

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).

2018 IL App (4th) 180346-U

NO. 4-18-0346

FILED

October 18, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

CASSIE C. BROWN,)	Appeal from the
Petitioner-Appellee,)	Circuit Court of
v.)	Clark County
TRENT E. GROOTHUIS,)	No. 14F10
Respondent-Appellant.)	
)	Honorable
)	Tracy W. Resch,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Harris and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court’s order authorizing the relocation of the parties’ child to reside with the mother in Maryland and granting the mother the majority of the parenting time is not against the manifest weight of the evidence.

¶ 2 Petitioner, Cassie C. Brown, and respondent, Trent Groothuis, are the parents of Z.M.G., born September 21, 2011. In June 2014, the parties entered into a joint-parenting agreement, equally dividing parenting time and responsibilities between Cassie, who resided in Maryland, and Trent, who resided in Casey, Illinois. The parties alternated physical custody of Z.M.G. every six weeks. In September 2016, Trent filed a petition seeking modification of parenting time and responsibilities. In February 2017, Cassie responded with a counterpetition, requesting she be awarded primary parenting time in Maryland.

¶ 3 In March 2018, the trial court found it was in Z.M.G.’s best interests to spend the

parenting time during her school year with her mother in Maryland. Trent was granted parenting time for approximately five weeks each year. Trent appeals, arguing the trial court's order granting Cassie primary parenting time is against the manifest weight of the evidence. We affirm.

¶ 4

I. BACKGROUND

¶ 5 Z.M.G. was born to Cassie and Trent during their four-year relationship. At the time of her birth, Z.M.G. and her parents resided in Casey, Illinois. In May 2014, Cassie filed a petition for sole custody of Z.M.G. and for child support. The following month, Cassie filed a petition for removal to permit her to move to Laurel, Maryland, with Z.M.G. That same day, the parties entered into a joint-parenting agreement.

¶ 6 The joint-parenting agreement set forth two physical custody schedules depending on the residency of Cassie and Trent. In the first schedule, the parents had a weekly schedule that would apply if both parties resided in the Casey area. The second schedule applied if Cassie moved to Maryland. According to this schedule, until Z.M.G. began kindergarten, they would meet in Zanesville, Ohio, every six weeks to exchange Z.M.G. It also provided the following:

“The parties recognize that the minor child will begin kindergarten in approximately two (2) years. At that time, should Mother choose to remain out of the State of Illinois, she will file the appropriate pleadings in Clark County, Illinois[,] seeking leave to remove the minor child from Illinois for residential purposes in order for the court to determine where the child will reside and attend school.”

That same month, the trial court entered an agreed order, adopting the joint-parenting agreement.

¶ 7 In September 2016, shortly after Z.M.G.'s fifth birthday, Trent filed a petition for modification of child support, allocation of parental responsibilities, and allocation of parenting time. In his petition, Trent asserted Z.M.G. would be enrolled in kindergarten in 10 months and the current custody schedule prohibited Z.M.G. from enrolling in either state. Trent asserted Z.M.G., while in Maryland, had no support system and spent large amounts of time in day care. Trent further asserted Cassie's move to Maryland did not offer the child increased benefits in education, opportunity, or lifestyle. Trent requested primary parenting time and child support.

¶ 8 In February 2017, Cassie filed a counterpetition to modify parenting and child-support allocation. Cassie maintained it was in Z.M.G.'s best interests to reside with her in Maryland. Cassie emphasized the difference in her and Trent's work schedule allowed her to spend more quality time with Z.M.G. Cassie requested she have primary residential custody, allowing Trent parenting time during summer and holiday breaks.

¶ 9 A. The Hearing on the Parties' Petitions

¶ 10 In June 2017, the trial court held a hearing on the parties' petitions. Eight individuals testified.

¶ 11 Cassie, aged 33, testified first. Cassie left Casey, Illinois, in July 2014. She moved to a home in Laurel, Maryland, where she resided for six months. Next, Cassie lived in a townhouse with her boyfriend, Burton Persaud, in Essex, Maryland, for one year, and they then moved to Middle River, Maryland. After one year in Middle River, Cassie and Burton moved to a home in Essex, Maryland. She had been living there for six months. That home was a split-level house. She and Burton rented the home from his parents. Cassie did not contribute to the rent. Cassie and Burton's parents did not "get along." Burton's aunt and uncle rented the lower

portion of the split-level house. At the time, the aunt and uncle's three sons "with a total of four kids and a girlfriend" were visiting and staying in the home for "probably" an extended period of time.

¶ 12 According to Cassie, she and Burton did not share a living space with Burton's extended family. In the split-level, there were three bedrooms upstairs, a living room, a kitchen, and a sunroom. The downstairs had a large living room, bedroom, kitchen, and laundry room. Cassie denied that it was a shared living space. However, she testified the two levels had separate entrances, but they also shared one entrance. They also shared an address. The house had a backyard in which the children could play.

¶ 13 Cassie testified Burton was married until his divorce was finalized within the month or two before the hearing. Burton had two sons. Every other Friday night, Burton's sons spent the night at their house. They also visited three nights each week but did not stay overnight during those visits. Z.M.G. had her own room.

¶ 14 According to Cassie, she graduated high school and had completed some college courses, including some at a community college in Maryland. Cassie earned certificates as a medical assistant and clinical technician. She was employed at Johns Hopkins Hospital as a clinical technician. She commuted 30 minutes to work. Cassie worked in the Weinberg Intensive Care Unit "every third weekend, rotating nights and days." Cassie worked more days than nights. Typically, Cassie worked four days a week. Her typical shifts were from 7 a.m. to 7:30 p.m. or 7 a.m. to 3:30 p.m. She worked two 12-hour shifts and two 8-hour shifts each week. On the days Cassie worked 12 hours, Burton picked up Z.M.G. from day care. Cassie could only work as a clinical technician in certain hospitals, as not all hospitals hired clinical technicians. She earned a

base rate of \$14.15 per hour, receiving greater compensation as a shift differential, when she worked evenings, overnight, or weekends. Cassie also occasionally worked overtime. While in Casey, Illinois, Cassie worked as a certified nursing assistant (CNA) and she worked at a gas station. As a CNA, Cassie earned “[m]aybe \$9.50” per hour.

¶ 15 Cassie was also working toward becoming an anesthesia technologist. It was a two-year program to which she had applied. Cassie, however, learned she needed “a couple more” prerequisites. Cassie planned to apply again in September. If she were accepted, which she was almost certain she would be, Johns Hopkins Hospital would reduce her work hours to allow her to participate. Upon completing the program, her hours would be 6 a.m. to 2:30 p.m., Monday through Friday.

¶ 16 Regarding Trent, Cassie testified the two went to school together in Casey. They lived together for approximately four years. Cassie moved from Trent’s residence around Z.M.G.’s second birthday. At that time, Trent had Z.M.G. on Sundays and Mondays when he was not working. On other days, Cassie took Z.M.G. to the restaurant to see him.

¶ 17 Cassie decided to move to Maryland in early 2014. Her sister and her husband resided in Maryland. Aside from Z.M.G., they were the only family members in Maryland. Cassie’s sister and brother-in-law offered her the opportunity to relocate there for better employment and support. Cassie stated, “[I]t’s not like Casey where you have to drive an hour-and-a-half, hour whatever, to get a good job.” Cassie believed the move would provide her with a better life. In Casey, she worked three jobs, barely allowing her time with her children. In contrast, in Maryland, she worked one job with good pay and benefits and had time for her children.

¶ 18 According to Cassie, on a typical morning, she woke Z.M.G., helped her get ready, and then took her to the learning center for day care and preschool. Either she or Burton picked up Z.M.G. around 3:30 p.m. After preschool, Z.M.G. would have a snack and Cassie would help Z.M.G. with her homework. When Cassie worked weekends, Burton and Z.M.G. were together. Burton worked as an electrician and had set hours. The three would have dinner together at home. Z.M.G. helped with chores around the house. She helped feed the dog and empty trash cans. Z.M.G. had some friends she knew in preschool. On most Sundays when Z.M.G. was there, they went to church. There were many parks and beaches nearby. Z.M.G. could enroll in gymnastics or dance but the six-week schedule kept her from being enrolled. They tried to have Z.M.G. in bed by 8:30. The bedtime routine sometimes included reading stories.

¶ 19 Cassie described Z.M.G. as being in remission for juvenile idiopathic arthritis. Z.M.G. had not had a flare-up since her initial one. A flare-up consisted of achy joints and inflammation of her organs, fever, and rash.

¶ 20 Cassie testified she also had a 13-year-old son, M.R. M.R. was 11 when Cassie left Casey. At that time, Cassie believed M.R. was old enough to decide where to live, so she let him decide. Because M.R. had established friendships and was involved in sports, he chose to stay in Casey. Z.M.G. and M.R. got along well. The two talked over Skype, a video-chatting service. M.R. visited Cassie in Maryland every spring break, holiday break, and two weeks of summer. Cassie also visited him in Illinois once or twice each year. When M.R. visited Maryland, Cassie attempted to be off work, sometimes working one or two days during the visit. During M.R.'s most recent visit to Maryland, he witnessed an argument between Cassie and

Burton's parents. M.R. was inside the house. Cassie and Burton's parents were outside, yelling at each other.

¶ 21 Cassie testified she had no community involvement in Maryland. She went to work and then home. If Z.M.G. were to reside with her, she would go to kindergarten at the elementary school "down the street." The kindergarten was a public school. Z.M.G. would ride the bus.

¶ 22 Cassie believed it was in Z.M.G.'s best interests to move to Maryland because "I feel like she would be able to spend time with one of her parents more than the other." Cassie was concerned Z.M.G. spent a great deal of time with her grandparents rather than in an education setting where she would be learning. Cassie believed Trent's work caused him to be gone from 10 a.m. until 10 p.m. "most days." While Cassie could not state for certain the times Trent left for work, she testified when she called to speak to Z.M.G., Z.M.G. would be at her grandparents' house. Cassie believed she would be a more consistent parent than Trent, and she had already begun working on Z.M.G.'s education. She believed she could provide financially for Z.M.G. if she resided with her.

¶ 23 Travis Roberts, M.R.'s father, testified he resided in Casey. M.R. would begin his freshman year in the fall. Roberts learned Cassie planned to move to Maryland when M.R. was 10. Roberts was "fine with" the move, so long as M.R. was staying in Casey. M.R. chose to stay behind as "he had friends" in Casey. M.R. and Z.M.G. knew each other. They would spend time together at their maternal grandmother's residence in Casey. Roberts believed if Z.M.G. resided in Maryland, Z.M.G. and M.R. would not see each other. Z.M.G. would be flying to Casey as M.R. would be flying out to Maryland. Roberts had no concerns or problems with Trent's

family. He believed it “would be fine” to work with them to facilitate time between the siblings. Roberts acknowledged he and Trent’s family had not worked together to have the siblings spend time together.

¶ 24 Trent, aged 34, testified he had a bachelor’s degree in physical education. Trent owned and operated a restaurant in Casey, the Greathouse of Pizza, since 2008. In that role, he employed about 18 people, and he worked between 50 and 60 hours per week. In the previous eight months, he had hired a manager who could run the restaurant without him. His parents also helped at the place. The restaurant was closed on Sundays and Mondays.

¶ 25 According to Trent, when Z.M.G. was in town, they would “hang out” together. At times, when Trent was at the restaurant to do “prep work,” Z.M.G. would go with him. He had an office where she could play. When Trent needed childcare, Z.M.G. usually went to his parents’ house. Sometimes Z.M.G. went to Cassie’s mother’s house. If placed with Trent, Z.M.G. would not require day care. In the fall, she would go to the local kindergarten. Trent attempted to register Z.M.G. for preschool, but due to Z.M.G.’s alternating six-week schedule, the school would not accept her.

¶ 26 According to Trent, he resided in a three-bedroom house with a yard. Z.M.G. had her own bedroom, and there was adequate outdoor space for play. Also residing in the house were Trent’s girlfriend, Brandi Millikan, and her three-year-old son, L.M. L.M. resided with them full-time. L.M. and Z.M.G. got along well, calling each other “brother and sister.” Brandi lived in the home for approximately one year. She worked at Trent’s restaurant.

¶ 27 Trent testified his mother provided childcare for L.M., too. Trent intended to expand restaurant hours to Sundays and then to not work Mondays through Wednesdays. In his

eight years of operating the restaurant, he had not taken off much time. He disagreed the proposed change in his schedule was in response to this case. Z.M.G. saw him in the mornings before he left for work, which was between 10 a.m. and 12 p.m. The restaurant closed at 9 p.m. on weekdays and 10 p.m. on weekends. The manager took care of closing. On occasion, Trent stuck around after closing.

¶ 28 Trent testified Z.M.G. would wake at home and stay there. On days when he worked, Brandi, around 3 p.m., took Z.M.G. and L.M. to Trent's mother's house. Trent believed he had sufficient income to meet Z.M.G.'s needs. Z.M.G. did not attend church when in Illinois, except for one week of vacation bible school. Z.M.G. was diagnosed with juvenile arthritis when she was two years old. When she was in Illinois, she would see a specialist in St. Louis. In Maryland, she goes to Johns Hopkins Hospital. At the time of his testimony, Trent believed Z.M.G. did not need medical care. Trent did not take Z.M.G. for checkups, but he did take her to a doctor for an ear infection. Trent agreed for three years on the six-week schedule, he had not made any plans for Z.M.G. and M.R. to meet.

¶ 29 Nikki N. Groothuis, Z.M.G.'s paternal grandfather, testified he resided in Casey for approximately 45 years. At that time, he was mayor. Casey provided sufficient education and extracurricular activities for Z.M.G. On Tuesdays through Saturdays, Z.M.G. was at his and his wife's house from late afternoon into the evenings from Tuesday through Saturday. Sometimes, Z.M.G. would arrive earlier. Z.M.G. was comfortable in their home. Nikki disagreed that Z.M.G. spent "the primary time" with him and his wife while in Illinois. Nikki believed it was similar to other day care situations.

¶ 30 Nikki believed Trent was a very loving dad, spending as much time as he could

with Z.M.G. Nikki testified, whenever Z.M.G.'s maternal grandmother, Marsha Brown (Marty), asked for a visit, he would take Z.M.G. there. Nikki had also taken Z.M.G. to watch M.R. participate in sports. At those events, M.R. would talk with Z.M.G. If Z.M.G. were to be placed in Casey, they "would facilitate her connection to the Brown side" of the family. Regarding Trent's work schedule, it was flexible, allowing Trent to leave for Z.M.G.'s activities. One example was Z.M.G.'s last day of cheer camp when there was an exhibition. While in Casey, Z.M.G. also participated in tumbling and dance activities.

¶ 31 Brandi testified Trent acted as L.M.'s father, helping with all parenting decisions. Trent was "a great dad" who did "everything with them." Z.M.G. was very close to Trent, always wanting to be around him and do things with him. L.M. and Z.M.G. were almost always together. They stayed in Trent's or Brandi's care until the restaurant opened. Then they went to Trent's parents' house, typically from 3 p.m. to 9 p.m. Trent usually began work around 10 a.m. or 10:30 a.m. The kids also spent time at the restaurant with Brandi and Trent. Brandi had no criminal history and no history with the Department of Children and Family Services.

¶ 32 Burton testified his sons, aged 9 and 11, resided with him at times. Burton's job as an electrical foreman required work only on weekdays. He mainly worked from 6 a.m. until 2:30 p.m. His work was flexible, allowing him to leave as necessary. Burton had known Cassie approximately three years. They resided together almost three years.

¶ 33 Burton described Z.M.G.'s relationship with Burton's aunt and uncle. Z.M.G. went downstairs "every once in a while." She would visit with them and see what they were doing. Z.M.G. liked to hang out with Burton's cousin's girlfriend, who was 25. Burton's uncle babysat for Z.M.G. occasionally. The downstairs was fairly large and had its own bathroom and

kitchen.

¶ 34 After Burton picked up Z.M.G. from school, he would normally provide Z.M.G. a snack and turn on the television for her. If Z.M.G. wanted to go outside, he would take her. Once in a while, they would go to the park. Burton did not typically help with homework or participate in the bedtime routine.

¶ 35 On cross-examination, Burton testified he and Cassie met online. He believed they knew each other approximately six months before they moved in together but said it was fairly quickly. At that time, Burton was going through a divorce. Burton testified he had “a limited divorce,” but he was returning to court in a few months for “an absolute divorce.”

¶ 36 When asked if he had any adopted children, Burton testified as follows:

“Yeah, [C.M.]. It was not my, it was not my[—]you know, it was adopted by my wife, my ex-wife. So, yeah, I mean, it was not adopted by myself, but since we’re together, I don’t know if that was considered him, you know[—]I don’t know if I was, if it was, you know, my adopted child, but I know she adopted him, yeah, while we were together.”

Burton testified he had been investigated by the Maryland Department of Children and Family Services in regard to C.M. When asked to explain, Burton stated the following:

“It was for, it was they pretty much couldn’t, you know, they had me as the one who really would, you know, enforce the rules and like, you know, what needed to get done and stuff like, and you know, I spanked him, and you know, I guess he went to school

complaining about it, saying, you know, that I did. I guess they started an investigation, and I don't know what happened after that because it was almost like, almost ten years ago so I don't know what happened to the case. I know it went to, you know, social services, and they said that, you know, you can't do that and that kind of stuff. If you spank him, you need to spank him on the butt and all of that kind of stuff so."

¶ 37 Burton explained there were no protective orders issued regarding C.M. However, he testified he had an issue with his ex-wife. She "was in [his] face," and Burton pushed her away. There was a protective order for a time, but his ex-wife had it lifted because of the children.

¶ 38 Marty, Cassie's mother, testified she resided in Casey. She saw Z.M.G. "not real often" but whenever Z.M.G. wanted to visit. Marty would see Z.M.G. three or four times during her six-week stays in Casey. Trent's family never refused a request by her for a visit. Marty's husband was Samuel Brown, Cassie's father. His health was poor. Z.M.G. would see him when she visited their house. When Z.M.G. was at their house, Z.M.G. would watch cartoons, play Old Maid, complete activity books, and sometimes go to the park.

¶ 39 Marty testified she did not see Cassie very often, "maybe twice" a year when Cassie visited for a week or so. Cassie's relationship with Z.M.G. was "really good." Cassie disciplined Z.M.G. with time-outs. Z.M.G. liked to get her way, and Cassie "most of the time" could "reign that in." Marty had observed Burton with Z.M.G. and stated they got along really well. Marty believed Cassie was a good mother and it would be best for Z.M.G. to reside with

her.

¶ 40 April Wade, Cassie's sister, testified she would try to see Z.M.G. at least once during each of her visits to Illinois. She would call Trent to find a convenient time to pick her up. Usually, Wade picked up Z.M.G. from her grandparents' house or from the restaurant. Wade testified Cassie and Z.M.G. got along well and Z.M.G. and M.R. got along just fine.

¶ 41 The trial court, noting the removal provision had been replaced by a relocation provision, asked both parties if it would be permissible for it to consider the 11 factors in the most recent version of section 609.2(g) of the Act. Both parties agreed.

¶ 42 B. The Trial Court's June 2017 Order

¶ 43 On June 14, 2017, the trial court issued its order, concluding it was in Z.M.G.'s best interests to spend the parenting time during the school year with her mother. Trent appealed the order. In December 2017, this court found, while the trial court considered the factors in section 609.2(g) as to the *mother's* relocation, it failed to consider those factors when considering whether the relocation of Z.M.G. was in Z.M.G.'s best interests. *Brown v. Groothuis*, 2017 IL App (4th) 170510-U, ¶ 58. Accordingly, we reversed the judgment of the trial court and remanded for further proceedings. *Id.* ¶ 61.

¶ 44 C. The Trial Court's March 2018 Order

¶ 45 On remand, the trial court, in March 2018, issued its order regarding parenting time and parental responsibilities. In so doing, the court analyzed each of the factors of section 609.2(g) before concluding it was in Z.M.G.'s best interests to reside with her mother in Maryland during the school year. The trial court's analysis of each statutory factor is summarized below.

Company possibly with the necessity of working a second or third job to make ends meet in lieu of relocating.” The court believed Cassie used the opportunities provided by the relocation to improve her and Z.M.G.’s lives and it was reasonable to expect she would continue doing so. The court found Cassie’s actions provided a powerful motivating force for Z.M.G., showing how to improve one’s life through education, skill building, and self-motivation. The court found no evidence the relocation had any negative impact on Z.M.G. or impaired the quality of either parent’s relationship with her. The court found no adverse effects on Z.M.G.

¶ 51 The court concluded Cassie’s conduct in the face of the challenging circumstances evidenced Cassie’s commitment to Z.M.G.’s best interests. In contrast, the court found Trent, in opposing the relocation, failed to sufficiently consider the potential benefits to Z.M.G. and to sufficiently consider her best interests.

¶ 52 *2. The Reasons, if Any, Why a Parent is Objecting to the Intended Relocation, Section 609.2(g)(2)*

¶ 53 The trial court concluded the reasons Trent objected to the relocation were the same reasons he opposed the relocation in June 2014. Trent did not know anyone in Maryland, and Cassie had no family there. Trent further reasoned Casey was where Z.M.G.’s roots were and it was a safer environment for Z.M.G. According to Trent, Casey was a better place for a young child because he preferred “Midwestern mores as opposed to East Coast mores.”

¶ 54 *3. The History and Quality of Each Parent’s Relationship with the Child and Specifically Whether a Parent Has Substantially Failed or Refused to Exercise the Parental Responsibilities Allocated to Him or Her Under the Parenting Plan or Allocation Judgment, Section 609.2(g)(3)*

¶ 55 The trial court found both parents fulfilled their parental responsibilities, concluding each parent raised Z.M.G. successfully in the six-week intervals. The court found “no

direct or circumstantial evidence suggesting that Z.M.G. feels any less comfortable, safe, secure[,] or happy at one home as opposed to the other or with one parent as opposed to the other parent.” Both parties are good parents.

¶ 56 4. *The Educational Opportunities for the Child at the Existing Location and at the Proposed New Location, Section 609.2(g)(4)*

¶ 57 The trial court observed Z.M.G., in Maryland, had been enrolled in the Children of Tomorrow Learning Center and Child Care, approximately five miles from their home. Z.M.G. attended Monday through Friday. Cassie drove Z.M.G. to childcare and she or Burton picked her up around 3:30 p.m. The court noted Z.M.G. received educational instruction there. Cassie intended to enroll Z.M.G. in kindergarten in the fall of 2017, down the street from them. Z.M.G. had friends from the learning center, and some of those friends would attend the same kindergarten as Z.M.G. Cassie also testified to reading to her daughter at night before bed and helping her with homework. Z.M.G. had taken field trips through the learning center. Cassie had accompanied Z.M.G. on three of those field trips. Cassie’s employment in Maryland provided an education benefit, allowing Z.M.G. college tuition in an amount equal to the tuition at Johns Hopkins University. In contrast, the court noted Trent was unable to enroll Z.M.G. in a learning center due to the visitation schedule. If Trent were granted primary parenting time, Z.M.G. would attend kindergarten in Casey.

¶ 58 The trial court found Cassie had given more thought and attention to Z.M.G.’s educational needs than Trent had. The court found Z.M.G., while in preschool, was in a time when parent-child educational engagement was important. Cassie’s activities and testimony reflected an appropriate concern with these matters.

¶ 59 5. *The Presence or Absence of Extended Family at the Existing*

Location and at the Proposed New Location, Section 609.2(g)(5)

¶ 60 In considering this factor, the trial court observed both sets of Z.M.G.'s grandparents, an aunt, and Z.M.G.'s half-brother resided in Casey. The court observed Trent's parents had nearly daily contact with Z.M.G, as they were her principal caretakers when Trent and Brandi were working. The court found if Z.M.G. relocates to Maryland, Z.M.G.'s relationship with her paternal grandparents would be the relationship most affected. In contrast, Cassie's sister and her husband lived in Maryland, approximately one hour from Cassie.

¶ 61 *6. The Anticipated Impact of the Relocation on Z.M.G.
Section 609.2(g)(6)*

¶ 62 The trial court found before Cassie moved to Maryland she was Z.M.G.'s primary caregiver. When living in Casey, Cassie and Z.M.G. lived in an apartment. At that time, Trent had Z.M.G. on Sundays and Mondays when he was off work and, on occasion, Cassie would drop Z.M.G. off at the restaurant.

¶ 63 As of the date of the hearing, Trent typically worked 50 to 60 hours, 5 days each week, Tuesday through Saturday, with plans to open on Sundays in the future. Trent usually went into work between 10 a.m. and 12 p.m. and left between 8:30 p.m. and 9 p.m., sometimes later on weekends. At times, Z.M.G. would be at the restaurant with him when Trent did "pre-opening preparation." Other than those instances, Z.M.G. stayed with Brandi or Trent's parents when Trent was working.

¶ 64 In contrast, Cassie commuted 30 minutes to work. She typically worked a four-day week comprised of working 8-hour (7 a.m. to 3:30 p.m.) and 12-hour (7 a.m. to 7:30 p.m.) shifts. On work days, Cassie woke Z.M.G. and took her to the learning center. Burton or Cassie would pick up Z.M.G. around 3:30 p.m. On weekends when Cassie worked, Burton and Z.M.G.

were together. Burton was an electrical foreman, who worked only during the week from 6 a.m. to 2:30 p.m. Z.M.G.'s bedtime was 8:30 p.m.

¶ 65 The trial court found Z.M.G. would have no trouble adjusting from either care in the home in Casey or from the learning center to kindergarten. The court was left with the impression no party had reason to anticipate relocation to Maryland would be detrimental to Z.M.G. The court found the home of each parent suitable for raising Z.M.G.

¶ 66 *7. Whether the Court Will Be Able to Fashion a Reasonable Allocation of Parental Responsibilities Between All Parents if the Relocation Occurs, Section 609.2(g)(7)*

¶ 67 The trial court found the distance between the parties was not, in and of itself, a reason sufficient that a reasonable allocation could not be fashioned.

¶ 68 *8. The Child's Wishes, Section 609.2(g)(8)*

¶ 69 Z.M.G. did not testify. No evidence was presented to shed light on her preferences.

¶ 70 *9. Possible Arrangements for the Exercise of Parental Responsibilities Appropriate to the Parents' Resources and Circumstances and the Developmental Level of the Child, Section 609.2(g)(9)*

¶ 71 The trial court had no reason to believe the parties would be precluded or limited in their ability to exercise the parental responsibilities to be assigned to them.

¶ 72 *10. Minimization of the Impairment to a Parent-Child Relationship Caused by a Parent's Relocation, Section 609.2(g)(10)*

¶ 73 Noting the parents had in the prior three years made adjustments and compromises necessary to minimize impairment to the parent-child relationship, the trial court found it reasonable to expect that the history of goodwill between the parties would help them maintain Z.M.G.'s relationship with each parent.

¶ 74

11. *Other Factors Bearing on Z.M.G.'s Best Interests,*
Section 609.2(g)(11)

¶ 75

The trial court observed each parent had romantic relationships of approximately the same duration and both were stable and durable. Both the nature of Brandi's and Burton's involvement with Z.M.G. was appropriate. The court found no evidence suggesting Z.M.G. had difficulty adjusting to home and community in either Casey or Maryland. As to the mental and physical health of those involved, the court noted Z.M.G. had been diagnosed with juvenile arthritis three years before and had no recurring flare-ups. Z.M.G. had seen a specialist one a year. Her current specialist in in Maryland.

¶ 76

The trial court found it in Z.M.G.'s bests interests to attend school and relocate to Maryland with her mother. The court ordered parenting time for Trent for three consecutive weeks in the summer, each spring break, and alternating Thanksgiving and Christmas breaks. The court ordered Z.M.G. be made available to Trent during such times as he may visit Maryland "as agreed upon by the parties." As to parental responsibilities, the trial court granted all major decision-making responsibilities as defined in section 602.5(b) (750 ILCS 5/602.5(b) (West 2016)) to Cassie.

¶ 77

This appeal followed.

¶ 78

II. ANALYSIS

¶ 79

Trent argues the trial court's order allowing the relocation of Z.M.G. to Maryland and granting Cassie primary parenting time and responsibilities is against the manifest weight of the evidence.

¶ 80

A. Statutory Factors, Burden of Proof, and the Standard of Review

¶ 81

Before January 1, 2016, section 609 of the Illinois Marriage and Dissolution of

Marriage Act (Act) (750 ILCS 5/609 (West 2012)) allowed a custodial parent to seek court permission to *remove* a child from Illinois when the removal was in the child's best interests. *In re P.D.*, 2017 IL App (2d) 170355, ¶ 15, 87 N.E.3d 1040. As of January 1, 2016, the general assembly repealed section 609 and replaced it with section 609.2 (750 ILCS 5/609.2 (West 2016)). *Id.* ¶ 17. Under section 609.2, a parent may seek to *relocate* a child. See 750 ILCS 5/609.2 (West 2016). In this case, the 2014 joint-parenting agreement refers to the removal statute. The trial court, aware of the difference, sought clarification of which rule should apply. Both agreed at the hearing to apply the factors in section 609.2(g), factors related to *relocating* Z.M.G.

¶ 82 When a request for relocation has been made, section 609.2(g) requires the factors relevant to relocation must be considered in modifying the parenting plan or allocation judgment. 750 ILCS 5/609.2(g) (West 2016). As shown above, in making its final judgment, the trial court addressed each factor. On review, we give great deference to a trial court's best-interest finding, as that court sits in the superior position to observe the personalities and temperaments of the parties and assess witness credibility. *In re Marriage of Stopher*, 328 Ill. App. 3d 1037, 1041, 767 N.E.2d 925, 928-29 (2002). This court will not overturn a trial court's best-interests determination unless it is against the manifest weight of the evidence or is manifestly unjust. See *id.* We will find a judgment to be against the manifest weight of the evidence when the findings of the trial court appear unreasonable, arbitrary, or not based on the evidence or when the opposite conclusion is apparent. *Vaughn v. City of Carbondale*, 2016 IL 119181, ¶ 23, 50 N.E.3d 643.

¶ 83 Trent contends the burden of proving relocation under section 609.2 is in

Z.M.G.'s best interests rests on Cassie, as she seeks to relocate their daughter. In support of this position, Trent relies on *In re Marriage of Eckert*, 119 Ill. 2d 316, 325, 518 N.E.2d 1041, 1045 (1988).

¶ 84 Trent's position relies on the *removal* statute. In that statute, the general assembly placed the burden of proof on the party seeking removal: "The burden of proving that such removal is in the best interests of such child or children is on the party seeking the removal." (Emphasis removed.) *Id.* at 324 (quoting Ill. Rev. Stat. 1985, ch. 40, ¶ 609). That same statutory language appears in later versions of the removal statute. See *e.g.* 750 ILCS 5/609(a) (West 2012).

¶ 85 No such language appears in the 2016 *relocation* statute. See 750 ILCS 5/609.2 (West 2016). When the general assembly repealed the removal statute and replaced it with the relocation statute, it removed the language assigning a "burden of proof." Compare *id.* with 750 ILCS 5/609(a) (West 2012). Generally, when the general assembly deletes language, we presume it intended to change the law. See *Julie Q. v. Department of Children and Family Services*, 2011 IL App (2d) 100643, ¶ 39, 963 N.E.2d 401. We find, under the relocation statute, the final consideration is whether relocation is in the child's best interests but the party seeking relocation or an expansion of relocation, as in this case, must have the burden of going forward, and since this is an expansion or modification of a prior order, that party has the burden of proof.

¶ 86 We are aware of recent decisions by the Second District Court of Appeals (see *e.g.*, *In re Marriage of Kavchak*, 2018 IL App (2d) 170853, ¶ 65) and the Third District Court of Appeals (*In re Marriage of Fatkin*, 2018 IL App (3d) 170779, ¶ 34) stating the burden of proof of what is in the child's best interests is on the party seeking to *relocate* the child. These

decisions cite language founded on the *removal* statute as supporting this proposition. *Kavchak*, 2018 IL App (2d) 170853, ¶ 65 (citing *Eckert*, 119 Ill. 2d at 325 and *P.D.*, 2017 IL App (2d) 170355, ¶ 15)); *Fatkin*, 2018 IL App (3d) 170779, ¶ 34 (citing *P.D.*, 2017 IL App (2d) 170355, ¶ 15). Neither *Kavchak* nor *Fatkin* mentions or considers the absence of the burden-of-proof language in the *relocation* statute, section 609.2. We do not know if the burden of proof language was purposely or inadvertently left out of the relocation statute, but we believe there must be a burden of proof.

¶ 87

B. The Best Interests of Z.M.G.

¶ 88 This case presents a unique issue for removal or relocation. Typically, in relocation or removal cases, the child resided in Illinois full-time before a request to remove or relocate the child to another place is made. See *e.g.*, *Kavchak*, 2018 IL App (2d) 170853, ¶¶ 3-5; *Fatkin*, 2018 IL App (3d) 170779, ¶¶ 4, 5. Here, however, by agreement, Cassie and Trent agreed to allow Z.M.G. to reside 26 weeks each year in Maryland and 26 weeks in Casey. In that same agreement, Trent and Cassie agreed a court would have to determine where the child would reside and attend school if Cassie chose to remain out of Illinois. The agreement required Cassie seek “removal” of the child, and the parties later agreed the trial court should consider the matter under the relocation statute, section 609.2. Thus, the trial court was considering, in effect, how to adjust parenting time and parental responsibilities from the 26-week schedule to a school-year-based schedule.

¶ 89 The trial court, in considering this unique situation, specifically and extensively addressed the section 609.2(g) factors and granted primary parenting time to Cassie. Upon our review of the record, we find this order is not against the manifest weight of the evidence.

¶ 90 Trent asserts a number of reasons the trial court’s order is against the manifest weight of the evidence or is manifestly unjust. First, Trent contends Cassie effectively restricted his parenting time without making a measurable increase in a benefit to Z.M.G, as the increased salary, a day care with curriculum, a medical education, and life in an urban area could have been achieved in locations closer to Casey. Trent contends the decision to move to Maryland was to effectively terminate his rights and relationship with Z.M.G. Second, Trent argues the trial court failed to consider the loss of the father-child relationship and did not give weight to his example to his daughter in supporting himself and his daughter. Third, Trent maintains the record shows his motives were not simply an aversion to Maryland. Fourth, Trent argues the fact Cassie required daycare for Z.M.G. due to her employment does not translate into Trent’s disregard for Z.M.G.’s education. Fifth, Trent posits the environment provided by Cassie was not steady, stable, or safe. Trent emphasizes Burton’s history with his ex-wife, as well as the home Burton and Cassie shared with unnamed family members. Sixth, according to Trent, the order creates a real impairment to the parent-child relationship, which could have been minimized “with a much less restrictive placement” or, because Cassie chose to leave, placing the child in Illinois.

¶ 91 We do not find Trent’s arguments convincing. As to his first argument, the trial court’s findings and the facts support the conclusion Cassie’s decision to move to Maryland did not have the motive of separating Z.M.G. from Trent. Cassie’s sister resided in Maryland. While Cassie struggled financially in Casey, her sister suggested she move to Maryland. While one may speculate such opportunities are available in closer cities, Trent presented no evidence showing Cassie had a similar opportunity—a chance to relocate to a larger city with a close relative

nearby—that she passed on in order to move to Maryland. Absent such evidence, we cannot find an improper motive in Cassie’s decision to relocate.

¶ 92 Regarding Trent’s second argument, the trial court’s order shows the court was aware of Trent’s accomplishments and his example for his daughter. The court knew Trent successfully operated his own business since 2008. Trent’s argument the court improperly focused on Cassie’s efforts and ignored his is an inaccurate construction of the ruling.

¶ 93 We also find no evidence the trial court gave improper weight to Trent’s motives to keep Z.M.G. in Casey. While the court was aware Trent preferred a less-urban life in Illinois, the court also knew Trent was a good parent who made an effort to maintain a relationship with his daughter, including driving halfway to Baltimore every six weeks. The court’s order shows Trent’s motives were considered.

¶ 94 Trent further challenges the trial court’s conclusion Cassie gave more thought or concern for Z.M.G.’s education than he had. We find the record supports the court’s conclusion. Trent presented no testimony regarding educational efforts for Z.M.G. Cassie testified to reading to Z.M.G. and to helping her with her homework. Cassie further testified to field trips and early learning at day care. In contrast, Trent did not present testimony showing how Z.M.G.’s educational needs were being met in Casey. He did not testify to the efforts made at home or by his parents. The determination Cassie gave more thought to Z.M.G.’s educational needs is supported by the record.

¶ 95 Trent argues Z.M.G.’s environment in Maryland is not safe. We agree the cold record raises some questions about Burton’s history and Cassie’s residence. However, the trial court’s analysis demonstrates the court considered these matters. The court heard Burton’s

testimony and expressly found Burton credible. The court heard Cassie's testimony of no incidents of domestic violence between the two of them. The court also heard testimony regarding the parties' living situation and determined the impact of the relocation would not be detrimental to Z.M.G. There is no basis in the record to suggest we should not defer to the trial court, who observed witness testimony and witness demeanor, on these matters.

¶ 96 Trent maintains the order overly impairs the parent-child relationship. Trent contends the harm to that relationship could have been minimized "with a much less restrictive placement" or, because Cassie chose to leave, by placement in Casey.

¶ 97 We understand the pain of not having a child present in a parent's daily life. From the testimony and the joint-parenting agreement, both parties knew one parent would likely have Z.M.G. the majority of parenting time. The joint-parenting agreement anticipated a ruling where Z.M.G. would attend school in either Casey or Maryland, thereby significantly altering the parenting time of Z.M.G. Though he suggests a less restrictive placement is possible, Trent's only request is a full reversal of the order. Trent's argument is unconvincing.

¶ 98 Our review of the record establishes the trial court properly weighed the evidence and made a ruling. The record does not reveal the opposite conclusion is apparent. The decision of the trial court is not against the manifest weight of the evidence.

¶ 99 We note that pursuant to Illinois Supreme Court Rule 311(a)(5) (eff. Feb. 26, 2010), our decision in this case was to be filed on or before October 15, 2018, absent good cause shown. There were no filing delays on the briefs or the record in this case, but the application and analysis of the relocation statute required additional time. We find good cause exists for issuing our decision after October 15, 2018.

¶ 100

III. CONCLUSION

¶ 101

We affirm the trial court's judgment.

¶ 102

Affirmed.