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2017 IL App (3d) 160595-U

Order filed February 27, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
KRISTIN HOLZMAN,)	Rock Island County, Illinois.
)	
Petitioner-Appellant,)	
)	Appeal No. 3-16-0595
and)	Circuit No. 05-D-130
)	
THOMAS HOLZMAN,)	
)	The Honorable
Respondent-Appellee.)	James G. Conway, Jr.,
)	Judge, presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not err when it denied the non-custodial parent’s petition to modify custody/allocate parental responsibilities.
- ¶ 2 The petitioner, Kristin Holzman, filed a petition to modify the custody of K.H., the child she had with Thomas Holzman, who had previously been granted sole custody. After the legislature amended the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/),

Kristin supplemented her petition with a proposed allocation of parental responsibilities. After a hearing, the circuit court found that Kristin failed to establish that a substantial change of circumstances had occurred; accordingly, the court denied Kristin's petition to modify custody/allocate parental responsibilities. On appeal, Kristin, who appears *pro se*, argues that the circuit court erred when it denied her petition for modification. We affirm.

¶ 3

FACTS

¶ 4

Kristin and Thomas Holzman were married on April 27, 2001. They had one daughter together, K.H., who was born in 2002. Thomas filed for a divorce on March 4, 2005. A temporary custody order was entered that kept K.H. in the joint custody of Kristin and Thomas, but gave physical custody of her to Kristin and certain visitation rights to Thomas.

¶ 5

Over the years following the petition for dissolution, Kristin and Thomas litigated numerous issues, including Thomas's failure to meet his child support obligations, as well as orders of protection obtained by Kristin against Thomas. The record indicates that the post-divorce contact between Kristin and Thomas was full of acrimony. The parties have a long history of poor communication and inability to cooperate.

¶ 6

The case was bifurcated and an order granting the divorce was entered on June 12, 2008. All remaining issues were decided on October 28, 2009. The circuit court's written order found, *inter alia*, that it was in K.H.'s best interest for Kristin to have primary physical custody.

¶ 7

On August 5, 2011, Thomas filed a petition to modify custody in which he alleged that Kristin had been charged with a Class 2 felony. On September 22, 2011, Thomas filed a petition for sole custody of K.H. that included some details about Kristin's criminal case. The petition alleged that Kristin had falsely claimed she had terminal brain cancer and that she collected benefit funds under those false pretenses. The petition also alleged that she told K.H. she was

dying, thereby causing extreme emotional distress to K.H. Further, the petition alleged that Kristin was a flight risk, as she had moved from the Geneseo area with K.H. and also had obtained a passport for K.H. In addition, the petition alleged that Kristin had been physically and emotionally abusive toward K.H.

¶ 8 Documents in the record indicate that in May 2012, Kristin was convicted of theft by deception (a Class 2 felony) and obstruction of justice (a Class 4 felony). In June 2012, she was sentenced to two concurrent three-year prison terms, although she did not begin her incarceration until April 2013.

¶ 9 On September 28, 2012, the circuit court issued a written order that granted Thomas's petition to modify custody, finding that he had proven a substantial change in circumstances by clear and convincing evidence. Among the court's findings were that Kristin had lied about having brain cancer and that she had been credibly diagnosed with adjustment disorder including features of anxiety and depression, dependent personality disorder including possible histrionic and avoidant features, a seizure disorder, and a malingering disorder. The court also found that Kristin suffered from psychogenic seizures, which impacted her ability to parent K.H. due to loss of consciousness. Kristin appealed, but she later voluntarily dismissed that appeal.

¶ 10 Kristin was released from prison in March 2015, and the parties resumed their contentious custodial situation. On November 13, 2015, Kristin filed a petition to modify custody or, in the alternative, to expand visitation. The petition alleged that a substantial change in circumstances had occurred for the following reasons: (1) Kristin had completed her prison term; (2) Thomas had interfered with, and attempted to destroy, Kristin's relationship with K.H., including by recently denying her visitation; (3) Thomas had failed and refused to communicate with K.H. and Kristin, as evidenced by his September 2015 trip to Hawaii on which he went

without telling K.H. and Kristin; (4) Thomas interfered with the relationship between K.H. and Kristin in September 2015 by placing K.H. in a homecoming parade after a school day on which Kristin was supposed to have visitation, and by failing to tell Kristin about it; (5) Thomas had been arrested on two warrants and that K.H. “was forced to endure the circumstance and was distraught, crying and upset”; (6) Thomas had been investigated by the Department of Children and Family Services (DCFS) and the police based on an allegation that he struck K.H. with a metal pot or other cookware, thereby causing bruising as well as physical and emotional injuries; (7) Thomas forbade K.H. from talking to Kristin and the school counselor about his conduct; (8) Thomas told K.H. that if a detective ever showed up again at school to talk to her, she was not to talk to the detective and was to call Thomas; (9) Thomas continued to drive with K.H. in the car, even though he did not have a valid driver’s license; (10) Thomas demanded that K.H. attend counseling with him at his choice of counselor, rather than the school counselor, and that Thomas’s chosen counselor spoke ill of Kristin; and (11) Thomas had removed Kristin as a contact and a parent from K.H.’s school records.

¶ 11 Amendments to the Act took effect on January 1, 2016, and on March 1, 2016, Kristin filed a proposed judgment of allocation of parental responsibilities. In essence, Kristin sought to become the primary residential parent, as evidenced by the following allocation of parental responsibilities: (1) education, medical, and hairstyle decisions would be made by Kristin; (2) religious and extracurricular decisions would be made jointly; (3) weekly, K.H. would be with Kristin on Mondays through Fridays, although Thomas would be allowed to pick up K.H. and spend time with her in the area of Kristin’s home between 4 and 8 p.m. on Wednesdays, and Thomas would have K.H. every other weekend starting Friday at 4 p.m. and ending at 5 p.m. on Sunday.

¶ 12 The guardian *ad litem* filed a report with the circuit court on July 11, 2016. The GAL discussed his interviews of Kristin, Thomas, and K.H., as well as interviews of Thomas's girlfriend, Thomas's friend, Kristin's boyfriend, and Kristin's co-worker. The GAL concluded that: (1) Thomas provides structure for K.H.; (2) due to her age, K.H. understandably resists that structure to some extent; (3) Kristin tries to provide stability for K.H., which is good considering the turbulent past; (4) K.H. had more fun with Kristin than with Thomas; and (5) the disparity between environments was due to the amount of time spent in each place. The GAL concluded by stating that it was in K.H.'s best interest for both parents to be involved in her life, although there was no specific recommendation given.

¶ 13 The same judge who presided over the 2012 custody dispute held a hearing on Kristin's petition over four days in July 2016 at which numerous witnesses testified. We have omitted significant portions of the testimony of some witnesses, and the entirety of others, to limit the facts to those we deem necessary to resolve this appeal.

¶ 14 Thomas testified that he had been living in a duplex with K.H. in Moline for the past six to eight months. He moved to the Moline area years before to get away from the small town in which Kristin had committed her crime.

¶ 15 Among the various matters on which he testified, Thomas stated that he believed Kristin was not capable of having a close relationship with K.H. due to her "mental illnesses." He stated that he "would gladly give [K.H.] to Kristin as much as possible" if she developed the ability to have such a relationship. He also believed that while K.H. thought she had a close relationship with Kristin, his perception differed due to "Kristin's diagnosis and her continuance to lie to [K.H.] repeatedly." Thomas also believed that Kristin had not made any improvement regarding her diagnosis, in part because in answers to interrogatories, Kristin did not disclose any names of

therapists she had seen or treatments she had undergone. He also stated that K.H. had told him that Kristin said her medication caused her to engage in her criminal conduct.

¶ 16 Thomas further stated that he was concerned that K.H. had an unhealthy relationship with Kristin in that Kristin was teaching K.H. to be dependent on her; that “she’s putting her dependency disorder on [K.H.]” He claimed the K.H. would do anything to obtain Kristin’s approval, including lie.

¶ 17 It was discussed at the hearing that Thomas forbade any telephonic or electronic contact between K.H. and Kristin unless he were there to supervise. He made this decision in connection with K.H.’s therapist, Paula Price. Thomas also testified that Kristin was removed as a contact from K.H.’s school in 2015. He stated that because he had been given sole custody of K.H., he was not required to list Kristin as a contact. However, Thomas did not try to interfere with Kristin’s access to the parent portal for the school, on which parents can monitor their child’s performance in school. Thomas had told the principal that Kristin should have portal access, but no ability to schedule and attend parent-teacher conferences.

¶ 18 Thomas also answered questions regarding an incident in which he found K.H. to be in the possession of a mobile phone that he did not provide to her. Thomas learned of the mobile phone at a conference with one of K.H.’s teachers, who told Thomas that K.H. often reads from her phone. K.H. immediately told Thomas that the phone to which the teacher was referring was a friend’s phone, although Thomas later called the school to request that they open her locker to look for the phone. The phone was in fact found inside of K.H.’s locker, and K.H. told him that Kristin had bought the phone for her, told her to keep the phone in her locker at school, and told her to lie to Thomas about it. K.H. was apparently having daily text and phone contact with Kristin, which Kristin admitted had occurred, but Kristin alleged that K.H. also used a friend’s

phone to facilitate that contact. In addition, K.H. had told Thomas that Kristin had set up multiple social media accounts for her, unbeknownst to Thomas.

¶ 19 Regarding issues Kristin had raised with the parties' communication problems, Thomas admitted that in September 2015, he went to Hawaii without telling K.H., who at the time was with Kristin. While K.H. was supposed to be returned to him before he was scheduled to return from Hawaii, he did not inform K.H. because he believed Kristin "would try to manipulate that situation" by trying to keep K.H. Thomas arranged for his parents to pick up K.H. and he immediately called K.H. to let her know of the situation at that time.

¶ 20 In addition, Thomas testified that he wanted K.H. to see only one therapist and had told the school therapist as such. Despite that decision, he stated that on the day before Kristin was to start her prison term, she contacted K.H.'s school and attempted to arrange for K.H. to see the school's therapist. Thomas intervened and told the school's therapist that the only topics she could discuss with K.H. were in-school incidents.

¶ 21 Regarding issues Kristin had raised with Thomas' driver's license, he stated that while his license was suspended, he continued to operate a vehicle because it was necessary for work. He also described an event when he was pulled over while driving K.H. to his parents' house. K.H. had gone into the house and the police ended up arresting Thomas and taking him to the county jail. Thomas stated that K.H. did not see the arrest and that the only way in which she would have known about his suspended license was if Kristin told her. He stated that he had four pending cases for driving with a suspended license. His license had been suspended for non-payment of child support, and it was noted at the hearing that Thomas did not know how much he owed in back child support such that he could not satisfy the arrearage and reinstate his license. The uncertainty existed because years prior, no order had been drafted for the judge to

sign—the parties were supposed to agree on an amount after settling an issue regarding how many payments Thomas had made.

¶ 22 Thomas adamantly denied that K.H. had ever seen him get arrested.

¶ 23 Thomas also admitted that on one occasion, he spanked K.H. with a metal pot or pan.

The incident left no marks and was investigated by DCFS, who determined the abuse allegations to be unfounded. Stemming from that incident, Thomas denied telling K.H. not to answer any police questions or not to tell her school about his conduct toward her. He did tell K.H. in October 2015 that if the police came to talk to her at school, she was supposed to call him immediately before speaking with them. Thomas’s concern was that Kristin “uses the police to manipulate and distort any kind of relationship between [him and K.H.]”

¶ 24 Kristin testified that she was living in Round Lake with her fiancé, Joseph Scanlan, although they had recently purchased a house in Hampshire. Generally, Kristin testified to many instances of communication and visitation issues. She decried Thomas’s decision to forbid communication between her and K.H. and stated that if her petition were granted, she would allow K.H. to talk to Thomas whenever she wanted. She also said she stressed honesty in her house.

¶ 25 Kristin alleged that Thomas had been interfering with her visitation rights, as evidenced by an incident that occurred in late September 2015. Kristin was supposed to have K.H. after a short day of school that ended at 11:10 a.m. However, K.H. was not there. Thomas was not answering Kristin’s attempts to contact him, so she called the police. Eventually, Kristin learned that Thomas had put K.H. into a homecoming parade from another school. The police called Kristin to come pick up K.H. from the parade, as Thomas had outstanding warrants and was

being placed under arrest. Kristin admitted that K.H. did not see Thomas get arrested, but she said that K.H. knew it was occurring.

¶ 26 Kristin also testified regarding events that transpired after the spanking incident, which occurred in late September 2015. Kristin said she learned of the incident on October 1, 2015, when K.H. told her that Thomas beat her with a pot, causing K.H. to urinate on herself. Kristin stated she thought K.H. told her that Thomas hit her three or four times with the pot. Kristin reported the incident to the police and K.H.'s school. Kristin also stated that K.H. told her that Thomas instructed K.H. not to talk to the police or school officials; that she was to contact him first.

¶ 27 Kristin admitted that she gave K.H. a mobile phone in October 2015. However, Kristin testified that K.H. was allowed to take the phone to Thomas's house, that she did not tell Thomas about the phone, and that she never told K.H. to keep the existence of the phone a secret— Kristin stated that “[K.H.] came to that conclusion on her own.”

¶ 28 Regarding her mental health, Kristin stated that she had seen a therapist approximately 12 times as a part of her release from prison. She had not seen a therapist since that time. She also stated that the only condition she had been diagnosed with was adjustment disorder.

¶ 29

¶ 30 Paula Price, K.H.'s therapist for the past approximately four years, also testified. Among other things, Price stated that K.H. told her that Kristin provided a phone for K.H. and told her to lie to Thomas about it. K.H. also stated that she was to keep the phone in her locker at school. Price testified that K.H. expressed exasperation at keeping up the lie and that when she lied to Thomas about the phone, she either felt mad at herself or “just fine because mom is telling me to do something and I did it.” Price expressed concern with K.H.'s dishonesty and what she

described as K.H. becoming more comfortable with being dishonest than she used to be. Price also stated that K.H. seemed willing to protect Kristin and make excuses for her. Earlier in her testimony, Price had said that “[K.H.] told me specifically that [Kristin] told her that her medicine that she was in is what caused her [criminal actions].” Further, Price stated that in 2012, she recommended to Thomas that he supervise all communication between Kristin and K.H. to ensure “that there wasn’t any significant lying or manipulation, [or] child in the middle events.” She made this recommendation again when Kristin was released from prison.

¶ 31 Price also reiterated that Kristin had been diagnosed with “[a]djustment disorder, anxiety and depression, dependent personality disorder with possible histrionic and avoidant features, a seizure disorder, and malingering disorder.” She stated that an adjustment disorder is a short-term disorder that can be resolved; that anxiety and depression can be treated with medications and can potentially be resolved; and that “[p]ersonality disorders are not treatable by drugs and have very little positive effect with therapy” and therefore are usually lifelong disorders.

¶ 32 Additionally, Price testified that she had no concerns for K.H.’s safety in relation to Thomas and that K.H. seemed to be doing well in Thomas’s custody. She did note, however, that K.H. had told her in May 2016 that Thomas said Kristin had set him up such that he got pulled over and taken to jail. Price stated that in this instance at least, Thomas was blaming someone other than himself for his problem.

¶ 33 The court also conducted an *in camera* interview of K.H. as a part of the hearing. K.H. stated that she was 13 years old. She answered the court’s questions about school and her extracurricular activities, which included tennis, dance, piano, and voice lessons. Kristin was involved with her tennis and dance activities, while Thomas was involved with her piano and voice lessons. K.H. said she had friends in the area where Thomas lived, but not in the area

where Kristin lived. K.H. stated that she loved spending time with Kristin's boyfriend's family. She said she loved them all like family, including that she loved Kristin's boyfriend "like a dad." She also said that she likes Thomas's girlfriend, but she stated that she was waiting for Thomas's girlfriend to see that "she can do better than my dad."

¶ 34 Regarding her residential preference, K.H. stated that "I love my dad, but he's not fun to be around like my mom and I don't like my dad that much either. Like he can be such a nice guy to be around and then one minute he can change and be this angry, yelling guy that just cusses a lot and he just -- I just -- and I don't really socialize with my friends a lot when I'm with him." She said that she did not like to have her friends over at Thomas's house because it was not nearly as much fun as when she was with Kristin.

¶ 35 K.H. also stated that she feared Thomas at times. An example she gave was that "he messes with my head a lot. He tries to put a lot of stuff in my head that he -- he tries to tell me that he wants me to always love my mother, but then he says something about my mom and like one time *** he started basically telling me that my mom lies to me ***."

¶ 36 On August 12, 2016, the circuit court issued a lengthy written decision, which included summaries of witness testimony. In addressing Kristin's allegations from her petition, the court found, *inter alia*, that: (1) her release from prison and becoming available to K.H. was known at the time the change in custody was ordered in 2012; (2) Thomas's driving on a suspended license was due to his child support arrearage and was known at the time the change in custody was ordered in 2012; (3) Thomas's two arrests occurred outside of K.H.'s presence and neither harmed nor affected his relationship with K.H.; (4) due to her felony convictions, Kristin's motivation in alleging that Thomas's arrests created a great risk to K.H.'s emotional health and moral development was suspect; (5) Kristin's allegations of communication issues and

relationship interference were issues that existed at the time the change in custody was ordered in 2012 and, while significant, the difficulties were of the type that were reasonably anticipated and predictable; and (6) Kristin’s allegations of physical abuse by Thomas against K.H. were unproven. The court noted the long history of hostility between Kristin and Thomas and that some of her statements in the petition and in her live testimony indicated that she was “seeking vigorously to have the child’s placement transferred to herself.” The court further found that some of the allegations in Kristin’s petition did not validly state a substantial change in circumstances and that on her other allegations, she failed to establish a substantial change of circumstances had occurred. In addition, the court noted Kristin’s history of deceitful and fraudulent conduct when it found that Kristin was not a credible witness, a finding due in part to testimony that Kristin “asked K.H. to conspire with her to prevent [Thomas] from learning of [a mobile phone that Kristin secretly provided to K.H.]”

¶ 37 Regarding the *in camera* interview of K.H., the court stated that K.H.’s preference to live with Kristin was known at the time of the change in custody in 2012. The court also noted that a child’s preference is only one factor to consider, and the weight given to that factor was framed in part by the fact that as the visiting parent, K.H.’s “perception during visiting exposure is focused on the activities and entertainment enjoyed during those [visits].” Further, the court described that K.H. had been exposed to a “drumbeat of encouragement to ‘want’ [Kristin] and ‘disfavor’ [Thomas] *** for over 7 years.”

¶ 38 Overall, the court found that K.H. was thriving in her current placement and that Kristin failed to meet her burden of proving that a substantial change in circumstances had occurred. Thus, the court denied Kristin’s petition. Kristin appealed.

¶ 39 ANALYSIS

¶ 40 On appeal, Kristin argues that the circuit court erred when it denied her petition for modification.

¶ 41 A circuit court's decision on whether to modify an allocation judgment is reviewed under the manifest weight of the evidence standard. *In re Marriage of Bates*, 212 Ill. 2d 489, 515 (2004). "A judgment is against the manifest weight of the evidence when the opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based on the evidence." *In re Marriage of Levinson*, 2012 IL App (1st) 112567, ¶ 33). In conducting this review, we view the evidence in the light most favorable to the non-moving party. *Bates*, 212 Ill. 2d at 516. If multiple reasonable inferences arise from the evidence, we defer to the inferences that support the circuit court's judgment. *Id.* We also note that the decision is entitled to great deference because the circuit court is in the best position to assess both witness credibility and the minor's best interest. *Id.*

¶ 42 The substance of Kristin's argument challenges the following aspects of the circuit court's decision: (1) Thomas did not file a proposed allocation of parental responsibilities, which was required by section 602.10(a) of the Act (750 ILCS 5/602.10(a) (West 2016)); (2) the court did not implement a parenting plan and instead simply reaffirmed the sole custody order; (3) the court failed to comply with section 604.10(a) of the Act (750 ILCS 6/604.10(a) (West 2016)) during the *in camera* interview because it did not ask K.H. questions related to her wishes regarding the allocation of parental responsibilities, whether she was present during Thomas's arrests, or the extent to which she was impacted by the pot-spanking incident; (4) the court gave improper weight to the first guardian *ad litem* report; and (5) there was insufficient evidence presented at the hearing regarding K.H.'s needs. We note that none of these arguments were raised in the circuit court. Under well settled Illinois law, Kristin has therefore forfeited these

arguments on appeal.¹ *Coghlan v. Beck*, 2013 IL App (1st) 120891, ¶ 31 (holding that arguments not presented in the circuit court and raised for the first time on appeal are forfeited).

¶ 43 Kristin does also claim that the circuit court simply affirmed a sole custody order, when sole custody no longer exists in Illinois. Her claim is disingenuous for several reasons. First, the recent amendments to the custody provisions in Illinois in no way invalidated custody decisions rendered prior to the effective date of the amendments. Moreover, the change in the modification statute was one of form rather than substance; a “custody judgment” is now called a “allocation judgment.” Compare 750 ILCS 5/610(b) (West 2014) with 750 ILCS 5/610.5(c) (West 2016).

¶ 44 Second, a review of Kristin’s proposed allocation of parental responsibilities shows that she was essentially seeking to flip the current situation, which had been implemented back in 2012. Her proposal suggested: (1) education, medical, and hairstyle decisions would be made by Kristin; (2) religious and extracurricular decisions would be made jointly; (3) weekly, K.H. would be with Kristin on Mondays through Fridays, although Thomas would be allowed to pick up K.H. and spend time with her in the area of Kristin’s home between 4 and 8 p.m. on Wednesdays, and Thomas would have K.H. every other weekend starting Friday at 4 p.m. and ending at 5 p.m. on Sunday. Regardless of whether it is called sole custody or an order allocating more parental responsibilities to one parent, it is the substance of the order that matters.

¹ Regarding Kristin’s allegation that Thomas did not file a proposed allocation of parental responsibilities, we note that the record reflects that he did in fact file that document. It was admitted without objection as petitioner’s exhibit 15 on the last day of the hearing, and it appears at pages 1061-71 of the exhibits index.

¶ 45

Third, Kristin fails to recognize that she still must establish that a substantial change in circumstances had occurred for the court to change what had previously been ordered. Section 610.5(c) of the Act states, in relevant part:

“the court shall modify a parenting plan or allocation judgment when necessary to serve the child's best interests if the court finds, by a preponderance of the evidence, that on the basis of facts that have arisen since the entry of the existing parenting plan or allocation judgment or were not anticipated therein, a substantial change has occurred in the circumstances of the child or of either parent and that a modification is necessary to serve the child's best interests.” 750 ILCS 5/610.5(c) (West 2016).

In other words, Kristin was required to show that: (1) the facts underlying the petition must have newly arisen or must not have been anticipated when the existing allocation judgment (or custody order) was entered; (2) those facts constituted a substantial change in the circumstances of K.H., Kristin, or Thomas; and (3) a modification of the existing allocation judgment (or custody order) was in K.H.'s best interest. 750 ILCS 6/610.5(c) (West 2016).

¶ 46

To the extent that Kristin's argument on appeal can be construed as an attack on the circuit court's findings that she was unable to satisfy these first two requirements, our review of the record reveals no error in the circuit court's ruling on Kristin's petition. The petition contained 11 factual allegations as to why a substantial change in circumstances had occurred, and we will address those allegations in turn. In analyzing the evidence presented on the petition's allegations, we recognize that the court found Kristin not credible, in part due to her criminal history and the lack of evidence to show that her veracity had been rehabilitated, and in

part due to her scheme to provide K.H. with a secret mobile phone. Regarding Thomas, the court noted that while his credibility was “far from perfect,” he presented forthright answers that contradicted Kristin and her witness’s versions of certain events. There is nothing in the record to contradict the court’s credibility findings, and we review the evidence presented in this case with deference to those findings. *Bates*, 212 Ill. 2d at 516.

¶ 47 Prison Term Completion–Petition Allegation 3(a)

¶ 48 As the circuit court found, Kristin’s completion of her prison term was anticipated when Thomas was awarded sole custody in 2012. Moreover, and again as the court noted, the statement in the petition was vague and imprecise. If she meant that she was a changed person, there was little, if any, competent testimony that Kristin had changed. In fact, the testimony tended to prove the opposite, evidenced in part by the mobile phone incident, which indicated that Kristin’s veracity was still very much in question. Under these circumstances, this factual allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 49 Relationship Interference—Petition Allegation 3(b)

¶ 50 Kristin vaguely alleged that Thomas had worked to destroy her relationship with K.H. The example she included, however, was a claim of visitation denial. To the extent that Kristin intended to argue that Thomas was interfering with the mother-daughter relationship, the record indicates that Kristin and Thomas have had substantial difficulties communicating and cooperating throughout the entirety of the post-divorce period. More specifically, Thomas testified that he limited contact between Kristin and K.H. out of concern for K.H.’s well-being, a decision made in conjunction with K.H.’s therapist. Kristin did not show that such a decision was unreasonable or outside of Thomas’s province as the sole custodian. Further, the record

indicates that Kristin’s allegation was a situation known and anticipated at the time of the circuit court’s 2012 custody order. Accordingly, this factual allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 51 Communication Issues Regarding Hawaii—Petition Allegation 3(c)

¶ 52 Kristin alleged another communication-related issue occurred when Thomas traveled to Hawaii without informing Kristin or K.H. at a time when Kristin was scheduled to return K.H. to Thomas. Again, communication issues were certainly anticipated at the time of the circuit court’s 2012 custody order. Furthermore, we note that Thomas discussed why he chose to proceed with his trip in this fashion, as he was concerned that Kristin would have attempted to keep K.H. or somehow manipulate the situation against Thomas. He also ensured that his parents were there to pick up K.H. and care for her until he returned a few days later. Kristin has not shown that Thomas’s decision had some lasting negative impact on K.H. For these reasons, this factual allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 53 Homecoming Parade Incident—Petition Allegation 3(d)

¶ 54 Kristin alleged that Thomas interfered with Kristin’s visitation rights when he put her into a homecoming parade at a time when Kristin was scheduled to have visitation. As the circuit court noted, this is unjustifiable conduct on Thomas’s part. Nevertheless, the evidence presented indicated that this situation was more of an isolated incident than a systematic course of conduct. While Thomas was undoubtedly strict about the time of Kristin’s visitation, the evidence suggested that there was still general compliance with the requirements of the court’s 2012 custody order. The circuit court found that this one incident did not rise to the level of

constituting a substantial change in circumstances, and we hold that the manifest weight of the evidence supports that finding. Thus, this factual allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 55 Thomas’s Arrest—Petition Allegation 3(e)

¶ 56 Kristin alleged that K.H. was “forced to endure” Thomas being arrested on two outstanding warrants. The testimony presented at the hearing was undisputed that K.H. never witnessed Thomas being arrested. Accordingly, this allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 57 Spanking Incident—Petition Allegation 3(f)

¶ 58 Kristin alleged that K.H. “was bruised and injured both physical [*sic*] and mentally” as a result of the spanking incident. While Thomas did admit spanking K.H. with a metal pot or pan on one occasion, there was no evidence that K.H. had any physical marks from the incident. Further, as the circuit court noted (and without this court sanctioning Thomas’s conduct), Illinois law permits a parent to use reasonable corporal punishment on his or her child. 750 ILCS 60/103(1) (West 2014) (stating that abuse “does not include reasonable direction of a minor child by a parent”). DCFS investigated the incident of alleged abuse and concluded that the allegation was unfounded. Moreover, there was no competent evidence presented to show that K.H. suffered mental injury from the incident, as Kristin alleged in her petition. Thus, the allegation was unproven and cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 59 Speaking with School Personnel or Kristin—Petition Allegation 3(g)

¶ 60 Kristin alleged that Thomas instructed K.H. not to talk to school personnel or Kristin about his conduct. However, as the circuit court noted, this allegation stemmed from a hearsay statement of K.H. that was uncorroborated at the hearing. Also, even if Kristin had shown that Thomas made such a statement, she made no attempt to show that Thomas, as the sole custodian, lacked the authority to give K.H. this instruction. Accordingly, this allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

¶ 61 Instructions on Questions from Police—Petition Allegation 3(h)

¶ 62 Kristin alleged that Thomas instructed K.H. not to talk to the police if they came to school; that she was supposed to call him first. It is unclear to this court why such an instruction would be problematic or would not be a matter within Thomas’s province as the sole custodian. Our review of the record reveals nothing to indicate Kristin satisfied her burden of proving this allegation constituted a substantial change in circumstances. See 750 ILCS 5/610.5(c) (West 2016).

¶ 63 Driving with a Suspended License—Petition Allegation 3(i)

¶ 64 Kristin alleged that Thomas’s license had been suspended but he continued to drive with K.H. in the car. While we do not condone any alleged incidents of Thomas driving with a suspended license, as the circuit court noted, Thomas’s suspended license was known at the time of the 2012 order that granted him sole custody, such a circumstance was anticipated by the court,² and yet Thomas was still granted sole custody. Thus, we agree that this allegation cannot serve as a basis for finding a substantial change in circumstances had occurred. See 750 ILCS 5/610.5(c) (West 2016).

² Again, we note that the same judge presided over both the 2012 and the 2016 custody disputes.

¶ 65

Therapist Choice—Petition Allegation 3(j)

¶ 66

Kristin alleged that Thomas demanded K.H. see only Price and forbade her from seeing the school counselor. Kristin appears to object to this situation because she feels Price is biased against her. However, Thomas was the parent with decision-making authority regarding the therapist his child sees. Kristin’s disagreement with Thomas’s decision does not constitute a substantial change in circumstances. See 750 ILCS 5/610.5(c) (West 2016).

¶ 67

School Records—Petition Allegation 3(k)

¶ 68

Kristin alleged that Thomas removed her “as a contact and as a parent entirely from [K.H.’s] school records.” She also alleged that Thomas refused to allow Kristin to have a parent-teacher conference or to see K.H.’s school records. The circuit court found that the evidence regarding this allegation was disputed and inconclusive, and we see nothing in the record to disturb that finding. While Thomas did state that he had Kristin removed as a contact from K.H.’s school after her release from prison, he stated that he did so because K.H.’s prior school was supposed to remove Kristin’s name as a contact when she was set to begin her sentence, but it was not done and the file was transferred to K.H.’s new school in Moline. However, Kristin made no attempt at the hearing to show that Thomas, as the sole custodian, was required keep Kristin listed as a contact. Also, while Thomas did admit he instructed the principal that Kristin was not to have the authority to schedule a parent-teacher conference, Kristin made no attempt at the hearing to show that Thomas had overstepped his authority as the sole custodian in so instructing the principal. Moreover, the testimony was undisputed that Kristin still had access to K.H.’s records via the parent portal, which she had set up. At most, the evidence was conflicting on this allegation from the petition, and we therefore defer to the circuit court’s finding. See *Bates*, 212 Ill. 2d at 516.

¶ 69 In sum, the circuit court's order was extremely thorough, accurately set forth the applicable law, and contained no findings that were against the manifest weight of the evidence. Under these circumstances, we hold that the circuit court did not err when it denied Kristin's petition for modification.

¶ 70 CONCLUSION

¶ 71 The judgment of the circuit court of Rock Island County is affirmed.

¶ 72 Affirmed.