2017 IL App (3d) 160354-U

Order filed January 18, 2017

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

In re the Parentage of: C.P., a minor,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
JENNIFER CHLEBEK,	)	Will County, Illinois,
	)	
Petitioner-Appellee,	)	Appeal No. 3-16-0354
	)	Circuit No. 13-F-405
v.	)	
	)	
NEAL PATTERSON,	)	Honorable
	)	Jessica Colon-Sayre,
Respondent-Appellant.	)	Judge, Presiding.

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices McDade and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held*: The judgment of the circuit court granting petitioner's petition to relocate the minor from Minooka, Illinois to Munster, Indiana, was not against the manifest weight of the evidence.

¶ 2 Jennifer Chlebek and Neal Patterson, the parents of C.P., born March 6, 2010, are parties to a Joint Parenting Agreement approved by the circuit court of Will County on February 25, 2014. The Agreement provided that the parties would have joint legal custody of C.P., with Jennifer designated as the residential parent and Neal exercising specified periods of parenting

time. On May 3, 2016, Jennifer filed an amended petition seeking to relocate C.P. from Minooka, Illinois, approximately 23 miles from Neal's residence, to Munster, Indiana, approximately 33 miles from Neal's residence. Following a hearing on June 9, 2016, the trial court held that the proposed relocation was in the best interest of C.P. and granted Jennifer's petition. Neal appeals from that judgment. We affirm.

¶ 3 BACKGROUND

¶ 4 The Joint Parenting Agreement provided that Neal would have parenting time on alternating weeks from Wednesday at 8:00 a.m. until Friday at 8:00 a.m. On the other weeks, he would have parenting time from 8:00 a.m. on Monday until 8:00 a.m. on Wednesday. Additionally, Neal parented the child on alternate weekends from 8:00 a.m. on Friday until 7:00 p.m. on Sunday. The Agreement further provided alternating holiday parenting time. Neal consistently exercised his scheduled parenting time with C.P.

¶ 5 At the time of the hearing, Jennifer resided in Minooka, Illinois, approximately 23 miles west of Neal's home in New Lennox, Illinois. During the school year, the exchange for parenting time generally occurred at the child's school in Channon, Illinois, which was approximately 20 miles from Neal's home. During the summer vacation, Jennifer would usually take the child to Neal's home and return to Neal's home to pick up the child at the appointed time. On those occasions when Jennifer did not return to Neal's home, the parties would meet at a point approximately halfway between the two residences. The record established that Neal never drove more than 20 miles for the purpose of parenting exchanges.

¶ 6 Jennifer and C.P. lived in Minooka in a four-bedroom home owned and occupied by Jennifer's mother and stepfather. Jennifer and C.P. each had their own bedroom. Jennifer's work in sales required significant travel in Illinois and northern Indiana. Jennifer expressed a

desire to have her own home at age 34 and to reduce her travel time for work. Her research led her to choose Munster, Indiana, due to reduced amounts of travel time in her sales job. Jennifer's unrebutted testimony established that all of her largest sales accounts she regularly called upon were significantly closer to Munster than Minooka and that her travel time would be reduced in such a manner as to allow her to spend more time with C.P. on work days. She also testified that housing was more affordable in Munster compared to the Minooka area, particularly when taking property taxes into account. She also noted that the schools in Munster were "top-rated" although there was no testimony that the minor's current schooling was in any way deficient. The child was attending kindergarten at the time of the hearing and it was anticipated that she would be entering the first grade the following school year. There was no evidence presented to suggest that C.P. was having any difficulty with her schooling.

¶ 7 The record established that both Jennifer and Neal were competent and loving parents and neither party had any objections to the parenting skills and practices of the other. Regarding extended family members, the record established that, except for Jennifer's mother and step-father, all family members of both parents resided in Chicago or other areas. The record further established that Jennifer's mother helped with caring for C.P. while Jennifer was at work, although the extent of her participation was minimized due to the minor's school attendance.

¶ 8 Extensive evidence was taken regarding the distance between Neal's home in New Lennox and Munster (approximately 33 miles) compared to the distance between his home and the Minooka/Channahon area (approximately 21 miles). The court noted that this would increase Neal's travel time by approximately 15 minutes each way on those days he was responsible for picking up the child for his parenting time. Neal maintained that increasing his travel time by 15 minutes would have a significant negative impact upon his parenting time.

¶ 9 Following the close of the evidentiary hearing, the trial court issued an oral ruling finding that it would be in the best interest of C.P. to permit Jennifer to relocate to Munster. In doing so, the court noted that it had considered all relevant factors as articulated in *In re Marriage of Eckert*, 119 Ill. 2d 316 (1988). Although the court did not articulate each of the *Eckert* factors, it focused on the benefit to the minor resulting from Jennifer's ability to establish a home of her own rather than share a home with her mother and stepfather. The court noted that sufficient evidence established that the cost of living for Jennifer, as a single parent, would be less in Munster than remaining in Illinois. Additionally, the court found that Jennifer's motives in relocating were not based upon an animus toward Neal nor toward limiting or interfering with his parental time. Lastly, the court concluded that the increased travel time necessitated by the mover to Munster would not negatively impact Neal's parenting time. This appeal followed.

¶ 10 ANALYSIS

¶ 11 On appeal, Neal maintains that the trial court's ruling that relocation was in the child's best interest is against the manifest weight of the evidence. In considering modifications to a parenting agreement based upon the desired relocation of one of the parents, section 609.2(g) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/609.2(g) (West Supp. 2015) requires the 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 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 of 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 the relocation;

(9) possible arrangements for the exercise of parental responsibilities appropriate to the parent's resources and circumstances and the development 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 interest."

¶ 12 The paramount question in any removal case is whether the move is in the best interest of the child. *Eckert*, 119 Ill. 2d at 325. While a trial court must consider all relevant evidence, "[a] determination of the best interest 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." *Id*. at 326. Moreover, "[a] trial court's determination of what is in the best interest of the child should not be reversed unless it clearly against the manifest weight of the evidence and it appears that a manifest injustice has occurred." *Id*. at 328. Whether it is in the best interest of a child to be relocated is subject to a manifest weight standard of review. *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 503 (2003). A trial court's determination is against

the manifest weight of the evidence "where the opposite conclusion is clearly evident or where the court's findings are unreasonable, arbitrary, and not based on any of the evidence." *In re Marriage of Matchen,* 372 Ill. App. 3d 937, 946 (2007).

¶ 13 Neal's first argument is that, by failing to comment upon each of the factors, the trial court apparently failed to properly consider all 11 of the statutory factors. We disagree. While the court did not specifically comment upon each statutory factor, we are aware of no requirement that it do so. To the contrary, it is well-settled that a court is not required to make specific factual findings as long as the record reflects that the court considered all relevant evidence regarding the factors before making its ruling. *In re Marriage of Diehl,* 221 Ill. App. 410, 424 (1991); *In re Marriage of Berk,* 215 Ill. App. 3d 459, 464 (1991). In its oral pronouncement following the hearing, the court commented that it had "considered all of the factors, including the *Eckert* factors in determining" what was in best interest of the child. The court then commented upon the factors which it determined weighed heavily in favor of relocation. The court's practice of not commenting on each individual statutory factor does not equate to a failure to consider all of those factors. Moreover, from the record, we can determine that the court considered all relevant evidence and appropriately weighed and balanced all the evidence in such a way as to lead us to conclude that its findings were not against the manifest weight of the evidence.

¶ 14 Regarding the first factor, the circumstances and reasons for the intended relocation, the court found that Jennifer's desire to relocate to Munster was the result of a genuine desire to establish her own home for herself and C.P. The court believed that Jennifer was sincere in her desire to establish such a home for herself independent of her mother and stepfather and that this would inure to C.P.'s benefit. The court was convinced that being more independent would

make her a better parent for C.P. The court also credited Jennifer's testimony that a move to Munster would allow her to reduce her work-related travel time due to the fact that most of the clients she regularly called upon were located much closer to Munster than to Minooka, which would allow her to spend more time with C.P. These findings are also relevant to factor 6 (the anticipated impact of the relocation on the child). We further note that, although the benefits of relocation unquestionably benefit Jennifer in that she will be able to establish her own home and meet the financial obligations arising therefrom, courts have consistently held that "[t]he best interest of [the child] cannot be fully understood without also considering the best interests of the custodial parent." *Collingbourne*, 204 Ill. 2d at 528; *In re Marriage of Eaton*, 269 Ill. App. 3d 507, 516 (1995).

¶ 15 Neal's main argument against relocation is his drive to Munster rather than Minooka or Channahon would have a significant negative impact upon his parenting responsibilities and his parent-child relationship with C.P. Although the trial court did not specifically relate his arguments to the statutory factors, we can determine that Neal's argument directly addresses factor 2 (the reasons, if any, why a parent is objecting to the intended relocation); factor 7 (whether the court will be able to fashion a reasonable allocation of parental responsibilities between all parents if relocation occurs); and factor 10 (minimization of the impairment to a parent-child relationship caused by a parent's relocation).

¶ 16 There was extensive testimony and evidence in the record regarding the distance in miles and the corresponding time needed to travel the increased distance between Neal's home and Munster. There was conflicting testimony regarding which route would result in the most efficient travel time, whether the distance was properly measured utilizing two-lane roads as opposed to the interstate, and which exit was utilized off the interstate. After weighing all the

evidence, the trial court determined that if Jennifer were allowed to relocate to Munster it would increase Neal's driving time by 15 minutes each trip. Neal claimed that an additional 15 minutes of travel time would cause significant harm to his relationship with C.P. as well as impede his ability to properly exercise his parental responsibilities. Neal argued that the increased time driving would result in an additional hour per day and that C.P. would be negatively impacted by her increased time in transit. The trial court disagreed, noting the 15 additional minutes with C.P. while returning her to Jennifer, or 15 minutes of additional time driving to pick up the child would not add up to an hour per day and would not significantly impede Neal's ability to parent nor negatively impact his relationship with C.P. After reviewing the record, we cannot say that the trial court's findings are against the manifest weight of the evidence.

¶ 17 We note that the record contained evidence regarding factor 4 (the educational opportunities for the child at the existing location and at the proposed new location). Neal maintains that Jennifer failed to establish that there was a significant qualitative difference between the two school systems and that therefore the court should have found against her on this factor. We disagree. It was Jennifer's unrebutted testimony that the Munster school system was "rated highly" and was "award winning." There was no evidence that the Channahon school system was inferior to the schools in Munster. The trial court commented that the evidence established that "both [are] good school districts" indicating that factor 4 had relatively little weight in court's determination. We cannot say that this factual finding was against the manifest weight of the evidence.

¶ 18 Neal further maintains that the trial court failed to adequately consider factor 5 (the presence or absence of extended family at the existing location and at the proposed new location). Had the court properly considered this factor, he maintains, it would have reached the

opposite conclusion. He points to the fact that Jennifer's mother and step-father live in Minooka and thus will be further away and less a part of C.P.'s life. We disagree. Just as Neal will be a mere 15 minutes further away from C.P. if she were relocated to Munster, Jennifer's family will be only a few more minutes away. We cannot say that this factor was improperly considered by the trial court.

¶ 19 For the foregoing reasons, we find that the trial court's judgment granting the petitioner's petition to relocate the minor child to Munster, Indiana was not against the manifest weight of the evidence.

¶ 20 CONCLUSION

¶ 21 The judgment of the circuit court of Will County is affirmed.

¶ 22 Affirmed.