty a relocation would create for Caranda.

¶ 37 The trial court found the factors favored Jon. On the issue of education, while the court stated schools in Bloomington-Normal were "very good," it found Jon had "put together somewhat of a plan, including potentially homeschooling." The court also gave Jon the responsibility as to S.S.'s health care. The court ordered both parties to cooperate to find the best options for health insurance and split the cost.

¶ 38 We find the trial court did not err in finding the relevant best-interests factors favored Jon as to the allocation of parental decision-making authority on the issues of education and health care. The court thoroughly considered the factors set forth in the new law. In the end, the court stated the decision "comes down to the history of this case." The court reiterated Jon had "stepped up the last three years and cared for [his] daughter" and S.S. "has thrived during that time." The evidence indicated Caranda had been absent from S.S.'s early life while in prison. While Caranda takes issue with the court's intermingling of best-interests factors pertaining to decision-making authority and relocation, it is clear the court considered the

distance between the parties' residences, the difficulty in transporting S.S., and the parents' ability to cooperate in making its decision. We find the court's decision was not against the manifest weight of the evidence or an abuse of discretion.

¶ 39 As it pertained to the significant issues of religion and extracurricular activities, the trial court decided both parents should be responsible during their respective parenting time. Caranda argues the court's decision on these two issues was not in S.S.'s best interests, stating it is impossible "to ensure that a decision will not impact the other parent's time" and creates "logistical problems."

¶ 40 Jon testified he and S.S. are involved with his brother's church in Milton. Jon stated he has been "active" in the church, which "has other families with kids" around S.S.'s age. He also stated he had attended Christian Life Church when he lived in McLean County. He stated he and Caranda did not go to church during their relationship, and he did not know if she attended church at the time of the hearing. He stated they had not talked about any type of religion for S.S. In regard to extracurricular activities, Jon stated S.S. "loves to swim" and partakes of "a free gymnastics course with her cousins."

¶ 41 Caranda testified she does not regularly attend church, but she believed the issue of religion was something on which she and Jon could reach an agreement. She also stated it was important for both of them to be involved in S.S.'s extracurricular activities.

¶ 42 On the issue of religion, the trial court's order stated, as follows:

> "The child may participate with each parent in their respective religious practices. Both parents are free to encourage the child to participate in religious activities. Neither parent is obligated to require the child to participate in any such activities. Whichever

> parent that schedules a religious ceremony for the child will be responsible for getting the child to and from that religious ceremony. Both parents shall notify the other of such religious activities and both parents shall be allowed to attend or participate therein. Neither parent shall schedule the child for a religious activity that will impact on the other parent's time without advance notice to the other parent and without a discussion between the parents before any decision is made. The parents shall talk about scheduling the religious ceremony prior to telling the child whether the child can participate in the religious activity or not. If said event substantially impacts the other parent's time with the child such that, for example, a parent would miss an entire weekend, then the parents shall be flexible with their schedules to arrange for make-up parenting time."

The court's order contained similar language regarding extracurricular activities.

¶ 43 We find the trial court did not err in allocating decision-making responsibilities regarding religion and extracurricular activities to both parents during their respective parenting time. The court's order allows both parents to engage in religious and extracurricular activities with S.S. during their time with her and provides alternatives should the activities conflict with the other parent's time with S.S. The court's decision was not against the manifest weight of the evidence or an abuse of discretion.

¶ 44 B. Allocation of Parenting Time to Jon

¶ 45 Caranda argues the trial court's finding that the allocation of the majority of

parenting time to Jon was in the child's best interests is against the manifest weight of the evidence. We disagree.

¶ 46 Section 802(a) of the Parentage Act (750 ILCS 46/802(a) (West Supp. 2015)) states the issue of parenting time is governed by the relevant provisions of the Dissolution Act. Section 602.7(a) of the Dissolution Act (750 ILCS 5/602.7(a) (West Supp. 2015)) states the trial "court shall allocate parenting time according to the child's best interests." Section 602.7(b) (750 ILCS 5/602.7(b) (West Supp. 2015)) sets forth several factors the court is to consider when determining the child's best interests for purposes of allocating parenting time, including, *inter alia*, the wishes of the parents and the child, the amount of time each parent spent performing caretaking functions in the 24 months preceding the filing of the petition for allocation of parental responsibilities, the child's needs, the distance between the parents' residences, the willingness and ability of each parent to place the needs of the child above his or her own needs, and whether a restriction on parenting time is appropriate. 750 ILCS 5/602.7(b) (West Supp. 2015).

¶ 47 At the hearing, the trial court noted the similarity of factors between decision-making responsibilities and parenting time. The court found both parties want "significant parenting time." In regard to the caretaking functions in the 24 months preceding the filing of the petition for parental responsibilities, the court found that factor "favors the father in a substantial way." As to S.S.'s needs, the court indicated it would "make sure that the child has lots of time with mother" given the distance to Milton. The court noted the distance between the parties' residences, finding it "a little more problematic because there's not a lot of money between the parties," but stated S.S. "is going to have some substantial time with each party." As to a restriction on parenting time, the court stated Caranda was not to consume alcohol or have

any in her home. The court also required her to attend two AA meetings per week. On the willingness and ability of each parent to facilitate and encourage a relationship between S.S. and the other parent, the court stated Jon "is going to have to work on this aspect." The court gave Jon the majority of parenting time but provided Caranda with three out of every five weekends for her parenting time.

¶ 48 Caranda takes issue with the factor regarding Jon's caretaking functions, stating Jon lacked stability in his living arrangements, as evidenced by his frequent moves, his lack of health insurance for S.S., and his "vague plans for her future education." Here, Caranda filed her petition for permanent custody in May 2015. Prior to that, she had been in prison from March 2013 to August 2014. While Jon had moved frequently, no evidence indicated S.S. was harmed in any way. Further, Jon had attempted to settle in Milton, was employed, and had been caring for S.S.'s needs. The court's order now provides requirements for S.S.'s health insurance, and the so-called "vague plans" for S.S.'s education were of less import at the time of hearing given her age.

¶ 49 Caranda also argues the trial court failed to follow the procedures for imposing restrictions on parenting time. Section 602.7(b) of the Dissolution Act states a court shall not place restrictions on parenting time "unless if finds by a preponderance of the evidence that a parent's exercise of parenting time would seriously endanger the child's physical, mental, moral, or emotional health." 750 ILCS 5/602.7(b) (West Supp. 2015). Caranda argues the court failed to make a finding of serious endangerment.

¶ 50 We note that in considering the child's best interests for purposes of allocating parenting time, the trial court is required to consider "whether a restriction on parenting time is appropriate." 750 ILCS 5/602.7(b)(10) (West Supp. 2015). Here, the court imposed restrictions

on both parents. The court ordered Caranda to not consume alcohol or have alcohol in her home. She was also to attend AA meetings. Jon was not to use alcohol in excess or illegal drugs while S.S. was in his care. Both parents were required to immediately remove S.S. from any situation where a third party is utilizing illegal drugs.

¶ 51 We note Caranda states the restrictions are not "overly onerous," and she does not take issue with the prohibition against consuming alcohol and the need to attend AA meetings. Caranda's troubled history with alcohol was readily apparent, and the possibility of harm to S.S. if Caranda were to drive while under the influence is so clear that special findings were not required. We find the trial court did not abuse its discretion in imposing these restrictions.

¶ 52 Caranda argues the factor regarding a parent's willingness and ability to place the needs of S.S. ahead of the parent's own needs goes against Jon because he has demonstrated an inability to place S.S.'s needs ahead of his own. Caranda bases this argument on Jon's refusal to allow contact between S.S. and Caranda during her prison stay. We find this argument has little merit. The trial court ordered Jon to provide transportation for Caranda's parenting time and set a schedule for that time. With the court's order now in force, we presume Jon will be willing and able to put S.S.'s needs ahead of his own in facilitating Caranda's recognized parenting time.

¶ 53 C. Relocation

¶ 54 Caranda argues the trial court's ruling that relocation was in the child's best interests is against the manifest weight of the evidence. We disagree.

¶ 55 Section 802(a) of the Parentage Act (750 ILCS 46/802(a) (West Supp. 2015)) states the issue of removal is governed by the relevant provisions of the Dissolution Act. In considering modifications to the parenting plan based on the desired relocation of one of the parents, section 609.2(g) of the Dissolution Act (750 ILCS 5/609.2(g) (West Supp. 2015))

requires the trial court to consider the following factors:

> "(1) the circumstances and reasons for the intended relocation;
>
> (2) the reasons, if any, why a parent is objecting to the intended relocation;
>
> (3) the history and quality of each parent's relationship with the child and specifically whether a parent has substantially failed or refused to exercise the parental responsibilities allocated to him or her under the parenting plan or allocation judgment;
>
> (4) the educational opportunities for the child at the existing location and at the proposed new location;
>
> (5) the presence or absence of extended family at the existing location and at the proposed new location;
>
> (6) the anticipated impact of the relocation on the child;
>
> (7) whether the court will be able to fashion a reasonable allocation of parental responsibilities between all parents if the relocation occurs;
>
> (8) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to relocation;
>
> (9) possible arrangements for the exercise of parental responsibilities appropriate to the parents' resources and circumstances and the developmental level of the child;

(10) minimization of the impairment to a parent-child relationship caused by a parent's relocation; and

(11) any other relevant factors bearing on the child's best interests."

¶ 56 Our supreme court has stated the paramount question in removal cases is whether the move is in the child's best interests. *In re Marriage of Eckert*, 119 Ill. 2d 316, 325, 518 N.E.2d 1041, 1044 (1988). While a trial court should consider all relevant evidence, "[a] determination of the best interests of the child cannot be reduced to a simple bright-line test, but rather must be made on a case-by-case basis, depending, to a great extent, upon the circumstances of each case." *Eckert*, 119 Ill. 2d at 326, 518 N.E.2d at 1045.

¶ 57 "A trial court's determination of what is in the best interests of the child should not be reversed unless it is clearly against the manifest weight of the evidence and it appears that a manifest injustice has occurred." *Eckert*, 119 Ill. 2d at 328, 518 N.E.2d at 1046. Deference to the trial court is appropriate because the court is in the best position to observe the parties " 'and, thus, is able to assess and evaluate their temperaments, personalities, and capabilities.' " *Eckert*, 119 Ill. 2d at 330, 518 N.E.2d at 1047 (quoting *Gallagher v. Gallagher*, 60 Ill. App. 3d 26, 31, 376 N.E.2d 279, 283 (1987)).

¶ 58 In considering the relocation issue, the trial court cited the best-interests factors set forth in section 609.2 of the Dissolution Act. The court noted Jon "can quite honestly work from just about anywhere" and he moved to Milton to be closer to his support system. The court found the move to Milton would make S.S.'s life better, and therefore in her best interests, because it makes it easier for Jon to provide for her.

¶ 59 The trial court understood Caranda's objection to the relocation, noting it would

create a two-hour distance between mother and daughter and "make it more inconvenient and difficult to attend certain functions." Both parents want to spend time with S.S. and, although Caranda had been absent from S.S.'s life while in prison, "she's taken substantial steps to turn that negative into a positive." The court found "substantial extended family" in Milton, including grandparents, aunts and uncles, and cousins. In Bloomington, S.S. had her grandmother and some cousins.

¶ 60 As with its ruling on parental responsibilities, the trial court found the relocation issue "comes down to the history of this case." The court stated Jon had "stepped up the last three years and cared for" S.S. The court found the greater weight of the factors favored Jon and allowed the relocation to Milton.

¶ 61 We find the trial court's decision allowing Jon to relocate was not against the manifest weight of the evidence. Although Caranda argues the court's belief that Jon's support system in Milton will make him a better parent is not an appropriate consideration, " '[t]he best interests of children cannot be fully understood without also considering the best interests of the custodial parent.' " *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 528, 791 N.E.2d 532, 548 (2003) (quoting *In re Marriage of Eaton*, 269 Ill. App. 3d 507, 516, 646 N.E.2d 635, 642 (1995)). Jon testified S.S. has "had a constant relationship with her cousins since she was born." His parents and brother have also provided shelter to him and S.S. and helped with caring for S.S.

¶ 62 Caranda's main argument against relocation is, of course, the distance between Bloomington-Normal and Milton. She contends having S.S. spend four hours in the car on three out of every five weekends is not in S.S.'s best interests and would make it difficult for Caranda to stay involved in her daughter's life. We realize "[r]emoval cases are difficult for courts to

decide. No matter the outcome, one party's life will likely be affected detrimentally." *Ford v. Marteness*, 368 Ill. App. 3d 172, 180, 857 N.E.2d 355, 362 (2006). Moreover, while any removal or relocation will obviously affect a parent's time with his or her child, " 'the real question is whether a visitation schedule that is both reasonable and realistic can be created. It need not be perfect.' " *In re Marriage of Parr*, 345 Ill. App. 3d 371, 379, 802 N.E.2d 393, 400 (2003) (quoting *Eaton*, 269 Ill. App. 3d at 515, 646 N.E.2d at 642).

¶ 63 Here, the trial court noted that, had it denied Jon's request to relocate, it would have imposed a visitation schedule of alternating weekends and one evening per week. Now, Caranda has the opportunity to spend three out of five weekends with her daughter. While Caranda argues Jon's decision-making authority with regard to S.S.'s education could conflict with her parenting time given the travel time to Bloomington after school, that argument is only speculation at this time. Moreover, the court's order allows the parents to make changes through mutual discussion, as well as through a mediator or the court as a last resort.

¶ 64 Caranda also argues the trial court failed to consider Jon's lack of facilitation of her relationship with S.S. and his failure to comply with the relocation statute. However, we trust with the court's order now in force, Jon will see to S.S.'s best interests, including facilitating her relationship with her mother. On the relocation issue, we note the current law took effect in January 2016. Caranda's counsel has repeatedly pointed out the new revisions. Jon's attorney apologized for not sending out notices of the new revisions to her clients at the start of the year. The trial court even stated this was the first case it had the opportunity to delve into the new provisions. Given that the statutory procedures for any future relocation were included in the court's order, we trust Jon has been properly educated on the matter.

¶ 65 III. CONCLUSION

¶ 66 For the reasons stated, we affirm the trial court's judgment.

¶ 67 Affirmed.