2017 IL App (4th) 160910-U

NO. 4-16-0910

FILED
May 17, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

IN RE: MARRIAGE OF	)	Appeal from
ANGELA JOY DUNNING,	)	Circuit Court of
Petitioner-Appellee,	)	Cumberland County
and	)	No. 15D18
DAVID PRESTON DUNNING,	)	
Respondent-Appellant.	)	Honorable
	)	Millard Scott Everhart,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Harris and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's decision to allow petitioner to relocate to Sangamon County with the parties' minor child and to grant primary parenting time and significant decision-making responsibilities to petitioner was not against the manifest weight of the evidence. The court did not err in considering evidence of respondent's prior misconduct.

¶ 2 In June 2015, petitioner, Angela Joy Dunning, filed a petition seeking to dissolve her marriage to respondent, David Preston Dunning. In March 2016, while the dissolution petition was pending, Angela filed a notice for proposed relocation, seeking to relocate with and the parties' minor daughter, K.D., from Coles County to Sangamon County to accept employment at a substantially higher annual salary. Following a July 2016 hearing, at which the trial court considered evidence pertaining to both of Angela's filings, the court (1) granted Angela's petition to reside in Sangamon County with K.D.; and (2) as to K.D., awarded Angela primary parenting

time and significant decision-making responsibilities. In October 2016, the court entered a judgment of dissolution of marriage (the court's findings from July 2016 were entered as part of the judgment of dissolution of marriage).

¶ 3 David appeals, arguing that the trial court's determinations were against the manifest weight of the evidence. Specifically, David contends that the court erred by granting Angela (1) primary parenting time, (2) significant decision-making responsibilities, and (3) her petition to relocate to Sangamon County with K.D. David also challenges the court's consideration of evidence regarding his prior misconduct. For the reasons that follow, we affirm.

¶ 4 I. BACKGROUND

¶ 5 Angela and David married in October 2005 and had a daughter, K.D., born in August 2008. The couple divorced in October 2012 but remarried in October 2013 and resided in Charleston, Illinois. In January 2015, Angela and David separated, and Angela moved into a townhouse in Charleston. In June 2015, Angela filed a petition for dissolution of marriage. In March 2016, she filed a notice for proposed relocation to accept a job offer in Sangamon County. In July 2016, the trial court conducted a hearing, where it considered the following evidence.

¶ 6 Angela, who was then 40 years old, worked at the Coles County courthouse. Angela's workday ended at 4:30 p.m., and she earned an annual salary of $29,403. David, who was then 38 years old, was employed as a Charleston police department sergeant, earning a net annual income of $44,876. David worked five days a week on the evening shift, which occurred from 6 p.m. to 6 a.m. David also commanded the Coles County Crisis Response Team. In that capacity, he attended monthly eight-hour training sessions and was on call to respond to "high risk event[s]." When available, David also worked as a security officer at the Coles County courthouse.

¶ 7 Based on their respective schedules, Angela had custody of K.D. on most weeknights, and David had custody of K.D. every other weekend. However, David would also have custody of K.D. on the two to three weeknights he had off from work. Angela took K.D. to doctor's appointments and missed only one appointment throughout K.D.'s lifetime. Both parents often assisted K.D. with her homework and attended parent-teacher conferences. David missed one parent-teacher conference, but he later attended a make-up conference.

¶ 8 When testifying on why she should have custody of K.D., Angela stated, "With David's schedule, obviously I've handled the majority of [K.D.]'s business ***. Obviously, my hours are more conducive to *** [K.D.] not being with others constantly." Angela stated that K.D. (1) was better "bonded with her" and (2) would benefit from the relocation. Within Sangamon County, Angela planned to move to Chatham because "Chatham is growing. There's a lot of rental property available in Chatham. They have a very good school district."

¶ 9 Angela wanted to relocate because she was offered a job that paid $57,000 per year in Sangamon County. Her expenses and debt repayments continued to exceed her monthly income, and the increase in income would allow her to adequately support herself. At the time of the hearing, she had been relying on David for assistance with her finances. Angela worked at the Coles County courthouse, where she would sometimes become uncomfortable as a result of encountering David when he worked as a courthouse security officer.

¶ 10 Angela had declined employment with Tazewell County after David indicated "he would not allow [K.D.] to go." She had not sought other employment opportunities as an assessor. Angela explained that she held a state certification in conducting assessments, but she did not want to run for elected office as an assessor and did not feel comfortable performing fieldwork. Angela noted that "[t]here have been instances *** where I've been threatened at my job.

*** I got chased by a bull once and *** had people come out of their house with guns." Angela stated that finding work as an assessor is difficult because "it's a small field." The position offered in Sangamon County did not require fieldwork and was not an elected position.

¶ 11 The hearing also included testimony about David's temperament. Angela testified that David would display a temper "a couple times a month" and that "things have been thrown. There's one time he hit his motorcycle and dented the top of the motorcycle." She stated that David has never thrown objects at K.D. or herself, but he has a tendency to yell and "[h]e wants control all the time." She testified about an incident in September 2015, in which David requested that she drive to his home and get the rest of her things "as soon as possible," but then demanded that she leave when she arrived. A verbal confrontation ensued when she insisted on delivering medication to K.D., who was staying with David at the time. Angela had called David "delusional" in front of K.D. David called the police on Angela, but no charges were filed against her. On cross-examination, Angela admitted that she has yelled in front of K.D.

¶ 12 Teresa Lang, director of Cornerstone Christian Academy (Cornerstone), testified about a July 2012 incident when David appeared upset and intimidated staff members at Cornerstone. Lang stated that David had arrived to pick up K.D., and Cornerstone staff informed him about a broken nosepiece on K.D.'s glasses. David found the arm piece to K.D.'s glasses was also loose and stopped at the director's office to address the matter. He went to the director's office, outside of K.D.'s presence, and sought to have Cornerstone make an additional incident report about the broken arm piece. Staff members reported that David made "them feel uncomfortable." Thereafter, Cornerstone board members denied David "access to Cornerstone or its properties." David later signed a written agreement, confirming that he would not enter Corner-

stone's properties. Following the incident, K.D. was no longer welcome at Cornerstone. Lang testified that no other parents have been banned from Cornerstone's properties.

¶ 13 David testified that he wanted K.D. to remain in Charleston because she would be closer to him, as well as her family and friends. When David has custody of K.D., he cooks for her, and he stated, "We like to go boating. We like to go swimming. In the winter time, we'll continue to swim at the Y on the weekends and stuff. Play games. We color a lot. Things like that." David has relatives in the Charleston area, including his father, stepmother, and aunts and uncles, as well as a girlfriend, all of whom get along well with K.D. David stated that K.D. sees her grandfather "once every couple of weeks whenever he comes over" and that she will see his aunt often. K.D. had also developed a circle of friends from school in Charleston.

¶ 14 According to David, relocating K.D. outside Charleston would disrupt an "effective" procedure between himself and Angela regarding custody and decision-making. He stated, "We have a shared calendar that we put things on or just email back and forth. If for some reason somebody doesn't put it on the calendar, we just generally email each other and let each other know what's going on." He would like to attend "any function she may have at school or anything like that," and doing so would not be feasible with his work schedule if she is not in the Charleston area. David further stated, "[T]he schedule seems to work. It just seems to flow pretty smoothly."

¶ 15 The trial court granted Angela's motion for an *in camera* interview with K.D., finding that K.D., a "straight-A" student who "acted beyond her seven years," was competent for an *in camera* proceeding. The court did not directly ask K.D. how she would feel about moving but, according to the court, it sought "to dance around the issues and ask questions that can give

*** information about how the child views a mother and a father." Neither David's nor Angela's counsel submitted proposed questions for the *in camera* interview.

¶ 16 At the close of evidence, the parties submitted their respective written closing arguments. At a hearing held approximately two weeks later, the trial court (1) awarded major parenting time and significant decision-making responsibilities to Angela and (2) granted Angela's petition to relocate to Sangamon County with K.D. The court stated it considered the relevant factors of the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) for decision-making responsibilities (750 ILCS 5/602.5 (West Supp. 2015)), parenting time (750 ILCS 5/602.7 (West Supp. 2015)), and relocation (750 ILCS 5/609.2 (West Supp. 2015)). In considering Angela's increase in salary, the court stated, as follows:

> "The most striking feature associated with [Angela's] request was the substantial increase in salary associated with her new employment in Springfield. Another striking feature is the educational opportunities that can be afforded to [K.D.], that is a school system that is comparable or perhaps slightly elevated in rankings from the current school that she's in.
>
> As [David's counsel] noted in his argument, the Court didn't consider that as a strong factor because the Court considers both school systems excellent school systems. And, but certainly one doesn't want to go from an excellent system to an inferior system, and that won't be the case here it appears.
>
> *** [Angela] is in her prime earning years at age 40. Anywhere from 40 to 50 to 40 to 55 are considered prime years. In just looking at her income over the next 10 years, from 40 to 50, that will be a salary increase of over one quarter of a million dollars, closer to 300,000 [dollars], maybe exceeding 300,000 [dollars]

> given potential raises, salary increases over that period of time. That not only is good for [Angela] but certainly [K.D.], a child or any child would benefit from such an increase. Not only would the [lifestyle] of [K.D.], now age seven, be enhanced; but more importantly, educational opportunities that may not exist for her could certainly come into play given that sizeable increase in salary."

¶ 17 Regarding the *in camera* interview of K.D., the trial court "considered the wishes of the child, as [the court] should in connection with the elements and the factors that go into making an allocation decision." The court noted that "[Angela] was given custody of [K.D.] after the first marriage and has been a good and appropriate mother since then based upon what the [c]ourt has heard in this case." The July 2012 incident at K.D.'s preschool was taken into account, in which the court stated:

> "I thought Mrs. Lang's testimony was important for the Court to consider regarding the episode that was described at the Cornerstone. That ultimately resulted in [David] being banned from the school. And it was Mrs. Lang's testimony that in 38 years, no steps had ever been taken to ban any father or mother from the school. I don't know if there was miscommunication involved. I didn't find the episode as striking perhaps as somebody from Cornerstone may have found it. We have a father who has a strong interest in a child who wants to make things right with respect to an episode involving the child. Reasonable people can disagree on how to go about that. It may be that [David] did not intend to cause the staff to be as disturbed as they appeared to be in the case. Nevertheless, that clearly was an episode that couldn't be ignored."

The court found further that "[Angela] continues to be in the position to care for the minor [K.D.] I believe it's more conducive to have [K.D.] with the mother ***."

¶ 18 The trial court described this case as "difficult" because "what the [court] found ***, [is] that there is a mother that does her mothering in an appropriate, excellent way and a father who is a good father to the child." The court continued that it did not "want to diminish the inconvenience that the relocation will ultimately cause. *** It is a drive of perhaps an hour 20 [minutes], an hour 30 [minutes]. And that is not unsubstantial." However, the drive was ultimately found "doable."

¶ 19 The trial court entered a judgment of dissolution of marriage on October 26, 2016, which contained the ruling from July 2016. In its order, the court wrote, "That given such relocation and the possible decrease in parenting time compared to that which [David] may otherwise have had in the absence of such relocation, it is in the best interests of [K.D.] that [David] be allocated additional parenting time in the summer months." The order also stated:

> "[D]uring the school year only, other than for Memorial Day and Labor Day, if school is not scheduled to be in session on the Friday upon which [David's] parenting time with [K.D.] would begin, or if school is not scheduled to be in session on the Monday following [David's] parenting time with [K.D.], then [David's] parenting time *** shall be extended. If school is not so in session on Friday, then [David's] parenting time may begin on Thursday. If school is not so in session on Monday, then [David's] parenting time may be extended to Monday.
>
> [David] shall receive two non-consecutive two-week periods of uninterrupted parenting time with [K.D.] each and every summer. This will be a twelve[-]day period tacked on to the end of his existing weekend with [K.D.], meaning [David]

would have an uninterrupted period of sixteen days, given his next alternating weekend would fall at the end of this period."

Under the court-ordered parenting plan, the parties would continue to exchange custody of K.D. every other weekend and would do so at the halfway point of the police department in Mt. Zion, Illinois. On his weekends, David would have custody of K.D. from 6:30 p.m. on Friday until Sunday at 5 p.m. Both parties would alternate holidays, except Angela was always to "receive each and every Mother's Day" and David also would "receive each and every Father's Day." This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 David argues that the trial court's determinations were against the manifest weight of the evidence. Specifically, David challenges whether the trial court appropriately granted Angela (1) primary parenting time, (2) significant decision-making responsibilities, and (3) her petition to relocate K.D. to Sangamon County. In this regard, David contends that the court did not properly consider the best interests of K.D. and erred in its application of the Dissolution Act (750 ILCS 5/600 to 611 (West Supp. 2015)). David also challenges the court's consideration of evidence regarding his prior misconduct. We address David's claims, in turn.

¶ 22 A. The Standard of Review

¶ 23 A trial court enjoys broad discretion when deciding matters of child custody. *In re Marriage of Craig*, 326 Ill. App. 3d 1127, 1129, 762 N.E.2d 1201, 1203 (2002). A trial court's order relating to child custody is reviewed for being against the manifest weight of the evidence. *In re Marriage of Lasky*, 176 Ill. 2d 75, 81, 678 N.E.2d 1035, 1038 (1997); see also *In re Custody of Sussenbach*, 108 Ill. 2d 489, 499, 485 N.E.2d 367, 371 (1985) ("[T]he question for the reviewing court is whether the trial court's decision is contrary to the manifest weight of the evi-

dence."). "For a finding to be against the manifest weight of the evidence, it must appear that a finding opposite to that reached by the trial court is clearly evident." *In re Marriage of Knoche*, 322 Ill. App. 3d 297, 307, 750 N.E.2d 297, 305 (2001).

¶ 24 B. Primary Parenting Time

¶ 25 David contends that the trial court erred by granting Angela primary parenting time. Specifically, David claims that the court failed *to consider his interest* in having K.D. remain in Charleston and his involvement in parenting K.D. David contends further that the court (1) did not adequately consider the prior existing course of conduct in his custody arrangement with Angela and (2) failed to recognize the effect that the distance would have on his and his girlfriend's relationship with K.D. In this regard, David asserts that K.D. "has her friends and acquaintances here in Coles County and is very well adjusted," and that she "has nothing in Chatham." We disagree.

¶ 26 The trial court "shall allocate parenting time according to the child's best interests." 750 ILCS 5/602.7(a) (West Supp. 2015). When determining the best interests of a minor child in awarding parenting time under the Dissolution Act, the trial court is supposed to consider, without limitation, the following factors:

> "(1) the wishes of each parent seeking parenting time;
>
> (2) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to parenting time;
>
> (3) the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities ***;

(4) any prior agreement or course of conduct between the parents relating to caretaking functions with respect to the child;

(5) the interaction and interrelationship of the child with his or her parents and siblings and with any other person who may significantly affect the child's best interests;

(6) the child's adjustment to his or her home, school, and community;

(7) the mental and physical health of all individuals involved;

(8) the child's needs;

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

(10) whether a restriction on parenting time is appropriate;

(11) the physical violence or threat of physical violence by the child's parent directed against the child or other member of the child's household;

(12) the willingness and ability of each parent to place the needs of the child ahead of his or her own needs;

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

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

(15) whether one of the parents is a convicted sex offender or lives with a convicted sex offender and, if so, the exact nature of the offense and what if any treatment the offender has successfully participated in ***;

(16) the terms of a parent's military family-care plan that a parent must complete before deployment ***;

(17) any other factor that the court expressly finds to be relevant." 750 ILCS 5/602.7(b) (West Supp. 2015).

¶ 27 The evidence presented showed that Angela, through her testimony and the *in camera* interview of K.D., was the parent to whom K.D. was primarily attached. Although the trial court recognized that both David and Angela were good parents, "where the child indicates a stronger attachment to one parent, that attachment should be respected, even though the child has not given a good reason for it." *In re Marriage of Wycoff*, 266 Ill. App. 3d 408, 414-15, 639 N.E.2d 897, 903 (1994). In recognizing the reduction of David's parenting time from the relocation, the court ordered that "it is in the best interests of the minor child that [David] be allocated additional parenting time in the summer months." The court considered the 90-minute driving distance between Charleston and Chatham in its decision and found that while it was "not unsubstantial," it was "doable."

¶ 28 Angela's and David's work schedules were also properly taken into consideration. In *Cooper v. Cooper*, 146 Ill. App. 3d 943, 951, 497 N.E.2d 805, 810 (1986), the Fifth District considered the parents' working hours in deciding to affirm the trial court's award of custody, noting:

"The evidence suggests both petitioner and respondent are good parents. There was significant testimony that petitioner and [the child] have a good relationship. [The child] said he loved his mother. Furthermore, there was evidence petitioner has been [the child]'s primary care provider since his birth. While petitioner only

worked a short time during the marriage, respondent worked long hours during the week and worked at home on the weekends."

¶ 29 Here, the trial court similarly recognized that David is a good parent and spends much of his time away from work with K.D. We recognize that while "respondent should not be penalized for attempting to earn a living, *** it is the child's best interest which is paramount." *Id.* Angela has served as the primary care provider and has only missed a single doctor's appointment in K.D.'s lifetime, which is significant when considering David's nighttime work schedule and his supervisory responsibilities with the Coles County Crisis Response Team.

¶ 30 Based on the trial court's consideration, we conclude that the court's award of primary parenting time to Angela was not against the manifest weight of the evidence.

¶ 31 C. Significant Decision-Making Responsibilities

¶ 32 David contends that the trial court erred by granting Angela significant decision-making responsibilities. We disagree.

¶ 33 Significant decision-making responsibilities under the Dissolution Act include decisions regarding education, health, religion, and extracurricular activities. 750 ILCS 5/602.5(b) (West Supp. 2015). Significant decision-making responsibilities are allocated according to the child's best interests (750 ILCS 5/602.5(a) (West Supp. 2015)), which the trial court determines by considering the following factors:

"(1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making;

(2) the child's adjustment to his or her home, school, and community;

(3) the mental and physical health of all individuals involved;

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

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

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

(7) the wishes of the parents;

(8) the child's needs;

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

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

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

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

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

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

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

¶ 34 David asserts that during the *in camera* proceedings, the trial court did not ascertain "whether the gravity of [K.D.] leaving with her mother and moving to Chatham was something that [K.D.] understood and appreciated." From this premise, David claims that the court's *in camera* interview with K.D. could not have "remotely assist[ed] the court in the evaluation of the issues between the parties." We note that David does not cite any authority for his implied proposition that when conducting an *in camera* proceeding with a minor, a court must ascertain whether the minor comprehends the "gravity" of the subject matter at issue. We are not surprised by David's omission because our research shows that no such authority exists.

¶ 35 "The court may interview the child in chambers to ascertain the child's wishes as to the allocation of parental responsibilities." 750 ILCS 5/604.10(a) (West Supp. 2015). We defer to the trial court's findings following an *in camera* proceeding because it "had a better position than we do 'to "observe the temperaments and personalities of the parties and assess the credibility of witnesses." ' " *In re B.B.*, 2011 IL App (4th) 110521, ¶ 32, 960 N.E.2d 646 (quoting *In re Marriage of Marsh*, 343 Ill. App. 3d 1235, 1239-40, 799 N.E.2d 1037, 1041 (2003), quoting *In re Marriage of Stopher*, 328 Ill. App. 3d 1037, 1041, 767 N.E.2d 925, 928 (2002)).

¶ 36 In this case, the trial court specifically noted that "[j]udges get a lot of training on *** *in camera* interviews. And some [courts] maybe do it better or worse than others. But [the court] always believe[s] there has to be a sensitivity shown [to] a child in an *in camera* interview." The court noted further that "you don't pit mom against dad, dad against mom, in that kind of interview." The court also provided its rationale as to why it did not directly ask K.D. how she would feel about moving. The court explained that it asked indirect questions to solicit

information that, in the court's opinion, would provide insight as to K.D.'s relationship with the parties. We conclude that the court's approach, which sought to avoid placing K.D. in the difficult and unpleasant position of having to choose between her parents, was entirely appropriate, given that the "purpose of the *in camera* interview procedure is to permit the court to ascertain the [child's] preference free from the pressures and acrimony of open court." *In re Marriage of Hindenburg*, 227 Ill. App. 3d 228, 231, 591 N.E.2d 67, 69 (1992).

¶ 37 To the extent that David claims the trial court erred by granting Angela significant decision-making responsibilities, we conclude that the manifest weight of the evidence supports the court's determination to award Angela that responsibility. We note that, in so finding, the court stated it considered (1) that David was barred from K.D.'s preschool, which the court noted "was an episode that couldn't be ignored"; (2) David's demeanor and temperament; (3) Angela's historically active role in making appropriate parenting decisions; and (4) the responses K.D. provided during the court's *in camera* discussion.

¶ 38 D. Relocation

¶ 39 David argues that the court erred by granting Angela's petition to relocate to Sangamon County with K.D. We disagree.

¶ 40 Judicial approval to relocate a child "should not be reversed unless it is clearly against the manifest weight of the evidence and it appears manifest injustice has occurred." *In re Marriage of Eaton*, 269 Ill. App. 3d 507, 511, 646 N.E.2d 635, 639 (1995). "A custodial parent seeking judicial approval to remove children *** has the burden of proving the move, considering its possible impact on visitation and other relevant factors, is in the best interests of the children." *Id.*

¶ 41 Under the Dissolution Act, determining a child's best interests for the purpose of relocation requires the trial court to consider the following factors:

"(1) the circumstances and reasons for the intended relocation;

(2) the reasons, if any, why a parent is objecting to the intended relocation;

(3) the history and quality of each parent's relationship with the child and specifically whether a parent has substantially failed or refused to exercise the parental responsibilities allocated to him or her under the parenting plan or allocation judgment;

(4) the educational opportunities for the child at the existing location and at the proposed new location;

(5) the presence or absence of extended family at the existing location and at the proposed new location;

(6) the anticipated impact of the relocation on the child;

(7) whether the court will be able to fashion a reasonable allocation of parental responsibilities between all parents if the relocation occurs;

(8) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to relocation;

(9) possible arrangements for the exercise of parental responsibilities appropriate to the parents' resources and circumstances and the developmental level of the child;

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

(11) any other relevant factors bearing on the child's best interests." 750 ILCS 5/609.2(g)(1) to (11) (West Supp. 2015).

¶ 42 "A determination of [a child's] best interests 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." *In re Marriage of Parr*, 345 Ill. App. 3d 371, 376, 802 N.E.2d 393, 398 (2003). The courts have developed additional criteria in determining what is in the child's best interests, which include the following:

> "(1) whether the proposed move will enhance the quality of life for both the custodial parent and the child, (2) whether the proposed move is a ruse designed to frustrate or defeat the noncustodial parent's visitation, (3) the motives of the noncustodial parent in resisting removal, (4) the visitation rights of the noncustodial parent, and (5) whether a reasonable visitation schedule can be achieved if the move is allowed." *In re Marriage of Sale*, 347 Ill. App. 3d 1083, 1087, 808 N.E.2d 1125, 1128 (2004).

¶ 43 We disagree with David's assertion that the trial court (1) placed too much weight on Angela's employment offer in Sangamon County and (2) did not adequately consider all of the factors in determining K.D.'s best interests. David claims that the court did not properly consider the distance of the relocation, K.D.'s attachment to Charleston, and the quality of his relationship with K.D. Although David has played an active role in K.D.'s upbringing, we recognize that "[w]hile a custodial parent has the *duty* to foster the relationship between the children and the noncustodial parent [citation], the duty does not require the custodial parent to give up the right to pursue a new life." (Emphasis in original.) *Eaton*, 269 Ill. App. 3d at 514, 646 N.E.2d at 641. Moreover, " '[t]he best interests of children cannot be fully understood without also consid-

ering the best interests of the custodial parent.' " *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 528, 791 N.E.2d 532, 548 (2003) (quoting *Eaton*, 269 Ill. App. 3d at 516, 646 N.E.2d at 642). Therefore, "concern about preserving the [child's] relationship with respondent *** must be *weighed* against the enhancement of the quality of life for both petitioner and the [child]." (Emphasis in original.) *Parr*, 345 Ill. App. 3d at 378, 802 N.E.2d at 400.

¶ 44 In this case, the trial court found that (1) "[t]he most striking feature associated with [Angela's] request was the substantial increase in salary associated with her new employment in Springfield," and (2) the salary increase is "not only good for [Angela] but certainly [K.D.]" The court further noted that "[n]ot only would the [lifestyle] of [K.D.], now age seven, be enhanced; but more importantly, educational opportunities that may not exist for her could certainly come into play given that sizeable increase in salary." Moreover, the proposed school in Chatham was "comparable or perhaps slightly elevated in rankings from the current school that [K.D.]'s in." Given Angela's testimony about financial challenges and obtaining work, the court did not err by finding that the salary increase was in K.D.'s best interests.

¶ 45 In granting Angela's motion to relocate, the trial court also fairly considered David's visitation with K.D. Specifically, the court noted that the distance between K.D. and David was "not unsubstantial." "Any removal will have some effect on visitation, but the real question is whether a visitation schedule that is both reasonable and realistic can be created. It need not be perfect." *Eaton*, 269 Ill. App. 3d at 515, 646 N.E.2d at 642. Here, the court allowed for a parenting plan in which David would see K.D. on alternating weekends and holidays in a schedule similar to the arrangement David and Angela had while separated. Moreover, the court sought to offset the effect on K.D.'s visitation with David in finding that "it is in the best interests of the minor child that the Respondent be allocated additional parenting time in the summer months."

¶ 46 While the trial court emphasized the increase in Angela's income, we note additional factors favored Angela's relocation to Sangamon County, even though "[t]he trial court is not required to make specific findings regarding each *** factor as long as evidence was presented from which the court could consider the factors prior to making its decision." *In re Marriage of Hefer*, 282 Ill. App. 3d 73, 79, 667 N.E.2d 1094, 1099 (1996) (citing *In re Marriage of Stribling*, 219 Ill. App. 3d 105, 107, 579 N.E.2d 6, 8 (1991)). For instance, testimony showed the relocation could help to keep K.D. from witnessing the acrimonious relationship between David and Angela. The trial court heard testimony about Angela's discomfort from sometimes encountering David at her workplace. Moreover, the trial court also heard testimony about K.D. being exposed to fighting between Angela and David in September 2015, in which Angela testified that David had called her to get her things "as soon as possible," demanded that she leave upon her arrival, and then proceeded to verbally fight with her in the presence of K.D.

¶ 47 Given the trial court's conscientious consideration, we conclude that the court's determination was not clearly against the manifest weight of the evidence.

¶ 48 E. Consideration of Prior Misconduct

¶ 49 According to David, the trial court's consideration of Teresa Lang's testimony about the July 2012 incident at Cornerstone violated the provision of the Dissolution Act that states, "In allocating significant decision-making responsibilities, the court shall not consider conduct of a parent that does not affect that parent's relationship to the child." 750 ILCS 5/602.5(e) (West Supp. 2015). A trial court's consideration of evidence of prior misconduct in its "determination of custody will not be disturbed on review unless it is against the manifest weight of the evidence, manifestly unjust, or there has been a clear abuse of discretion." *In re Marriage of Ivey*, 261 Ill. App. 3d 200, 207, 632 N.E.2d 1121, 1126-27 (1994).

¶ 50 The July 2012 incident was properly considered by the trial court. "A custody determination inevitably rests on the parties' temperaments, personalities, and capabilities, and the witnesses' demeanor." *In re Marriage of Spent*, 342 Ill. App. 3d 643, 652, 796 N.E.2d 191, 199 (2003). Although the July 2012 incident was outside the presence of K.D., it involved David's temperament in his interactions with others, such as Cornerstone, regarding the supervision and care of K.D. The court identified how the incident affected David's parenting and K.D.'s best interests by noting that it "ultimately resulted in [David] being banned from the school," and, "it was Mrs. Lang's testimony that in 38 years, no steps had ever been taken to ban any father or mother from the school." We further note that Angela and David had to remove K.D. from Cornerstone following the incident and, therefore, it affected decision-making over the best interests of K.D.

¶ 51 III. CONCLUSION

¶ 52 For the foregoing reasons, we affirm the trial court's judgment. In doing so, we thank the trial court for its thorough consideration and explanation of its decision.

¶ 53 Affirmed.