

NOTICE

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2017 IL App (5th) 170030-U

NO. 5-17-0030

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

JASON GUERRETTAZ,)	Appeal from the
)	Circuit Court of
Petitioner-Appellee,)	Marion County.
)	
v.)	No. 16-D-18
)	
LORI GUERRETTAZ,)	Honorable
)	Allan F. Lolie, Jr., and
Respondent-Appellant.)	Mark W. Stedelin,
)	Judges, presiding.

JUSTICE WELCH delivered the judgment of the court.
Justices Barberis and Overstreet concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's allocation of joint parental decision-making responsibilities between the parties and the court's allocation of the majority of the parenting time to the father was not against the manifest weight of the evidence where the child's adjustment to his home, school, and community was the most significant factor in this best-interest determination.

¶ 2 The respondent, Lori G., appeals from the trial court's order granting the petitioner, Jason G., the majority of parental decision-making responsibilities and parenting time concerning their minor child, C.G. She contends that the court failed to consider all of the statutory factors in determining C.G.'s best interests. For the reasons that follow, we affirm.

¶ 3 Lori and Jason married in July 2007 and had a son, C.G., born September 7, 2007. Lori also had a child from a previous relationship, Lane, who was approximately 12 years old at the time of the trial. In January 2016, Lori and Jason separated, and Lori moved in with her parents while Jason stayed in the marital residence. On February 1, 2016, Jason filed a petition for dissolution of marriage. Also that same day, he filed a petition for emergency and temporary custody and restraining order/preliminary injunction. The emergency petition asserted that the parties were sharing parenting time; that C.G. had attended South Central School in Kinmundy, Illinois, for three years; that Jason had learned that Lori was moving with C.G. to Yale, Illinois, approximately 64 miles from C.G.'s current primary residence; and that Lori planned to remove C.G. from his current school district and enroll him in school in Jasper County, Illinois. The petition also asserted that C.G. suffered from attention deficit hyperactivity disorder (ADHD), that any sudden change in his routine could negatively affect his emotional and mental well-being, and that his current school had created a routine for him to facilitate a safe learning environment. That same day, the trial court entered an emergency order of custody and restraining order, which awarded emergency custody of C.G. to Jason and temporarily restrained Lori from relocating with C.G. and removing him from his current school district.

¶ 4 On February 17, 2016, Lori filed a petition for temporary relief, requesting the sole decision-making authority and the majority of the parenting time. On May 16, 2016, the trial court entered an agreed temporary order allocating the summer parenting time

between Jason and Lori. The court awarded the parties alternating, week-to-week, physical parenting time, from Sunday at 6 p.m. to the following Sunday at 6 p.m.

¶ 5 At the trial, which commenced on July 18, 2016, the circuit court heard the following evidence relevant to this appeal. The parties had stipulated that the marital residence would be awarded to Jason with him assuming the mortgage debt. Jason, who was 35 years old at the time of the trial, testified that he is currently employed full-time as a carpenter at Matt Spencer Construction, and he is also a captain on the volunteer fire department. He stated that C.G. has lived with him since the parties' separation. They currently reside in the marital residence, a four-bedroom home on five acres in Farina, Illinois. C.G. has his own bedroom and has resided in the home since he was approximately one year old. They have horses, sheep, goats, and a dog, and C.G. enjoys playing with the animals.

¶ 6 Jason testified that C.G. is a happy child and very social. Jason has a close relationship with C.G., and they spend the majority of their time together. Jason has extensive family members who reside within five miles of the house, including his mother and father, aunts and uncles, and numerous cousins. C.G. visits with his grandparents at least three to four times per week, and C.G. enjoys hunting and fishing with his grandfather and scrapbooking with his grandmother. Jason's 84-year-old grandmother, who watched C.G. before the parties' separation, continues to babysit him on a daily basis. C.G. also spends time with his aunts, uncles, and cousins about two to three times per week. Jason coaches C.G.'s summer baseball team, and one of C.G.'s cousins also plays on the team. Jason is also president of the Ball Association, a local

baseball association. He acknowledged that Lori attended almost every game. His family is active in the community through the Ball Association and the volunteer fire department, and C.G. sees his extended family at the baseball games and at the fire department. He testified that C.G. regularly visits the fire department with him. While there, C.G. socializes with the other children, does small chores, and learns about the equipment.

¶ 7 Jason also testified that the marital residence is located in South Central School District, that C.G. has attended kindergarten through second grade there, and that he is about to start third grade for the 2016-17 school year. He also has several cousins who attend South Central. Although he has struggled in school at times, his grades have been "Bs" and "Cs" with many "Satisfactories."

¶ 8 C.G. was diagnosed with ADHD after Jason observed that he was having trouble paying attention while playing baseball and doing his homework and that he was not listening to Jason or Lori. C.G. was prescribed medication, which seemed to help. Jason testified that the doctor took C.G. off his ADHD medication for the summer but wanted to reevaluate six weeks into the school year. Jason explained that C.G. does not like change and, thus, he has established a daily, structured routine for C.G. During the previous school year, C.G. attended school all day and then rode the bus to his great-grandmother's house if Lori was not picking him up. He was tutored by Jackie Elkins approximately two or three times per week after school. Jason picked him up around 5:30 p.m., and they would go home, finish his homework, and eat supper. During the

summer, C.G. stayed with either his great-grandmother or his great-aunt and uncle while Jason was at work.

¶ 9 Jason testified that Lori shares joint custody of Lane with his father, who has Lane on alternating holidays, alternating weekends, and alternating weeks during the summer. Jason believed that Lori has a shorter fuse with C.G. than she does with Lane, and he has expressed this concern with Lori.

¶ 10 Jason acknowledged that he has a temper and tends to act out when angry. He admitted that he became angry after he backed over a trash can lid with a horse trailer, and he threw the lid, which bounced off the trailer and hit Lori. However, he explained that he did not intentionally hit her and that C.G. was inside the horse trailer at this time. He also admitted that he and Lori frequently argued loudly in C.G.'s presence. He described an incident where he "stiff-armed" Lori and knocked her to the kitchen floor because she had charged at him in anger while C.G. was in the house. Jason expressed remorse over these incidents with Lori.

¶ 11 Jason testified that, prior to the separation, he shared the caretaking duties with Lori, who worked two 24-hour shifts during the week. He acknowledged that Lori scheduled C.G.'s doctor and dentist appointments and took him to those appointments the majority of the time, and he accompanied them when he could. He was not at C.G.'s doctor appointment where C.G. was diagnosed with ADHD. Although his relationship with Lori was "rocky" during the marriage, he believed that they have been able to communicate fairly well since the separation.

¶ 12 Jason testified that he filed the emergency petition after Lori told him that she was going to move C.G. to Jasper County. Lori did not see C.G. for approximately two weeks while the emergency order was in effect. Thereafter, Lori had parenting time with C.G. every other weekend and one day during the week. Jason agreed that it would be in C.G.'s best interests to see his mother.

¶ 13 John Matthew Lutz, who works with Jason at the fire department, testified that Jason was actively involved in C.G.'s life. He regularly brings C.G. to the fire station and teaches C.G. how to do various things there, such as spraying the water hose and rolling the hose. The other firemen also bring their children to the station, and C.G. routinely plays with them. John had also coached summer league baseball with Jason for seven years. He testified that Jason interacted well with the other kids on the team, that the kids seemed to like him, and that he was patient with them. He acknowledged that Jason would "get loud from time to time" and that he had witnessed Jason get into verbal altercations with the other coaches. However, he explained that he did not think that Jason had a "short" fuse and that it was necessary to get loud sometimes to get the players' attention.

¶ 14 Jackie Elkins testified that she tutored C.G. during the 2015-16 school year for approximately 1½ hours, two days per week. She observed that he had trouble paying attention and staying on task and that he was hyperactive, all symptoms of ADHD. However, she observed an improvement in his behavior after he started taking ADHD medication. She testified that she helped C.G. with his homework, specifically reading,

math, and science, and that he always wanted to save one subject for his father, which was typically spelling.

¶ 15 Kathy Huddelston, Lori's mother, testified that Lori was currently living with her and her husband in a four-bedroom home on 35 acres. She testified that Lori has a good relationship with C.G., that he relies on Lori for all of his needs, and that Lori enjoys riding four-wheelers and playing baseball with him. She explained that C.G. and Lane are also very close and that they enjoy doing things together. They have their own bedrooms, but C.G. insists on sleeping in Lane's room. Kathy also has a close relationship with C.G., who she described as a very outgoing, loving child. They spend time working in the garden, going camping, and riding horses. Kathy is employed as a nurse at Olney Regional Hospital, and she works three 12-hour shifts during the week. Her schedule varies each week, but she knows her schedule two months in advance. Kathy testified that she and her husband are both available to watch C.G. while Lori is at work.

¶ 16 Lori, who was 32 years old at the time of the trial, testified that she currently lives with her parents in Yale, Illinois. She is employed as a paramedic at Clay County Hospital in Flora, Illinois, working two 24-hour shifts during the week. Her family watches C.G. when she is working. She explained that C.G. and Lane fight like typical brothers but are very close. She also explained that C.G. would have to transfer schools if she was awarded the majority of the parenting time but that he has relatives that go to school in Jasper County, including Lane. Because C.G. is very social and makes friends easily, she did not have any concerns about him switching schools. Before the parties'

separation, she was C.G.'s primary caretaker; she helped him with his homework, attended his parent-teacher conferences, made sure he brushed his teeth and took a bath every night, fixed his meals, scheduled his doctor appointments, and took him to the doctor appointments. She estimated that Jason attended 10% of C.G.'s doctor appointments. She testified that C.G. enjoys camping, riding horses, playing baseball, going to rodeos, and hunting.

¶ 17 With regard to C.G.'s ADHD diagnosis, Lori testified that she and Jason had agreed, pursuant to the doctor's recommendation, to take C.G. off his prescribed medication for the summer. She acknowledged that she was initially reluctant to put him on ADHD medication, but she finally agreed because he was struggling in school.

¶ 18 Lori testified that Jason does not encourage C.G. to call her while he is at Jason's house. She requested the sole decision-making authority for C.G. because she did not believe that she and Jason would be able to make decisions together. However, she acknowledged that they were able to make decisions about his ADHD diagnosis and his involvement in extracurricular activities.

¶ 19 Lori testified that Jason was physically abusive during their marriage. During one incident when they were camping, Jason became angry because their dog had jumped into the backseat of their truck, and he grabbed the dog, pulled her out of the truck "real hard," and "kind of threw her" into C.G., which knocked him into the rocks. Jason then shoved Lori "backwards real hard" into the trailer step because she was arguing with him about his behavior. He then picked up the trash can lid, threw it at the trailer, and got into his truck and left her and C.G. at the campsite for a few hours. As for the incident that

occurred in their kitchen, she explained that, during an argument, she had taken a few steps toward Jason and kicked at him. In response, he shoved her down to the floor. Both C.G. and Lane were at home when this happened. She explained that she did not call the police because she was too scared. Jason always apologized after the incidents and assured her that it would never happen again. She acknowledged that she has visited Jason's home since the separation, that they have ridden together to ballgames, and that they have been out to dinner together after a game. She explained that she was trying to get along with Jason and was putting her physical well-being secondary for C.G.'s sake.

¶ 20 Lori acknowledged that C.G. required a set routine and consistency. She also acknowledged that C.G. is happy living in Farina, that Jason is a good father, and that C.G. had indicated that he did not want to transfer to Jasper County School and instead wanted to stay at South Central. She further acknowledged that, because Lane was four grades above C.G., they would be attending different schools if C.G. transfers to Jasper County.

¶ 21 On August 1, 2016, the trial court issued a written order allocating the parental decision-making responsibilities and parenting time between Jason and Lori. The court concluded that the decisions regarding C.G.'s education, health, and extracurricular activities should be made jointly. The court found that it was in C.G.'s best interests for the majority of the parenting time to be awarded to Jason with Lori awarded parenting time on alternating weekends; alternating holidays; extended time over Thanksgiving, Christmas break, and spring break; alternating weeks in the summer; and such other times

as the parties agree. The court further concluded that the parenting time should be scheduled to coincide with Lane's parenting time schedule.

¶ 22 The order contained extensive factual findings. With regard to decision making, the trial court found that C.G. is well adjusted to his home, school, and community in Farina; that his community activities include baseball and visits to the fire department; that he has attended school at South Central for three years and, with the assistance of his tutor, is doing well; and that he has also adjusted well to his home with Lori in Yale. The court noted that it is not known how he would adjust to the Jasper County school since he has not attended that school but that his ADHD may affect his ability to adjust to change.

¶ 23 The trial court also concluded that, although Lori claimed an inability to discuss things with Jason, the record shows that the parties were able to communicate regarding the most important issue in C.G.'s life, being his ADHD diagnosis and treatment. The court noted that, even after the separation, the parties put aside their differences to make C.G. feel more comfortable by attending baseball games and rodeos together.

¶ 24 The trial court found that, prior to the separation, most of the day-to-day decisions were made by Lori but that the most significant decision was discussed and agreed upon by the parties. The court noted that Jason wants the major decisions to be made jointly while Lori wants the sole authority to make those decisions. The court concluded that there was no need to restrict either party's participation in the decision making and that there is little significance in Jason's initial reluctance to allow contact between Lori and C.G. because Lori was planning on moving with C.G. to Jasper County without Jason's knowledge or consent. The court also concluded that Jason may be somewhat more

restrictive in encouraging frequent communication between C.G. and Lori, but he would not oppose such communication. Although Lori wanted to restrict Jason's participation in the decision making, the court did not find this significant in light of the way the parties had cooperated during the summer.

¶ 25 The trial court noted that Jason has special insight regarding C.G.'s ADHD because he also suffered from it. The court found that the distance between the parties was not a factor considering the availability of various forms of electronic communication. The court concluded that the violence Jason displayed when angry is a factor with "some weight" but that the weight was "somewhat lessened" by the fact that he would later apologize for his actions. The court also concluded that there was no evidence that C.G. was the target of any physical violence. The court found the parties' involvement in C.G.'s activities also carries weight in this decision.

¶ 26 As for the parenting-time decision, the trial court noted that both parties desire the majority of the parenting time but that they had agreed that the other parent should be awarded every other weekend, every other holiday, and every other week during the summer. The court found that, prior to the separation, Lori handled most of the caretaking functions and C.G.'s day-to-day care. However, the court noted that, since the separation, Jason has dealt with school attendance, C.G.'s ADHD, tutoring, and summer activities. The court found that C.G. is close to both parents and their extended families and that C.G. has a close relationship with Lane but does not appear to miss him while with Jason. The court concluded that the distance between the parties' residences is of such significance that it makes short periods of parenting time impractical. The court

concluded that both parties put C.G.'s interests over their own and are good, capable, and loving parents.

¶ 27 Although the court found that C.G. would be well cared for should either parent be awarded the majority of parenting time, the court concluded that the most significant factor is C.G.'s adjustment to home, school, and the community. The court noted that C.G. is well adjusted to his school and his community where he participates in activities such as baseball. The court also found important the fact that there is little likelihood that C.G.'s home, school, and community will significantly change in the future if Jason is awarded the majority of the parenting time. The court noted that Lori's residence, while adequate, is temporary at best as she is living with her parents. The court found this factor even more important in light of C.G.'s ADHD diagnosis.

¶ 28 The court stated that it did not want to understate C.G.'s relationship with Lane because that relationship is significant. However, the court found that the relationship could be maintained through allocation of frequent parenting time with Lori and coordinating that parenting time with that of Lane's father. The court also noted that, with the availability of electronic forms of communication, there is no reason that daily contact could not occur between C.G., Lane, and Lori.

¶ 29 On October 12, 2016, the trial court entered a judgment for dissolution of marriage. That same day, the court entered a judgment for allocation of parental responsibility and parenting time, reiterating its decisions regarding decision-making authority and parenting time and establishing a parenting time schedule. On December 20, 2016, the court entered a supplemental order resolving the issue of child support.

Lori appeals the court's decision concerning the allocation of parental decision-making responsibility and parenting time.

¶ 30 On appeal, Lori first argues that the trial court's allocation of shared decision-making authority was improper where the court failed to consider the relevant statutory factors.

¶ 31 Section 602.5(b) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/602.5(b) (West 2016)) permits the trial court to allocate to one or both of the parents the decision-making responsibility for significant issues affecting the child as to education, health, religion, and extracurricular activities. This decision is based on the best interests of the child standard. 750 ILCS 5/602.5(c) (West 2016). To determine the child's best interests for purposes of allocating the decision-making responsibilities, the court should consider all relevant factors, including: (1) the child's wishes; (2) the child's adjustment to home, school, and community; (3) the mental and physical health of all individuals involved; (4) the parents' ability to cooperate to make decisions; (5) the level of each parent's participation in past significant decision making about the child; (6) any prior agreement or course of conduct between the parents regarding decision making; (7) the parents' wishes; (8) the child's needs; (9) the distance between the parents' residences; (10) whether a restriction on decision making is appropriate under section 603.10 of the Act; (11) the willingness and ability of each parent to facilitate and encourage a relationship with the other parent; (12) the physical violence or threat of physical violence directed against the child; (13) the occurrence of abuse against the child or other member of the child's household; (14) whether one parent is a sex offender or resides

with a sex offender; and (15) any other factor that the court expressly finds to be relevant. 750 ILCS 5/602.5(c) (West 2016).

¶ 32 A trial court's determination regarding parental decision-making responsibilities, like its determination of custody under the previous version of the Act, is given great deference because the trial court is in a superior position to judge the credibility of the witnesses and determine the best interests of the child. *In re Marriage of Radae*, 208 Ill. App. 3d 1027, 1029 (1991). We will not reverse that determination on appeal unless it is against the manifest weight of the evidence, it is manifestly unjust, or it results from an abuse of discretion. *In re B.B.*, 2011 IL App (4th) 110521, ¶ 32.

¶ 33 The first factor, C.G.'s wishes, was not ascertained due to his young age. With regard to the second factor, C.G.'s adjustment to home, school, and community, the trial court found that this was an important factor because C.G. was diagnosed with ADHD. The testimony indicated that C.G. resides with his father in the former marital residence, and he has lived there since he was approximately one year old. He has extensive family members who also live in Farina, and he visits several of these family members two to three times per week. He has attended kindergarten through second grade at South Central School, he was about to start third grade for the 2016-17 school year, and he has several cousins who also attend that school. C.G.'s community activities include playing summer league baseball and visiting the local fire department where his father is a captain. Thus, the evidence revealed that C.G. is well adjusted to his home, school, and community in Farina. The evidence indicated that C.G. is also well adjusted to his mother's home in Yale but that he would have to transfer to the Jasper County School

District if he lived with his mother. C.G. has always attended the same school so it is unknown how he would adjust to this change. However, considering his ADHD diagnosis, we agree with the trial court that it is important to maintain stability in his life as his condition may affect his ability to adjust to change.

¶ 34 With regard to the third factor, the mental and physical health of all individuals involved, as we noted above, C.G.'s ADHD diagnosis may affect his ability to adjust to change. The fourth factor concerns the parents' ability to cooperate and make decisions. Although Lori testified about her and Jason's inability to make important decisions together, the record suggests otherwise. As the trial court noted, the parties were able to agree on the most important issue in C.G.'s life, that being his ADHD diagnosis and treatment. Those discussions led to an agreement to medicate and to enlist the help of a tutor. The testimony also indicated that, even after the separation, the parties attended baseball games together and went out to eat after the games to make C.G. more comfortable. The fifth and sixth factors concern the parties' participation in past significant decision making about C.G. The testimony indicated that, before their separation, Lori made the day-to-day decisions concerning C.G. However, as already noted, Lori and Jason agreed on the course of treatment for C.G.'s ADHD.

¶ 35 As for the seventh factor, the parents' wishes, Jason requested that the parties share decision-making responsibilities while Lori requested that she have the sole authority to make important decisions concerning C.G. The eighth factor concerns C.G.'s needs. For this factor, the trial court noted that Jason has special insight regarding ADHD that Lori does not share because he was also diagnosed with it. Jason has used this insight to

create a structured environment for C.G. The ninth factor, the distance between the parents' residences, is not a significant factor for the parental-responsibilities allocation considering the availability of the various forms of electronic communication. The tenth factor, restriction on decision making, does not apply as there is no need to restrict either party's participation in decision making.

¶ 36 The eleventh factor concerns the willingness and ability of each parent to facilitate and encourage a relationship with C.G. and the other parent. The court concluded that there was little significance in Jason's initial reluctance to allow contact between Lori and C.G. because there was an injunction in place and Lori was "apparently planning on taking [C.G.] to Jasper County without [Jason's] knowledge or consent." The court also noted that Jason might be somewhat more restrictive in encouraging frequent communication between C.G. and Lori but that he would not oppose such communication. The court also found that it was not significant that Lori wanted to restrict Jason's participation in the decision making considering the way the parties cooperated in the past. We find that the trial court's findings on this factor were supported by the evidence.

¶ 37 With regard to the next two factors, the physical violence or threat of physical violence and the occurrence of abuse against C.G. or other member of his household, the record reveals that Jason has some issues, which cannot be ignored in determining C.G.'s best interests. The testimony indicates that Jason has a temper and that he acts out when angry. There was testimony that Jason had been physically violent with Lori and that C.G. had been present on those occasions. He admitted throwing a trash can lid, which

accidentally hit Lori, and admitted knocking Lori to the floor in anger. However, there was no evidence that C.G. was the target of physical violence or that Jason had been physically violent with Lori since their separation.

¶ 38 The fourteenth factor, whether one parent is a sex offender or resides with a sex offender, does not apply. With regard to the last factor, any other factor that the court expressly finds to be relevant, the trial court concluded that another factor that carries weight is both parties' involvement in C.G.'s activities. The testimony revealed that Jason coached C.G.'s summer league baseball games and Lori attended the games when not working.

¶ 39 Considering the factors discussed above, the trial court concluded that the major decisions regarding C.G.'s education, health, and extracurricular activities should be made jointly. We cannot say that this decision was against the manifest weight of the evidence, was manifestly unjust, or results in an abuse of discretion.

¶ 40 The next issue before us is whether the trial court's allocation of parenting time is against the manifest weight of the evidence.

¶ 41 Section 602.7 of the Act requires courts to allocate parenting time in accordance with the best interests of the child. 750 ILCS 5/602.7(a) (West 2016). In allocating parenting time, the court shall consider all relevant factors, including: (1) each parent's wishes; (2) the child's wishes; (3) the amount of time that 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; (5) the interaction and

interrelationship of the child with his parents and siblings and with any other person who may significantly affect his best interests; (6) the child's adjustment to his 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; (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) each parent's willingness and ability to place the child's needs ahead of his or her own; (13) each parent's willingness and ability 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 parent is a sex offender or resides with a sex offender; (16) the terms of the parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed; and (17) any other factor that the court expressly finds to be relevant. 750 ILCS 5/602.7(b) (West 2016).

¶ 42 Like the parental decision-making determination, because the trial court is in a better position than this court to assess the credibility of witnesses and determine the child's best interests, its decision as to the allocation of parenting time must be accorded great deference. *In re Marriage of Debra N.*, 2013 IL App (1st) 122145, ¶ 45. Thus, on appeal, we will not overturn the trial court's decision unless the court abuses its considerable discretion or its decision is against the manifest weight of the evidence. *Id.*

¶ 43 As some of the parental decision-making factors and parenting-time factors overlap, we will not discuss in-depth those factors that have previously been addressed.

The first two factors concern the parents' and child's wishes. Both parents desire the majority of the parenting time, and they agree that the other parent should have every other weekend, every other holiday, and every other week during the summer. C.G.'s wishes were not ascertained because of his young age.

¶ 44 The third and fourth factors concern the amount of time that each parent has spent performing caretaking functions in the 24 months preceding the filing of the petition for allocation of parental responsibilities and any prior agreement or course of conduct between the parents relating to caretaking functions. Lori testified that she was C.G.'s primary caretaker before the separation. She helped him with his homework, attended his parent-teacher conferences, made sure that he brushed his teeth and took a bath every night, fixed his meals, scheduled his doctor appointments, and took him to his doctor appointments. Jason testified that he shared caretaking duties with Lori, who worked 24-hour shifts, two days per week. However, he acknowledged that Lori scheduled C.G.'s doctor appointments and took him to those appointments the majority of the time because he was at work. The trial court concluded that, prior to the separation, Lori did most of the caretaking duties. However, the court concluded that, since the separation, Jason has also performed caretaking tasks, such as dealing with school attendance, creating a structured routine for C.G., scheduling tutoring for C.G., and taking C.G. to his summer activities. Lori argues that the trial court erred in considering the fact that Jason performed caretaking functions after the parties' separation. We disagree.

¶ 45 Although Lori is correct that the plain language of the statute requires the court to consider the amount of time each parent spent performing caretaking functions 24 months

before the petition was filed, as opposed to after it was filed, the statute also permits the court to consider any other factor that it finds relevant.

¶ 46 The fifth factor concerns C.G.'s interaction and interrelationship with his parents and siblings and with any other person who may significantly affect his best interests. The testimony indicates that C.G. has a close relationship with his parents and their extended families. His paternal grandmother babysits him during the week when Jason is working. He enjoys hunting and fishing with his paternal grandfather and scrapbooking with his paternal grandmother. His extended family is very active in the community, and he sees them at baseball games and at the fire department. Lori lives with her parents, and he has a close relationship with them. He also has a close relationship with his brother, but there was some testimony that he did not appear to miss Lane while with Jason.

¶ 47 The next factor, C.G.'s adjustment to his home, school, and community, was discussed above. C.G. is well adjusted to his homes in Farina and in Yale, and he is well adjusted to his school in Kinmundy and his community in Farina. The next two factors, the mental and physical health of all individuals involved and C.G.'s needs, were also discussed above. As stated above, C.G. has been diagnosed with ADHD, which makes stability an even more important consideration in the best-interests determination. The ninth factor concerns the distance between the parents' residences. The distance between their residences is significant and makes short parenting time impractical. The tenth factor, whether a restriction on parenting time is appropriate, does not apply. The eleventh factor, the physical violence or threat of physical violence by C.G.'s parent

directed against C.G. or other members of his household, has also been discussed above. Although there is evidence that Jason has physically abused Lori in the past, there is no evidence that he has physically abused C.G.

¶ 48 The next factor concerns each parent's willingness and ability to place C.G.'s needs before their own. The testimony reveals that both parties put C.G.'s interests over their own. As previously noted, Jason and Lori were able to work together to determine a treatment plan for C.G.'s ADHD. They also involve C.G. in their own activities, such as bringing him to the fire department and riding horses with him, and they were able to put aside their differences and ride together to C.G.'s baseball games and eat supper together after the games. The next factor, each parent's willingness and ability to facilitate and encourage a close and continuing relationship between the other parent and the child, is also discussed above. Although Lori testified that Jason did not encourage C.G. to frequently communicate with her, the trial court concluded that Jason would not oppose such communication. We conclude that this finding was supported by the evidence.

¶ 49 The fourteenth factor, the occurrence of abuse against C.G. or other members of his household, should be given weight as it is concerning that Jason acts out when angry and that he has been physically violent with Lori in front of C.G. However, there was no evidence presented that his physical violence was directed against C.G. The last two factors, whether one parent is a sex offender or resides with a sex offender and the terms of a parent's military family-care plan, are not applicable.

¶ 50 We agree with the trial court that the record reveals that both Lori and Jason are good, capable, and loving parents and that C.G. would be well cared for should either

parent receive the majority of parenting time. However, the trial court awarded Jason the majority of the parenting time, finding that C.G.'s adjustment to his home, school, and community was the most significant factor. The court found significant the fact that there was little likelihood that his home, school, or community would change in the future if he stayed in Farina. The court noted that, Lori's residence, while adequate, is "temporary at best." Although the court found it important that C.G. maintain a close relationship with his brother, the court concluded that this relationship could be maintained through allocation of frequent parenting time with Lori and coordinating the parenting time schedules. Having reviewed the entirety of the record, we cannot find that the trial court acted against the manifest weight of the evidence or abused its discretion in allocating the majority of the parenting time to Jason, who has provided C.G. with a stable and structured environment since the separation.

¶ 51 Thus, after considering all of the statutory factors, we conclude that the trial court's allocation of parental responsibilities and parenting time was not against the manifest weight of the evidence or an abuse of discretion.

¶ 52 For the foregoing reasons, we affirm the judgment of the circuit court of Marion County.

¶ 53 Affirmed.