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2018 IL App (5th) 180018-U

NO. 5-18-0018

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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

<i>In re</i> MARRIAGE OF)	Appeal from the
)	Circuit Court of
JOSEPH LILLIG,)	Jackson County.
)	
Petitioner-Appellee,)	
)	
and)	No. 13-D-166
)	
KIMBERLY LILLIG, n/k/a Kimberly Cantwell,)	Honorable
)	Michael A. Fiello,
Respondent-Appellant.)	Judge, presiding.

JUSTICE OVERSTREET delivered the judgment of the court.
Presiding Justice Barberis and Justice Goldenhersh concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court’s judgment allocating the parties’ parental responsibilities is affirmed where the court’s determination that it was in the best interests of the minor children that the petitioner be given majority parenting time and sole decision-making authority with respect to the children’s health and education was sufficiently supported by the evidence presented for the court’s consideration.

¶ 2 **BACKGROUND**

¶ 3 The parties, Joseph Lillig (Joe) and Kimberly Cantwell (Kim), were married in December 2007 in Carbondale. They subsequently had three daughters together: K.L., who was born in 2009, C.L., who was born in 2011, and J.L., who was born in 2013. In

October 2013, Joe filed a petition for dissolution of marriage pursuant to the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq.* (West 2012)). In February 2014, Kim filed a counterpetition for dissolution.

¶ 4 In April 2014, the trial court appointed a guardian *ad litem* (GAL) to represent the parties' children with respect to the issues of custody and visitation. In June 2014, the trial court entered a temporary order on custody and visitation. The order granted Kim sole physical custody of the children and directed that Joe be given at least one weekend per month for parenting time.

¶ 5 In December 2014, the trial court awarded the parties temporary joint custody of the children in a second temporary order. Among other things, the order directed the parties to cooperate in the children's best interests and to promote the children's respect and affection for the other parent.

¶ 6 In May 2015, the GAL filed her report with the trial court. The GAL advised that Kim and the girls had moved to Northbrook to live with her parents in November 2013 and that Joe had been warned that he would be arrested if he attempted to visit the children at her parents' home. The GAL further noted that Kim had obtained an order of protection against Joe that had later been dismissed.

¶ 7 The GAL reported that in March 2014, Dr. Susan Fielkow had diagnosed K.L. with autism spectrum disorder and that after extensively researching the condition, Kim had put K.L. on a restrictive diet. Kim complained that Joe had allowed K.L. to eat foods that were not included in the diet. The GAL reported that Joe did not object to K.L. being on a special diet, but he feared that Kim's restrictions could lead to malnourishment.

¶ 8 The GAL indicated that Kim had made several unfounded allegations against Joe and had “nothing good to say about [him].” Kim stated that Joe had been abusive during their marriage, and she feared that he would abuse the children if he were granted custody. Kim was also concerned about the manner in which K.L. behaved after returning home from visits with Joe. Kim advised that she wanted full custody of the girls with limited visitation with Joe.

¶ 9 The GAL advised that Joe was concerned that his daughters were being raised in an environment that was extremely hostile towards him. He explained that Kim’s parents did not like him and that he was not allowed to call or visit their home. Joe feared that Kim was trying to shut him out of the girls’ lives and turn them against him. Joe claimed that Kim’s future plans for the children did not include him.

¶ 10 The GAL advised that whenever Joe and Kim met to exchange the girls for visitation, they did so at a police station. According to Joe, Kim was “always geared up for a fight,” and there was always a resulting altercation. Joe accused Kim of trying to “stir up trouble” every time he was present. Joe maintained that he could provide the children with a stable home environment and that he should be given sole custody. Joe understood that the girls needed their mother, and he believed that they should see Kim on a regular basis.

¶ 11 The GAL reported that two of K.L.’s former pediatricians, Dr. Fielkow and Dr. Vincent Biank, had both advised Kim and Joe that placing K.L. on a restrictive diet was fine but that there was no data suggesting that a special diet would benefit K.L.’s autism.

Biank had also recommended that the parties consult a dietitian to ensure that K.L.'s diet was healthy.

¶ 12 The GAL interviewed Betsy Hjelmgren, a certified nutritionist who Kim had consulted on Biank's recommendation. Hjelmgren feared that K.L.'s diet was nutritionally deficient. Hjelmgren advised Kim that the diet was not recommended and that K.L. should be closely monitored if it continued. Kim was "resistant" to Hjelmgren's recommendations. Hjelmgren indicated that she "had reservations about the whole situation and that she really wanted out of the case."

¶ 13 The GAL reported that her interactions with the parties' children had been positive. All three were well behaved and exhibited age-appropriate behaviors and mannerisms. All three appeared healthy and happy. The GAL described them as "delightful little girls." The GAL noted that the girls had an observably close relationship with Joe and that K.L. had been "much more interactive" when she was with him. The GAL advised that the children had not seemed as content with Kim. The GAL reported that she had interviewed additional individuals, as requested by the parties, and that the resulting information she had received had varied.

¶ 14 Stating that it was a very difficult decision to make, the GAL opined that it was in the children's best interests that Joe be granted sole custody of the parties' children and that Kim be granted alternating weekends for visitation. The GAL indicated that she feared that Kim would not foster positive relationships between Joe and the girls and would likely alienate their affection for him. The GAL recommended that the parties

jointly share the major decision-making responsibility with respect to the children's health and education.

¶ 15 In August 2015, the parties appeared and advised the trial court that they had reached an agreed disposition with respect to their dissolution petitions. The parties agreed, among other things, that Kim would receive the marital home in Carbondale, where she had remained after moving back from Northbrook, and that the parties would be granted joint custody of the girls pursuant to a written joint custody agreement. During the school year, Joe would have the first, second, and fourth weekends of each month for visitation, as well as every Wednesday evening. Custody during holidays and summer weeks would alternate. All custody exchanges would take place at the Carbondale police department unless otherwise agreed. Neither party would be named primary residential parent. The parties agreed to discuss all major decisions regarding the children's health, education, and welfare and further agreed that both would be entitled to be present at all of the children's healthcare appointments. The trial court specifically admonished the parties to cooperate and not say negative things about each other in the children's presence.

¶ 16 In September 2015, the trial court entered a child custody and joint parenting order incorporating the terms of the parties' joint custody agreement. The court specifically ordered, among other things, that Dr. Lukasz Dabrowski be the children's pediatrician and that the parties not consult with additional providers without mutual consent. The parties agreed to "use their best efforts to foster the respect, love[,] and affection of the

children toward the other party” and to “cooperate fully in the implementing [of] a relationship giving the children the maximum feeling of security.”

¶ 17 In December 2015, the trial court reentered its child custody and joint parenting order after modifications were made to the agreed holiday visitation schedule. In January 2016, Kim filed for an emergency order of protection against Joe, which the trial court denied.

¶ 18 In February 2016, Kim filed a motion for modification of parenting time requesting that various changes be made to the parties’ parenting schedule. Joe subsequently filed a petition for rule to show cause alleging that Kim had been failing to abide by the parenting schedule and had taken J.L. to a doctor’s appointment without his knowledge.

¶ 19 In March 2016, Joe filed a second petition for rule to show cause alleging that Kim was still failing to abide by the parties’ parenting schedule and had taken K.L. to see another physician without his knowledge or consent. Joe further alleged that Kim had failed to inform him that Dabrowski had advised that K.L. was behind on her vaccinations. Dabrowski had also advised that “he could no longer provide care for the minor children as it had become too complicated.”

¶ 20 In April 2016, Kim filed a petition to modify parental responsibility. The petition alleged, among other things, that the parties could not agree over the administration of vaccines for K.L. and that Joe’s aggressive behavior had resulted in the loss of Dabrowski’s services. The petition requested that Kim be granted exclusive decision-

making authority with respect to the children and that the court's joint parenting order be modified accordingly.

¶ 21 In May 2016, Joe filed a motion to reappoint the GAL. Over Kim's objections, the trial court granted the motion, finding that it was in the girls' best interests that they be represented. The court also entered an order finding Kim in contempt on both of Joe's petitions for rule to show cause. The court admonished Kim to comply with the terms of the court's child custody and joint parenting order and clarified that Joe was entitled to pick the children up from school whenever his parenting time began after school. Joe also filed a petition to modify the child custody and joint parenting order, claiming that Kim was continuing to violate its terms. Joe alleged, among other things, that Kim had been attempting to alienate the children and interfere with their relationship with him. The GAL was subsequently granted leave to withdraw from the case, and in July 2016, a new GAL was appointed.

¶ 22 In August 2016, Joe filed a motion for an emergency order regarding the children's immunizations. The motion alleged that Kim had refused to allow the children to be immunized by their pediatrician, Dr. Anna Little. The motion alleged that as a result, the children were vulnerable to communicable diseases, and C.L. had not been allowed to enroll in kindergarten.

¶ 23 In September 2016, the parties appeared before the trial court for a hearing on Joe's motion for an emergency order. At the outset, Joe's attorney advised the court that C.L.'s school had apparently accepted a religious-exemption vaccination waiver that Kim had obtained from a local doctor without Joe's knowledge or consent. When asked for

her input, the new GAL opined that Kim had violated the terms of the court's joint parenting order.

¶ 24 Joe testified that he believed that it was in the children's best interests that they be fully immunized as recommended by their previous medical providers. Joe was concerned that the girls were at risk for infectious diseases without the recommended vaccinations. He explained that he had been unable to have the children immunized because Kim had objected. He further explained that as a result of Kim's disagreements with Dr. Little, Shawnee Health Care Services had advised that its physicians would no longer treat the girls.

¶ 25 Joe testified that he had recently learned that C.L.'s school had accepted and approved a religious-exemption vaccination waiver that Kim had provided. Joe testified that the waiver had been obtained and submitted without his knowledge or consent. Joe stated that Kim had never previously had a religious objection against immunizing the children. Joe asked the court for the authority to have the children vaccinated.

¶ 26 Kim testified that she did not believe that the children were at risk without the recommended vaccinations and that it was her religious belief that immunizing the girls could potentially harm them. She acknowledged that without Joe's consent, she had recently obtained a vaccination waiver for C.L. from a physician at Southern Illinois Family Medicine. She indicated that she had attempted to inform Joe of the appointment, but he had apparently not received her message.

¶ 27 Kim suggested that Little had violated the law by refusing to sign the exemption waiver that Kim had asked her to sign. Kim subsequently reported Little to the

Department of Financial and Professional Regulation. Kim testified that the letter she had received from Shawnee Health Care advising that its doctors would no longer treat the children was “riddled with inconsistencies and lies.” Kim explained that she had chosen Little to be the children’s pediatrician after Dabrowski had terminated his services because of Joe.

¶ 28 Little subsequently appeared before the parties for an evidence deposition. She testified that she was a board-certified pediatrician employed by Shawnee Health Care and had been the children’s doctor from May 2016 through September 2016. Because there had been issues with the children’s previous health care provider, Dr. Dabrowski, Little immediately established “some very clear guidelines” with the parties with respect to the children’s care. Pursuant to those guidelines, both parties were to be present during all of the children’s appointments; treatment recommendations would be made after hearing input from both parties; and requests for treatments that were not evidence-based would be denied.

¶ 29 Little testified that after initially agreeing to have the girls immunized as recommended, Kim had changed her mind. Kim had then asked Little to sign an immunization waiver when Joe was not present. After Little told Kim to set up an appointment so that the matter could be discussed with Joe, Kim contacted Shawnee Health’s legal department and made inappropriate statements to Little’s supervisor. Little explained that she had not been legally required to sign the waiver that Kim had asked her to sign.

¶ 30 Little testified that Kim had disagreed with the general treatment recommendations that had been made with respect to K.L.'s autism. Little indicated that she would not make referrals for many of the procedures that Kim had requested because they were unnecessary. Little further explained that unnecessary tests and procedures can be traumatic and upset the structure and routine that an autistic child needs. Kim also believed that K.L. should maintain a restrictive diet because of her autism. Little testified that there was no medical evidence suggesting that a special diet would be helpful or beneficial to K.L. Noting that children with autism can be "very picky eaters," Little further testified that restrictive diets can result in nutritional deficiencies.

¶ 31 Little testified that Joe had agreed with her suggestion that K.L. be referred to an autism specialist at Cardinal Glennon Hospital in St. Louis. Joe also wanted the girls to be fully immunized as recommended. Little testified that Joe had made no attempts to speak with her about the children's care when Kim was not present.

¶ 32 Little testified that it would be very difficult to achieve a workable treatment plan for K.L. in light of the parties' disagreements. Little opined that only one of the parties should have the authority over the children's medical decisions. Little testified that she "would be more in favor of Joe making those decisions."

¶ 33 In October 2016, the trial court entered an order granting Joe the authority to have the girls vaccinated. The court determined that it was in the children's best interests that they receive all of the necessary vaccinations and immunizations mandated by the Illinois Department of Public Health. The court further found that the exemption waiver that Kim had obtained for C.L. had been obtained in violation of the joint parenting order.

¶ 34 In July 2017, the new GAL filed her report with the trial court. The report explained that the parties' difficulties continued. The GAL advised that Kim had been trying to undermine Joe's role as a father and had a "penchant for creating drama." The GAL reported that Kim had attempted to keep school-related information away from Joe, had coached the children into saying that Joe was "mean," and had involved the children in her and Joe's personal matters. Kim had also exhibited resentment towards Joe's new wife, Amanda, and had demeaned her in the children's presence. The GAL indicated that Kim was generally intolerant of Joe's disagreement with her positions. The GAL opined that Kim was "obsessive in her need to control the lives of the children."

¶ 35 Noting that many of the parties' disputes occurred during their frequent custody exchanges, the GAL reported that the present allocation of parenting time was problematic to the extent that it required "constant contact by the parties." The GAL recommended that the parties' summer schedule of alternating weeks be used year round.

¶ 36 The GAL indicated that she had read Dr. Little's deposition and had twice spoken with the children's most recent pediatrician, Dr. Ronald Chediak. Based on their professional opinions, the GAL recommended that Joe be granted the decision-making responsibility with respect to the children's medical care.

¶ 37 The cause subsequently proceeded to a hearing on Kim's motion for modification of parenting time, Kim's petition to modify parental responsibility, and Joe's petition to modify the trial court's child custody and joint parenting order. The hearing commenced in July 2017, concluded in September 2017, and included five days of live testimony.

¶ 38 Shanna Hutchens testified that she had been Dr. Dabrowski's clinic manager when the girls began seeing him in September 2015. In February 2016, Dabrowski discharged the children because dealing with the parties' disagreements required too much time and energy. Hutchens testified that contrary to Kim's allegations, Dabrowski had not discharged the children because of Joe's lack of respect and trust. Hutchens indicated that Kim had sometimes been "pushy" when requesting referrals from Dabrowski.

¶ 39 Jennifer Burke, a pre-kindergarten teacher employed by Parrish elementary school in Carbondale, testified that she had lived across the street from the parties and the children during the parties' marriage. Burke stated that Kim was a concerned and dedicated parent, fully capable of meeting the children's needs. Kim also volunteered at Parrish school and was active in the parent-teacher organization. Burke acknowledged that after the parties' separation, Kim had said negative things about Joe in the children's presence.

¶ 40 Ashley Dietz testified that she had been C.L.'s kindergarten teacher at Parrish elementary during the 2016-17 school year. Dietz stated that Kim had been a frequent volunteer during the year and had never exhibited any inappropriate behavior. Dietz testified that Kim had a negative demeanor towards Joe and that C.L. was aware that the parties did not get along. Dietz acknowledged that Kim had sometimes asked her not to share "personal level" information about C.L. with Joe.

¶ 41 Jessica Stoklosa, a special education teacher at Parrish school, testified that she had been a member of K.L.'s individualized education program (IEP) team during the 2016-17 school year and had previously been one of her first-grade teachers. Stoklosa

stated that K.L.'s verbal abilities were below average and that she was generally a quiet student who kept to herself. At times, however, K.L. had exhibited aggressive behavior such as biting and grabbing other children. Stoklosa intimated that the behavior might have been influenced by the parties' separation.

¶ 42 Stoklosa testified that Kim and Joe had both been interested and engaged in K.L.'s education. Kim was very involved and was a frequent volunteer at the school. Kim had K.L. on a regimented diet and provided her lunches most of the time. Joe did not believe that K.L. needed a special diet but did not object.

¶ 43 Stoklosa testified that when the parties met to discuss K.L.'s IEP for the 2016-17 school year, Joe had wanted K.L. to be as independent as possible, and Kim had wanted her placed in a regular classroom. After their concerns were addressed, Joe had agreed with the recommendation that K.L. be placed in a "co-taught" room consisting of two teachers and a one-on-one aide. Kim objected on the basis that she did not personally get along with Katrina Renzaglia, one of the teachers who would be in the co-taught room. Kim eventually agreed to the placement but was "clearly upset" and unhappy about it. Stoklosa felt that Kim had allowed her personal feelings about Renzaglia to interfere with her assessment of K.L.'s best interests. Stoklosa felt that Joe had viewed the situation "more goalistically" and had trusted the IEP team's expertise. Stoklosa testified that during the meeting, Kim had inappropriately interrupted Joe when he tried to ask questions. During the school year, Kim had also made derogatory comments about Joe. Stoklosa opined that if Joe were granted the sole authority to make educational decisions for K.L., he would make good decisions.

¶ 44 Sharonda Marshall testified that she had been one of K.L.'s first-grade teachers at Parrish elementary school and was presently a member of her IEP team. Marshall described K.L. as lovable, smart, and a great student to have in class. Kim was active in the school's parent-teacher organization and frequently volunteered her time.

¶ 45 Marshall testified that during the IEP team's recent meeting with the parties, Kim had interrupted and spoken over Joe when he had asked questions. Marshall explained that "[i]t just seemed like [Joe] didn't have enough say." Kim had also wanted K.L. to be co-taught with someone other than Renzaglia.

¶ 46 Renzaglia testified that she was a special education co-teacher with specialized training in working with autistic children. She testified that she had been one of K.L.'s kindergarten teachers at Parrish elementary during the 2015-16 school year and had also been a member of her IEP team. Renzaglia recognized that the parties' joint custody agreement required her to share all relevant information with both Kim and Joe. She stated that Kim had sometimes not wanted her to relay things to Joe. Kim had also made disparaging remarks about him. Renzaglia indicated that although Kim and Joe had not shared the same views about everything, they were both very involved parents who wanted the best for K.L. Renzaglia testified that K.L. and Joe had a good relationship and that K.L. had always been excited to see him.

¶ 47 Renzaglia stated that Kim had restricted K.L.'s diet for most of the school year. At some point, Renzaglia advised the parties that she was concerned that K.L. was not getting enough to eat. She explained that at lunchtime, "[s]omeone had to sit with [K.L.] to make sure she didn't take food from the other children." K.L. would also rummage

through the trash for food. Kim was concerned that the extra food might interfere with K.L.'s diet, and she instructed Renzaglia to not allow K.L. to eat any additional food that Joe sent to school.

¶ 48 Renzaglia testified that K.L.'s IEP meetings were often contentious and uncomfortable. She indicated that Joe had always been respectful during the meetings but that Kim had often been demanding. Kim frequently called Renzaglia on the weekends during the school year. Renzaglia explained that she had "bent over backward to meet everybody's needs in [the] situation," and she thought that she and Kim had a "good working relationship." Believing that they had "left on good terms," Renzaglia was later "shocked" when she learned that Kim had not wanted her to be K.L.'s second-grade co-teacher.

¶ 49 Renzaglia testified that she was somewhat apprehensive about the upcoming school year. Renzaglia opined that Joe would make proper decisions with respect to K.L.'s education if he were granted sole decision making authority.

¶ 50 Belinda Hill, the principal and superintendant of Giant City school in Carbondale, testified that C.L. had been a student in the school's pre-kindergarten program during the 2015-16 school year. When C.L. first enrolled, Kim had expressed concerns regarding the school's pick-up policy as it related to child custody agreements. Suggesting that there were safety issues involved, Kim had been particularly concerned with Joe's ability to assume custody of C.L. after school. After Hill advised Kim that the school did its best to comply with custody agreements, Kim had provided her with an unsigned petition that purportedly prohibited Joe from picking C.L. up from school. When Joe later provided

Hill with a signed copy of the temporary joint custody order that the trial court had previously entered, Hill was “extraordinarily frustrated” and told Kim that they needed to have a meeting with Joe. In response, Kim got very upset and, in C.L.’s presence, accused Hill of kicking C.L. out of school. When Hill later met with Joe and Kim, she explained that they were expected to honor the terms of their joint custody agreement and that if the police were ever called to the school as a result of their differences, C.L. would be expelled.

¶ 51 Dr. Ronald Chediak testified that he had been the children’s pediatrician for approximately 18 months before recently declining to continue his services. Chediak stated that Joe and Kim had generally disagreed with respect to the children’s medical care, especially K.L.’s. Further stating that in a joint custody situation, it is imperative that the parents work together, Chediak explained that he could not act as the parties’ “mediator” and be an effective physician at the same time.

¶ 52 Chediak testified that it was “pretty obvious” that Kim had strong negative feelings toward Joe. Chediak opined that Joe had always been “easier to deal with,” had a reasonable, level-headed approach to the children’s medical care, and had the ability to make appropriate medical decisions on their behalf. He further opined that the allergy and dietary treatments that Kim had wanted to pursue would not have benefited K.L. At Kim’s request, Chediak had nevertheless made a referral so that K.L. could see an allergist in Chicago. Chediak intimated that what K.L. needed “more than anything else” was a “less divisive, contentious environment.” Explaining that children often exhibit

behavioral issues as a result of their parents' disagreements, Chediak opined that a stable, consistent home life is "one of the most important things for children."

¶ 53 Dr. Sonia McGowin testified that she was a licensed chiropractor and had taken additional training courses in the areas of childhood autism and the biomedical treatment of neurodevelopment disorders. She testified that she had been working with autistic children for many years and was qualified to give opinions regarding autistic children. McGowin explained, among other things, that autistic-related behaviors are often associated with digestive issues and that children with autism frequently suffer from food sensitivities. McGowin stated that every autistic child required an individualized treatment plan to address his or her specific needs. She indicated that the formulation of any treatment plan would begin with a physical examination. McGowin acknowledged that she had never examined K.L. and that she could not dispute another doctor's opinion without first doing so.

¶ 54 Megan Pender, one of K.L.'s therapists at Carbondale Memorial Hospital, testified that she had been working with K.L. on a weekly basis since June 2017. Pender stated that Joe's wife, Amanda, had generally brought K.L. to the appointments and had been very supportive of K.L.'s treatment goals. Pender stated that she had only met Kim once and that Kim had complained that Joe had gotten the children vaccinated and refused to follow Kim's diet for K.L. Kim had also claimed that Joe had "bought or influenced" K.L.'s school teachers. Kim asked that Pender not provide session reports to Amanda.

¶ 55 Amanda testified that she was a registered nurse employed by Southern Illinois Healthcare and had been living with Joe and the children since she and Joe married in

June 2016. She indicated that the children functioned well within the home and were happy there. She and the children got along well, and she did not object to Joe's request for additional parenting time. She stated that she had a flexible work schedule and worked three shifts per week. Amanda testified that she and Joe did not have the children on a restrictive diet and that she had never noticed any changes in K.L.'s post-meal behavior.

¶ 56 Amanda indicated that ever since she and Joe began dating, Kim had been hostile towards them, often in front of the children. Amanda explained that although she rarely went to the parties' visitation exchanges, at times, there had been a need for her to be present. On one such occasion, while Kim was walking to her van with the kids, Kim yelled at Joe, suggesting that he was a stupid, irresponsible "jerk" who mistakenly thought he was "father of the year."

¶ 57 Amanda testified that while walking her dog after Joe had left to meet Kim for a subsequent exchange, Kim had pulled over with her window down and berated Amanda. Amanda testified that Kim had called her fat, stupid, and lazy and had suggested that she had "no business being around the kids." Amanda reported the incident to the police department's non-emergency line and requested that someone at the police department speak with Kim when she arrived to pick up the children.

¶ 58 Several months later, Kim showed up at a gymnastics session that Amanda had taken the girls to during Joe's parenting time. Amanda testified that Kim had repeatedly interrupted the session and had not allowed her to leave with the children before giving them drinks that she had brought. Amanda stated that Kim had loudly criticized her for

the shoes that the girls had been wearing. After similar events followed, the girls stopped attending gymnastics.

¶ 59 Amanda testified that when she and Joe had gone to C.L.'s kindergarten open house together, Kim and C.L. were already there when they arrived. Amanda stated that when Kim saw them, she ran across the room to where C.L. was playing, picked her up, and left. Outside the school, as Joe and Amanda were leaving, Kim yelled for Joe to come over and say goodbye to C.L. Amanda testified that as she and Joe approached Kim and C.L., Kim had stated that C.L. had only wanted say goodbye to Joe, because C.L. and J.L. did not like Amanda. In response, Amanda and Joe turned and walked away.

¶ 60 Joe testified that he was employed by Southern Illinois Healthcare and that he and Amanda both had flexible work schedules that generally allowed them to accommodate the children's schedules. Joe testified that the girls were well-adjusted to their daily routines and Amanda's assistance. Joe asked that the parties' present custody arrangement be modified so that the children would be at his home the majority of the time. Joe believed that the change would be in the children's best interests, because it would minimize the conflicting emotions they experience when they are "put in the middle" of the parties' disagreements. Joe testified that he did not want the children to feel like they had to choose one parent over the other.

¶ 61 Joe testified that he did not say inappropriate things about Kim around the children and that he had explained to them that people can respectfully disagree. Joe believed that Kim did not share the same philosophy and that their conflicts and contentious exchanges unsettled the children, especially C.L.

¶ 62 Joe explained that he had previously requested that the parties' visitation exchanges occur at the Carbondale police department hoping, to no avail, that Kim would "behave in a normal fashion." During one of the parties' exchanges, Kim had a "blowup" because Joe had gotten J.L.'s hair cut. Joe testified that the girls' moods had instantly gone from "[e]xtremely happy" to "stressed" and that J.L. had left the police station crying. Joe denied laughing at Kim during the encounter, explaining that he had been "horrified" by her conduct. On another occasion, Kim complained to the police that some of the children's clothes were missing and screamed at Joe in the children's presence. Joe once arrived at an exchange eight minutes late, and Kim loudly complained in front of the girls. Joe testified that incidents such as these "happened quite often."

¶ 63 Joe testified that since the parties' divorce, he had avoided driving down the street where Kim lives, while she had inexplicably driven by his home on numerous occasions. Joe stated that Kim had once driven by "six times or more" in a matter of minutes while he was outside working in his yard. Kim would sometimes drive by and give Joe "the finger." On another occasion, Kim and her mother walked by Joe's house, before lingering and talking while staring at it from a nearby field. Joe believed that these had been attempts to threaten and intimidate him. Kim had also stopped near Joe's house to scream at Amanda. Joe testified that after Kim had unexpectedly shown up at one of K.L.'s therapy appointments that he had taken her to, Kim had stood in a doorway to block him from leaving. After Joe and K.L. left, Kim called the police reporting that he had pushed her.

¶ 64 Joe indicated that he had purchased a dashboard camera for his car to deter Kim from making false allegations against him. Joe testified that he avoided unnecessary interactions with Kim because she had a tendency to yell at him and cause trouble for everyone involved. Kim disparaged Amanda in front of the girls, calling her names such as “fat pig.” Joe indicated that he and Kim had attempted to resolve some of their differences by attending family therapy together, but he stopped going after Kim had suggested that “it would be better for the girls if [he were] dead.”

¶ 65 Joe testified that it was very important that Kim always be a part of the children’s lives but that her prior conduct had been detrimental to their well-being. Joe indicated that after-school custody exchanges minimized the opportunities for conflict, because the parties did not have to see each other. Joe agreed with the new GAL’s recommendation that he and Kim not simultaneously attend the children’s extracurricular events and activities. Joe intimated that it would be best if he and Kim had limited exposure to each other.

¶ 66 Joe testified that he believed that he and Kim will continue to have conflicts with respect to the children’s doctors and dentists. Stating that the girls did not currently have a primary care physician, Joe testified that he had contacted new pediatricians but had been unable to schedule any appointments because Kim had objected to his selections. Joe had also proposed a dentist for the girls, but Kim had wanted them to see a dentist in Chicago. Joe testified that Kim had also wanted K.L. to see a pediatric gastroenterologist whose offices were in New York and Texas. Joe did not believe that K.L. needed to be

treated by a gastroenterologist because Dr. Fielkow had not recommended that she see one.

¶ 67 Joe testified that Kim had made false claims to parents and teachers that K.L. suffers from food allergies. Joe testified that he did not believe that K.L. needed to see Dr. Sharon for additional allergy or food sensitivity testing, because K.L. had already been tested by Dr. Mings, and the tests were negative. Joe indicated that Drs. Lehman, Dabrowski, Little, Biank, Fielkow, and Chediak had not felt that additional testing was necessary, either.

¶ 68 Joe testified that he did not abide by Kim's restrictive diet for K.L. because he believed that it was potentially harmful to K.L.'s health and caused her to feel isolated. When K.L.'s school informed Joe that she had been taking food from trashcans and peers, he was further concerned that K.L. was not eating enough. Joe testified that he and Kim had previously kept K.L. on a restrictive diet for six months, but he had seen no improvements. Joe indicated that Biank, Dabrowski, Little, Chediak, Mings, and Lehman had opined that K.L. did not need to be on a special diet.

¶ 69 Joe explained that working with Kim during a recent medical emergency had been troublesome. Joe testified that after K.L. had lost consciousness at Kim's house, Kim had called him asking that he watch C.L. and J.L. while she took K.L. to the hospital. Joe agreed and told her that he and Amanda would be right over. When they arrived at Kim's, K.L. and Kim were already in an ambulance. Joe accompanied them to the hospital in the ambulance, while Amanda stayed and watched C.L. and J.L. Kim did not object.

¶ 70 At the hospital, when Kim complained that she could not get a hold of Amanda, Joe told her not to worry. When Joe asked a nurse if K.L. could eat some dinner, Kim yelled at him and insisted that she would provide K.L.'s food because it was her parenting time. Thereafter, the nurse appeared hesitant and indicated that she would have to make inquiries. Before K.L. was discharged, Kim advised Joe that she had called the police because she had not actually authorized Amanda to watch C.L. and J.L. Kim stated that a neighbor could have watched them instead. When the police arrived, Joe and Kim each gave their "side of the story." Amanda subsequently brought C.L. and J.L. to the hospital, and the parties' went their separate ways. Joe believed that Kim's conduct at the hospital had caused unnecessary delays and distractions.

¶ 71 Joe believed that it was in the children's best interests that he be solely responsible for making the children's medical decisions. Joe indicated that making those decisions jointly with Kim was not possible. Joe testified that he wanted appropriate medical treatment for the children and that he believed that Chediak, Dabrowski, and Little had been suitable pediatricians for the girls. Joe testified that the children had "lost" all three due to disagreements with Kim. Joe believed that Shawnee Health was not the only provider network that had refused to accept the children as new patients because of Kim's demands and conduct. Joe feared that if Kim's joint authority continued, the parties would be unable to find a pediatrician who would accept the children as patients.

¶ 72 Joe testified that he would work with the children's medical providers to ensure that the children received whatever care they needed. Joe testified that if granted the authority to do so, he would ask Chediak, Dabrowski, or Little if they would be willing to

“try again.” Joe acknowledged that he did not require the children to follow any kind of special diet; he just wanted them to eat normal, healthy foods. Joe agreed with Chediak’s opinion that what K.L. needed more than anything was a calm, stress-free environment.

¶ 73 Joe believed that it was also in the children’s best interests that he be given sole decision-making authority with respect to their education. Joe opined that Kim had consistently brought unnecessary conflict into situations at the children’s schools and that the resulting outcomes had not been “optimal.” Joe explained that whenever a teacher had disagreed with Kim, she had become vindictive and prone to make personal attacks. Joe cited Kim’s dislike of Renzaglia as an example. Joe testified that Kim’s conduct had also interfered with administrative matters. Joe explained that he had encountered problems registering J.L. for pre-kindergarten because Kim had made herself the “primary parent” in the school’s data system. The staff was thus reticent to let him do anything. Joe indicated that Kim had repeatedly used the language of the court’s joint parenting order against him and had been found in contempt of court for doing so.

¶ 74 Kim testified that she had a master’s degree and was certified to teach primary, middle, and high school classes. She explained that she was a stay-at-home mom by choice and worked part-time for the Carbondale park district, teaching swimming lessons so that the girls would receive reduced fees for their summer programs. Kim testified that she was an educational advocate for children with special needs and was in the process of becoming a certified foster parent. Kim testified that she was the president of the parent-teacher organization at Parrish school.

¶ 75 Kim testified that she had not yelled or screamed at Joe since their divorce and had never given him “the finger.” Kim testified that she could not recall yelling at Joe in the children’s presence, as he and Amanda had asserted. Kim indicated that she had not repeatedly driven by Joe’s house, as he had claimed. Kim explained that she used the street that Joe lived on “like any other person.” Kim testified that Joe’s house was located along the “regular route” that she had either walked or ran since the parties’ marriage and that she had also walked the route with her mother. Kim denied that she had pulled over and berated Amanda while Amanda was walking her dog.

¶ 76 Kim explained that she had gotten upset when she saw that Joe had gotten J.L.’s hair cut because she had previously asked him not to, and he had agreed that such decisions would be left to her. Kim testified that Joe had laughed at her when she asked him where J.L.’s hair had gone. Kim denied that J.L. had left the police station crying. Kim complained that Joe was often late for visitation exchanges.

¶ 77 Kim denied speaking negatively about Joe in the children’s presence and could not recall saying that it would be better for the girls if Joe were dead. Kim acknowledged that the girls had heard her make comments about Amanda that were in “poor taste.” Kim suggested that Amanda’s claims that there had been incidents at the girls’ gymnastics sessions were false. Kim explained that C.L.’s kindergarten open house had not gone “as smoothly as [she] had hoped” because Joe had failed to respond to her e-mail suggesting how they divide the time.

¶ 78 Kim believed that Joe’s marriage to Amanda had negatively affected his ability to co-parent and that he had been allowing Amanda to become a substitute mother for the

girls. Kim did not agree with the new GAL's suggestion that she and Joe not attend the children's extracurricular activities at the same time. Kim did not feel that it was appropriate for Amanda to attend the activities, however, because of the way Joe acted around Amanda. Kim maintained that Joe had been trying to push her out of the children's lives and that Joe and Amanda had been collaboratively working against her.

¶ 79 Kim testified that she should be given the sole medical decision-making authority for the children because she was a strong advocate and would insist that their pediatrician provide them with the care that they needed. She further indicated that she knew more about K.L. and autism than Joe did. Kim testified that she wanted Dr. Sharon to perform allergy and immunodeficiency testing on K.L. because she believed that K.L. has food sensitivities and possible immunological problems. Kim explained that Chediak had made the necessary referral, but Joe had objected because Sharon's office was in Chicago. Joe had also failed to abide by Kim's diet for K.L. and refused to consent to K.L.'s treatment by a dietician. Kim indicated that K.L.'s acts of taking food from garbage cans or peers were not related to her special diet. Kim denied that the stress caused by the parties' conflicts had any effect on K.L.'s behaviors. Kim stated that she had not wanted the children to get immunized for religious reasons. Kim claimed that she had "fired Dr. Little" before reporting her to the Department of Financial and Professional Regulation. Kim indicated that Chediak and Dabrowski had withdrawn because of Joe's refusal to cooperate.

¶ 80 With regard to the recent incident at the hospital, Kim testified that before she, Joe, and K.L. had departed in the ambulance, she had specifically told J.L. and C.L. to go

down the street to the Martins' house. Joe had then instructed Amanda to watch them. Kim anticipated that Amanda was going to follow the ambulance to the hospital. Kim later called Amanda to see if she had fed J.L. and C.L. Kim became worried when Amanda refused to take her calls. Kim testified that she had subsequently called the police, reporting that "there was a custody problem." The police responded, and the situation was resolved by Amanda bringing J.L. and C.L. to the hospital.

¶ 81 With respect to Hill's testimony, Kim stated that she had not given Giant City school a fraudulent court order; she had given them an outdated temporary order, because a new order had not yet been signed. Kim indicated that while she and Hill were debating which order was controlling, she had used a "poor choice of words" when suggesting that Hill was trying to kick C.L. out of school.

¶ 82 Kim denied ever claiming that she was the children's custodial parent. She also denied having ever filed a false report with the Department of Children and Family Services. Kim acknowledged that she can be "pushy" at times, but she explained that she sometimes had to be to "get the job done." Kim denied that she had ever been found in contempt of court for failing to abide by the terms of the joint parenting order.

¶ 83 Kim requested that the parties' parenting time be modified so that Joe would have the children every other weekend and every other Wednesday for an overnight. Kim stated that Joe's Wednesday evenings with the girls had become a problem and that the modification would give her and the girls more downtime on the weekends. She also asked that the holiday schedule be amended so that she and the girls could take out-of-state trips to visit extended family during the holidays. Kim suggested that the parties'

visitation exchanges take place at her house because the exchanges at the police station were traumatic for everyone involved and would be detrimental to her future foster kids. Kim stated that she would not communicate with Joe during the exchanges and would remain inside her house.

¶ 84 During closing arguments, Joe's attorney noted that the parties' diverging testimony presented "an issue of credibility" for the court to decide. The trial court subsequently took the matter under advisement.

¶ 85 On September 22, 2017, the trial court entered a 35-page allocation of parental responsibilities judgment that disposed of Kim's motion for modification of parenting time, Kim's petition to modify parental responsibility, and Joe's petition to modify the court's child custody and joint parenting order. The court indicated that Kim was not credible and had failed to prove any of the allegations set forth in her pleadings. The court found that Joe had presented credible evidence, however, and had proven, among other things, that Kim had attempted to alienate him from the children and had repeatedly violated the terms of the court's joint parenting order.

¶ 86 After making express findings with respect to the relevant statutory factors (see 750 ILCS 5/602.5(c) (West 2016)) and noting that the parties had stipulated that the court's joint parenting order could be modified as to decision-making earlier than two years after the date of its entry (see *id.* § 610.5(a)), the trial court determined that it was in the children's best interests that Joe be granted the sole decision-making authority with respect to the children's healthcare and education. Finding that Joe had proven that a substantial change in circumstances warranting a modification of the parties' parenting

time had arisen since the entry of the joint parenting order (see *id.* § 610.5(c)), the court further determined that it was in the children’s best interests that they reside with Joe and that Kim be given the first three weekends of every month for parenting time. The court’s judgment included separate provisions for holidays and seasonal breaks. The court specifically directed the parties not to speak negatively about each other in the children’s presence or question the children about the other parent’s activities or relationships.

¶ 87 On September 27, 2017, Kim filed a motion for mandatory recusal. See 735 ILCS 5/2-1001(a)(1) (West 2016). The motion requested that the trial court’s judgment be set aside and that the cause be reassigned to another judge. Another judge subsequently considered the motion and on December 11, 2017, entered an order denying it.

¶ 88 On September 29, 2017, Kim filed a motion to reconsider the trial court’s allocation of parental responsibilities judgment. See *id.* § 2-1203. The motion alleged, *inter alia*, that the court had ignored evidence that had been favorable to Kim’s case and that the modification of the parties’ parenting time was “punitive.” The motion further alleged that the trial court had violated the Autism and Co-Occurring Medical Conditions Awareness Act (Autism Act) (410 ILCS 150/1 *et seq.* (West 2016)). The motion to reconsider also referenced the allegations previously set forth in Kim’s motion for mandatory recusal.

¶ 89 On December 18, 2017, the trial court denied Kim’s motion to reconsider the allocation of parental responsibilities judgment. The court noted that the motion primarily reargued the evidence that had been presented for the court’s consideration. The court found that Kim’s reliance on the Autism Act was misplaced given that K.L.’s medical

care had not been restricted and that Kim’s parental rights had not been at issue. On January 16, 2018, Kim filed a timely notice of appeal.

¶ 90

DISCUSSION

¶ 91 Joe initially maintains that we lack jurisdiction over Kim’s appeal because the 30-day deadline for filing her notice of appeal commenced when her motion for mandatory recusal was denied on December 11, 2017. We disagree. As Kim correctly notes, she had 30 days to file her notice of appeal “after the entry of the order disposing of the last pending postjudgment motion” (Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017)), and her motion to reconsider was still pending when her recusal motion was denied. Joe further suggests that Kim’s motion to reconsider violated Illinois Supreme Court Rule 274, which states, “A party may make only one postjudgment motion directed at a judgment order that is otherwise final.” Ill. S. Ct. R. 274 (eff. Jan. 1, 2006). Rule 274 governs successive postjudgment motions, however (see *id.* at Committee Comments), and here, the trial court properly treated Kim’s motions as supplemental (see *In re Marriage of Jones*, 187 Ill. App. 3d 206, 213-14 (1989)).

¶ 92 On appeal, Kim argues that we should reverse the trial court’s judgment modifying the parties’ parenting time and awarding Joe the sole decision-making responsibility with respect to the children’s education and healthcare. Because the trial court’s determination that the changes were in the children’s best interests is not against the manifest weight of the evidence, however, we affirm the court’s judgment.

¶ 93 Parenting time and parental decision-making responsibilities are both allocated in accordance with the best interests of the child. See 750 ILCS 5/602.5(a), 602.7(a) (West

2016); *In re Parentage of J.W.*, 2013 IL 114817, ¶ 41. When determining a child’s best interests, “the court must consider the particular facts and circumstances of each case.” *In re Marriage of Stuart*, 141 Ill. App. 3d 314, 318 (1986). A trial court’s findings as to a child’s best interests are entitled to great deference because the court “is in a better position than we are to observe the personalities and temperaments of the parties and assess the credibility of the witnesses.” *In re Marriage of Whitehead*, 2018 IL App (5th) 170380, ¶ 21. Accordingly, “[a] trial court’s determination of what is in the best interests of the child should not be reversed unless it is clearly against the manifest weight of the evidence and it appears that a manifest injustice has occurred.” *In re Marriage of Eckert*, 119 Ill. 2d 316, 328 (1988). “A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident.” *In re A.P.*, 2012 IL 113875, ¶ 17. “In determining whether a judgment is contrary to the manifest weight of the evidence, the reviewing court views the evidence in the light most favorable to the appellee.” *In re Marriage of Bates*, 212 Ill. 2d 489, 516 (2004). “Where the evidence permits multiple reasonable inferences, the reviewing court will accept those inferences that support the court’s order.” *Id.*

¶ 94

Decision-Making Responsibilities

¶ 95 When determining a child’s best interests for purposes of allocating significant decision-making responsibilities, the trial court must consider all relevant factors, including (1) the wishes of the child; (2) the child’s adjustment to his or her home, school, and community; (3) the mental and physical health of all involved; (4) the ability of the parties to cooperate to make decisions, or the level of conflict between the parties

that may affect their ability to share decision-making; (5) the level of each parent's participation in past significant decision-making with respect to the child; (6) any prior agreement or course of conduct between the parties relating to decision-making with respect to the child; (7) the wishes of the parents; (8) the child's needs; (9) the distance between the parents' homes, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement; (10) whether a restriction on decision-making is appropriate; (11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child; (12) the physical violence or threat of physical violence by a parent directed against the child; (13) the occurrence of abuse against the child or other member of the child's household; (14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and (15) any other factor that the court expressly finds to be relevant. 750 ILCS 5/602.5(c) (West 2016). "Although a trial court must consider all relevant factors when determining the best interests of a child, it is not required to make an explicit finding or reference to each factor." *In re Custody of G.L.*, 2017 IL App (1st) 163171, ¶ 43.

¶ 96 Here, the trial court laudably made specific findings with respect to all of the statutory factors when determining that it was in the children's best interests that Joe be allocated the parental decision-making responsibilities with respect to the children's education and healthcare. The court noted that it had "recited some, but not all, of the evidence it relied on." The court indicated that the first, second, third, tenth, and

fourteenth statutory factors were either neutral or irrelevant under the circumstances. With respect the remaining factors, the court's findings included the following.

¶ 97 Regarding the fourth factor, *i.e.*, the ability of the parties to cooperate to make decisions or the level of conflict between the parties that may affect their ability to share decision-making, the trial court found that the level of conflict between the parties made it impossible for them share decision-making. The court suggested that Kim had difficulties ceding control of any issue involving the children and that Joe had a tendency to rebel against her demands.

¶ 98 When addressing the fifth and sixth factors, which concern the parties' prior participation and practices related to significant decision-making, the court noted that both parties had participated in the past decision-making with respect to the children. Since the parties' divorce, however, Kim had attempted to preclude Joe's participation. The court noted that Kim had been found in contempt of court for violating the terms of the joint parenting order and had tried to marginalize Joe's input during K.L.'s last IEP meeting. The court suggested that Kim had taken it upon herself to assume the primary responsibilities associated with K.L.'s therapies. The court found that Kim was generally unwilling to consider any opinion except her own. The court suggested that Kim had sought out doctors who she "felt would agree with her."

¶ 99 The seventh and eight factors consider the wishes of the parties and the needs of the children. The court noted that both parties had requested sole decision-making authority. The court determined that the girls' greatest need was for the parties to "get along and reduce the stress their testy relationship imposes on their children."

¶ 100 With respect to the ninth factor, *i.e.*, the distance between the parties' homes, the cost and difficulty of transporting the children, the parties' and the children's daily schedules, and the ability of the parties to cooperate in the arrangement, the court noted that the parties lived close to one another and that transportation was not an issue. The court questioned the parties' ability to cooperate with respect to any arrangement regarding the children's schedules.

¶ 101 The eleventh factor is the willingness and ability of each party to facilitate and encourage a close and continuing relationship between the other party and the children. The court found that Kim was apparently incapable of encouraging the children's relationship with Joe. The court found that Kim harbored a high level of animosity towards Joe, noting, among other things, that when he testified, she had expressed "obvious satisfaction whenever [he] stumbled in his testimony or struggled to find a word." The court concluded that Kim wanted to "minimize the part [Joe] plays in the lives of the children." The court determined that Joe's attitude with respect to the children's relationship with Kim was significantly different. The court noted that there was no evidence that Joe had ever denigrated Kim "either in or outside the presence of the children."

¶ 102 The thirteenth factor concerns the occurrence of abuse against the children or other members of the children's household. The trial court found no credible evidence of abuse by either party. The court noted, however, that Kim had attempted to obtain an order of protection against Joe soon after the reentry of the joint parenting order. The court characterized the act as "a transparent attempt to interfere with [Joe's] contact with the

children and to try to portray [him] as a bad parent, even though there is no evidence that he is.”

¶ 103 Lastly, with respect to factor fifteen, “any other factor that the court expressly finds to be relevant” (750 ILCS 5/602.5(c)(15) (West 2016)), the court observed that the girls did not presently have a primary care physician and that several pediatricians had either discharged or refused to accept them as patients due to the parties’ disagreements over the care they should receive. The court concluded that the predicament was primarily due to Kim’s pattern of taking the parties’ disputes into the doctors’ offices. The court found that Kim had violated the terms of the joint parenting order by scheduling appointments for the children without Joe’s knowledge or consent. The court further found that while Kim’s goal of obtaining the best possible treatment for the children was “admirable,” she had “lost sight of the goal.” The court observed that instead of following the advice of the girls’ pediatricians, Kim had sought out alternative remedies without first considering their relative value or proven effectiveness. The court found that Kim had failed to present any evidence supporting her claims that K.L. needed additional allergy testing or a special diet. The court stated that after it had asked Kim to provide a list of her proposed doctors and procedures, she had “provided a list of providers and a general statement that the specific testing would be determined by these physicians.” The court found that Kim had failed to present any evidence that K.L. needed to be seen by physicians outside of southern Illinois or that the alternative treatments she sought for K.L. were necessary. The court stated that although Joe tended to “err on the side of being too accepting of the current standard of care,” his approach

was “more likely to provide good medical care for the children without subjecting them to unnecessary appointments and treatments.” The court also opined,

“These parties might make a good team if they could cooperate in the children’s best interests. If one could combine the aggressiveness of [Kim’s] search for remedies with [Joe’s] more measured approach to what remedies are worthy of follow-up, it is likely the children would have the best of both worlds. This is not possible at this time.”

The court referenced the testimony that Kim had allowed her personal feelings about Renzaglia to interfere with her assessment of K.L.’s best interests. The court found that the IEP team’s opinions with respect to K.L.’s needs were more credible than Kim’s.

¶ 104 Here, viewed in the light most favorable to Joe, the evidence adduced at the hearing supports the trial court’s assessment of the factors it deemed relevant in the present case. The evidence further supports the court’s determination that the balance of the factors weighed in favor of a finding that was in the children’s best interests that Joe be given sole decision-making responsibility with respect to the children’s healthcare and education. As a result, we cannot conclude that the trial court’s judgment is contrary to the manifest weight of the evidence.

¶ 105 On appeal, Kim suggests that the court considered the wrong evidence and thereby arrived at the wrong conclusion. However, “[i]t is not the function of this court to reweigh the evidence or assess the credibility of testimony.” *In re Marriage of Pfeiffer*, 237 Ill. App. 3d 510, 513 (1992). Nor can we “set aside the trial court’s determination merely because a different conclusion could have been drawn from the evidence.” *Id.*

¶ 106 Kim also argues that by granting Joe the sole decision-making authority with respect to K.L.’s medical treatment, the trial court violated the Autism Act, which in relevant part provides that a parent or legal guardian “shall not be threatened with loss of parental or legal guardianship rights for a person with autism spectrum disorder for pursuing additional medical expertise.” 410 ILCS 150/30 (West 2016). We disagree, and we reject Kim’s contention that the trial court “discriminate[d] against alternative medicine” and penalized her for pursuing alternative treatments. The court rather took issue with the manner in which Kim managed the children’s healthcare needs. As Joe observes on appeal, the court encouraged Kim’s exploration of new and alternative treatments “but suggested that it should be tempered with judgment as to which alternative treatments should be pursued.” The court also recognized that Kim’s reliance on the Autism Act was ultimately misplaced. The court imposed no restrictions on K.L.’s treatment options, and Kim’s parental rights were never at stake. See *In re Marriage of Rhodes*, 326 Ill. App. 3d 386, 388 (2001) (noting that although the Illinois Marriage and Dissolution of Marriage Act grants the trial court the authority to enter orders concerning the care and custody of the children involved in a dissolution proceeding, “the scope of that act does not include or encompass termination of parental rights”).

¶ 107 Parenting Time

¶ 108 When modifying the parties’ parenting time, the trial court cited section 610.5(a) and 610.5(c) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/610.5(a), (c) (West 2016)). Section 610.5(a) provides, in pertinent part, that parenting time may be modified “at any time, without a showing of serious endangerment, upon a

showing of changed circumstances that necessitates modification to serve the best interests of the child.” *Id.* § 610.5(a). In pertinent part, section 610.5(c) provides,

“[T]he court shall modify a parenting plan or allocation judgment when necessary to serve the child’s best interests if the court finds, by a preponderance of the evidence, that on the basis of facts that have arisen since the entry of the existing parenting plan or allocation judgment or were not anticipated therein, a substantial change has occurred in the circumstances of the child or of either parent and that a modification is necessary to serve the child’s best interests.” *Id.* § 610.5(c).

The parties do not dispute that their joint custody agreement was a “parenting plan.” See *id.* § 600(f).

¶ 109 When modifying the parties’ parenting time, the trial court stated that Joe had proven, by a preponderance of the evidence, that on the basis of facts that had arisen since the entry of the joint parenting order, a substantial change had occurred in the circumstances of the children and the parties and that it was in the children’s best interests that Joe be given the majority of the parenting time. Although the court did not make specific findings as to the facts that had arisen or the substantial change that had occurred, the court referenced its previous findings and emphasized the girls’ need for a stable home life. The court explained that “unless the relationship between the parties improve[d], they [would] do irreparable damage to their children.” The court stated that it did not believe that the “50-50 split” that the new GAL had recommended would be in the children’s best interests. The court was concerned that “having the children reside in [Kim’s] home 50% of the time when [Joe] had sole decision-making authority [would]

provide more opportunities for [Kim] to engage in the sort of mischief regarding decision-making that the record shows she had engaged in to this point.” The court determined that Joe’s home was more likely to provide the stability the children needed. Again viewing the evidence adduced at the hearing in the light most favorable to Joe, we cannot say that the trial court’s judgment is against the manifest weight of the evidence.

¶ 110 The evidence showed that since the entry of the joint parenting order, Kim had attempted to alienate Joe from the children and marginalize his role as a father. Amanda and Joe recounted numerous instances of harassment, and the trial court observed that Kim’s animosity towards Joe was readily apparent. Kim repeatedly disregarded the joint parenting order and filed for an order of protection in what the court described as “a transparent attempt to interfere with [Joe’s] contact with the children and to try to portray [him] as a bad parent.” The court noted that Kim was seemingly incapable of fostering the children’s relationship with Joe. The court found that Joe had a significantly different attitude regarding the girls’ relationship with Kim.

¶ 111 Under the circumstances, it was reasonable for the trial court to conclude that Joe had proven that a substantial change in circumstances had occurred since the entry of the joint parenting order and that it was in the children’s best interests that Joe be awarded the majority of the parenting time. On appeal, Kim suggests that the modification was punitive and that at the very least, the court should have followed the new GAL’s recommendation that the parties’ existing summer schedule of alternating weeks be used year round. The trial court was not required to accept that recommendation, however (see *In re Marriage of Petraitis*, 263 Ill. App. 3d 1022, 1031 (1993)), and we cannot say that

the court's concern that a "50-50 split" would lead to further problems was unfounded. The court had ample opportunity to observe the demeanor of the witnesses, and we will not second-guess its findings. See *In re Marriage of Wendy L.D.*, 2017 IL App (1st) 160098, ¶ 87.

¶ 112

CONCLUSION

¶ 113 For the foregoing reasons, the trial court's allocation of parental responsibilities judgment disposing of Kim's motion for modification of parenting time, Kim's petition to modify parental responsibility, and Joe's petition to modify the court's child custody and joint parenting order is hereby affirmed.

¶ 114 Affirmed.