

**THIS APPEAL INVOLVES A MATTER SUBJECT TO
EXPEDITED DISPOSITION UNDER RULE 311(a)**

**APPEAL NO. 123602
IN THE SUPREME COURT OF ILLINOIS**

TODD FATKIN,)	
)	
Respondent-Appellant,)	On appeal from Illinois Appellate
)	Court, Third District, No. 3-17-0779
vs.)	
)	On appeal from the Circuit Court
DANIELLE FATKIN,)	of Knox County, No. 2014 D 96
)	
Petitioner-Appellee.)	Honorable Paul L Mangieri
)	Circuit Judge Presiding

**REPLY BRIEF OF APPELLANT
TODD FATKIN**

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ORAL ARGUMENT REQUESTED

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POINTS AND AUTHORITIES

- I. The Appellate Court Lacked Jurisdiction to Decide this Appeal
and Misinterpreted Supreme Court Rule 304(b)(6).

In re Parentage of Rogan M.,
2014 IL App (1st) 132765, ¶¶ 22-23.....3

In re Marriage of Bednar,
146 Ill.App.3d 704, 708 (1st Dist. 1986).....3
- II. The Trial Court Order is not Clearly Against the Manifest Weight
of the Evidence.

In re Marriage of P.D., 2017 IL App (2d) 107355, ¶ 18-19...4

ARGUMENT

I. The Appellate Court Lacked Jurisdiction to Decide this Appeal and Misinterpreted Supreme Court Rule 304(b)(6).

Rule 304(b)(6) does not identify relocation judgments as one of the types of judgments to which it is applicable. Neither should Rule 304(b)(6) be interpreted as applying to relocation judgments which touch on the issue of allocation of parental rights. *In re Parentage of Rogan M.*, 2014 IL App (1st) 132765, ¶¶ 22-23, and *In re Marriage of Bednar*, 146 Ill. App. 3d 704, 708 (1986).

Danielle argues that because the relocation judgment in the case at bar does address the issue of allocation of parental rights and responsibilities that fact transmutes the judgment into the type of order appealable under Rule 304(b)(6). That argument creates a very slippery slope. For instance, what about a relocation judgment which addresses the pick-up and drop-off location or the parents' relative obligations to transport the child back and forth? Wouldn't such an order, at least obliquely, touch on the issue of parental rights and responsibilities? Is this the type of relocation order that would be considered to sufficiently implicate parental rights and responsibilities to be immediately appealable under Rule 304(b)(6)? How is a party to know which relocation judgments are properly characterized as custody orders?

Todd respectfully submits that it is not good policy to rest appellate jurisdiction on such slippery grounds.

II. The Trial Court Order Is Not Clearly Against the Manifest Weight of the Evidence.

Standards of review either mean something or they don't. Danielle clearly wants this Court to ignore the standard of review and delve right into the evidence in this case and other cases to find something to contradict Judge Mangieri's thorough 13 page Order. To that end, Danielle chides Todd for not approaching this appeal from the same perspective.

Instead, Todd agrees that "[a] determination of the best interests of the child cannot be reduced to a simple bright-line test, but rather must be made on a case-by-case-basis, depending, to a great extent, upon the circumstances of each case." *In re Parentage of P.D.*, 2017 IL App (2d) 170355 at ¶ 16 (citing *Eckert*, 119 Ill.2d at 326). As such, a comparison of the facts of one case to the facts of another is generally not helpful in determining whether the trial court's opinion is against the manifest weight of the evidence.

The Third District Appellate Court sidestepped the standard of review in this case, without the benefit of having been able to observe, assess and evaluate the parties' credibility, temperaments, personalities, and capabilities, and simply substituted its judgment for that of the Trial Court. Todd respectfully requests that this Court decline to do the same.

CONCLUSION AND PRAYER FOR RELIEF.

Todd Fatkin respectfully prays that the Illinois Supreme Court dismiss the appeal, or in the alternative, reverse the Appellate Court and affirm the Trial Court.

Dated: September 11, 2018.

Respectfully submitted,

TODD FATKIN, Respondent-
Appellant

By: /s/ Daniel S. Alcorn
One of his Attorneys

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Illinois Supreme Court Rules 341(a) and (b). The length of the brief, excluding pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service is 5 pages.

/s/ Daniel S. Alcorn
Daniel S. Alcorn

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. The undersigned hereby certifies that a copy of this Reply Brief of Appellant Todd Fatkin, was filed in electronic format with this attached Certificate of Service and the below parties were included in that filing via email, all sent to the Supreme Court of Illinois for e-filing on September 11, 2018, and sent by US mail to the parties below, addressed as follows:

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