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2017 IL App (3d) 160509-U

Order filed January 27, 2017

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

<i>In re</i> MARRIAGE OF	)	Appeal from the Circuit Court
	)	of the 21st Judicial Circuit,
MICHAEL J. LENCZYCKI,	)	Kankakee County, Illinois.
	)	
Petitioner-Appellant,	)	Appeal No. 3-16-0509
	)	Circuit No. 09-D-125
and	)	
	)	
ANDREA J. LENCZYCKI,	)	The Honorable
	)	Michael D. Kramer,
Respondent -Appellee.	)	Judge, presiding.

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JUSTICE CARTER delivered the judgment of the court.  
Justices Schmidt and Wright concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The trial court did not err in granting the mother's request to relocate out of state to Indiana with the parties' child.

¶ 2 This appeal arises from post-dissolution of marriage proceedings between the petitioner, Michael Lenczycki, and respondent, Andrea Lenczycki (n/k/a Andrea Vanderwoude). Michael appeals the order of the trial court granting Andrea's petition for relocation of his seven-year-old daughter, E.L., from Illinois to Indiana. We affirm.

FACTS

¶ 3

¶ 4 Michael and Andrea were married on June 30, 2007. During their marriage, the parties had one daughter, E.L., who was born on January 24, 2009. A dissolution of the parties' marriage was entered on June 29, 2010.

¶ 5

On June 29, 2010, the parties entered into a joint parenting agreement to resolve all issues regarding the care and custody of E.L. The parties agreed it would be in the best interest of E.L. for them to share in joint custody of E.L. The joint parenting agreement indicated the parties intended for both parties to have equal rights and responsibilities regarding the rearing and overall well-being of E.L. and equal rights and responsibilities regarding the decision-making as to her growth and development. The parties designated Andrea as the "residential parent" and Michael as the "non-residential parent." Michael's "co-parenting" times were designated as: Tuesday and Thursdays, every other weekend, and two separate two-week periods of extended visitation. The parties also agreed that each party would contact the other party and allow that person to watch E.L. if he or she could not personally be with her during his or her scheduled parenting. Sometime after the dissolution judgment had been entered, the parties increased Michael's parenting time to include overnight visits during his weekday parenting time, so that Michael had six overnights of parenting time with E.L. out of every 14 days.

¶ 6

On October 19, 2013, Andrea married Eric Vanderwoude. Six months later, on March 11, 2013, their son, L.V., was born. Eric and Andrea resided in Beecher, Illinois, within 10 miles of Michael's residence in Grant Park, Illinois.

¶ 7

On March 19, 2016, Andrea told Michael that she and Eric intended to move to the Indianapolis, Indiana, area due to Eric pursuing a job opportunity within his company. Michael

objected to Andrea moving E.L. out of Illinois. On April 1, 2016, Eric began working in Indianapolis, Indiana.

¶ 8 On April 4, 2016, Andrea filed a petition to remove E.L. from the State of Illinois and relocate her to Indiana. Andrea argued that the removal would be in E.L.’s best interest because Eric had been transferred to Indianapolis, Indiana, for his employment and the transfer gave Eric “the opportunity for advancement in his company and would provide a better standard of living for the minor child.” Andrea also indicated in support of the relocation that she would be “working from home so she will be permitted to spend more time with the minor child” and E.L. had a two year old brother, L.V., who was moving to Indianapolis with Andrea and Eric. Andrea also contended that the school in Indiana “possesse[d] a higher rating than [E.L.]’s current school” and provided E.L. with more activities and opportunities.

¶ 9 On April 18, 2016, Michael responded to Andrea’s request for relocation of E.L. from Illinois to Indiana by arguing that it was in the best interest of E.L. that the trial court deny Andrea’s removal petition. If Andrea decided to move to Indiana, Michael requested that the trial court modify the original parenting agreement by designating him “as the parent with the majority of parenting time” and designating his residence as E.L.’s “primary residential address for school enrollment and other purposes.”

¶ 10 Prior to the hearing on the parties’ petitions, both parties submitted substantially similar parenting plans to the trial court with the non-residential parent having E.L. every other weekend and for the majority of school breaks. Also prior to the hearing, on May 12, 2016, the parties entered an agreed order to submit to mandatory good faith mediation in accordance with the dissolution judgment. The following day, on May 13, 2016, during a phone call with E.L., Michael learned that Andrea had taken E.L. to Indiana for the weekend and that earlier that

month Andrea and Eric purchased a home in Greenwood, Indiana. Greenwood, Indiana was located 2.5 hours from Michael's home in Grant Park, Illinois.

¶ 11 On May 18, 2016, Michael filed a petition for a temporary restraining order (TRO) and preliminary injunction against Andrea to maintain the status quo and enjoin and restrain Andrea from unilaterally altering, changing, or modifying E.L.'s existing Illinois residency, formal educational providers, healthcare providers, religious training or indoctrination providers, and enrollment in extracurricular programs or activities, prior to the trial court considering the merits of Andrea's petition for relocation of E.L. to Indiana. In support of the TRO petition, Michael attached an affidavit averring to the following: (1) the parties had joint parenting responsibility for E.L. and he had exercised his co-parenting time in excess of the terms of the joint parenting agreement; (2) since the parties' divorce, E.L. lived in either Kankakee or Will county, Illinois; (3) the parties resided approximately nine miles from each other, with Michael in Grant Park and Andrea in Beecher, Illinois; (4) Michael had been actively involved in E.L.'s life, attending functions such as parent-teacher conferences, field trips, daddy-daughter dances, medical appointments, religious functions, soccer games, and dance practice; (5) E.L.'s maternal and paternal extended family resided in the same Illinois area as Michael in Grant Park, Beecher, Crestwood, Tinley Park, and New Lenox; (6) on March 19, 2016, Andrea verbally told Michael that Eric had voluntarily taken a job near Indianapolis, Indiana; (7) on March 28, 2016, from seeing the "For Sale" sign in Andrea's front yard, Michael learned that Andrea had listed her Illinois residence for sale for \$210,000; (8) on April 4, 2016, Andrea filed a petition for the relocation of E.L. from Illinois to Indiana; (9) on May 9, 2016, Andrea and Eric purchased a home in Greenwood, Indiana, but did not tell Michael that E.L. would be spending her weekends at Andrea's new home in Indiana; (10) on May 13, 2016, Michael first learned that Andrea had

purchased a home in Greenwood, Indiana, during a telephone conversation with E.L.; (11) on May 14, 2016, Andrea enrolled E.L. in Sunday School classes in Indiana, without the knowledge or agreement of Michael; (12) on May 17, 2016, Andrea dropped the sales price of her Beecher, Illinois home to \$199,000; (13) Michael had the right to joint legal decision-making regarding E.L., and Andrea was ignoring the provisions of the joint parenting agreement; and (14) Michael would have E.L. for six overnight visits over the course of every 14-day period. On June 16, 2016, the parties entered an agreed order regarding Michael's request for a TRO, in which Andrea agreed to the entry of a temporary restraining order during the pendency of her relocation petition. Specifically, Andrea agreed that she would not unilaterally change E.L.'s current Illinois residency, educational providers, healthcare providers, religious training or development providers or enrollment in extracurricular programs without the prior notice and consent of Michael. The parties were also ordered to complete mediation but mediation was unsuccessful.

¶ 12 On July 26, 2016, Michael filed a petition for rule to show cause, arguing that Andrea had moved E.L. to Indiana. He alleged that Andrea and Eric had moved a majority of their furniture, including E.L.'s bedroom furniture, from their home in Beecher, Illinois, to their new home in Greenwood, Indiana, and Andrea had moved E.L. from Illinois to Indiana in violation of the agreed TRO.

¶ 13 On August 2 and 3, 2016, a hearing took place on the parties' pending petitions. Testimony was given by Michael, Andrea, Eric, Cynthia Moore (Andrea's mother), Thomas Boertjes (owner of the company that employed Michael), Donna Lakomy (Michael's mother), and Charles Spangenberg (regional vice president of the company that employed Eric).

¶ 14 Andrea testified that she currently resided between Illinois and Greenwood, Indiana, with her husband and son. Andrea and Eric purchased their Greenwood home on May 5, 2016, due to

Eric taking a job opportunity that had been presented in Indianapolis, Indiana, which was 20 miles north of their home in Greenwood, Indiana. About two weeks after purchasing the home, E.L. would stay with Andrea in Indiana on weekends only because she was still in school. After school was out, in the beginning of June, they started staying in Indiana during the week on Andrea's parenting time.

¶ 15 Andrea testified that the parties' current parenting schedule consisted of Michael having E.L. every other weekend from Friday night until Sunday at 6:00 p.m. and two nights a week, from the time he got off work until the following day. Michael had E.L. six out of 14 nights for overnight visits. The parties had maintained that parenting schedule for the last four years.

¶ 16 Andrea also testified that she worked for Accent, in Tinley Park, Illinois, doing "insurance recovery." She had originally planned to quit her Illinois job when she relocated to Indiana and look for another job, but her employer had offered to allow her to work from her home in Greenwood, Indiana. Andrea used a daycare for her two-year-old son, L.V., because she was required to work an eight-hour day.

¶ 17 Andrea's parents and extended family lived in Beecher and Grant Park, Illinois. Since Andrea moved to Indiana, Andrea's mother (E.L.'s maternal grandmother) had visited Andrea and the kids on four or five occasions for a few days and had helped them get settled into their home. Andrea's mother sometimes brought E.L. back and forth from Indiana to Illinois for Michael's parenting time in Illinois. On one occasion, E.L. became so upset about having to leave that Andrea's mother brought her back to Andrea's home until she calmed down. Andrea's grandmother (E.L.'s maternal great grandmother) had visited Andrea and the children in Indiana on two occasions and had stayed for three days. Andrea opined that the move to Indiana would make E.L.'s relationship to her maternal extended family "closer" because they visited so often

in Illinois that it was not quality time. When they visited it was “just a hey and [E.L.] goes and plays,” in Indiana it will be “visiting time” and they will spend quality time together.

¶ 18 Andrea testified that Michael had a close, loving relationship with E.L. and that Michael had a positive influence on her. Andrea testified, “[E.L.] loves her dad, so they have that good relationship.”

¶ 19 In considering the move to Indiana, Andrea and Eric considered the cost of living, Eric being with his employer for 20 years, Eric’s job advancement opportunities, and Andrea being able to work from home. Andrea testified that E.L. did better with exchanges that took place in a neutral location because when E.L. goes from her home to Michael’s home she has a “meltdown” for about 20 minutes because she does not want to leave, but then she calms down and is okay. E.L. has a close relationship with her younger brother L.V. E.L. also has a good relationship with Eric, although it had taken some time because E.L. felt as though she did not have two dads.

¶ 20 On cross-examination, Andrea testified that she and Michael had been married in 2007 and had separated multiple times prior to divorcing. They permanently separated in 2010 when E.L. was six weeks old. Andrea moved to Beecher, Illinois, into a home owned by Andrea’s parents. Andrea testified she and Eric had been renting the Beecher home from her mother for \$1000 per month.

¶ 21 In March of 2016, Eric accepted a position within his company in Indianapolis, Indiana. On April 1, 2016, Eric began working in Indianapolis, Indiana, living in hotel and returning to Illinois on the weekends. On May 5, 2016, Andrea and Eric bought a home in Greenwood, Indiana, for \$210,000 and made an \$11,000 down payment. Their mortgage payment, escrow, and property taxes in Indiana totaled \$1400 per month. By the first week of June of 2016,

Andrea and Eric had moved almost all of their belongings to Greenwood, Indiana, and Andrea no longer resided in Illinois.

¶ 22 Andrea testified that if she were allowed to relocate E.L. to Indiana, Andrea anticipated only returning to her home office in Tinley Park, Illinois “maybe once every couple months.” If relocation were denied and E.L. lived primarily with Michael, Andrea would request to have E.L. for two overnight visits per week and Andrea and E.L. would stay with Andrea’s mother in Grant Park, Illinois, and Andrea would work in the office in Tinley Park on those days.

¶ 23 Andrea testified that Eric was employed with ABF Freight. Eric’s new position as “operations manager” in Indiana provided a pay increase of \$9000 per year, from \$91,000 to \$100,000 per year. Prior to transferring to Indiana, Eric was working in Chicago Heights, Illinois, as one of five “operations managers.” According to Andrea, the job that Eric took in Indiana provided Eric with a better opportunity for advancement within ABF than his job in Chicago Heights provided. Eric, Andrea, and E.L. had no ties to the area of Greenwood, Indiana.

¶ 24 Andrea testified that she primarily coordinated E.L.’s healthcare. E.L. has seen a doctor in Beecher for a wart on her toes, an ear infection, and a flu shot. E.L.’s primary pediatrician was in Mokena, Illinois, until Andrea switched E.L.’s doctors after L.V.’s birth. E.L. saw a dentist in Manteno, Illinois. She had also seen a gastroenterologist and a dermatologist. Andrea testified that Michael had demonstrated an interest in E.L.’s healthcare and participated in her healthcare.

¶ 25 Andrea acknowledged that she and Michael had entered into a joint parenting agreement, which “meant that the two of [them] were going to have equal rights and responsibilities regarding rearing [E.L.],” regarding E.L.’s overall well-being, and they had equal rights to

“decision making” concerning [E.L.]. Andrea believed that it was in E.L. best interest for her and Michael to jointly parent E.L. and have “frequent and continuing contact with [E.L.]” Since E.L. began kindergarten, Andrea and Michael attended her parent-teacher conferences together. Andrea testified that Michael had attended E.L.’s school open houses, her t-ball games and practices, and all her soccer games and practices. He drove E.L. to her dance class on his parenting nights. He also helped her with school projects and homework. Michael and Andrea each brought E.L. to her Sunday school class at Zion Lutheran Church in Grant Park, Illinois, on their respective weekends. Both Michael and Andrea have attended doctor appointments for E.L. and have attended some doctor appointments together. Michael had picked up E.L. from school when she has been sick and had taken time off work to care for her when she was sick on his parenting days. Andrea testified that Michael and E.L. had a close, strong bond, they loved one another, and Michael’s influence on E.L. was positive. Andrea believed the joint parenting agreement and the additional overnight visits that Michael had with E.L. during the week helped to foster the strong relationship between Michael and E.L.

¶ 26 Michael lived 10 miles from E.L. when she lived in Beecher, Illinois (a five minute drive), but now lived 143 mile from E.L. (a 2.5 hour drive). The short distance between their homes in Illinois had helped to foster Michael and E.L.’s relationship, and provided Michael an opportunity to be involved with E.L. at the level he had been involved in her life, and had allowed him to participate in E.L.’s schooling, health care, religious training, and extracurricular activities.

¶ 27 Andrea’s mother (Cindy Moore) and grandmother (Eileen Gunska) live next door to one another in Grant Park, Illinois, with Andrea’s Aunt (Sandy Trubach) and Uncle (Gary Trubach) living in the house next to her grandmother. Andrea’s sister, Amanda Moore, also lived in Grant

Park, Illinois. E.L.'s relationship with her grandmother, Cindy, was very good, loving, and affectionate. E.L. and her grandmother Cindy would spend alone time with one another, going shopping, swimming at E.L.'s great-aunt Sandy's house, reading, or going to the park. E.L. would see her maternal extended family one or two times every two weeks. E.L. and her great-grandmother, Eileen, would spend one-on-one time together cuddling, reading, baking, and playing games once per week or every other week during the months Eileen lived in Illinois, which was May through October. E.L. is also close with her maternal grandfather, Andrea's father, who was divorced from Andrea's mother and lived in Beecher, Illinois. E.L.'s grandfather would take her to get ice cream, play with her, and take her on walks. E.L.'s step-grandmother, Tanna, also had a good relationship with E.L. Tanna used to pick up E.L. from school occasionally and watch her if she had the day off of school, providing childcare and transportation for E.L. Andrea's in-laws, Eric's parents, lived in Lansing, Illinois. Andrea and E.L. would see Eric's parents maybe twice per month for a dinner or birthday party. They would also see Eric's sister and her 11-year-old and 7-year old children who lived in Crete, Illinois. Neither Eric nor Andrea had any family in the Indianapolis area.

¶ 28 Andrea acknowledged that whether or not the trial court granted the relocation, there would be a change in parenting time allocation between her and Michael as the result of her move to Indiana. Andrea acknowledged that the change in parenting time would have an impact on E.L. and that "some of it would be negative." Andrea believed the five-hour round trip drive between Michael and Andrea's home would impact Michael's ability to attend E.L.'s activities at the same level he had been involved previously. Since Andrea told Michael of her intention to relocate to Indiana, their relationship had been more tense. If the relocation were allowed, Michael's overnight visits with E.L. would decrease from 6 overnights every 14 days to 2

overnight visits every 14 days. If the relocation were denied, Michael's overnight visits would increase from 6 to 8 overnight visits for every 14 days and Andrea's would decrease from 8 to 6 overnight visits for every 14 days.

¶ 29 Andrea acknowledged that her ability to work from home would not increase any of her time with E.L. other than some additional time before school because she would not have to commute. E.L. was in school when Andrea was working from home and, if relocation were allowed, E.L. would be spending her breaks from school with Michael, who would have to put E.L. in daycare.

¶ 30 Andrea's husband, Eric, testified that he had been employed with ABF Freight System, Inc. (ABF) for 25 years. ABF had offices in all 50 states and in Puerto Rico. Eric began working for ABF part-time as a dock worker in June of 1991 and eventually worked full-time for ABF loading and unloading trucks. After 10 years, he moved to the management side of ABF as a supervisor in Chicago Heights, Illinois. There were four levels of facilities within ABF and in order to keep advancing in management "you have to work at different levels of facilities." Smaller facilities were "group one" terminals and the largest facilities, such as the one in Chicago Heights, were "group four" facilities. Eric's last position in Chicago Heights, Illinois was as a "city driver operations manager." He was in charge of the region as to reviewing the work history of drivers and following drivers to determine whether they were "stealing company time" or taking extended lunch breaks. Eric was currently working as an "operations manager" in Indianapolis, Indiana, which was a "group three" terminal. Eric had worked in five ABF facilities throughout his 25-year career with ABF—in Indianapolis, Indiana, currently as an operations manager; Chicago Heights, Illinois, as an operations manager; Bedford Park, Illinois,

as a branch manager of a group two facility; La Crosse, Wisconsin, as branch manager of a group one facility; and Minneapolis, Minnesota, as a sales representative.

¶ 31 In Indianapolis, Eric handled “day-today operations” from labor to “the everyday running of the facility.” There were four operation managers in Chicago Heights. There was only one operation manager in Indianapolis (currently Eric). Above the operations manager positions are a branch manager, who was in charge of the facility. In Chicago Heights, there was one branch manager overseeing the four operation managers, who had previously been the operations manager in Indianapolis. In early March of 2016, Eric was asked to take over the operations manager position. He began the job at the end of March, but “it became official” as of April 1, 2016. He was given an \$11,000 pay increase.

¶ 32 After Eric began working in Indianapolis, he was living in a hotel Monday through Friday and returned to Illinois on the weekends. ABF was paying for Eric’s hotel room, but that arrangement was not anticipated to be permanent. Eric testified there was no reason that he could not have continued to stay in a hotel and return to Illinois on weekends without him having to purchase a home in Indiana.

¶ 33 Thomas Boertjes, Michael’s boss, testified that Michael worked for him for the past three years as a senior project manager. Michael generally worked 8:00 a.m. to 4:00 p.m., but he was in charge of his own schedule. Michael had the flexibility to finish his work day prior to 4:00 p.m. If he finished his workday by 2:00 p.m. he would not be reprimanded. Michael’s work schedule was left to his discretion. Michael received two weeks of vacation time per year.

¶ 34 Michael’s mother, Donna Lakomy, testified that for the past 1.5 years she has lived in Valparaiso, Indiana, which was a one-hour drive from Michael’s home in Grant Park, Illinois. She had previously lived in Crete, Illinois. When Donna lived in Crete, Illinois, she visited with

E.L. at Michael's home in Grant Park approximately once per month in addition to special occasions and holidays. She also attended E.L.'s extracurricular activities. Donna tried to attend all of E.L.'s ball and soccer games, attending about 80 % of the games. Donna's time with E.L. has essentially remained the same since she has moved to Valparaiso, Indiana. Donna still sees E.L. every other weekend during Michael's parenting time. E.L. calls Donna "Mimi." Donna described Michael's relationship with E.L. as "very loving" and "wonderful." She "couldn't be more proud of [Michael]" in regard to his relationship with E.L. E.L. started calling Donna's husband "grandpa" and E.L. gets along well with his four grandchildren, who were about the same age as E.L.

¶ 35 Michael testified he has lived in Grant Park, Illinois, since 2006. He has had tenants live with him the past. Currently, since July 2015, Michael's best friend, Joe Perrino, has been his tenant, but Joe would be moving out soon. After the divorce from Andrea, Michael financially needed a tenant but needs a tenant. Joe is a good family friend, and Andrea has never expressed any concern with Joe staying in Michael's home with E.L. in the home. Joe stayed upstairs, while Michael and E.L. occupied the main floor.

¶ 36 Michael typically worked from 7:00 a.m. until 3:30 p.m. and his schedule was flexible, other than having to attend an 8:00 a.m. meeting every Wednesday. Michael earned \$60,000 per year. Michael did not believe it was in E.L.'s best interest to relocate to Indiana because she was raised in the Grant Park area, had no family ties to Greenwood, Indiana, and her time with Michael would dramatically decrease from his current parenting time of about 46 % to 48 % percent of the total parenting time available. Michael testified that E.L. needed both of her parents involved in her life on an equal basis and the current schedule and arrangement has achieved that "as close as possible as you can get." Michael attended all of E.L.'s extracurricular

activities, including her games and practices for T-ball and soccer, even if those events were not scheduled during his parenting time. Michael has attended all of E.L.'s parent-teacher conferences, first days of school, music recitals, kindergarten orientation, and brings her to her Sunday school classes at Andrea's family's church in Grant Park.

¶ 37 While Andrea coordinated all of E.L.'s healthcare appointments, Michael attended a majority of those appointments. He has brought E.L. to her last two dentist appointments, dermatologist appointments, and all her of wellness checks. He had not yet met with anyone at the Grant Park elementary school because he was attending the orientation that evening. Andrea had registered E.L. for school in the past. Andrea had chosen E.L.'s pediatrician, and Michael trusted Andrea to pick E.L.'s physicians.

¶ 38 Michael was requesting that relocation be denied and that joint decision making between him and Andrea be preserved. If relocation were denied, E.L. would attend second grade at a school three blocks from Michael's home. He would drive her to school four of five mornings and drop her off at a licensed day care person's home, who would get E.L. onto the bus on Wednesday mornings. He would pick E.L. up from school at least two days per week, as he had always done, and anticipated picking her up additional days. On the days he did not pick her up, she would ride the bus to the licensed daycare person's home and he would pick her up 20 to 35 minutes later. The school in Grant Park had summer breaks that were 12 weeks long, whereas the school in Indiana's summer breaks were nine weeks long. The Grant Park school also had a Thanksgiving break, a two-week winter break, a four-day Easter break, and a one-week spring break. Michael researched the two schools and found them to be equal to one another.

¶ 39 Michael testified that due to Andrea's ability to work from home in Greenwood, E.L. would not have to be placed in daycare during school breaks if the relocation was denied. She

would be placed in daycare during her school breaks with him if she was relocated because Michael had to work during the day, so that it would be similar to E.L. being in school year-round. Andrea was recalled and testified that if she had E.L. during the summers she would keep E.L. at home with her while she worked and have a babysitter come over for a few hours to occupy E.L. for part of the day.

¶ 40 The evidence deposition of Charles Spangenberg was admitted into evidence. Charles was a regional vice president of operations for ABF, and Eric worked as an employee within Charles' region. In the beginning of March of 2016, Charles offered Eric the position in Indianapolis. In Chicago Heights, Eric was an operations manager, who followed drivers to make sure they were where they were supposed to be. Because of technology, the majority of drivers had GPS (Global Positioning Systems) or PDAs (Personal Digital Assistants) and the company "pretty much contracted everything," so the need for Eric's position was becoming obsolete. Charles needed to replace the operations manager in Indianapolis and "knowing [Eric's] position back in the Chicago Heights facility [was] going to the wayside" it was the "perfect opportunity" to offer Eric the position in Indianapolis. When he offered Eric the position, Charles had asked Eric to go home and speak with Andrea about it.

¶ 41 Charles testified there were 22 supervisors and 5 operation managers in Chicago Heights. Charles felt that Eric was well-suited for the operations manager in Indianapolis position. Charles anticipates that "after a few years" the branch manager in Indianapolis would "move up" and the branch manager position would open up there. Eric would then be able to "further his career" because he would be eligible to be qualified to move up and could potentially become the branch manager of that facility. However, there was no guarantee that Eric would eventually become the branch manager. If he became branch manager, Eric's pay "would go up again."

¶ 42 Charles testified ABF was “big on” promoting from within the company. Employees could place their resume and work history on the internet so that as positions opened, they could be offered the opportunity if they were “promotable.” ABF primarily start filling positions “right from that facility.” At the time the opportunity arose in Indianapolis, there were no other opportunities for Eric in the region. The next opportunity would probably be “if somebody retires, et cetera” but there was no knowing where or when that would be. There was no predetermined path for advancement for Eric in Indianapolis, and there were no currently no positions available for Eric’s advancement in Indianapolis. At all times, Eric was free to decline the Indianapolis offer.

¶ 43 On August 4, 2016, the trial court set forth its findings. The trial court stated, “[t]he real idea is what’s in the child’s best interest.” The trial court found Andrea had good reason to request the relocation and stated, “[Eric]’s options at work were extremely limited given the changes in technology that occurred in the industry” and Eric’s job “was being phased out, no doubt about that.” The trial court also found that Michael had good reason to object to the relocation because Michael had a good relationship with E.L. and wanted to preserve that relationship, “and that’s the best reason of all.” The trial court considered the history and quality of each parent’s relationship with the child and found them to be equal. The trial court found the schools at each location to be equal. The trial court found that “all the relatives are here [in Illinois], not in Indiana” as a factor in Michael’s favor for the denial of relocation.

¶ 44 The trial court found the factor of “the anticipated impact of the relocation on the child” to be in Andrea’s favor. The trial court indicated that it was “persuaded” by the testimony that Andrea was involved in registering E.L. for school, selecting doctors, arranging for

appointments, and “it’s mom who has a very close relationship with [E.L.], and it’s mom who has experienced the most distress from [E.L.] at times of separation.”

¶ 45 The trial court further found the parties could fashion a reasonable allocation of parental responsibilities between the parties. The wishes of E.L. were not made known to the trial court, and the trial court commended the parties for not involving the child in this dispute. The trial court found that “doable” arrangements could be made for the exercise of parental responsibilities and that it was “doable” to minimize the impairment to the parent-child relationship caused by the relocation. The trial court also noted that a factor was that Andrea will work from home in Greenwood and E.L. has a relationship with her brother. Michael appealed.

¶ 46 ANALYSIS

¶ 47 Michael argues that the trial court’s ruling that relocation was in E.L.’s best interests is against the manifest weight of the evidence. We disagree.

¶ 48 Pursuant to section 609.2 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/101 *et seq.* (West 2014)), the trial court must decide whether relocation of a child is appropriate based upon the best interests of the child. 750 ILCS 5/609.2(g) (West Supp. 2015). In making that determination, section 609.2(g) of the Act requires the court to consider the following 11 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.” *Id.*

¶ 49 This 11-factor analysis became effective on January 1, 2016. Pub. Act 99-90 (eff. Jan. 1, 2016) (adding 750 ILCS 5/609.2). Prior to the addition of these factors to the Act, its predecessor statute, section 609 of the Act, provided that relocation must be decided based upon the best interests of the child but did not include statutory factors for the trial court to consider. 750 ILCS 5/609 (West 2014) (repealed by Pub. Act 99-90, § 5-20 (eff. Jan. 1, 2016)). Although section 609 of the Act was silent as to factors the trial court should consider, the courts

developed various factors through case law. See, e.g., *In re Marriage of Eckert*, 119 Ill. 2d 316 (1988); *In re Marriage of Smith*, 172 Ill. 2d 312 (1996); *In re Marriage of Collingbourne*, 204 Ill. 2d 498 (2003).

¶ 50 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. Our supreme court has held 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.” *Id.* at 326.

¶ 51 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. *Id.* at 328. The trial court is afforded a “strong and compelling” presumption in favor of the result it reached as it has had the opportunity to observe the parties and is thus “able to assess and evaluate their temperaments, personalities, and capabilities.” *Id.* at 330 (quoting *Gallagher v. Gallagher*, 60 Ill. App. 3d 26, 31 (1987)).

¶ 52 Here, the trial court referred to and considered the factors set forth in section 609.2 of the Act. The trial court noted Andrea’s ability to work from home and E.L.’s relationship with her brother. Any time relocation is granted, the parenting time of the non-relocating parent will likely be impacted. Here, the ability of Michael to have parenting time during the week and to attend E.L.’s extracurricular activities has indeed been impacted by the trial court’s grant of Andrea’s petition. However, the findings made by the trial court were supported by evidence within the record and were not against the manifest weight of the evidence. Therefore, we affirm the trial court.

¶ 53

## CONCLUSION

¶ 54 For the foregoing reasons, we affirm the judgment of the circuit court of Kankakee County.

¶ 55 Affirmed.