2018 IL App (5th) 180009-U

NO. 5-18-0009

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

In re MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
DAVID P. CARR,	)	St. Clair County.
	)	
Petitioner-Appellee,	)	
	)	
and	)	No. 13-D-469
	)	
HOLLIANDRA M. CARR,	)	Honorable
	)	Julia R. Gomric,
Respondent-Appellant.	)	Judge, presiding.

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

ORDER

¶ 1 *Held*: The trial court's allocation of the majority of the parenting time to petitioner was not an abuse of discretion or against the manifest weight of the evidence where the record indicated that the respondent was unwilling or unable to facilitate or encourage a close and continuing relationship between the petitioner and the minor child.

¶ 2 The respondent, Holliandra (Holli) Carr, appeals the order entered by the circuit court of St. Clair County, which allocated the petitioner, David Carr, the majority of the parenting time with the parties' minor child, A.C. For the following reasons, we affirm.

¶ 3 As a preliminary matter, because this appeal involves an allocation of parenting-time determination, Illinois Supreme Court Rule 311(a)(5) (eff. Mar. 8, 2016) requires that, except for good cause shown, the appellate court issue its decision within 150 days of the filing of the notice of appeal. Accordingly, the decision in this case was due on June 3, 2018. The case was placed on the June 7, 2018, oral argument schedule, and we now issue this Rule 23 order.

¶ 4 David and Holli were married on October 21, 2007, and divorced on April 17, 2014. The couple had one child, A.C., born on October 21, 2012.

¶ 5 On August 20, 2013, the original trial court judge awarded David parenting time on alternating Sundays, starting at 1 p.m., and ending on Monday at 5 p.m. David was also awarded parenting time with A.C. during the "weekday workdays" while Holli was at work. At that time, David worked from home as an artist during the week and on weekend nights at a dinner theatre in St. Louis, Missouri, and Holli was a new accounts representative at a local bank. The court noted that "right now [Holli is] deemed the primary residential custodian, and it only becomes significant once your child reaches *** school age and that's kind of a general factor."

¶ 6 On April 17, 2014, a judgment of dissolution of marriage was entered in which the trial court found that both David and Holli were fit and proper persons to have joint parental decision-making of A.C. Pursuant to the terms of the joint parenting agreement, the court awarded joint parental decision-making and alternating week-to-week physical parenting time, with Sunday exchanges at 6 p.m. in Lincoln, Illinois, given that Holli was moving to Watseka, Illinois, four hours north of the parties' current residences in

Belleville, Illinois. The order also stated: "Until Holli's relocation, she may take advantage of David's availability to watch [A.C.] if she is at work."

¶ 7 Prior to the written order, the trial court orally pronounced that its determination was contingent upon Holli finding and securing a teaching position after she moved to Watseka, stating:

> "THE COURT: If you don't have that lined up then we're going to come back here that first week of August and I may change the whole thing."

¶ 8 On December 10, 2014, the trial court sanctioned Holli, indicating that it perceived her "tendency to [act] before the fact and just expect approval later" as troublesome. David alleged that Holli had changed A.C.'s primary care physician without notice or discussion and had failed to provide David with access to the new physician. As a result, the court modified Holli's driving responsibilities for 60 days, with Holli driving the bulk of the distance every Sunday. No further modifications were ordered.

¶ 9 On January 16, 2015, the parties appeared before the trial court on David's motion to reopen proofs regarding Holli's continual lack of improvement in communicating with David. David alleged that Holli applied for the Head Start Program without providing David's name as A.C.'s father and without informing David of A.C.'s progress in the program; that Holli took A.C. to an emergency room in Belleville without informing David, even though David lived a short drive away; and that Holli changed A.C.'s primary care physician without consulting him. The court granted the motion to reopen proofs and ordered the parties to attend mediation.

¶ 10 Following an unsuccessful mediation, David filed a motion to modify the physical parenting schedule on March 27, 2015. In particular, David requested designation as A.C.'s primary residential custodian and for modification of the current parenting schedule.

¶ 11 On July 13, 2015, a successor judge conducted a hearing regarding David's motion to modify the current parenting schedule. At that time, the parties had parenting time on a weekly basis with Sunday exchanges. The court heard testimony from both parents regarding their ideal parenting schedules, but no other witnesses testified at that time. David requested that the court modify the current schedule, allowing him to spend more time with A.C. as her designated primary residential custodian. David testified that he felt "like there's an extreme lack of stability" with the current parenting schedule due to the following: Holli's failure to identify David as A.C.'s father on medical and educational forms; Holli's attempt to alienate A.C. from him during Sunday exchanges; Holli's failure to communicate injuries to David in a timely fashion; and Holli's overall lack of communication regarding her remarriage and several changes in residence.

¶ 12 In sum, the transcript provided a continuation of the same arguments heard in prior hearings, which included a lack of communication among the parties regarding medical and educational issues; Holli's lack of cohesiveness with David at times; and concern regarding Holli's personal, financial, and professional stability.

¶ 13 On August 11, 2015, the trial court ordered the continuation of joint parental decision-making. However, the court determined that the current schedule was "not in the best interest of the child"; therefore, it named David as A.C.'s primary residential

custodian and modified Holli's visitation from alternating weeks to alternating weekends. The court provided a detailed physical parenting schedule for specific holidays and birthdays in both even-numbered and odd-numbered years. The court awarded each parent a two-week period during the summer, effective once A.C. began kindergarten. At the time of the order, A.C. was less than three years old.

¶ 14 On September 10, 2015, Holli filed a timely motion for reconsideration. On October 7, 2015, the trial court subsequently denied the motion. Thereafter, Holli filed a timely notice of appeal. On appeal, this court vacated the trial court's order, finding that the court erred in focusing solely on the best-interest factor concerning "the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child" (750 ILCS 5/602(a)(8) (West 2014)), without setting forth an analysis on the remaining statutory factors for determining custody under section 602(a) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/602 (West 2014)). *In re Marriage of Carr*, 2016 IL App (5th) 150476-U. Thus, this court remanded for a "new hearing for the [trial] court to consider all evidence to the date of the new hearing regarding the best interest of the child pursuant to section 602.7 of the Act (Pub. Act 99-90, § 5-15 (eff. Jan. 1, 2016) (adding 750 ILCS 5/602.7))."[1] *In re Marriage of Carr*, 2016 IL App (5th) 150476-U, ¶ 22.

[1]Section 602 of the Act (750 ILCS 5/602 (West 2014)) was repealed by Public Act 99-90, which replaced that provision with a new provision, adding section 602.7 (Pub. Act 99-90, § 5-15 (eff. Jan. 1, 2016) (adding 750 ILCS 5/602.7)). That new law took effect on January 1, 2016, after the initial appeal was filed but before either party filed a brief.

¶ 15 On remand, the trial court held a hearing on parenting time pursuant to section 602.7. At the hearing, David testified at length about conflicts that arose between him and Holli and described certain events and behaviors that evidenced Holli's attempts to alienate A.C. from him and her inability to provide appropriate protections for A.C. David testified that he knew Holli was moving to Watseka to live with her parents, but he did not find out the date of the move until it had already happened. He had a disagreement with Holli before the move because he believed that the trial court had ordered her to remain in the area until the August 2014 review hearing, at which the court would evaluate whether she had complied with the previous order and determine whether to approve her move.

¶ 16 David testified that in Watseka, Holli lived in her parents' house and she and A.C. shared a bedroom. David testified that Holli changed A.C.'s primary care physician and enrolled A.C. in in-home daycare without notice or discussion. Specifically, he explained that Holli changed A.C.'s primary care practitioner from Dr. Quaas in Belleville to a nurse practitioner at Cissna Park Medical Clinic (Cissna clinic). However, he acknowledged that A.C. only went to the Cissna clinic when A.C. had an ear infection while at Holli's house or was otherwise sick while in her care. Her wellness appointments were still scheduled with Dr. Quaas. He testified that Holli also failed to list him as A.C.'s father on the initial paperwork at Cissna clinic.

¶ 17 David further testified that, although Holli expressed interest in enrolling A.C. in a Head Start program, Holli initiated the enrollment process, which consisted of home visits and health, hearing, and vision screenings, without any notice or discussion. When

he learned that A.C. had been accepted into the program in November 2014, he requested the enrollment paperwork from Holli. Although Holli had the paperwork on December 6 and had uploaded it to her Google drive, she did not share those documents with David until 10 days after the December 10 hearing where she was sanctioned for failing to share information with him. While reviewing the documents, David discovered that Holli listed her parents, instead of him, as A.C.'s emergency contact. Because he was not listed on the initial enrollment paperwork, he had to submit multiple documents proving that he was A.C.'s father to obtain access to her records. He also discovered that Holli answered "no" when asked whether father would be interested in participating in male-involvement activities.

¶ 18 David also testified about two incidents at daycare within a two-week period in which A.C. sustained a cut on her right cheek (during the first incident) and "marks" on her face and nose and two black eyes (during the second incident). The first incident occurred when A.C. walked into a bookcase, and the second resulted from A.C. and her cousin getting into a fight over a toy. Based on these incidents, David requested that Holli find an alternative daycare for A.C.

¶ 19 David also testified about an incident that occurred on Monday, April 13, 2015, in which A.C. sustained "an unusual pair of scratches on her arm" at daycare. A.C. told Holli that the daycare provider had grabbed her arm, but the daycare provider denied that it happened and could not explain the source of the scratches. Although Holli reported the incident to the Department of Children and Family Services (DCFS), she took A.C. to that same daycare the following day. When Holli told David about the incident on

Wednesday, he expressed his concerns about A.C. returning to that daycare. He testified that he was worried that Holli did not understand the severity of the incident because she took A.C. back to the daycare.

¶ 20 David also discussed several incidents where A.C. sustained scratches or bruises while at Holli's house and explained that he was concerned about these minor injuries because he believed that A.C. was not being properly supervised there.

¶ 21 David also testified about instances where Holli made unilateral decisions affecting A.C. without consulting him for input. David learned that Holli was getting remarried in late May through a mutual friend. On June 1, 2015, Holli told David that she had gotten married and was moving from Watseka to Pawnee. Holli also told him that she would no longer qualify for Medicaid insurance, and David indicated that he would add A.C. to his insurance, beginning in July. On July 24, Holli filled out a registration form for A.C. to attend preschool at the Chatham Baptist Child Development Center (Chatham preschool) in Chatham, Illinois. The form listed a physician in Springfield, Illinois, as A.C.'s primary care physician even though A.C. had never been to the Springfield physician. It also listed Blue Cross Blue Shield, which was her husband's insurance, as A.C.'s primary insurance. David explained that, even though he knew that Holli could add A.C. to her husband's insurance, he asked her not to because he believed that A.C. should either be on Holli's insurance or his insurance. Because David had already added A.C. to his insurance, this resulted in A.C. being "doubly insured."

¶ 22 As for Holli enrolling A.C. in Chatham preschool, David explained that he initially objected to A.C. attending preschool there because he had not received all of the

enrollment paperwork; Holli only gave him the signature page. Once he received the rest of the enrollment forms, he realized that the preschool required the parents to sign an agreement promising to uphold the beliefs of the Southern Baptist Church. Because he did not agree with the church's policies, he expressed his concerns to Holli and refused to sign the agreement. Holli then found a preschool in Pawnee and enrolled A.C. in that school. Thereafter, Holli informed David that she had accepted a job at Madonna daycare in Pawnee and that A.C. would be going to daycare there while she was at work.

¶ 23 David testified that Holli's husband created a GoFundMe fundraiser page to raise money for their legal fees. The page stated as follows: that David had "spun a bunch of lies in court to take [A.C.] away most of the time. He is definitely not the best person for her to be with. On the other hand my wife is a wonderful mother and teacher. We've got until Thursday, September 10, to have a retainer fee in our attorney's hand and file in court to try and get things fixed." The post included a photograph of A.C. and her stepsister.

¶ 24 Holli testified that David knew she was moving to Watseka because the trial court approved the move in April 2014, and they had also had conversations about the move. She moved to be near family for support and to find employment as a teacher. While living in Watseka, she lived in her parents' home and shared a bedroom with A.C. She and her parents discussed remodeling the office in the home so she could have her own bedroom but that never happened.

¶ 25 Holli admitted that she had at times failed to promptly notify and communicate with David regarding A.C.'s medical and educational information. She acknowledged

that she took A.C. to a different primary care physician in August 2014 after she moved to Watseka and did not notify David of that fact until October 2014. She explained that she had not changed A.C.'s primary care doctor and only took her to Cissna clinic to establish her as a patient at a local medical facility and because A.C. needed a current physical examination for daycare. However, she admitted to listing Cissna clinic as A.C.'s family physician on the Head Start paperwork. She again changed A.C.'s doctor when they moved from Watseka to Pawnee so A.C. would have a physician in the area. She listed the new doctor as A.C.'s physician on the Chatham preschool enrollment paperwork and the Madonna daycare application even though the doctor had never seen A.C. She acknowledged that she changed A.C.'s primary care doctor with Medicaid but explained that she was not trying to remove A.C.'s original doctor as her primary care physician and that, instead, she was told that she had to change A.C.'s physician when she updated her address with Medicaid.

¶ 26 Holli explained that she failed to include David's name on several forms in the past, such as the Head Start application forms and medical forms, because she thought someone who lived closer should be an emergency contact for A.C. She indicated that this was not an attempt to interfere with the relationship between David and A.C. and that had she known that it would make it difficult for David to obtain A.C.'s information, she would have included his name on the forms.

¶ 27 Holli testified as follows with regard to the Head Start program. In July 2014, while living in Watseka, she filled out the application for the Head Start in-home program. On October 3, Linda from Head Start conducted a home visit at Holli's

residence so they could talk about the program and fill out some paperwork. Although Holli admitted that she failed to list David on the Head Start enrollment paperwork, she testified that she did tell Linda about David and their parenting-time arrangement. She told Linda that David would not be interested in participating in male-involvement activities because he was four hours away but acknowledged that she should have asked David about the activities. On October 23, she notified David that she had filled out the application. A.C. was thereafter accepted into the program, which started in November. She did not have any further discussions with David about the program until she notified him on November 18 that A.C. had been accepted into the program. As for her delay in giving David access to the enrollment documents, she explained that she wanted to make sure that she had all of A.C.'s records before sending them to David. She had Linda add David to A.C.'s file in January 2015.

¶ 28 When asked to explain the circumstances surrounding the scratches and bruising that A.C. suffered at home and in daycare, Holli testified that the injuries resulted from a "scuffle over [a] toy" with another child and a minor accident in the home. Moreover, as for the incident where A.C. allegedly received a scratch on her arm from the daycare worker, Holli explained that A.C. claimed that the scratch was caused by the daycare worker grabbing her arm. That next day, when she dropped A.C. off at daycare, Holli spoke with the worker, who denied scratching A.C. and did not know how it happened. Because the stories were not "adding up," she contacted DCFS, found someone else to watch A.C., and pulled A.C. from that daycare around lunchtime that day. Although she spoke with David via Skype that night, she did not tell him about the incident. She

explained that she waited to tell David because she was "still processing what was going on," and she "didn't want to use his Skyping time that Tuesday to bring up [the] incident and override his time with [A.C.]." She instead told David about the incident the following night. The DCFS investigator later met with A.C. while she was in David's care because the investigator was not available the week when A.C. was with Holli. Holli informed David that a DCFS investigator would need to meet with them during his week while the incident was still fresh in A.C.'s mind.

¶ 29 As for the move to Pawnee, Holli testified that she moved from Watseka to Pawnee, which was closer to Belleville, in June 2015. On June 1, she told David that she was moving and that she was getting married. She explained that she waited to tell David about the move and the engagement because she wanted to enjoy the engagement, and she did not want to argue with him about it.

¶ 30 Holli testified about an argument that occurred between her and David during the December 20, 2015, visitation exchange. The argument, which occurred in front of A.C. and Holli's stepdaughter, was over a scratch on A.C.'s face. Holli testified that David was upset because she never knew how A.C. sustained her injuries, that he was getting loud in front of the children and would not stop, and that she and her husband left because she did not want the argument to take place in front of the children. She later texted David that it was not appropriate to argue in front of the children.

¶ 31 Holli also explained the circumstances surrounding her enrolling A.C. in preschool at Chatham preschool. She explained that David signed off on the paperwork but then the visitation schedule changed. David then enrolled A.C. in a preschool located in

Belleville. She wanted David to wait to enroll A.C. into that preschool so she could look at other schools in the area, but David did not want A.C. to lose her spot and went ahead and enrolled her. As for the Chatham preschool, David changed his mind about this school after reviewing the paperwork because he did not agree with the church policies. Because he refused to sign the paperwork, Holli enrolled A.C. in the Pawnee preschool program for the time that A.C. was with her. David was given all of the information about this preschool program and was there on orientation day. The Belleville preschool and the Pawnee preschool both agreed that A.C. could attend one week on and one week off.

¶ 32 As for the issue concerning A.C.'s insurance, Holli added A.C. to her husband's insurance even though she knew that David was adding A.C. to his plan because she believed it was better for A.C. to be covered under multiple insurance plans to minimize out-of-pocket expenses for any noncovered medical charges. She did not realize that there would be an issue with A.C. being covered under two different insurance plans, and she thought that David told her that the overlap would not affect his insurance.

¶ 33 Holli acknowledged that she sent an email to her husband saying that "[j]oint decision making is going to be the death of me." She explained that coparenting could be frustrating and difficult when the parents are divorced and not living in the same home but that she would continue to coparent with David and would facilitate and encourage a close and continuing relationship between A.C. and David. She also acknowledged that her husband told her that he would adopt A.C. if he could but explained that he was just showing how much he cared for A.C. and was not trying to replace David. Holli testified

that A.C. called David's girlfriend, "Sammie mommy" and "mommy," and that it was hurtful to her, but when she expressed her feelings to David, he allowed it to continue. She further testified that, in the past, she failed to notify David of issues during his Skype sessions with A.C. because she felt like that was time between David and A.C., and she wanted the sessions to be peaceful and positive and not turn "heated and argumentative" while A.C. was present.

¶ 34 On August 24, 2017, the trial court entered an order allocating parental decision-making and parenting time. In the order, the court noted that neither party appealed the previous award of joint decision-making nor did either seek sole decision-making on remand. Thus, the court affirmed its previous order awarding joint decision-making to the parties. However, the court, given the evidence presented at the remand hearing, agreed that Holli's "tendency to [act] before the fact and just expect approval later" was troublesome and admonished Holli that joint decision-making meant that the parties must discuss decisions regarding education, healthcare, extracurricular activities, and religion and reach an agreement before taking action.

¶ 35 As for parenting time, the trial court noted that the parties have enjoyed a "week on, week off" schedule, which worked well because of the distance between the parties' residences and A.C.'s preschool age. The court noted that the schedule gave each party the ability to spend long stretches of time with A.C. and stay actively involved in her daily life. However, the court concluded that the distance between the parties' residences was too far to continue the "week on, week off" schedule as A.C. would begin school in the fall. The court speculated that the parties may have agreed to continue this schedule

had they lived closer. However, as that was not the case, the court found that it was not in A.C.'s best interests to commute from one parent's house over 90 miles every other week to attend school and that fact alone required a change in the parenting-time schedule.

¶ 36 The trial court then addressed the best-interests factors set forth in section 602.7 of the Act (750 ILCS 5/602.7 (West 2016)). As for the first factor, the wishes of the parent, the court concluded that each parent wished to spend as much time as possible with A.C. The court found that the second factor, A.C.'s wishes, was inapplicable due to her young age. As for the third factor, the time each parent spent performing caretaking functions, the court noted that the parties had been following a "week on, week off" schedule for the past 24 months (other than the time that the case was previously on appeal) and each parent provided for all of A.C.'s care during their parenting-time week.

¶ 37 The trial court analyzed the fourth (any prior agreement or course of conduct between the parents relating to caretaking functions), the twelfth (the parents' willingness and ability to place A.C.'s needs above their own), and the thirteenth (the parents' willingness and ability to facilitate and encourage a close and continuing relationship between A.C. and the other parent) factors together. The court concluded that David provided most of the caretaking functions for A.C. during her weekday waking hours from the time that she was an infant in 2012 until April 2014, when the parties began the "week on, week off" schedule. Although David believed that Holli would allow him to watch A.C. while she worked until she moved to Watseka, she instead hired a babysitter during her weeks and would not allow David to care for A.C. while she was at work.

When questioned about this, Holli told David, "If I have to lose her for a week, you have to lose her for a week." From this point on, Holli sent A.C. to a babysitter during the day even though David was available to care for her and had always done so. Holli also refused David extra visitation time so that A.C. could attend extended family events after his mother passed away.

¶ 38 The trial court also noted that, although it was known that Holli was moving to Watseka, over 250 miles away, she had not disclosed to David her departure date, and she texted him on her moving day to inform him about the impending move. The court also noted that Holli told David that part of the reason she moved was so that her parents could watch A.C. while she worked, yet she placed A.C. in daycare. The court further noted that, although Holli had never worked as a teacher in Belleville, she quit her job at the bank, where she grossed approximately $1900 per month, to seek employment as a teacher. She currently worked part-time as a teacher's aide and substitute teacher where she grossed $690 per month.

¶ 39 The trial court noted that David testified at length about Holli's continued practice of making decisions without his input or approval and found that the evidence presented at trial supported his testimony. Although the court believed that Holli's decision to establish A.C. as a patient at a local pediatrician's office in Watseka was reasonable, it found that the evidence showed that she chose this physician without David's knowledge or input even though they had jointly chosen a Belleville pediatrician, and A.C. was an established patient there. The court also noted that David was not aware of the new pediatrician or any of the office visits for months, and when he finally learned about the

pediatrician, he discovered that her records did not list him as her father and, thus, he had no access to her medical records and could not speak to the physician about her. It then took months for David to obtain access due to Holli's failure and refusal to assist in this regard. The court further found that Holli's failure to communicate and unilateral decision-making occurred again when she chose another pediatrician following her move to Pawnee. The court also noted that Holli waited to tell David about her marriage and subsequent move to Pawnee.

¶ 40 Further, the trial court found that Holli enrolled A.C. in Head Start on July 21, 2014, after she moved to Watseka without notice or discussion; that she failed to list David as A.C.'s father on the application; that A.C.'s maternal grandparents were listed as emergency contacts; in the "other family members" section, she stated, "none"; and she never told David about the Head Start home visits. Although she eventually informed David about A.C.'s acceptance into the program on November 18, she did not give him access to the enrollment paperwork until December 20. She also did not give him the general health, hearing, and vision screenings conducted by Head Start, and David discovered these records when he requested A.C.'s records directly from Head Start.

¶ 41 As for the daycare incident, the trial court questioned why Holli failed to tell David about it for two days, why she sent A.C. back to the same daycare the day after the incident, and why she never spoke with DCFS after her initial report. The court also questioned why David was the one who met with DCFS when he had no direct knowledge of the event.

¶ 42 The trial court concluded that Holli's explanations for her failure to promptly notify and communicate with David regarding A.C.'s medical and educational information, which even continued after the conclusion of the first trial, were unreasonable and evidenced an attempt to alienate David from being involved in any decision concerning A.C. She filled out preschool registration forms for A.C. at Chatham preschool and never told David about it. She listed a new physician in Springfield as A.C.'s primary care physician on the paperwork and her husband's insurance carrier as A.C.'s primary insurance without any discussion or input from David. On the Madonna daycare paperwork, she listed herself and her husband as A.C.'s parents and listed David as a person who could be notified if she could not be reached. She again listed the new pediatrician as A.C.'s physician. Thus, the court found that Holli was unwilling or unable to facilitate and encourage a close and continuing relationship between David and A.C. In contrast, the court found that David supported, facilitated, and encouraged a close and continuing relationship between Holli and A.C.

¶ 43 With regard to the fifth factor, A.C.'s interaction and interrelationship with her parents and siblings and with any other person who significantly affected her best interests, the court noted that A.C. was loved by many, including her stepfather and her father's girlfriend, and that she had a stepsister, who was close in age, and the girls behave as loving sisters. As for the sixth factor, A.C.'s adjustment to her home, school, and community, the court concluded that A.C. was fully adjusted in both homes. Regarding the seventh factor, the mental and physical health of all individuals involved, the court found that both parents were both mentally and physically able to care for A.C.

As for the eighth factor, A.C.'s needs, the court concluded that A.C. had the typical needs of a small child.

¶ 44 With regard to the ninth factor, the distance between the parents' residences, the cost and difficulty of transporting A.C., each parent's and A.C.'s daily schedules, and the parents' ability to cooperate, the court found the "week on, week off" schedule had worked well for the parties because of the distance between their residences and A.C.'s young age. However, although Holli moved closer to David's residence, the court concluded that 90 miles was still too far to continue the "week on, week off" schedule as A.C. would start school in the fall.

¶ 45 As for the tenth factor, whether a restriction on parenting time is appropriate, the trial court found that a restriction on parenting time was not appropriate. The court found the eleventh factor, physical violence or threat of physical violence by A.C.'s parents directed against A.C. or other member of A.C.'s household, and the fourteenth factor, occurrence of abuse against A.C. or other household member, were inapplicable. The court also found the fifteenth factor, whether one parent was a convicted sex offender or lived with a convicted sex offender, and the sixteenth factor, the terms of a parent's military family-care plan, were also inapplicable.

¶ 46 After considering all of the requisite best-interest factors, the trial court found that it was in A.C.'s best interests for David to be awarded the majority of the parenting time during the school year, which included prekindergarten, and that A.C. attend school in his district. Thus, the court modified Holli's visitation from alternating weeks to alternating weekends. The court concluded that it was in A.C.'s best interests for the parties to

continue a "week on, week off" schedule during the summer. The court set forth a detailed physical parenting schedule for specific holidays and birthdays. The court further found that a "week on-week off" parenting-time schedule throughout the calendar year could be implemented if Holli moves within 40 miles of A.C.'s Belleville, Illinois, school.

¶ 47 On September 22, 2017, Holli filed a motion to reconsider, and the motion was subsequently denied. Holli appeals the court's parenting-time allocation.

¶ 48 In Illinois, a trial court's allocation of parenting time is given great deference because that court is in a superior position to judge the credibility of the witnesses and determine the best interests of the child. *In re Marriage of Whitehead*, 2018 IL App (5th) 170380, ¶ 15. A trial court's determination as to the best interest of the child will not be disturbed on appeal unless the court abused its considerable discretion or its decision is against the manifest weight of the evidence. *Id.* A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly evident. *In re A.P.*, 2012 IL 113875, ¶ 17.

¶ 49 Section 602.7(b) of the Act sets forth mandatory factors that are to be applied by the trial court in determining parenting time, specifically the best interests of the child, including:

> "(1) the wishes of each parent seeking parenting time;
>
> (2) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to parenting time;
>
> (3) the amount of time each parent spent performing caretaking functions

with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities or, if the child is under 2 years of age, since the child's birth;

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

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

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

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

(8) the child's needs;

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

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

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

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

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

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

(15) whether one of the parents is a convicted sex offender or lives with a convicted sex offender and, if so, the exact nature of the offense and what if any treatment the offender has successfully participated in; the parties are entitled to a hearing on the issues raised in this paragraph (15);

(16) the terms of a parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed; and

(17) any other factor that the court expressly finds to be relevant." 750 ILCS 5/602.7(b) (West 2016).

¶ 50 After a careful review of the record, we find that the trial court's order was not against the manifest weight of the evidence or an abuse of discretion. We agree with the court that both parties are loving parents, that A.C. is well cared for in each parent's home, and that the health issues that she has experienced are typical for a growing toddler. However, we also agree that it is not in A.C.'s best interests to commute from one parent's house over 90 miles every other week to attend school at different preschools. Thus, as concluded by the circuit court, this fact alone requires a change in parenting time.

¶ 51 Holli argues that, in awarding David the majority of the parenting time, the trial court made six erroneous factual findings, which related to the best-interest factor concerning her willingness and ability to facilitate and encourage a close and continuing

relationship between David and A.C. For example, Holli argues that the evidence indicated that she told David that she was changing A.C.'s primary care physician before the change was made, that she told him she was enrolling A.C. in Head Start and was registering A.C. at the Chatham preschool before enrolling A.C. in those programs, and that she spoke with the DCFS investigator at least twice and had adequately explained why the investigator met with David instead of her.

¶ 52 After reviewing the trial court's thorough analysis of each of the best-interest factors, we cannot find that the court's allocation of the majority of parenting time to David to be an abuse of discretion or against the manifest weight of the evidence. As Holli focuses on the court's finding that she is unwilling or unable to facilitate and encourage a close and continuing relationship between David and A.C., we will also focus our analysis on that factor (although we find that the trial court did not abuse its discretion in its analysis of the remaining factors).

¶ 53 There are numerous examples in the record that evidences Holli's unwillingness to facilitate and encourage a close and continuing relationship between David and A.C. Holli withheld information from David; delayed in giving him access to A.C.'s educational documents or telling him about significant issues affecting A.C., such as A.C.'s injuries at daycare or her remarriage and subsequent move; failed to include his name on forms so that he could have access to A.C.'s medical and educational records; and unilaterally made significant decisions affecting A.C. Even after she was sanctioned, she continued to exhibit behavior demonstrating her failure to cooperate and encourage David's relationship with A.C., which made it difficult for the parties to effectively

coparent. Thus, we do not find that the trial court's factual findings on this issue were an abuse of discretion or against the manifest weight of the evidence.

¶ 54 The trial court considered all relevant statutory factors in determining an allocation that best served A.C.'s interests and made thorough findings on each factor. In light of the record, which included the testimony of the parties as well as the various exhibits introduced by the parties at trial, we cannot find that the trial court ruled against the manifest weight of the evidence or abused its discretion in allocating the majority of the parenting time to David.

¶ 55 For the foregoing reasons, we affirm the judgment of the trial court of St. Clair County.

¶ 56 Affirmed.