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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

In re MARRIAGE OF)	Appeal from the Circuit Court of Kendall
LISA PARR,)	County.
)	
Petitioner-Appellee,)	
)	
and)	No. 14-D-270
)	
GREGORY PARR,)	Honorable
)	Stephen L. Krentz,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices McLaren and Jorgenson concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's order granting removal of the children to Michigan was not against the manifest weight of the evidence. Affirm.
- ¶ 2 Petitioner, Lisa Parr, the primary residential parent of the parties' minor children, M., S., and N., filed a petition in the circuit court of Kendall County for leave to remove the children from the State of Illinois to Michigan. The court granted the petition for removal, finding that the best interests of the children would be served by allowing them to move to Michigan with

Lisa. Respondent, Gregory Parr, appeals the decision, contending that the court's finding was against the manifest weight of the evidence. We affirm.

¶ 3 I. Facts

¶ 4 The parties married in 1996 and have two daughters, M. and S., and a son, N. The dissolution was entered on August 20, 2015. The parties entered into a joint parenting agreement and Lisa was designated as the primary residential parent.

¶ 5 Lisa petitioned the court for the removal of the children from Illinois to Michigan on December 10, 2015. The trial on the petition was conducted over the course of three days in August 2016. At the time, the children respectively were 16, 15, and 10 years old. Lisa's petition alleged, *inter alia*, that due to the emotional abuse, the children have expressed reluctance to visit with Greg and did not wish to live with him. She further alleged that the quality of life for her and the children would substantially increase as she would be able to afford better housing than what was available currently, and the combination of having substantially more income and a lower cost of living would enable her to more adequately provide for the children's ever increasing needs.

¶ 6 Report and Testimony of Guardian *Ad Litem* (G.A.L.)

¶ 7 Lisa Accardi was appointed G.A.L. in early January 2016. She met with and spoke to the parties and submitted to the court a written report summarizing her findings.

¶ 8 At the hearing on the petition, Accardi testified that, as of spring 2016, she recommended against removal. At the request of both parties' counsel, she proposed a schedule based on the children residing in Illinois with Greg with Lisa moving to Michigan. At the time, it was her understanding that Lisa agreed to the children staying in Illinois. Accardi stated that Lisa had made statements to her indicating that she was not sure that it was best that the children move to

Michigan with her. However, Lisa did not “fully” make a statement that she was going to move regardless of what the court decided. “But she had begun packing up the house and sending things to Michigan, so it seemed as though she was going to move either way.”

¶ 9 Accardi understood that, after she had made her recommendations, Lisa agreed to allow the children to live with Greg. Lisa had concerns after that, but also saw an opportunity to have the children move to Michigan after Greg had some issues with the children while he had them during summer visitation.

¶ 10 Accardi acknowledged that the move to Michigan would enhance the general quality of Lisa’s life. She stated that Lisa had secured work in Michigan, which pays her \$14,000 more than she would have received in Illinois. Lisa placed a large down payment on a residence in Michigan and pays \$800 monthly for mortgage and taxes, which is far more affordable than where she previously was living in the Yorkville-Oswego area. Accardi also testified that Lisa was engaged. Accardi noted, however, that the children were in emotional turmoil, feeling that they were in the middle of their parents’ constant fighting and difficulties in communicating and co-parenting. But, some of the daily conflicts had been minimized by Lisa’s relocation.

¶ 11 The parties agreed that the children should be together. Accardi noted that N. has a great relationship with his father. The relationship between Greg and his daughters, M. and S., had improved. The girls told the counselor that they were “on the fence” about where they would like to live. They stated that, if they could take their school friends and familiarity along with them, they would choose to live with their mother.

¶ 12 The school systems in Yorkville and where Lisa lives seemed comparable. Accardi did not believe that Lisa moved to frustrate Greg’s parenting time and did not believe that Greg had made it difficult for Lisa to move.

¶ 13 Accardi testified regarding the positive and negative factors affecting the children's best interest. The ultimate factors compelling her decision not to relocate the children was the stability and familiarity in Illinois of their home, friends, and school, which to Accardi outweighed Lisa's decision to move to Michigan right before the children's finals, to have her boyfriend (now fiancé) and his daughter move into Lisa's home, and to marry immediately, especially given M.'s fragile, emotional state and that the children were still angry and dealing with the divorce itself.

¶ 14 Accardi reported to a number of issues that arose since Lisa had relocated to Michigan for the summer. One such issue involved M., who engaged in cutting behavior after returning from the Memorial Day weekend visit with Lisa. Accardi wrote that she was alerted by Lisa, who had been notified by the school. Accardi immediately contacted Lisa and Greg and asked for a signed release for the counselor so that Accardi could talk to her about the issue. Lisa completed the release immediately but Greg did not. He questioned Accardi as to why she was involved since she already had made recommendations and stated that he did not want to pay her for anything else since he believed her work on the case was finished. After speaking with his attorney, Greg then completed the release. The counselor indicated that M. was not suicidal and that M. was scared and ensured the counselor that it was a one-time occurrence.

¶ 15 Accardi stated that she recommended family counseling and there was a court order from March to that effect. She noted that Greg had not taken the children on a regular basis to the counselor's satisfaction and to what Accardi believed was the necessary frequency based on the circumstances. Accardi noted that the children had not been to see the counselor since the end of May and then the June 21 appointment was cancelled by Greg. When she addressed it at the

next court date, Greg then scheduled an appointment to take place July 26 and he had scheduled sessions for every Tuesday after that.

¶ 16 Lisa's Testimony

¶ 17 Lisa testified that she resides in Cement City, Michigan, with her fiancé Brian and his daughter. Before her divorce, she and Greg entered into a parenting agreement in which the children primarily resided with her, and Greg had liberal visitation.

¶ 18 Lisa believed that her relationship with Greg was a major problem of stress for her and the children. She testified that Greg repeatedly told the children that she had had an affair, that she chose to leave, that it was her fault, and that the children should not want to live with her. Lisa testified to other conflicts she had with Greg, including when she would come to pick up the children after visitation and an incident when Greg yelled at her at a basketball game. She concluded that she had to leave Illinois to get her children "out of the tug of war" that existed, even if it meant sacrificing time with her children. Lisa further testified that almost every time she tried to communicate with Greg on "Our Family Wizard" he would verbally assault her, accusing her of leaving them, and he would badger her over support money that she never received. In the spring of 2016, Lisa filed a contempt action against Greg for non-payment of support based on bonus income. Lisa stated that Greg's behavior did not change until after the hearing on the petition for removal had been set.

¶ 19 Lisa stated that Brian was a factor in why she started looking at houses in Cement City. The location is also within two hours of family and friends, she thought she could get a job as a special education teacher, the pay was good, the school districts were comparable to those at home, the cost of living less, and she thought the slower pace of life would be good for the children. It was not economically feasible for Brian to relocate his business to Illinois. Also, by

the end of February 2016, Lisa was still unsure if she would have her teaching job in Illinois, although by the spring, she had heard she received her position. Lisa stated that the house she had been renting in Oswego was being sold and she could not find affordable housing within the Yorkville school district.

¶ 20 Lisa stated that her quality of life has been enhanced by moving to Michigan. She stated that the almost daily confrontations with Greg have been eliminated. She feels more stable, has a good job, and a support system. The stress of dealing with the conflict of scheduling and transportation while working and having no support system was eliminated. Lisa believed that the stressful situation in Illinois caused her to total her car and negatively affected her parenting.

¶ 21 Lisa stated that she did not relocate to try to keep the children from Greg. She has concerns that Greg will not be able to parent as well as she because he never has had to take care of the daily nutritional and emotional needs of all three children. She believes that the stability of the children being cared for by their mother trumps the stability of staying in Illinois. Lisa thought that her move had proved to have been best for the children.

¶ 22 Greg's Testimony

¶ 23 Greg testified that he had very good relationships and was close with all three of the children. He always took them to school, volunteered in their classrooms, taught Sunday school, coached, mentored, and was a youth minister at church. He stated that, during the divorce process, the children began taking sides, acting out, being rude, and disrespectful. Greg felt that Lisa tried to interfere with his relationship with M. and S. by keeping him away from them. Lisa called the police to prevent him from coming into her driveway and the sheriff came to his house while he was having a campfire for the children. Greg denied saying negative things about Lisa

to the children. He stated that Lisa often would confront him with money issues in front of the children.

¶ 24 After Lisa moved, his relationship with M. and S. changed. Through counseling, the girls are now confiding in him again. Now, he and the children have been partaking in lots of activities together. The children are doing very well in the Yorkville schools, earning mostly A's and B's.

¶ 25 As to M.'s cutting incident, he too learned about it from the school counselor, who told Greg that M. was not a threat to herself, that she regretted it, that it scared her, and that she would not do it again. Greg called the family counselor for any special instructions, but M. already had a standing appointment with the counselor. At the session. M. said she was sorry and Greg reassured her.

¶ 26 Greg testified that the children have been in Yorkville for nine years where all their friends are, where they have been involved with church groups, where N. plays soccer and basketball, where the girls have been involved in gymnastics over the last six years, and where Greg has coached all three children. He stated that Cement City is in a rural area with a population of only 453. The school system does not offer junior varsity and the closest soccer club is about 45 minutes away, the nearest McDonald's is about 20 miles, and there is no large grocery store. He stated that the Yorkville neighborhood has a pool, a marketplace, and he can take the children to Chicago for outings. Greg thought it would be difficult for him to be involved in his children's extracurricular activities if they moved to Michigan. Greg testified that when the children lived in Illinois, he would come to N.'s practices or games even when it was not his parenting time and N. loved that.

¶ 27

Judgment and Posttrial Motions

¶ 28 At the conclusion of the evidence, the trial court orally ruled in favor of relocation, and the court entered a written order continuing the matter for presentation of a modified parenting plan. Following the judgment and posttrial motions, the parties entered into an agreed parenting plan and a final judgment was entered on October 26, 2016.

¶ 29 Greg timely appeals, contending that Lisa has not sustained her burden of proof that relocating the children to Michigan served their best interests and that the trial court's ruling was against the manifest weight of the evidence.

¶ 30

II. ANALYSIS

¶ 31 Section 609.2 of the Illinois Marriage and Dissolution of Marriage Act (Act), which became effective January 1, 2016, now governs petitions for removal. 750 ILCS 5/609.2 (West 2016). Section 609.2 essentially codifies the factors a court must consider when ruling on a petition for removal which was addressed by our supreme court in *In re Marriage of Collingbourne*, 204 Ill. 2d 498 (2003), and *In re Marriage of Eckert*, 119 Ill. 2d 316 (1988). It specifically enumerates the following 10 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.” 750 ILCS 5/609.2 (West 2016).

¶ 32 The standard of review for cases governing removal makes clear that the best interests of the children is the paramount consideration and that this determination “ ‘must be made on a case-by-case basis, depending, to a great extent, upon the circumstances of each case.’ ” *Collingbourne*, 204 Ill. 2d at 521 (quoting *Eckert*, 119 Ill. 2d at 326). We do not reweigh the competing considerations. Instead, we review the trial court's decision deferentially, and unless we find the decision to be against the manifest weight of the evidence or clearly unjust, we let the decision stand. *Collingbourne*, 205 Ill. 2d at 521-22. The trial court's decision is against the manifest weight of the evidence only if the evidence “clearly” calls for a conclusion opposite to that reached by the trial court or only if the factual findings on which the decision depends are clearly, plainly, and indisputably erroneous. *Wakeland v. City of Urbana*, 333 Ill. App. 3d 1131, 1139 (2002).

¶ 33 Such deference is appropriate because the trier of fact has significant opportunities to observe both parents and the children and therefore is able to assess and evaluate their temperaments, personalities, and capabilities. *Eckert*, 119 Ill. 2d at 330. Thus, ‘ “[t]he presumption in favor of the result reached by the trial court is always strong and compelling in this type of case.’ ” *Id.* (quoting *Gallagher v. Gallagher*, 60 Ill. App. 3d 26, 31-32 (1978)).

¶ 34 Here, the trial court conducted a thorough hearing. Before orally ruling, the court, in a comprehensive and lengthy discussion, weighed the evidence as it applied to the relevant factors. The court found the following evidence favored removal: (1) the likelihood that the move would enhance the general quality of life due to a higher paying job, lower cost of living, Lisa’s need to remove herself from the daily conflict and stress between Greg and her, and the happiness and stability of her new relationship, all of which benefited the children directly and indirectly; (2) the history and quality of the parents’ relationships with the children due, in part, to Greg’s failure to exercise his weekday parenting time with his two daughters, a strained relationship between Greg and his daughters, and that Lisa was primarily the stay-at-home parent who was largely responsible for most, if not all, of the children’s daily care giving tasks while the family was intact; and, (3) both parents’ extended families live within two hours of Lisa’s new residence in Michigan. Moreover, the agreed upon parenting plan entered into subsequent to the court’s ruling showed that Greg has the same allocation of parental responsibilities as he had prior to the relocation.

¶ 35 In addition, the court was persuaded that Lisa’s move to Michigan was not improperly motivated. The court further found that the educational opportunities in Michigan were equal if not better than the schools in Yorkville, but overall the court found the educational opportunities in Michigan and Illinois were neutral.

¶ 36 Of greatest concern to the court was Greg's ability to actively participate in his son's extracurricular sports activities, but the court noted the improved relations and evidence of a reduction in the daily conflict. Also, the court observed that there was evidence that the children were adjusting to their new circumstances in Lisa's Michigan home and there was no evidence of any conflict between the children and Brian and his daughter. The court concluded that the positive impact of the relocation was offset by the negative impact on Greg's relationship with N. resulting in this factor as being neutral.

¶ 37 On appeal, Greg addresses the statutory factors and argues why the trial court's analysis was erroneous or inadequate. Greg acknowledges that Lisa is making more in Michigan and that the cost of living and home ownership in Michigan are less than in Illinois, but he contends that this does not necessarily affect the children's best interests. Greg questions Lisa's reasons for moving based on her conflict-ridden relationship with him, and the court's justification in finding it appropriate to relocate the children. Greg maintains that Lisa's relationship with Brian is irrelevant. Greg also questions Lisa's motive for relocating and notes her long-standing wish to move to Michigan.

¶ 38 On the factors of whether the proposed move would enhance the quality of life of the children, Greg wants us to find his testimony was more credible than what the trial court found it was and asks us to reweigh the evidence. Lisa is making more per year and the cost of living is cheaper in Michigan and the court found this indirectly and directly benefited the children in terms of availability of financial income. The court also found that the ongoing verbal abuse was harming her relationship with the children and negatively impacted her ability to parent them. The trial court believed Lisa's testimony to be "clear and persuasive" that she felt the distance would benefit the relationship between the children and Greg, and the evidence appeared to

support the court's finding that Lisa's move to Michigan was not improperly motivated. The court further noted Lisa's testimony that she was getting married and was experiencing happiness, stability, and security in that new relationship. The trial court specifically found this evidence relevant and determined that the happiness a parent experiences by living with a new spouse would indirectly benefit the children, although that alone was not sufficient to justify removal. See *In re Marriage of Berk*, 215 Ill. App. 3d 459, 465 (1991). Our job as the reviewing court is not to assess the witnesses' credibility, nor is it to reweigh the evidence, and we refuse to do so here. The court's conclusions are supported by the testimony.

¶ 39 Greg raises other challenges to the trial court's decision. Greg claims the trial court placed too much emphasis on the history and quality of the parents' relationships with the children. Again, the evaluation of the evidence by the trial court with regard to this factor relies on its ability to judge the credibility of the witnesses. There is no question that Lisa has always been the primary caregiver for the children. The evidence also supports the conclusion that Greg failed to exercise his weekday parenting time with his daughters and that their relationship was strained at best. The G.A.L. further acknowledged that the source of the dysfunction between the parties stemmed from Greg's constant negative communication with Lisa. In addition, Greg's emotional abusive behavior towards Lisa caused the daughters to gravitate towards Lisa. Greg admitted that he focused most of his energy towards N. and his extracurricular activities. Although Greg had a strong relationship with N., Lisa did too.

¶ 40 Greg also takes issue with the trial court's finding that the factor regarding extended family favors removal. Greg argues that there was no evidence that relationships with the extended family would serve the best interests of the children. On the other hand, as pointed out

by Lisa, there was no evidence to establish that any relationship with extended family was estranged and there was no evidence of any extended family in Illinois.

¶ 41 In sum, the trial court found that Lisa is directly benefitting from the move due to a higher paying job, a new family unit, and a reduction in daily conflict. The court held that these benefits have a positive effect on the children, either directly or indirectly. Great deference should be afforded the trier of fact, and the court's factual findings are not clearly against the manifest weight of the evidence. Greg complains that the negative findings against him and the positive findings in favor of Lisa are manifestly unjust. However, the court had significant opportunity to observe the parties and it was able to assess and evaluate their temperaments, personalities, and capabilities. See *Eckert*, 119 Ill. 2d at 330. Accordingly, because the trial court's finding were based on the evidence and are clearly not arbitrary or unreasonable, and do not result in manifest injustice, we affirm the court's decision granting the petition for removal.

¶ 42

III. CONCLUSION

¶ 43 For the reasons stated, we affirm the judgment of the Circuit Court of Kendall County.

¶ 44 Affirmed.