

2018 IL App (2d) 180386-U
No. 2-18-0386
Order filed October 15, 2018

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
MAHTAB TASHAKORI,)	of Winnebago County.
)	
Petitioner-Appellant,)	
)	
and)	No. 15-D-938
)	
FARHAD FAROKHI,)	Honorable
)	Joseph J. Bruce,
Respondent-Appellee.)	Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices Jorgensen and Schostok concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's ruling, which provided Farokhi with the majority of parenting time with the parties' two children, gave him sole responsibility over extracurricular decisions, and gave the parties' joint responsibility over education, medical, and religious decisions, was not against the manifest weight of the evidence or an abuse of discretion. Therefore, we affirmed.

¶ 2 In this dissolution of marriage case, petitioner, Mahtab Tashakori, appeals from the trial court's judgment allocating parental time and responsibilities. The judgment gave respondent, Farhad Farokhi, the majority of parenting time with the parties' two children and gave him sole authority regarding the children's extracurricular activities. It provided that the parties would

jointly share education, medical, and religious decision-making responsibilities. On appeal, Tashakori argues that she should have the majority of parenting time and have sole responsibility for education, medical, and extracurricular decisions. We affirm.

¶ 3

I. BACKGROUND

¶ 4 The parties were married on April 20, 2000. Their elder son, Armaan, was born in August 2007, and their younger son, Omeed, was born in September 2009.

¶ 5 Farokhi filed a verified petition for an order of protection against Tashakori on September 4, 2015. He sought protection for himself, Armaan, and Omeed. Farokhi alleged that on September 3, 2015, Tashakori struck Armaan on his hand and kicked Farokhi in the thigh. Farokhi alleged that he went to the emergency room due to the pain and stayed at a hotel overnight because he did not feel safe returning home. Farokhi also detailed numerous other events going back to February 2013.

¶ 6 On September 4, 2015, the trial court entered an emergency order of protection granting Farokhi physical care and possession of the children and possession of the marital residence; Tashakori was prohibited from having contact with the children. Tashakori was served with the order on September 5, 2015.

¶ 7 On September 9, 2015, Tashakori filed a petition for dissolution of marriage. The same day, she filed a petition for temporary relief requesting, among other things, that she be awarded custody of the children, subject to visitation by Farokhi. On September 16, 2015, Farokhi filed a counterpetition for dissolution of marriage and a counterpetition for temporary relief.

¶ 8 The trial court consolidated the order of protection and dissolution actions on September 18, 2015. It further amended the emergency order of protection to allow Tashakori to have a total of seven hours' weekly visitation with the children. The visits were to be supervised by

Andrea Martin.

¶ 9 On November 30, 2015, the trial court appointed Erin Walsh as the children's guardian *ad litem*. On January 5, 2016, it appointed Dr. Kyle Cushing to perform an evaluation of the family to assist it in determining the allocation of parenting time and responsibilities. The order further provided that the order of protection case would be heard first, and that the trial court would consider evidence from that case in the custody case as well.

¶ 10 A. Hearing on Farokhi's Petition for a Plenary Order of Protection

¶ 11 A hearing on Farokhi's petition for an order of protection began on February 8, 2016, and continued on various dates until May 18, 2016. We summarize the evidence presented.

¶ 12 Farokhi testified as follows. He was a cardiologist employed by OSF St. Anthony Medical Center. During the evening of September 3, 2015, he was on call at the hospital. At 5:36 p.m., he received a text message from Tashakori saying that she had daily conflicts with the children over homework, and asking when Farokhi was coming home. Farokhi said that he was waiting for a patient to arrive to see if there was an emergency. He got home at about 8 p.m. and saw Tashakori reading a book to the children. Farokhi began eating dinner. Tashakori told the children to get ready for bed, and she left the room. The kids started playing. Five to ten minutes later, Tashakori went into the children's bedroom and started yelling at them for not brushing their teeth. Tashakori charged toward Armaan, who kicked his leg but did not make contact with Tashakori, and she struck him on the back of his arm. Tashakori then came out of the children's room and screamed at Farokhi, asking where he had been. When he responded that he was at work, she kicked him in his left thigh. She said that she was going to take the kids from him and cut him into pieces. Farokhi was in pain, and after he finished his meal, he went to the emergency room to make sure everything was ok. He was given pain medication and told to

rest. Farokhi talked to a police officer who had been called to the hospital. Farokhi did not feel safe going back home, so he stayed in a hotel for the night. He returned home the next morning to shower and leave for work. Farokhi never filled the prescription for medication.

¶ 13 Prior to that incident, during the morning of September 1, 2015, Tashakori was very angry because she saw dishes in the sink. She was screaming and yelling obscenities, and she called the children animals. Around the same time, she locked Armaan in the garage. On August 23, 2015, Tashakori got into an altercation with Armaan. She then punched Farokhi in his left arm, saying that it was his fault. On June 21, 2015, she sent Farokhi a text message referring to the children as assholes. Farokhi texted back that he was sorry that he was not home, and he asked if she wanted him to call a babysitter to come for a few hours. Tashakori replied in the negative and said that she really hated her life. Farokhi played a February 17, 2015, voicemail message in which Tashakori was angry because Omeed would not go to the dentist's office. She was speaking Farsi, and Farokhi translated her message and said that she referred to Omeed as a piece of dirt. In July 2013, she locked Omeed in a hot garage for not doing his Kumon homework. In June 2013, she hit Armaan on his back hard enough to leave a handprint. Farokhi also detailed incidents of Tashakori yelling on various other dates, during some of which she also threw things. Since the order of protection was entered, he and the children had been living apart from Tashakori.

¶ 14 Video from surveillance cameras from the hospital on September 3, 2015, showed Farokhi walking into the hospital. The officer who talked to Farokhi at the hospital testified that he saw no visible injury to his leg. The officer went to the home and checked on the children, who seemed fine.

¶ 15 Farokhi's mother testified that in February 2013, she was visiting the family. The

children were playing with a toy, and Omeed started “nagging.” Tashakori became upset and put Armaan, who was only five years old, outside on the snowy balcony for more than ten minutes in just his pajamas. Farokhi’s mother got up to let him in, but Tashakori told her to sit down. When Armaan came inside, Omeed started “nagging” again, and Tashakori began hitting Armaan with a remote on his back and his head. Farokhi’s mother screamed at her to stop, and Tashakori laughed. About half an hour later, Tashakori took the kids to the pool. When Farokhi’s mother told Farokhi about the incident later, he said not to say anything because Tashakori would be angry.

¶ 16 Tashakori provided the following testimony. She was 45 years old and a family practitioner physician with OSF. She worked four days a week, from 8 a.m. to 2 p.m. Tashakori arranged her schedule to be able to take the children to the bus stop in the morning and be there after school ended. She was also the parent who took them to their activities and medical appointments.

¶ 17 On the night of September 3, 2015, Tashakori read a story to the boys, and then she brushed her teeth. She went into the boys’ room afterwards and saw Armaan hitting Omeed, who was sobbing. Farokhi was just leaning on the door, smirking. Tashakori rushed over to Omeed and asked Armaan to move. She comforted Omeed and then went over to Armaan, saying that he should not hit his brother. Armaan got very upset and kicked her in the breast. She held his hand and told him no, and then comforted him, too. Tashakori next exited the room and argued with Farokhi. She said that she knew that he was encouraging the kids to talk back to her and hit her. They had previously agreed that they would divorce after they had both taken their medical board exams, but Tashakori told him that it would be best if they separated right away. Farokhi said that he was going to call 911 and say that she hit him, and Tashakori said

that he could call the police. Instead, Farokhi finished his dinner and left. DCFS later investigated the events of that night and issued an unfounded report.

¶ 18 Tashakori denied locking the children in the garage or hitting Armaan with a remote. The garage door could be opened from within the garage with an opener that the children could reach, so it was not even possible to lock them in the garage. She had never abused the children or Farokhi. To the contrary, in September 2004, Farokhi struck her on both of her arms, leaving bruises. In March 2008, he kicked her in the stomach when she was holding seven-month-old Armaan. On March 25, 2015, Farokhi was screaming in her face, so close that he was spitting on her. Tashakori ran into their home office to call 911. Farokhi tried to block her from closing the door by reaching in with his hand, but she leaned on the door, and he removed his hand. The police came, and Farokhi falsely told them that Tashakori had thrown things at him. The police did not arrest either of them.

¶ 19 A neighbor testified that during the school years beginning in August 2012 and ending in May 2015, she would be leaving for work and see Tashakori's garage open at the same time. Three to five mornings a week Tashakori would be yelling at the boys "in a rage of anger" while they were getting in the car, even though they were not running around or misbehaving. This also occurred in August 2015, prior to the parties' separation. Other neighbors testified that they never heard Tashakori yell at the children.

¶ 20 On March 23, 2016, the trial court amended temporary visitation with Tashakori to consist of unsupervised visitation for a total of 16 hours per week.

¶ 21 On June 8, 2016, the trial court denied Farokhi's petition for a plenary order of protection. It stated that Farokhi alleged two categories of abuse by Tashakori, the first being abuse against the children and the second being abuse against him. Farokhi had not proved that

Tashakori had abused the children. In most of the incidents, Farokhi did not intervene, which was not consistent with how he would have acted if he felt that Tashakori was abusing the children or that they were in danger. Still, “the evidence [was] clear that Dr. Tashakori [had] been verbally aggressive towards her children. She [had] yelled at them, she [had] raised her voice.” She had also called them names in statements to Farokhi. However, she had not “crossed the lines to be guilty of domestic violence in her name calling,” as she did not threaten harm or cause the children to fear for their safety. The trial court believed that Farokhi had alleged abuse against the children as “an attempt to use the Domestic Violence Act to raise issues of custody and visitation in the petition for order of protection,” which was improper.

¶ 22 Regarding the alleged violence by Tashakori against Farokhi, the trial court continued as follows. For September 3, 2015, the evidence indicated that:

“the children began arguing and physically fighting while they were left with Dr. Farokhi, and Dr. Tashakori tried to stop their conflict while Dr. Farokhi stood by. This would have been consistent with his behavior at other times.”

Farokhi’s testimony about his injury was not credible because the hospital video showed no evidence that Farokhi was injured when he walked into the emergency room. Further, he described a pain level of eight but never filled the prescription of pain medication.

¶ 23 There was “mutual misconduct” on March 15, 2015, but Farokhi engaged in more serious misconduct by trying to prevent Tashakori from calling 911. Tashakori’s testimony that Farokhi had spit at her and hit her during other incidents was credible. There were also incidents where Tashakori yelled and threw objects. “Both parties engaged in verbally and physically threatening behavior,” but Farokhi had not proven the significant incidents of abuse that he had alleged in the petition for an order of protection.

¶ 24 Even though the trial court was denying the petition, the “issues” in the case could not be ignored, in that Tashakori:

“has had a difficulty parenting the boys at times. She has lost her temper, she’s yelled at them. She has had difficulty disciplining the boys at times. *** She has asked for help from Dr. Farokhi, [but he] has not helped. He’s been at work.”

The trial court stated that it needed to enter a new childcare plan to “address legitimate parenting issues to allow both parents and not third parties the ability to spend time with the children.”

¶ 25 The trial court offered to begin a hearing on temporary custody, but Tashakori’s attorney declined because she did not have evidence that she had subpoenaed. Therefore, the trial court accepted the guardian *ad litem*’s recommendation that Tashakori have temporary parenting time every other weekend and overnight on Wednesdays. The trial court further ordered that the parties have joint decision-making responsibility over medical and religious decisions.¹

¶ 26 On July 26, 2016, Farokhi filed a petition to modify the temporary order and for other relief. He sought: to have the children return to his residence on school nights at 7 p.m.; to prevent Tashakori from showing up at their extracurricular activities; and to prevent them from being exposed to inappropriate video games. On August 15, 2016, the trial court ordered that the parties should not be present at the children’s tutoring when it was not their day with the children, but it denied Farokhi’s petition in all other respects.

¶ 27 B. Hearing on Allocation of Parenting Time and Responsibilities

¹ The parties dispute who was temporarily awarded the sole decision-making responsibility over educational and extracurricular activities. The trial court’s order is not clear on this issue, but we need not resolve the question, as it does not affect the outcome of this appeal.

¶ 28 A hearing on the allocation of parenting time took place on several dates in April through September 2017. The trial court stated that it would also consider the evidence submitted in the order of protection hearing when ruling on the allocation of parental responsibilities.

¶ 29 Clinical psychologist Cushing, who had been appointed by the trial court to perform a child custody evaluation, recommended that Farokhi be granted sole legal custody and primary residential custody of the children, with regular unsupervised visitation with Tashakori. Cushing recommended that the current visitation schedule be continued during the school year, with the children visiting Tashakori every Wednesday overnight to Thursday, and every other weekend from Friday at 5 p.m. until Monday morning. He recommended that during the summer, the children alternate weeks with each parent, with the children spending every Wednesday evening with the parent not taking care of the children that week. Cushing also detailed how other vacation time and holidays should be divided. He further recommended that Tashakori continue her individual psychotherapy to address authoritative parenting and provide her with anger management and relaxation training.

¶ 30 Cushing testified that he arrived at his conclusion after interviewing and performing psychological tests on the parties and the children. He also did home visits, reviewed records, and spoke “with collateral sources of information.” The most credible information came from neutral parties, such as teachers and the guardian *ad litem*.

¶ 31 Cushing considered the allegations each party made against the other party but did not specifically address every allegation with the other party. Often times, explaining one allegation would lead to more allegations against the other party, and “if you go back and forth like that these cases could go on forever.” Instead, he told each party to provide corroborating evidence to help him determine what was truthful about the allegations, and he also relied on interviews.

He had asked Tashakori about her social support network, but she did not provide any information and instead changed the subject. Tashakori answered “N/A” to many written questions about relationship issues with Farokhi, the children, and others.

¶ 32 Cushing did not see any evidence suggesting that Farokhi was physically abusive towards Tashakori. He testified that he was not aware that the trial court had found the opposite.² Cushing believed that Tashakori was abusive towards Farokhi in ways reported by “mutual sources,” such as a police report in which she admitted throwing a shoe at him. He did not think that Tashakori hit Farokhi hard enough to require a hospital visit. Tashakori told him that Farokhi’s petition for an order of protection was denied.

¶ 33 Cushing’s visit to Farokhi’s home lasted about 35 minutes. It went smoothly. At one point, Omeed was acting up a little, and Farokhi redirected him and told him to settle down. Omeed was somewhat compliant, in that he listened but was still a little overactive. At Tashakori’s home visit, the boys were playing video games when Cushing arrived. Armaan interacted with him, but Tashakori let Omeed continue to play on the computer. When she tried several times to get him to put it away, he would begin a tantrum, so she let him keep playing. Later in the visit, Omeed joined them during a tour of the house. The incident with the computer corroborated allegations that the children often did not obey Tashakori and that she gave into them, which could possibly lead to her later exploding at them.

¶ 34 Cushing testified that the children told him that they would like to spend equal time with both parents. Cushing’s report stated that both children reported positive relationships with their parents. On one assessment, Armaan rated Tashakori as the preferential parent on two items,

² Cushing’s report included a statement by Tashakori that the trial court found that Farokhi verbally, physically, and emotionally abused her over the course of their marriage.

Farokhi as the preferential parents on two items, and his parents as equal on the remaining 28 items. Omeed rated Tashakori as the preferential parents on six items, Farokhi as the preferential parent on 11 items, and his parents as equal on the remaining 28 items. The children appeared to be doing well physically, academically, and socially.

¶ 35 Cushing spoke to Martin, who had supervised Tashakori's visits with the children. She said that Tashakori did not correct the children's bad behaviors and belittled and berated people. Her reports were otherwise positive about Tashakori's parenting of the children and stated that the children were excited and happy to see her. Heidi Mansavage, a nanny Farokhi hired, told Cushing that when she started, the children were unruly and used foul language. Janice Bubnack, who had taught both the children in first grade, thought that the children should spend as much time as possible with Farokhi. According to Cushing's report, Bubnack also stated that Tashakori was too strict with Omeed and yelled at him, so she did not notify her of any behavior problems because she felt that Tashakori would be too hard on him. Cushing testified that Kevin Polky, Tashakori's counselor, gave her great reviews. He admitted that he spoke to a friend of Tashakori's named Layla Yousef but did not include information about her in his report. Yousef said that she had almost always seen the kids with Tashakori, and they were well-behaved. She described Tashakori as lonely and withdrawn.

¶ 36 Cushing admitted that his custody and visitation questionnaire incorrectly asked each parent about the time spent performing caretaking functions for the children in the six months preceding the filing of the petition for allocation of parental responsibilities, instead of during the preceding 24 months as provided for in the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq.* (West 2016)). See 750 ILCS 5/602.7(b)(3) (West 2016).

¶ 37 Cushing testified that he had considered recommending joint custody but decided against it due to the level of “conflict and the problems that [had] been going on for quite some time,” as well as due to Farokhi’s “more authoritative parenting style” and the structure and consistency he could provide for the boys. Cushing’s report additionally stated that there was “some concern about [Tashakori’s] somewhat volatile demeanor and poor frustration tolerance as it relates to parenting two difficult and challenging young boys.” The concern was exacerbated by the fact that she lacked a social support network to access during stressful times. There was some evidence to suggest that Tashakori may become verbally abusive towards the boys when she was upset, but there was no evidence to corroborate any significant risk or threat of physical violence towards them. Both parents had difficulty communicating without conflict, but the evidence suggested that Farokhi was better equipped to set aside the resentment.

¶ 38 Clinical psychologist Sol Rappaport was hired by Tashakori as a consultant to review Cushing’s evaluation. He testified as follows. Cushing’s knowledge base and training raised questions of whether he was qualified to do a custody evaluation. He should have been following standards of practice set forth by the Association of Family and Conciliation Courts (AFCC), but he failed to follow all of them. His reliance on an old statute in the Dissolution Act cast doubt on his evaluation as a whole. Cushing also referred to some questionnaires as tests, which was misleading because it made the questionnaires appear more scientifically-based than they were. He further used an outdated assessment which no one used anymore, the Bricklin Perceptual Scales. On another test that assessed whether a person lied to look good, Farokhi had a score of 83 and Tashakori a score of 71. However, Cushing lumped them in the same category, and he also minimized Farokhi’s defensiveness score. The way Cushing presented certain data was misleading and biased against Tashakori.

¶ 39 Rappaport continued as follows. AFCC standards required that each party be given the opportunity to respond to allegations against him/her, but Cushing failed to follow this crucial guideline. He also failed to follow up with collateral sources to confirm the allegations' veracity. Cushing's report stated that Farokhi left the family for six months in 2010, but Cushing did not address many issues about what happened during that time, such as how often Farokhi visited the children. Cushing stated that the children were well-adjusted overall, and while information from their school supported this, Mansavage stated that the boys were aggressive, that one would swear at Farokhi, and that there was at least one major tantrum daily. This indicated that the children were not well-adjusted in general.

¶ 40 Rappaport concluded that there were so many errors in the way Cushing conducted his evaluation and in his methodology that the report could not be considered trustworthy and valid. Rappaport admitted that it would have been a good idea to talk to Cushing before arriving at his opinion, but he did not request permission to do so. However, he had never previously talked to an evaluator whose work he was reviewing.

¶ 41 Joseph Witte testified that he met Farokhi 6½ years earlier through the hospital and that they had since become friends. Witte's younger child was in first grade with Omeed the prior year, and the kids had gone to swim club and Kumon together. Their families had gone on vacation together in 2013, and they had done many other activities together. Tashakori did not talk to Witte or his wife much and was very firm with the children. In contrast, Farokhi had a very loving relationship with the children, and Witte had never seen him lose his temper. Witte described an incident with Tashakori that occurred on July 14, 2016. Witte was in his car at the Kumon center, and Tashakori blocked him in with her car. She knocked on his window and said

that he could “come play with us in court” and that it was “going to be so much fun.” She then gave a fake laugh and drove away.

¶ 42 Carol Mittel was the director of the Ryan Jury child care center, which the parties’ children periodically attended during the summers. Mittel described a meeting that Tashakori set up with her about one month prior. She confronted Mittel about things Mittel had said to the guardian *ad litem*, and Mittel felt intimidated. During another meeting in 2010, Tashakori was extremely rude to the staff; Mittel described it as one of the worst meetings that she had ever had with a parent. In her interactions with Farokhi, he had always been very calm and kind. The children’s behavior had improved from several years ago compared to the recent past.

¶ 43 Bubnack, who had taught both children as first-graders, testified they were very intelligent. She had noticed that Omeed’s behavior had improved from the beginning of the 2015-2016 school year to the end of the year, in that he seemed calmer and more confident. She did not contact Tashakori if Omeed misbehaved because she thought that Tashakori was too strict.

¶ 44 Martin, who had supervised Tashakori’s visits with the children from September 2015 to January 2016, testified as follows. Tashakori’s visits took place three times a week. The boys did not behave appropriately during the visitations, and Tashakori did not discipline them. At a visit on October 18, 2015, Armaan deliberately kicked Martin, but Tashakori insisted that it must have been accidental. Martin admitted that Tashakori made Armaan apologize. At another visit, Tashakori was very rude to employees at the place where the visit was taking place. The last supervised visit with Martin took place on January 3, 2016. Tashakori was confrontational with Martin, accused her and the guardian *ad litem* of being on Farokhi’s side, and kept cutting Martin off when she tried to respond. Martin called for someone else to come and supervise the

visitation, which she had never had to do before. Martin admitted that many of her case notes showed Tashakori verbally correcting the children's behaviors and refraining from talking negatively about Farokhi with the children.

¶ 45 Brendaliz Nieves-Cruz testified that she supervised a visitation exchange on April 5, 2016, when Farokhi was picking the children up from Tashakori. Cruz arrived just before the scheduled exchange time of 6 p.m. Tashakori said that the kids had not finished dinner. According to Cruz's notes, Tashakori later came out and said that Omeed did not want to leave and was having a tantrum. She insisted that Cruz go inside and bring Omeed out, but Cruz refused. Tashakori eventually carried Omeed out. The exchange did not take place until 6:50. During the incident, Tashakori was upset the entire time, whereas Farokhi was calm and patient.

¶ 46 Kelly Perry testified that she had worked with Farokhi at the hospital since 2008. Farokhi was well-liked at work and was very humble.

¶ 47 Mansavage, who had worked for Farokhi as a nanny, provided the following testimony. She began watching the children in October or November 2015 for after school care, beginning around 3 p.m. She helped with homework, made dinner, cleaned up around the house, made sure the laundry was done, and took the kids to their after school activities and counseling. Farokhi usually arrived home between 4 and 5 p.m., and Mansavage would normally stay until 7 p.m. When Farokhi came home, he would have dinner with the kids and continue to help them with their homework. He talked to the boys about their day and read to them. Mansavage also watched the boys for the weekend each month that Farokhi was on call, in case he had to leave. Farokhi would be involved with the children during that time; she was there for household tasks. During the summer of 2016, Mansavage picked up the children from childcare around 4 or 4:30 p.m. and spent three to four hours at the house.

¶ 48 Beginning in fall 2016, the boys attended a different school that started later and was farther away. The bus ride was an hour each way, so Mansavage took them to school about three days per week. She arrived at the home around 6:30 a.m. those days and would make the kids breakfast. Mansavage currently helped only one day a week after school because she now had a full-time job. Farokhi made dinner those days while Mansavage cleaned and did laundry. Mansavage continued to help on the weekends when Farokhi was on call. Farokhi paid Mansavage \$20 per hour, and he paid her over \$21,000 in 2016.

¶ 49 When Mansavage began working for Farokhi, the boys did not have a schedule. She worked with Farokhi to implement a routine that included meal time, silent reading time, and bed time. The boys also used to have behavior problems, and it was sometimes difficult to even get them to brush their teeth. They also used foul language and acted out physically, including kicking her. Farokhi talked to them about their behavior and his expectations, and he used warnings and time outs. Mansavage had heard Farokhi raise his voice with them, but he would never “[f]ly off the handle.” The boys used to play video games, but Farokhi decided to prohibit them because they would have temper tantrums when it was time to stop playing. The boys’ behavior had improved over time.

¶ 50 The boys loved Farokhi, and they ran to the door when he came home. Farokhi did activities with them such as bike riding, playing outside, and taking them swimming. He was physically affectionate with them and told them that he loved them. Farokhi allowed the boys to have friends at the house and also invited friends of his who had children.

¶ 51 We next summarize Farokhi’s testimony. Mondays through Wednesdays, he worked from 7 or 8 a.m. until 3:30 or 4 p.m., and he was home by 4:30 p.m. On Thursdays, he worked from 8 a.m. and could leave in the afternoon at his discretion; he was usually home at 3 or 4 p.m.

those days. On Fridays, he worked from 8 a.m. until 4 or 4:30 p.m. Farokhi had “on-call” time about one weekend per month, where he went in around 8:30 or 9 a.m. and was finished by 1 to 2 p.m. He was often able to come home between the morning and afternoon rounds. He could also be called in for emergencies during on-call weekends, until Sunday at 5 p.m. He was further on-call an additional two to three nights per month. Farokhi had adjusted his schedule significantly since September 2015 to be home more.

¶ 52 Farokhi had hired a woman to come and do crafts with the kids such as pumpkin carving. Before the separation, the family “lived in isolation,” and Farokhi wanted to have the kids experience different people and activities. In the six years prior to separation, the parties had only about three or four parties at the house, and they had few friends. One of the main areas of the parties’ disagreement involved having Farokhi wanting to socialize more and Tashakori refusing. Tashakori also did not like to have relatives visit.

¶ 53 Farokhi hired Mansavage and another woman to help with before and after school. The morning routine was significantly calmer than before the separation, and the kids had extra time to practice their spelling or play. One of the women picked the children up after school, and the afternoons were much more relaxed now that they had a routine as opposed to the pre-separation “chaos.” Farokhi would sometimes meet the children at their afterschool activity. At home, they would eat and do homework, and Farokhi would read to them. He sometimes read to them in Farsi and taught them about their heritage. On Friday nights, they would eat out or order pizza, and then watch a movie or play tennis. On weekends, he made sure the children did their homework and that he had some one-on-one time with each child. They also got together with friends or did activities together.

¶ 54 The parties enrolled Armaan in Kumon when he was four years old and Omeed when he was three or four years old. Both boys continued to attend until recently, when Farokhi decided to discontinue the program after consulting with the children’s counselor and teachers. He felt that they had a lot of school homework, were busy in other activities, and were already excelling in academics. Prior to the separation, the boys’ failure to finish their Kumon homework often caused Tashakori to yell and scream at them. Farokhi offered Tashakori multiple times to hire help for the home, such as a cleaning person, a nanny, and someone to cook twice a week, but Tashakori refused.

¶ 55 Farokhi had bought the boys tablet computers in 2013 but no longer allowed the boys to play video games in his care. He did not approve of the games they wanted to play, and it was very difficult to make them stop playing. Farokhi believed that he could engage them in more constructive activities. He tried to change the household environment by setting boundaries, routines, expectations of respect, and effectively communicating with the boys.

¶ 56 In March 2017, Armaan was suspended from school because he sent a very inappropriate message to his teacher; Armaan was at Farokhi’s house when he sent the message. Before the parties met with the principal, Tashakori told Armaan not to worry about it, not to tell anyone, and that “it’s all done.” Farokhi felt like she was dismissing the gravity of the situation. Farokhi talked with Armaan and grounded him. In April 2017, Armaan was “written up” at school for helping another child with an assignment. On February 22, 2017, Omeed dropped food in another child’s milk and wrote his name on an item owned by the teacher.

¶ 57 Farokhi believed that Tashakori should play a significant role in bringing up their sons. However, he believed that it was difficult for the parties to engage in joint decision-making about the children. For example, Tashakori did not agree with his decisions to remove the children

from Kumon and take a couple months off from swimming lessons. Also, Tashakori was not able to communicate with him. He had contacted her twice about a possible mental health issue with Armaan, but she never responded. However, he believed that they could jointly make decisions about religion.

¶ 58 Tashakori provided the following testimony. She went through in vitro fertilization to become pregnant with Armaan. After his birth, Farokhi moved out of the bedroom, and Tashakori provided almost all of Armaan's care. When Omeed was born, Farokhi was still very busy working, and Tashakori provided almost all of the care for Omeed as well. Tashakori was also in charge of medical decisions because she was a family physician, and a large portion of her practice involved patients under the age of 18.

¶ 59 Tashakori started reading to the children as infants, and she later introduced the alphabet and numbers to them at age two. The children started daycare when they were three months old. She would get the children ready in the morning, take them to daycare/school, and pick them up in the afternoon. They would then talk about the day, have a snack, do homework, and play. She would cook dinner for them, read to them, and put them to bed. Tashakori was also responsible for buying groceries and doing laundry. Farokhi would sometimes come home around 7 or 8 p.m., and other times he would come home around 9 or 10 p.m. after going to the gym. On the weekends, the kids would go to swim club. Tashakori usually transported them there, though Farokhi also did a few times. One weekend per month, Farokhi was on call, and he would leave at 7 a.m. and return at 4 or 5 p.m. On weekends that he was not on call, he would still spend time at work; he spent only a few hours with the kids on weekends. Once in a while, he took them to Witte's house, and he took them to the park once or twice. Farokhi had to take his medical board exams in August 2015, and Tashakori took care of the kids 100% of the time

while Farokhi studied. Tashakori described parties and other social events she had hosted and attended with Farokhi and the children. Tashakori got along well with her work colleagues, and she introduced into evidence patient surveys showing that she was well-regarded.

¶ 60 After the emergency order of protection was entered, Martin supervised Tashakori's visitation with the children from October 2015 to January 3, 2016. Tashakori disagreed with Martin about things like delays in receiving visitation notes, billing irregularities, and how Martin interacted with the children. Once the supervisor switched to James Schoonhoven, things improved greatly. He used to show up five to 10 minutes before custody exchanges and come in the house and talk to the boys. He would then tell them that it was time to put their shoes on and see their father. However, Tashakori did not know that he would not be present for the exchange on April 5, 2016. Cruz showed up and immediately began reporting Tashakori to someone on the phone. Tashakori told her that she was not supposed to be there because she was not listed in the court order, but that Tashakori would allow it that one time. Tashakori said that Cruz could help her get the kids to leave like Schoonhoven did, but she refused. Omeed was very emotional, and Tashakori had to carry him to the car. The exchange was only 15 or 20 minutes late. Tashakori believed that Martin had influenced Cruz's testimony.

¶ 61 Tashakori denied confronting Witte in the Kumon parking lot in the manner Witte described. She believed that Farokhi had influenced his testimony. Regarding Mittel, Tashakori went to see her because she was surprised about her statements in the guardian *ad litem*'s report; Tashakori "was hoping that she would be on [her] side." Tashakori told her that she knew that the guardian *ad litem* had misreported what Mittel had said. Tashakori believed that Mittel was influenced by the guardian *ad litem* to testify as she did in court. She also believed that there was a conspiracy between the guardian *ad litem* and Farokhi because the guardian *ad litem* spent

more time with him. When Cushing came for the home visit, he was almost one hour late, and she and the children had not yet eaten dinner. While waiting, Tashakori let Omeed watch a Minecraft video on her laptop. When Cushing arrived, Omeed said that Cushing was late, that he was tired, and that he did not want to talk to Cushing. Tashakori said that Omeed could start the tour of the house, and when he refused, Armaan began the tour. Omeed quickly joined them.

¶ 62 Tashakori was the parent who researched which private school the children should attend. She participated in parent-teacher conferences and school activities. Tashakori ordered books and worked with the children to prepare them to test for the gifted program in the Rockford Public Schools. Armaan was accepted into the program in 2013, and Omeed was accepted into the program in 2015. Tashakori took Armaan to Iran to visit relatives after he passed the test, and she took Omeed to Iran before he took the test. However, after the order of protection was entered, she did not feel comfortable being in the school because she felt that everyone believed Farokhi. She resumed participating in school activities in April 2016.

¶ 63 The boys had previously attended Kumon twice per week. At one time, she had decided to drop the reading portion of Kumon for Armaan, but his reading scores dropped. There were generally no problems having them do their Kumon homework, but there was some resistance at the end of the summer in 2015. When Farokhi became their primary caretaker, the boys fell behind on their school and Kumon homework, and some of their school assignments were not turned in. The children's progress reports showed some decreases in scores during the time they were primarily with Farokhi, but they increased once Tashakori was aware of the decline and started working more with them.

¶ 64 Farokhi failed to communicate with her and seek input about the children's health and his decision to stop Kumon. She believed that she should be in charge of decisions for the children

except for religion, which the parties could decide jointly. Tashakori believed that she should also be the primary custodian because she did not delegate her parenting responsibilities to babysitters. She used babysitters only when she had to work on Saturday mornings, once a month. Tashakori took the children to summer camp on Wednesdays in 2016 when she had visitation with them because she had to study for her medical recertification exam, which she took in November 2016. She had been working Wednesday mornings during the summer in 2017 because she needed the income, so the children were in childcare from 8 a.m. to noon on Wednesdays. Tashakori now had a new schedule that required her to work Tuesdays, Wednesdays, and Fridays, from 8 a.m. to 4 p.m., but she had the flexibility to adjust the schedule.

¶ 65 Guardian *ad litem* Walsh testified as follows. She met with the parties and the children on a number of occasions, and she had the parties fill out a lengthy questionnaire. She also had them provide her with a list of collateral witnesses they wanted her to speak with. Walsh further reviewed many documents. Walsh recommended that Tashakori have parenting time with the children every other weekend from Friday after school until Sunday at 7 p.m., and every Wednesday and every other Thursday from after school until 7 p.m. The recommended summer schedule differed only in that it would be from 8 a.m. on Wednesday or Thursday until 8 a.m. the following morning. Walsh recommended that the parties alternate holidays and have two non-consecutive weeks of vacation time.

¶ 66 Walsh testified that she had been on the case for almost two years and had seen a significant improvement in the children's behavior from her initial meeting with them to her most recent meeting, in that they used to be rambunctious, loud, and did not listen well, and now they were respectful and willing to talk. Collateral witnesses confirmed seeing a big change in

the children's behavior since Farokhi had become their primary caregiver. Walsh believed that the children were living in a lot of chaos before the parties separated, and Farokhi had since established a structure and routine that had a significant impact. Walsh believed that Farokhi's employment of Mansavage was positive because Mansavage took good care of the kids and was a good influence. Farokhi had rearranged his schedule and was now relying on her less than he initially had.

¶ 67 When Walsh first met with the children, they had limited supervised visitation with Tashakori. They said that they wanted to visit Tashakori more. After the visits became overnight and unsupervised, the children did not express to Walsh that they wanted to see Tashakori more. They had told Walsh that Tashakori used to get mad a lot, call them bad names, and hit them. They said that now that she did not see them as often, she did not seem so mad all the time. They said that Farokhi did not hit them or call them names. The children said that Tashakori was always tired and took naps when they were at her house. They said that when they were there, they would play on the computer, the iPad, and her phone a lot, and that they did not go outside much. They said that Farokhi read them books, taught them about Iran, and took them to places like Lake Geneva for vacation. They said that they sometimes got mad at him because he did not let them use the iPad. The children drew some pictures of the family, and they drew Tashakori with a sad/angry face and Farokhi with a happy face.

¶ 68 Tashakori seemed to have issues with almost every independent professional involved with the case, including Walsh, Cushing, Martin, and the counselors. It was also inappropriate for her to confront Witte and Mittel in the manner that she did, and it confirmed that Tashakori had trouble controlling her anger. In contrast, every witness that Walsh spoke to said that

Farokhi had a very understanding and compassionate personality, and Walsh believed that he was better suited to be the children's primary caregiver.

¶ 69 C. Trial Court's Ruling on Allocation of Parenting Time and Responsibilities

¶ 70 The trial court issued its ruling on October 25, 2017, finding as follows. It was considering the evidence that was presented in the order of protection case in addition to the evidence presented at the hearing on the allocation of parental responsibilities. Rappaport's criticisms of Cushing did not disqualify Cushing as an expert. Cushing had significant practical experience as a psychologist and had done many custody evaluations. The trial court would consider Rappaport's criticisms as affecting the weight it gave to Cushing's opinion.

¶ 71 Section 602.7 of the Dissolution Act (750 ILCS 5/602.7 (West 2016)) listed factors to consider when allocating parenting time. The first two factors were the parents' and children's wishes. Here, each parent wished to have the majority of parenting time. As far as the children, the parties agreed that the trial court should not talk to the children. The guardian *ad litem* reported that the children made negative comments about how Tashakori treated them. The guardian *ad litem* opined that the children preferred to live with Farokhi but visit Tashakori as they presently did. Cushing interviewed the children more extensively, and both children spoke very favorably about both parties. They clearly expressed a preference to spend equal time with each parent, and Cushing considered this in his opinion and parenting time recommendations.

¶ 72 The third factor was the amount of time each parent spent performing caretaking functions for the children in the 24 months prior to the filing of any petition for allocation of parental responsibilities, and the fourth factor was any prior agreement or course of conduct between the parties regarding caretaking. Tashakori had clearly performed the vast majority of the children's caretaking functions for their entire lives before the emergency order of protection

was entered. She was also more involved with the children's education and extracurricular activities. Farokhi worked long hours and was involved with the kids largely on the weekends when he was not on call. Farokhi recognized that Tashakori was stressed with the arrangement and lost her temper with the children. He offered to arrange for a nanny and housekeeper so that Tashakori could focus on the boys and not spend time on housekeeping chores. Tashakori instead wanted Farokhi to spend more time taking care of the boys.

¶ 73 The fifth factor was the interrelationship of the children with his or her parents, siblings, and any other person who may significantly affect their best interests. The boys appeared to have a normal interaction with each other and "off and on, good and bad relationship" with each of their parents. Martin's visitation records corroborated affectionate conduct with Tashakori. However, Tashakori's texts to Farokhi and her comments referring to the boys as "assholes" confirmed that the children acted out with her and that she had difficulty dealing with their conduct. Cushing's testimony that Tashakori could not get Omeed to stop using the computer was credible. She also could not get Omeed to leave the house at the end of visitation without Schoonhoven's help. Bubnack observed Tashakori's strict behavior with the children, such that Bubnack did not report their misbehavior to her. Tashakori would also yell at the children when they got into the car in the morning, which was independent corroboration that she had difficulty controlling their behavior in a calm manner. She was active in their education with both school and Kumon, and the only issue was whether her approach was to push them too hard and create conflict with them.

¶ 74 The boys were affectionate and loving with Farokhi but were also aggressive and disrespectful, and they would swear and call him names. Most of this behavior occurred closer in time to when the order of protection was entered, but some of it was on-going. Farokhi was

involved with the children's school and extracurricular activities. He helped them with homework, but Mansavage helped them as well. Mansavage also helped with cooking, cleaning, prepping meals, and transportation, which freed Farokhi to be involved in childcare when he came home from work. He had eliminated Kumon in violation of a court order. His approach to academics was less strict than Tashakori's, resulting in less conflict. Farokhi generally interacted with the children in a calm, firm, and authoritative parenting manner. He read to them and was active in their sporting activities. There was "a level of calmness and routine in his household with the children that provide[d] stability and structure to the children." The children had good relationships with the caregivers Farokhi employed. His records showed the significant extent to which he relied on employed staff.

¶ 75 The sixth factor was the children's adjustment to home, school, and community. Rappaport brought up the issue of whether it was appropriate to call them well-adjusted in view of their behavior problems with their parents, but generally speaking, they were well adjusted to their school and community, with the exception of the incident Armaan had with the message to his teacher. The trial court did not find that Tashakori was inappropriate with her comments to Armaan regarding the incident. There were inconsistencies with their adjustment to their homes with both parents, but both boys were acceptably adjusted to both homes.

¶ 76 The seventh factor was the mental health of all individuals involved. According to Cushing, Farokhi had accused Tashakori of various types of mental illness. Cushing found none of these, and Tashakori's counselor found only that she had a temporary adjustment disorder for the time she was not allowed to see the children. The trial court found that both parents were in good mental health.

¶ 77 The eighth factor was the children's needs. The trial court agreed with Cushing's assessment that the children needed a parent who could exercise stable and authoritative parenting.

¶ 78 The ninth factor, which involved transportation and daily schedules, was "not an impediment to a parenting decision between the parties."

¶ 79 The tenth factor was whether a restriction on parenting time was appropriate; a restriction was not appropriate here.

¶ 80 The eleventh factor related to physical violence. The trial court had found in the order of protection hearing that Tashakori was not abusive towards the children. However, it believed that Tashakori had trouble controlling her temper when it came to managing the children's behavior. There was no evidence that Farokhi was violent towards the children or that he yelled at them as Tashakori did.

¶ 81 The twelfth factor was the willingness and ability of each parent to place the children's needs ahead of the parent's own needs. Until September 2015, Farokhi placed his own needs in front of the children's. He acted in a self-centered manner where he worked, went to the gym when he wanted, and responded to Tashakori's requests for help with childcare by offering to hire help rather than changing his schedule. However, after the emergency order of protection was entered, Farokhi demonstrated the ability to prioritize the children's needs. He had hired people to help him with childcare, but he had also changed his work schedule and become an involved father. Tashakori had demonstrated a willingness and ability to put the children's needs ahead of her own throughout their entire lives. Farokhi had raised the issue of Tashakori placing the children in childcare during the summer, but her explanation that she needed time to study for her medical boards was reasonable.

¶ 82 The thirteenth factor was the willingness of each parent to facilitate and encourage a close and continuing relationship with the other parent and the child. Both parties had “issues” in this area. Tashakori significantly minimized Farokhi’s role with the children in her questionnaire with Cushing, and she had called him names and been obnoxious to him in text messages. However, she had rarely acted in a way that minimized his contact with the children. Martin’s reports detailed several times where she spoke favorably about him to the children. Farokhi, in contrast, outwardly acted in a gentlemanly manner but made decisions that undermined Tashakori’s relationship with the children. For example, he falsely told people that Tashakori had committed domestic violence against him and had abused the children. He took the children out of swimming and Kumon without consulting Tashakori, with the removal from Kumon also being against court order.

¶ 83 The fourteenth factor was the occurrence of abuse in the household. Neither parent had abused the children. The trial court had previously found that Farokhi had acted abusively towards Tashakori.

¶ 84 The trial court found that the remaining factors were not directly applicable. It noted that the statute stated that in allocating parenting time, the trial court should not consider a parent’s conduct that did not affect the parent’s relationship with the child. The trial court was not considering whether Tashakori was rude to staff or others because that issue was irrelevant to her relationship with the children. It further stated that both parties made efforts to contact potential witnesses in the case.

¶ 85 Section 602.5 of the Dissolution Act (750 ILCS 5/602.5 (West 2016)) discussed the factors to consider when allocating decision-making responsibilities. There was a lot of overlap of these factors and the factors considered in allocating parenting time. The parties had

historically made significant joint decisions, such as choosing daycares and schools for the children. However, they had shown a great deal of conflict over the previous two years, which would create difficulties in joint decision-making going forward.

¶ 86 The trial court continued as follows. There was a great deal more evidence presented than it had mentioned in its ruling, but it had considered all of the evidence presented and all of the relevant statutory factors. Both parents were highly educated and loved the children, but they had also both shown a number of faults affecting the children's welfare. Tashakori had been under a great deal of stress in her life and had not gotten a great deal of support from Farokhi. Unfortunately, she had taken her stress out on the boys by being verbally aggressive and not being able to calmly and authoritatively discipline them. On the other hand, when not under stress, she was loving and nurturing to the boys. It agreed with Farokhi that Tashakori was too demanding and strict in pushing the children academically, which caused conflict that she did not manage well. In contrast, Farokhi was able to manage the children's behavior more calmly and in a more authoritative manner. It agreed with Cushing that Farokhi would not be able to do this without the assistance of hired caregivers like Mansavage. They spent a lot of time doing tasks such as cooking, cleaning, and transportation, which freed up Farokhi to do reading, nurturing, and extracurricular activities with them. Overall, it was helpful for the boys and provided them with the environment they needed at that time.

¶ 87 Cushing's report was consistent with the evidence presented in the case. He had spent a great deal of time with the boys and recognized that they had a great deal of affection for both parents and wanted to spend substantial time with both of them. Walsh had recommended somewhat more limited time with Tashakori.

¶ 88 The trial court awarded the majority of parenting time to Farokhi. However, Tashakori would have “significant” parenting time Wednesdays after school until Thursday morning, and alternating weekends from Fridays after school until Sundays at 7 p.m. The parties were to divide the children’s spring and winter breaks equally. During the summers, the parties were to alternate weeks, with the other parent having the children one evening a week from after work until 8 p.m. The parties were to alternate holidays and the children’s birthdays. The parties were to share decision-making authority for religion, medical care, and education. Farokhi was to have sole responsibility for decisions regarding extracurricular activities. If one parent was gone overnight, the other parent would have the right of first refusal regarding caring for the children.

¶ 89

II. ANALYSIS

¶ 90 On appeal, Tashakori argues that the trial court erred in its allocation of parental time and responsibilities. Such allocation was previously referred to as custody determinations. See *In re J.W.*, 2017 IL App (2d) 160554, ¶ 9. Section 602.7 of the Dissolution Act (750 ILCS 5/602.7 (West 2016)) provides that the trial court shall allocate parenting time according to the child’s best interests. The trial court is to consider all relevant factors, including 17 listed factors. *Id.* We accord great deference to the trial court’s decision regarding the allocation of parenting time because it is in the best position to assess witness credibility and determine the child’s best interests. *In re Marriage of Whitehead*, 2018 IL App (5th) 170380, ¶ 15. We will not disturb the trial court’s decision unless it abused its discretion or its decision was against the manifest weight of the evidence. *Id.* A decision is against the manifest weight of the evidence only if the opposite conclusion is apparent or if the trial court’s findings appear unreasonable, arbitrary, or not based on the evidence. *Id.* ¶ 21. A trial court abuses its discretion if its ruling is arbitrary, fanciful, or unreasonable, where no reasonable person would adopt the trial court’s view, or

where its ruling rests on an error of law. *In re Marriage of Benink*, 2018 IL App (2d) 170175, ¶ 32. We apply the same standards of review to a trial court's allocation of decision-making responsibilities. See *Young v. Herman*, 2018 IL App (4th) 170001, ¶¶ 63-64.

¶ 91 Tashakori does not dispute the trial court's assessment of the first four factors listed in section 602.7. See *supra* ¶¶ 71-72. She also does not contest its assessment of the seventh factor (see *supra* ¶ 76), the nine and tenth factors (see *supra* ¶¶ 78-79), or the fourteenth factor (see *supra* ¶ 83). She further agrees with the trial court that factors 15 through 17 do not apply.

¶ 92 Regarding the fifth factor, the interrelationship of the children with his or her parents, siblings, and any other person who may significantly affect their best interests, Tashakori argues that the trial court erred in finding in Farokhi's favor on this factor because it relied heavily on the boys having an excellent relationship with their babysitters. Tashakori argues that the trial court thereby arbitrarily placed the children's relationship with babysitters ahead of their relationship with their mother. Tashakori notes that the trial court found that Mansavage performed significant care giving functions such as cooking, prepping meals, cleaning, transportation, and helping with homework. Tashakori argues that these duties should be delegated to her rather than to babysitters; she highlights the trial court's statement, made after its ruling on the petition for an order of protection, that the childcare plan should allow both parents, and not third parties, to spend time with the children. She points out that the trial court stated that the level of calmness and routine in Farokhi's household that provides stability and structure to the children is the result of babysitters. She maintains that rather than deprive the children of time with their mother over a concern that she was not able to control their behavior in a calm matter, it would be a better alternative to simply provide her with a babysitter, too. Tashakori points out that the trial court recited many positive aspects of her relationship with the

children. She notes that there was additional evidence presented at the hearing that she took each of the boys on a trip to Iran and took care of medical issues that arose with them. Tashakori argues that, in contrast, there was an extremely damaging interaction between Farokhi and the children in that he left the family for a period of 3½ to 6 months. Tashakori claimed that he did not “take” the children even once during that time, whereas Farokhi claimed that he visited every night.

¶ 93 We conclude that the trial court’s findings related to the fifth factor are not against the manifest weight of the evidence. The trial court noted that the children had an “off and on, good and bad relationship” with each of their parents, so it did not gloss over issues with Farokhi. The trial court’s reference to babysitters was to show that they took care of daily household tasks such that Farokhi was able to be more involved in childcare. On the one hand, Tashakori argues that she should be able to take care of such tasks, and on the other hand, she argues that she should be provided babysitters who do so. However, Mansavage’s testimony indicated that she did a lot of cleaning and food preparation that was not directly related to caring for the children. She further testified that she began watching the boys around 3 p.m. and that Farokhi would come home between 4 and 5 p.m., which indicates that the boys were able to spend significant time with their father on workdays.

¶ 94 Tashakori appears to suggest that Farokhi should pay for her to have a babysitter, but she does not cite any authority for the trial court to order such payments in a parental allocation order. Moreover, Farokhi testified that when the parties were married, he had offered multiple times to hire help such as a cleaning person, a nanny, and someone to cook, but Tashakori refused. This testimony was corroborated by the text message exchange in which Tashakori referred to children as assholes but refused Farokhi’s offer to call a babysitter, all-the-while

stating that she really hated her life. The trial court also noted that the children acted out when they were with Tashakori, that she had difficulty dealing with their behavior, and that she would yell at them. Thus, the fact that Tashakori worked fewer hours than Farokhi did not mean that it was automatically in the children's best interests to spend more time with her. Despite her more limited work schedule, Tashakori also made use of childcare when necessary for her professional obligations, as she had the children in daycare for at least part of the day on Wednesdays, her visitation day, in the summers of 2016 and 2017. As for Farokhi leaving the marital home, this occurred in 2010, long before the parental allocation hearings, and the trial court recognized that Tashakori had provided almost all of the care for the boys from the time that they were born until the emergency order of protection was entered. Its task was to determine what was currently in the children's best interests, and we find no basis to disturb its analysis of the fifth factor.

¶ 95 For the sixth factor, the children's adjustment to home, school, and community, the trial court found that they were generally well-adjusted to their school and community, with the exception of the incident of Armaan's message to his teacher, and they were acceptably adjusted to both parties' homes. Tashakori argues that this factor favored her because both boys exhibited bad behavior at school while they were under the care of Farokhi and babysitters. However, the trial court recognized the incident with Armaan, and the other incidents were comparatively minor. Also, it cannot be said that the children's overall behavior is worse now than when Tashakori cared for them. To the contrary, numerous witnesses said that their behavior had improved, and the children's first grade teacher said that she did not tell Tashakori when the boys misbehaved because Tashakori was too strict with them.

¶ 96 For the eighth factor, the children's needs, Tashakori notes that the trial court agreed with Cushing that the children need a parent who could exercise stable and authoritative parenting.

Tashakori argues that the record supports a finding that the children's needs are better met by Tashakori than by Farokhi's babysitters. She argues that it is undisputed that she provided for their needs their entire lives, whereas Farokhi placed his own needs first until he was ready to divorce her. Tashakori contends that whatever changes may have occurred in Farokhi's approach to parenting had only been for a short time and only while he was under the microscope of the court, the guardian *ad litem*, and the custody evaluator.

¶ 97 We have already addressed Tashakori's arguments regarding Farokhi's use of babysitters. Although Tashakori refers to the "short time" Farokhi had been primarily parenting the boys, he had been doing so for over two years by the time the trial court made its ruling. Further, both parties were under the same microscope, yet Tashakori still had trouble managing the children's behavior.

¶ 98 Regarding the eleventh factor, physical violence or the threat of physical violence by a parent directed against the child or another member of the child's household, the trial court found that neither parent was abusive towards the children, but that Tashakori had trouble controlling her temper while Farokhi did not. Tashakori argues that the trial court reaffirmed its finding from its denial of the order of protection that she was not abusive towards the children, but it failed to consider its finding that Farokhi had committed physical violence against her. She argues that this factor should be given great weight in her favor.

¶ 99 Although the trial court did not state that Farokhi had acted abusively towards Tashakori when discussing the eleventh factor, it did so in reference to the fourteenth factor, thereby reaffirming its finding. The parties were no longer living together, which is likely why the trial court did not discuss this issue further.

¶ 100 For the twelfth factor, the parent's willingness and ability to place the children's needs ahead of his or her own, Tashakori argues that the trial court correctly found that she had always done so whereas, until September 2015, Farokhi had not. However, she argues that it was against the manifest weight of the evidence for the trial court to further find that, after that time, Farokhi placed the children's needs ahead of his. She argues that babysitting records show that babysitting time increased significantly since April 2016, and she points to the trial court's finding that Farokhi had filed the petition for an order of protection to raise issues of custody and visitation, resulting in her having limited contact with them.

¶ 101 The evidence showed that Farokhi had significantly altered his work schedule in order to spend more time with the children. Accordingly, it was not against the manifest weight of the evidence to find that after September 2015, Farokhi was putting the children's needs ahead of his own.

¶ 102 For the thirteenth factor, the willingness of each parent to facilitate and encourage a close and continuing relationship with the other parent and the child, the trial court found that both parties had deficits in this area. Tashakori argues that this factor favored her more than all others because she expressed to Cushing that the children needed a substantial relationship with Farokhi, whereas Farokhi made a cold and calculated attempt to minimize her relationship with the children when he filed his contrived petition for an order of protection. She argues that he then sought to decrease her limited visitation time.

¶ 103 The trial court recognized that Tashakori rarely acted in a way that minimized Farokhi's contact with the children, whereas Farokhi made decisions that undermined Tashakori's relationship with the children. This factor was one of many that the trial court was tasked with weighing.

¶ 104 Tashakori additionally argues that the trial court abused its discretion in following Cushing's recommendations, based on the shortcomings in his report discussed by Rappaport. Tashakori argues that Cushing's report further conspicuously lacked any reference to positive observations of her interactions with the boys, as testified to by Schoonhoven during the hearing on the order of protection. She argues that Cushing did not appear to be aware that Farokhi had abused Tashakori or that the trial court had denied the petition for the order of protection. Tashakori argues that for Cushing not to have a clear understanding that Farokhi was the abuser and Tashakori was the victim discredits his conclusions. Tashakori maintains that Walsh also demonstrated bias in Farokhi's favor by not telling Cushing about the denial of the order of protection or that Farokhi had abused Tashakori, yet telling him about incidents where Walsh thought Tashakori acted inappropriately.

¶ 105 The trial court discussed the criticisms raised by Rappaport and determined that they did not disqualify Cushing as an expert, though they affected the weight it would give to Cushing's testimony. Significantly, the trial court further stated that Cushing's report was supported by other evidence presented in the case. Regarding Tashakori's interactions with the children, Cushing's report stated that visitation logs from September 19, 2015, through January 3, 2016, "detail[ed] how the boys always seem to be excited and happy to see their mother," that they "often engage[d] with their mother in a very positive and enthusiastic manner," and that the "majority of the documentation appears quite positive regarding the relationship between the boys and their mother." Accordingly, Cushing clearly recognized positive aspects of Tashakori's relationship with the children. As far as awareness of abuse by Farokhi and the order of protection, Cushing's report stated that the order of protection was initially granted but was "lifted" in early June 2016, allowing Tashakori to have unsupervised visitation with the children.

Though this characterization was not legally accurate, Cushing was clearly aware that the initial (emergency) order of protection had not been in effect since June 2016. Cushing's report also included a statement by Tashakori that the trial court found that Farokhi verbally, physically, and emotionally abused her over the course of their marriage, and Cushing testified that Tashakori told him that Farokhi's petition for an order of protection was denied. As for Walsh's alleged bias, Tashakori raised the issue in her questioning on cross-examination, and Walsh testified that it was not her role to inform Cushing of the trial court's rulings. It was up to the trial court to assess whether Walsh was biased and if so, how that affected her credibility. See *In re Estate of Shea*, 364 Ill. App. 3d 963, 973 (2006). As discussed, Cushing's testimony and report indicated that Tashakori herself had told him that the trial court denied the order of protection and found that Farokhi had abused her.

¶ 106 In the end, the trial court's allocation of parenting time was largely consistent with the recommendations of Cushing and Walsh, who were independent professionals appointed by the court to assist it with making such a determination. They recognized that Tashakori had a loving relationship with the boys but also discussed how she appeared to often have difficulty controlling their behavior, resulting in her frequently yelling at them. They contrasted this dynamic with how Farokhi had been managing the boys since September 2015, with a structured routine and a calm demeanor. Many other witnesses at the hearing offered testimony that was consistent with these conclusions, and there was testimony that the children's overall behavior had improved since Farokhi had begun the role of primary custodian. The report of proceedings of the relevant hearings span almost 3,000 pages, making it clear that the trial court did not rush to judgment. Ultimately, we cannot say that the trial court's allocation of parenting time was against the manifest weight of the evidence or an abuse of discretion.

¶ 107 Last, Tashakori argues that because the material statutory factors in arriving at the best interests of the children for the allocation of decision-making responsibilities overlap with those regarding parenting time (see 750 ILCS 5/602.5 (West 2016)), her arguments show that the trial court also erred in failing to give her sole responsibility for education, medical, and extracurricular decisions. As we have upheld the trial court's ruling regarding the allocation of parenting time, it follows that we have no basis to overturn its ruling regarding decision-making responsibilities. We note that although the trial court awarded Farokhi sole decision-making authority over extracurricular activities, it gave the parties joint responsibility for educational, medical, and religious decisions.

¶ 108

III. CONCLUSION

¶ 109 For the reasons stated, we affirm the judgment of the Winnebago County circuit court.

¶ 110 Affirmed.