

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
)	of the 21st Judicial Circuit,
TAMIE MILLER,)	Iroquois County, Illinois,
)	
Petitioner-Appellee,)	
)	Appeal No. 3-23-0098
and)	Circuit No. 15-D-34
)	
DOUGLAS MILLER,)	Honorable
)	Kara M. Bartucci,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE DAVENPORT delivered the judgment of the court, with opinion.
Justice Peterson concurred in the judgment and opinion.
Justice Holdridge dissented, with opinion.

OPINION

¶ 1 Respondent, Douglas Miller (Doug), filed a petition to terminate maintenance, alleging petitioner, Tamie Miller, “has begun to cohabituate with a paramour,” Francois Holtermann. The court denied Doug’s petition, finding no *de facto* marriage existed. Doug appeals, arguing that finding was against the manifest weight of the evidence. We agree and reverse.

¶ 2 I. BACKGROUND

¶ 3 Tamie and Doug were married for 25 years and have three children together, Q.M. (born in 1995), O.M. (born in 2002), and M.M (born in 2004). The 2017 judgment for dissolution of

marriage incorporated a marital settlement agreement (MSA). The MSA required Doug to pay Tamie \$3500 per month as permanent maintenance. His obligation “continue[s] until the first of the following to occur: the death of the wife, the wife’s remarriage or the wife’s living with another person on a continuing conjugal basis.” Doug filed a petition to terminate maintenance in February 2020, alleging Tamie “ha[d] begun to cohabitate with a paramour and is therefore no longer in need of any support from [Doug].” The four-day hearing on Doug’s petition spanned nine months.

¶ 4

A. Tamie’s Testimony

¶ 5

1. *Adverse Witness in Doug’s Case*

¶ 6

The hearing began on August 18, 2021, with Doug calling Tamie as an adverse witness. Tamie testified, at the time, she was dating Francois but did not consider it to be a romantic relationship. They started dating in November 2017. They broke up in February or March 2021 and resumed their relationship in May 2021. Their relationship changed after their breakup in that it was no longer intimate. Tamie testified she did not remember how many days per week Francois was at her house, but during her deposition in April 2021, she said he came over three to four days per week. She testified during the hearing that he stayed overnight one to two nights per week, but in an answer to an interrogatory in October 2020, she indicated he stayed over two to three nights per week. Francois worked second shift (3:45 p.m. to 12:15 a.m.), so there were times he came straight from work and spent the night at her house.

¶ 7

Francois had free access to Tamie’s home through a back door in the garage and a garage door opener programmed in his car. There were times when he was in Tamie’s home while she was not there. He kept a spare set of bicycle clothes and deodorant at her house, and his bicycle, air compressor, and toolbox in her garage. He kept some food in her house, and they sometimes shared food. When he stayed the night, he would park his car in the garage or driveway, but his

car was not stored there when he was not present. Francois cleaned the gutters a couple times in the rain, hung ceiling hooks in the garage, and painted one wall in her home. The two went grocery shopping together.

¶ 8 Tamie and Francois used the same tax preparer, eye doctor, and dentist. She would help Francois by writing checks for him to sign. Francois listed Tamie as his emergency contact at work and on his bicycle tag.

¶ 9 Francois attended numerous events for Tamie's children. Francois went to one of M.M.'s basketball games, one of M.M.'s track meets, and one football game where M.M. was cheerleading. He attended M.M.'s church confirmation and waited in the waiting room at one of M.M.'s doctor appointments. Francois went to O.M.'s winter ball coronation and attended a talent show O.M. participated in. Francois went to Q.M.'s graduation from Southern Illinois University (SIU). Francois would not attend her children's events if he was working or bicycling.

¶ 10 Tamie and Francois traveled together. In January 2018, they flew to Arizona and stayed with Francois's mother. In April 2018, Tamie, Francois, and M.M. traveled to the Quad Cities for M.M.'s gymnastics meet, and the three of them stayed in one hotel room. Tamie and Francois visited Q.M. in Rock Falls on different occasions. In February 2019, Tamie, Francois, and M.M. went to a gymnastics meet in Rockford and stayed overnight. In March 2019, Tamie and Francois traveled to Arizona to visit his mother. O.M. and M.M. flew out to meet them during the trip. In June 2019, Tamie flew to Arizona to bring Francois's mother to Illinois. His mother stayed in Tamie's house until August 2019. In June 2019, Tamie, Francois, M.M., and Francois's mother drove to West Virginia for a gymnastics meet. In July 2020, Tamie and Francois took a weekend camping trip to Michigan. Tamie flew between Arizona and Illinois numerous times between

November 2017 and March 2021. She typically paid for Francois's and his mother's airline tickets with her credit card, and Francois and his mother reimbursed Tamie for their travel expenses.

¶ 11 Tamie and Francois celebrated holidays together. They celebrated Christmas together in 2017, 2018, and 2019 and exchanged gifts. They spent at least one Thanksgiving together. They did not celebrate holidays with Francois's family. They attended Tamie's nephew's wedding together.

¶ 12 Francois has three children. One of his daughters spent the night with Francois at Tamie's house 10 to 20 times. Francois's children celebrated one Christmas with Tamie. Tamie attended his daughter's high school graduation.

¶ 13 *2. Tamie's Case*

¶ 14 On April 8, 2022, Tamie testified in her case-in-chief. By this time, Tamie and Francois were no longer in a relationship. He had removed his belongings from her home. They did not intend to make their relationship permanent, and Francois was now seeing another woman.

¶ 15 Tamie and Francois never loaned each other money. They did not pay each other's bills, did not access each other's accounts, did not have joint memberships, did not list each other as beneficiaries, and did not give money to each other's children. They did not do routine chores at each other's homes, but she occasionally asked Francois to let her dog out. When Francois came to her house after work, he would usually leave a short time later. They would sometimes watch a TV show together before he would go home to his apartment. She would not see Francois at all unless he stopped by her house or stayed the night.

¶ 16 From November 2017 to March 2021, the two of them went on at least seven different trips out of town. Tamie reiterated that she was always reimbursed for trip expenses. While she and

Doug were married, they took vacations every year, went camping, and attended work conferences and family gatherings together

¶ 17 B. Francois's Testimony

¶ 18 Francois testified on February 10, 2022. He testified that, before he started dating Tamie, he was in a bicycle accident and suffered a serious brain injury. After the accident, he had issues with his short-term memory and impulse control and had trouble remembering dates.

¶ 19 At the time of his testimony, his relationship with Tamie had ended, and he had been dating someone else for less than one month. While dating Tamie, Francois posted about their relationship and posted pictures of them together on Facebook. O.M. helped sell Francois's car on Facebook. When asked how often he saw Tamie on an average week, he testified, "I like spending time with her, so it was every chance I got pretty much I would be over there, but I had my own place." He would see her three to four days per week, but also said, "I saw her all the time." During his deposition in April 2021, he said he saw her every day, but at the hearing he said he may have misunderstood the question initially at the deposition and corrected it later.

¶ 20 Francois testified that, from November 2017 to March 2021, he spent three to four overnights per week with Tamie. He stayed overnight early in the relationship because he lived in Normal, Illinois, at the time. But during his deposition, he initially said he spent five to six overnights per week before later saying he spent two to three overnights at her house per week. Sometimes Francois would get off work, go to her house, give her a good night kiss, and then leave. Tamie stayed overnight at Francois's apartment two or three times total during their relationship.

¶ 21 Francois attended 5 to 10 events for Tamie's children: a Christmas play, M.M. cheerleading at a football game, M.M.'s track meet, M.M.'s confirmation, O.M.'s talent show, O.M.'s

coronation as winter ball king, and Q.M.'s graduation. He celebrated four Christmases with Tamie. He shared his special family tradition with her family by reading a Bible verse before opening gifts. They did not celebrate Easter together. They celebrated two or three Thanksgivings together by having a family dinner at Tamie's house with all of her extended family. They bought birthday gifts for each other and sometimes gifts for holidays. They attended three church services together. He did not remember if he attended any religious ceremonies for Tamie's children, but Tamie did attend his daughter's baptism. He did not recall attending any doctor appointments with Tamie or her children. They attended one wedding together.

¶ 22 Francois had access to Tamie's home when she was not present, but he would not enter without letting her know. He would call ahead and enter through an unlocked door. He would let Tamie's dog out if she was not home. He would not be present in her home if he did not need to get anything or if Tamie was not there. He did not have a key to her house, but he did have a garage door opener. He could not estimate how many times he was in Tamie's house without her being present. He only kept a change of clothes in her house that Tamie would occasionally wash. He also kept a toothbrush, deodorant, toolbox, and air compressor there. His bicycle was stored at Tamie's because there was no room in his apartment. There were times he drove to Tamie's house, went for a bicycle ride, and then drove his car home without going inside her house. If someone saw his car parked outside her house, it could be because he was on a bicycle ride.

¶ 23 Francois and Tamie grocery shopped together once per week, but he did not keep food in her house. They kept their groceries separate, shopped with separate carts, and kept the bills separate. But Francois could eat what Tamie bought if he wanted.

¶ 24 His daughter stayed over at Tamie's house at least five times. His mother stayed with Tamie for three months because she had difficulty with the stairs at his apartment. Tamie flew out to Arizona to bring his mother back. Tamie was Francois's emergency contact at work.

¶ 25 Francois recalled at least eight times that he traveled with Tamie. They traveled to SIU for Q.M.'s graduation. On another occasion they visited Q.M. and possibly stayed overnight. They attended M.M.'s gymnastics meets in the Quad Cities, Rockford, and West Virginia. His mother also joined them on the West Virginia trip. Tamie and her children joined him on a trip to Arizona to visit his mother. Francois, Tamie, M.M., and Francois's daughter went on a hiking trip at Turkey Run, Indiana. Tamie and Francois traveled to Michigan over a Fourth of July holiday to camp. There were possibly more trips they took together that he did not remember. He reimbursed Tamie for travel expenses in cash or, occasionally, by check.

¶ 26 Tamie and Francois did not have any joint accounts, did not use each other's credit or debit cards, and did not have any joint memberships. Tamie occasionally wrote deposit slips for him because his handwriting is bad, and he would only sign them. Tamie never gave him cash or checks to deposit into his bank account. Francois did not have mail sent to her house, but he would have packages sent there because packages were unsecured at his apartment. He had his own apartment during the entire relationship. He did not pay for any expenses or do routine chores at Tamie's home. On one occasion, he painted a wall. Francois did his own laundry at the laundromat.

¶ 27 In March 2021, the relationship terminated for a period of time. When it resumed, it was not a sexual relationship and the overnight visits stopped. Tamie and Francois never discussed marriage, never bought jewelry for each other, and never loaned money to each other. They did not put each other in their wills. Francois explained, "I was [Tamie's] rock that she would lean on to do what she had to do, and we gave each other strength just being together, you know, just we

played off each other, it was a good thing.” He saw their relationship as a long-term relationship. “I wasn’t seeing it as anything, but I’m just I’m happy. That’s all I was seeing it as. I didn’t look at it as—I wasn’t looking at marriage, I did—not going down that road again. You know, I just wanted to have a good time, and so we were happy, truly happy.”

¶ 28

C. Mark Foster’s Testimony

¶ 29

Private investigator Mark Foster testified he has been a licensed investigator for 26 years. Doug retained him because Doug wanted evidence that Tamie was cohabitating. Foster began investigating the case in August 2019 and ended the investigation on January 19, 2020. He did not take any photographs or videos because he did not want to draw attention to himself on repeated surveillance attempts. He surveilled Tamie’s house, but not Francois’s apartment. The distance between Tamie’s home and Francois’s apartment was approximately half a mile. When he surveilled Tamie’s home, he would drive slightly below the speed limit, but he never stopped in front of the home because he did not want to be seen.

¶ 30

Foster observed Tamie’s home and saw Francois’s car present approximately 10 times at 5:30 a.m. to 6 a.m. There were periods when Foster checked four or five mornings in a row and saw Francois’s car at Tamie’s house each time. He observed Francois leave work approximately 10 times; each time, Francois drove to Tamie’s house. He observed Francois’s vehicle at Tamie’s house after 1 a.m. approximately 20 times. On January 11, 2020, Francois’s car was in Tamie’s driveway and the two of them walked to the nearby high school. Doug had notified Foster about a school function Tamie and Francois might attend together. Foster never saw Francois walk into Tamie’s house, and he only saw Francois exit her house three times.

¶ 31

D. Doug’s Testimony

¶ 32 Doug testified he started to notice Francois in 2018. During a parenting time exchange in early 2018, he saw Francois's car in Tamie's garage. He started seeing Francois at gymnastics meets, school events, and church. Tamie introduced Francois to Doug at M.M.'s track meet in spring 2018. During the period of January to June 2018, Doug saw Francois's car at Tamie's house 6 to 10 times. Doug went to Tamie's house every other weekend to pick up the children, on holidays for parenting time exchanges, and dropping off or picking up items the children left behind. He coaches from October to March at the high school across the street from Tamie's house, so he was often near her home. From January 2018 to March 2021, Doug observed Francois's car at Tamie's home 25 to 30 times, at various times of the day. He took a picture every time he saw Francois's car.

¶ 33 From November 2017 to March 2021, Doug saw Francois 6 to 10 times at the children's events: M.M.'s confirmation, plays, football games, gymnastics meets, and church. He also saw Francois at one of M.M.'s doctor's appointments.

¶ 34 Doug once saw Francois helping O.M. carry speakers. Another time, Doug saw Francois sitting on Tamie's porch after lunch when Tamie would have been at work. On another occasion, Doug dropped M.M. off at Tamie's house at 7 a.m. while Tamie was out of town. M.M. could not get into the house, and Doug saw Francois stick his head out the door and let M.M. in.

¶ 35 In March 2021, Doug saw Francois outside Tamie's house. The garage door was up, and Francois's car was in the garage, but Tamie's was not. On June 5 and 6, 2021, Doug was driving by around 12:30 a.m. to 1 a.m. to make sure M.M. was home when he saw Francois's car parked in Tamie's driveway. He had also seen Francois driving to and getting in and out of his car at Tamie's house

¶ 36 E. Court's Ruling

¶ 37 In its oral ruling, the court considered the six factors listed in *In re Marriage of Herrin*, 262 Ill. App. 3d 573, 577 (1994), and made findings as to each. It ruled the relationship between Tamie and Francois was not a *de facto* marriage and denied Doug’s petition to terminate maintenance.

¶ 38 The court found the relationship was 3½ years of exclusive dating with at least one break, it ended during this litigation, and Francois was dating a different woman. It stated, “The relationship of three and a half years favors a *de facto* marriage, however, the fact that the relationship has ended and the individual, [Francois], is seeing another individual leans against the factor of *de facto* marriage.”

¶ 39 Regarding the amount of time the couple spent together, the court noted the private investigator surveilled on 26 dates and only observed Francois three times. Francois’s car was parked in Tamie’s driveway numerous times. Based on Doug’s testimony, Francois was only observed inside Tamie’s home without her on one occasion. The court stated it “heard testimony that [Francois] spent on average somewhere between 5 to 6 or even 1 to 2 times per week [at Tamie’s house].” It found Tamie and Francois had spent significant time together, which “tends to favor a *de facto* marriage.”

¶ 40 As to the nature of the activities engaged in, the court noted the testimony that Tamie and Francois went to one track meet, one football game for M.M. to cheer, one doctor’s appointment, three gymnastics events, one wedding, one baptism, one talent show, two graduations, and numerous grocery shopping trips over a 3½ year period. The court concluded this factor weighs against a *de facto* marriage because “there were only 11 activities over a 3 and a half year time span that *** likely included numerous other events whether attended or unattended by Tamie.”

¶ 41 In considering the interrelation of personal affairs, including finances, the court noted the following. There was no shared residence. Tamie and Francois went grocery shopping together but maintained separate grocery carts, paid separately, and brought the groceries to their respective households. Tamie was Francois's emergency contact. Francois received packages at Tamie's home because it was unsafe to have a delivery spot at his apartment. He had access to Tamie's garage but did not have a house key. He kept his bicycle and air compressor in her garage, but there was no testimony these items were affixed or permanent. Although Tamie helped Francois write checks and deposits to his account, there was no comingling of funds. The court found this factor weighed against a *de facto* marriage, stating, "Here we have no key, we have no permanent items, we have no shared residence, we have no shared resources, and we have the testimony of reimbursements."

¶ 42 The court acknowledged testimony of approximately six trips in total over a 3½ year time span and for which Francois would always reimburse Tamie for his travel. The court found this factor weighed against a *de facto* marriage.

¶ 43 The court also noted Tamie and Francois spent three Christmases, one Thanksgiving, and some of Tamie's birthdays together and found this factor weighed against a *de facto* marriage.

¶ 44 Finally, the court addressed the totality of the circumstances:

"Here the court can weigh the facts of [Francois] receiving packages at Tamie's residence, the fact that [Francois's] mom stayed at Tamie's residence for approximately a month, that [Francois's] daughter stayed at Tamie's house as well. However, based upon the totality given of the prior facts listed and those additional facts I will find that no *de facto* marriage exists and therefore the petition to terminate maintenance is denied."

¶ 45 The court denied Doug’s motion to reconsider. This appeal followed.

¶ 46 II. ANALYSIS

¶ 47 The sole issue on appeal is whether the court’s determination of no *de facto* marriage between Tamie and Francois was against the manifest weight of the evidence.

¶ 48 A. Standard of Review

¶ 49 As incorporated in the parties’ MSA, maintenance will be terminated when, among other conditions, “the party receiving maintenance cohabits with another person on a resident, continuing conjugal basis.” 750 ILCS 5/510(c) (West 2020). The party seeking termination of maintenance must show by a preponderance of the evidence that “a *de facto* husband-and-wife relationship exists.” *Herrin*, 262 Ill. App. 3d at 576; see *In re Marriage of Stockton*, 401 Ill. App. 3d 1064, 1069 (2010). It is not sufficient to show an intimate dating relationship, as “an intimate dating relationship is not a *de facto* marriage.” *In re Marriage of Miller*, 2015 IL App (2d) 140530, ¶ 51.

¶ 50 We will not disturb a trial court’s finding that a *de facto* husband-and-wife relationship exists unless that finding is against the manifest weight of the evidence. *In re Marriage of Susan*, 367 Ill. App. 3d 926, 929-30 (2006). A decision is against the manifest weight of the evidence when “the opposite conclusion is clearly apparent or the decision is unreasonable, arbitrary, or not based on the evidence.” (Internal quotation marks omitted.) *In re Marriage of Trapkus*, 2022 IL App (3d) 190631, ¶ 42.

¶ 51 B. *De Facto* Marriage Factors

¶ 52 In distinguishing an intimate dating relationship from a *de facto* marriage, courts evaluate the totality of the circumstances and consider (1) the length of the relationship, (2) the amount of time the couple spent together, (3) the nature of activities the couple engaged in, (4) the

interrelation of their personal affairs, (5) whether they vacationed together, and (6) whether they spent holidays together. *Herrin*, 262 Ill. App. 3d at 577. This list of factors is nonexhaustive. *Miller*, 2015 IL App (2d) 140530, ¶ 40. “Each termination case turns on its own set of facts; just as no two relationships are alike, no two cases are alike.” *Id.* Thus,

“[t]he six factors are not a checklist. Searching the evidence to find facts to assign to each of the six factors does not establish that a relationship rises to the level of a *de facto* marriage where those facts lack depth and seriousness. *** [C]ourts should be mindful that the circumstances of an intimate dating relationship are also likely to involve facts that fit into each of the six factors, such that those facts in their totality must attain a certain gravitas to establish a *de facto* marriage.” *Id.* ¶ 46.

With these factors in mind, we turn to the facts of this case.

¶ 53

1. *Length of the Relationship*

¶ 54

Tamie and Francois began dating in November 2017, took a break for two or three months in 2021 before resuming the relationship, and terminated the relationship by January 2022. The court found although the 3½ year relationship favored a *de facto* marriage, the fact that the relationship ended, and Francois was dating someone else at the time of his testimony weighed against a *de facto* marriage. A three-year relationship suggests a *de facto* marriage. *Susan*, 367 Ill. App. 3d at 930. The fact that a relationship ends does not refute evidence of a *de facto* marriage. See *In re Marriage of Walther*, 2018 IL App (3d) 170289, ¶ 33. Similarly, a brief separation before resuming the relationship does not necessarily refute a finding of a *de facto* marriage. See *In re Marriage of Edson*, 2023 IL App (1st) 230236, ¶ 125. The length of this relationship alone, without considering other *Herrin* factors, suggests a *de facto* marriage. *Id.*

¶ 55

2. *Amount of Time Spent Together*

¶ 56 “[T]he amount of time spent together will ultimately impact the analysis of the other *Herrin* factors, such as the nature of the activities spent during that time together or the holidays or vacations the couple spent together.” *Edson*, 2023 IL App (1st) 230236, ¶ 131. Doug and Foster both testified they observed Francois’s vehicle at Tamie’s home on numerous occasions. Doug saw Francois at the children’s extracurricular activities. There was some discrepancy between Tamie’s testimony and Francois’s testimony as to the number of overnights spent together per week. But both testified to spending time together at Tamie’s home and by traveling, grocery shopping, and attending events for Tamie’s children. The court found the couple spent a significant amount of time together, reflective of a *de facto* marriage. We acknowledge the relationship changed after their brief breakup in 2021, but the couple spent a substantial amount of time together for the majority of the relationship. Francois testified, “I like spending time with her, so it was every chance I got pretty much I would be over there.” We agree with the trial court that the amount of time Tamie and Francois spent together suggests a *de facto* marriage.

¶ 57 *3. Nature of Activities*

¶ 58 Tamie and Francois both testified they traveled together, attended Tamie’s children’s extracurricular events together, and went grocery shopping together. They both testified Francois would go to Tamie’s house after work, and Tamie testified they would watch TV together. The court found there was testimony of 11 different activities the two would do together and undoubtedly more events that Tamie may or may not have attended alone, which weighed against a *de facto* marriage.

¶ 59 “We have *** found evidence of a *de facto* marriage where the record demonstrates shared household chores, ranging from laundry to cooking to maintenance work.” *Edson*, 2023 IL App (1st) 230236, ¶ 140. Tamie and Francois did not regularly do chores at each other’s homes.

Francois painted a wall in Tamie's home once, cleaned the gutters, and hung hooks in the garage for his bicycle. He would also occasionally let Tamie's dog out on Tamie's request. Tamie would occasionally wash his spare set of bicycle clothes. The two would go grocery shopping together, but they used separate shopping carts, purchased their items separately, and would take their purchases to their respective homes. Francois would sometimes eat from what Tamie purchased.

¶ 60 We do not disagree that, viewed in a vacuum, these facts may not necessarily suggest a *de facto* marriage. However, we must balance these considerations against the fact that many of the shared activities involved Tamie's children, which we discuss more extensively in consideration of the next factor.

¶ 61 *4. Interrelation of Personal Affairs*

¶ 62 This factor considers whether the couple's "personal affairs, including financial matters, are commingled as those of a married couple would be." *Susan*, 367 Ill. App. 3d at 931. The court found that because there was no shared household and no shared resources, this factor weighed against a *de facto* marriage. We disagree.

¶ 63 Tamie and Francois maintained separate households; Francois had his own apartment throughout their relationship. They did not have keys to each other's homes, but Francois had Tamie's garage door programmed in his car, and he was able to enter her home through an unlocked door in the garage. At times, Francois was inside Tamie's home when she was not. They did not have any joint accounts or memberships, did not access each other's financial accounts, did not pay each other's bills, did not list each other as beneficiaries, and did not give money to each other's children. Nevertheless, Francois listed Tamie as his emergency contact at work and on his bicycle tag. Francois had packages sent to Tamie's home because there was no safe place to leave packages at his apartment, but he did not receive mail at her home. Tamie would help

Francois by filling out deposit slips and checks for his signature because her handwriting was more legible. Based on these facts, the determination of whether the relationship amounts to a *de facto* marriage is equivocal.

¶ 64 Courts have emphasized the importance of the interrelation of a couple’s financial affairs to the *de facto* marriage analysis. *In re Marriage of Sunday*, 354 Ill. App. 3d 184, 191-92 (2004). Even so, it is not dispositive if the presence of other factors suggest a *de facto* marriage. See *Susan*, 367 Ill. App. 3d at 930 (evidence indicating no comingling of funds or monetary support was the only factor weighing against a *de facto* marriage).

¶ 65 Family involvement is the strongest indicator this particular relationship is a *de facto* marriage. “[A] key emotional factor that is likely present in any *de facto* marriage [is] intended permanence and/or mutual commitment to the relationship.” (Emphasis omitted.) *Miller*, 2015 IL App (2d) 140530, ¶ 48. In a show of support for Tamie’s children, Francois attended sporting events, talent shows, and was present on special occasions (holidays, church confirmation, coronation, and a graduation), and even a doctor appointment. Francois was also there to let Tamie’s youngest child enter Tamie’s home when Tamie was not there. Tamie also attended important, milestone events—a high school graduation and baptism—for Francois’s children. Francois exercised parenting time with his minor child at Tamie’s house, and his child stayed overnight at Tamie’s house. Notably, Francois’s mother stayed at Tamie’s home for an entire summer. His mother also traveled with Tamie and Francois to M.M.’s out-of-state gymnastics meet. Tamie’s children joined on a separate trip to visit Francois’s mother in Arizona. Francois shared his own family tradition of reading a particular Bible verse with Tamie and her children at Christmas. This willingness to involve both families suggests mutual commitment if not permanence. See *id.*

¶ 66 In *Edson*, the couple celebrated some holidays together with various family members in attendance, including their children. *Edson*, 2023 IL App (1st) 230236, ¶ 177. The ex-wife allowed her partner’s son to live in her home for two weeks. *Id.* ¶ 62. She also hosted a party for his other son with the majority of the guests being the partner’s relatives. *Id.* ¶ 78. However, the couple maintained separate households and lacked shared financial and commercial relationships. *Id.* ¶¶ 155-56. “[I]n their day-to-day existence, their individual lives are very much separate.” *Id.* ¶ 163. The *Edson* court found the interrelation of personal affairs factor “was indeed a close call with ‘lots of gray areas to address,’ ” but ultimately found this factor weighed against a *de facto* marriage for that particular couple. *Id.* ¶ 165. Although Tamie and Francois maintained separate households and did not share finances, their individual lives were not as separate as the couple in *Edson*. The boyfriend in *Edson* was out of town 90% of the time, so it makes sense for that couple to maintain separate, individual lives. See *id.* ¶ 130. But here, Tamie and Francois lived half a mile apart, and Francois regularly drove directly to Tamie’s house after work. Further, Tamie and Francois’s relationship included much time together with their families, suggesting less separation between the two.

¶ 67 In *Walther*, the court found “the vast majority of the evidence clearly establishes” the couple cohabitated together on a resident, continuing conjugal basis. *Walther*, 2018 IL App (3d) 170289, ¶ 33. There, the ex-wife’s daughter moved into the home with the couple and shared a room with the partner’s daughter. *Id.* ¶ 9. The ex-wife posted a photograph of the couple with their respective daughters on Facebook, which confirmed she “had formed a familial relationship with [partner] and his daughter and the group engaged in activities as a family.” *Id.* ¶ 29. Similarly, Tamie and Francois habitually included their respective families in their time spent together.

¶ 68 To contrast, the couple in *Larsen* made “conscious efforts to spend time together without [ex-wife’s] minor child present as often as possible.” (Internal quotation marks omitted.) *In re Marriage of Larsen*, 2023 IL App (1st) 230212, ¶ 133. Her partner would spend the night at her home when her children were with their father. *Id.* ¶ 26. They occasionally would have dinner with her son. *Id.* ¶ 30. She met some members of her partner’s family, but she did not host his family in her home, and likewise her partner did not host her family in his home. *Id.* ¶ 33. The couple celebrated various holidays together but did not celebrate Thanksgiving when ex-wife would be hosting with her children present. *Id.* ¶ 35. Her partner “would not be attending [her daughter’s] graduation in Missouri because she did not think it was ‘necessary,’ even if they were dating” and she “did not plan to invite [him] to Thanksgiving because her children would be present.” *Id.* ¶ 159. The court reasoned, “[A]lthough there is clearly some degree of social and emotional intimacy between the two, there is no showing of intended permanence or a manifestation of [a] deeper commitment on either individual’s part.” *Id.* ¶ 160.

¶ 69 Unlike the couple in *Larsen*, we find Tamie and Francois made conscious efforts to spend time together with each other’s families, specifically with Tamie’s children and Francois’s mother. Most of the activities they engaged in together involved their respective families. Francois’s mother lived with Tamie for three months and traveled with Tamie and her child. Francois even exercised parenting time with his minor daughter at Tamie’s home. This is in stark contrast to *Edson*, where the partner’s son only lived with the ex-wife for two weeks. We find this case to be more on par with the familial relationships created in *Walther*. The involvement of their families suggests the Tamie and Francois shared a deep level of commitment. Although there was no financial enmeshment, we find the intertwined social and emotional aspects of their relationship weigh heavily in favor of a *de facto* marriage.

¶ 70

5. Vacations

¶ 71

Tamie testified she took at least seven trips with Francois, mostly either to visit family or for her daughter's gymnastics meets. Francois testified he went on at least eight trips with Tamie. Both testified Francois would always reimburse Tamie for his travel expenses. The court found this factor weighed against a *de facto* marriage. We disagree.

¶ 72

We have recently found taking at least 10 trips together over a 3½-year period evidenced a *de facto* husband-and-wife relationship. *In re Marriage of Churchill*, 2022 IL App (3d) 210026, ¶ 40. Several of those trips involved family gatherings, and one was to attend a child's graduation. Although the couple in *Churchill* paid their own expenses on those trips, we explained "that does not discredit the fact that they frequently vacationed together as a couple." *Id.*

¶ 73

In *Walther*, the couple would take overnight trips to attend concerts. *Walther*, 2018 IL App (3d) 170289, ¶ 31. These were not lengthy trips, and the ex-wife testified the couple would split the costs of the trips. Like in *Churchill*, we found the splitting of costs "slightly decrease[d] the appearance of a trip taken by a *de facto* marital couple, *** it does not discredit the fact that they vacationed together as a couple." *Id.* We concluded these trips to be vacations evidencing a *de facto* husband-and-wife relationship. *Id.*

¶ 74

Similarly, although Francois reimbursed Tamie for his travel expenses, that alone does not negate the fact the two traveled together as a couple. Given that Tamie and Francois's trips often involved either Tamie's children, Francois's mother, or both, the trips showed a level of commitment that was more akin to a *de facto* marriage. Therefore, we conclude the trial court's finding on this factor was against the manifest weight of the evidence.

¶ 75

6. Holidays

¶ 76 Tamie and Francois testified they spent some holidays together, namely Christmas, at least one Thanksgiving, and some birthdays. The court found this weighed against a *de facto* marriage.

¶ 77 “[T]he existence of a *de facto* marriage may be supported by evidence of a couple celebrating holidays and special events together.” *Larsen*, 2023 IL App (1st) 230212, ¶ 169. In *Larsen*, the couple celebrated some holidays together, including Valentines Day, New Year’s Eve, Christmas Day, Labor Day, and Fourth of July weekend. However, the couple “demonstrate[d] an active choice to not be together during certain events or holidays,” and the ex-wife did not intend to bring her partner to her daughter’s graduation. *Id.* ¶ 172. This suggested an intimate dating relationship rather than a *de facto* marriage, because “[a]lthough there is evidence of spending some holidays and special events together, there is also an indication that the two still do not view their relationship in such a way where they would be expected to be together at all events, as one might expect in a *de facto* marital relationship.” *Id.* ¶ 173.

¶ 78 In *Edson*, the couple also spent some holidays and special events together, including Easter, Memorial Day, Fourth of July, Thanksgiving, and Christmas, as well as graduations and a wedding. *Edson*, 2023 IL App (1st) 230236, ¶ 176-77. “There was testimony that some holidays were spent apart, but overall, the two did appear to be together on most major holidays with members of their immediate and extended family.” *Id.* ¶ 181. But ultimately, this evidence “goes to how the two spent their time when they were together, and only slightly suggests a finding of a *de facto* marriage.” *Id.* ¶ 182.

¶ 79 Tamie and Francois not only celebrated some holidays together, but they also attended special events together. They attended (1) Francois’s daughter’s high school graduation, (2) Q.M.’s graduation from SIU, (3) Francois’s daughter’s baptism, (4) M.M.’s confirmation, and (5) Tamie’s nephew’s wedding. The holidays spent together also involved Tamie’s children.

Similar to *Edson*, this factor demonstrates how Tamie and Francois spent their time and slightly suggests a *de facto* marriage, and the trial court’s finding otherwise was against the manifest weight of the evidence.

¶ 80 C. Totality of the Circumstances

¶ 81 “[C]ourts must also look to the totality of the circumstances to determine whether the new relationship functions practically and economically in a marriage-like way and, if not, whether there is a reasonable explanation as to why it does not.” *Miller*, 2015 IL App (2d) 140530, ¶ 50. We recently held a petitioner did not establish a *de facto* marriage existed between a couple when an analysis of the *Herrin* factors revealed at most an intimate dating relationship, and the boyfriend married a different woman two months after the relationship ended. See *In re Marriage of Saunders*, 2024 IL App (3d) 230151, ¶ 39.

¶ 82 Here, Francois was allegedly dating another woman after his relationship with Tamie ended. However, unlike the boyfriend in *Saunders*, he was not married shortly after the end of the relationship. Like in *Saunders*, Tamie and Francois did not comingle their finances, but unlike *Saunders* and as explained above, Tamie and Francois considerably interrelated their personal affairs. See *id.* ¶ 22.

¶ 83 Tamie and Francois’s relationship was something more than an intimate dating relationship. During the 3½ years they were together, they traveled, celebrated holidays, and enjoyed each other’s company on a routine basis. They helped each other; Tamie wrote deposit slips, and Francois helped take care of her dog. They held themselves out as a couple and often spent time together with their families. Tamie opened her home to Francois’s mother and his daughter. In fact, Francois’s mother lived with Tamie for the majority of a summer, and all three traveled together out of state to attend M.M.’s gymnastics meet. Francois supported Tamie and her

children by being present at numerous activities. Tamie was Francois's emergency contact. Francois spoke fondly of Tamie after their relationship ended. Based on the totality of the circumstances, we hold that while the relationship lasted, it was a *de facto* marriage, and the court's finding that it was not was against the manifest weight of the evidence.

¶ 84

III. CONCLUSION

¶ 85

The judgment of the circuit court of Iroquois County is reversed and remanded.

¶ 86

Reversed and remanded.

¶ 87

JUSTICE HOLDRIDGE, dissenting:

¶ 88

I dissent from the majority's analysis and holding in this case. I would adopt the circuit court's reasoning and find that no *de facto* marriage existed. Accordingly, I would hold that the court's decision was not against the manifest weight of the evidence and affirm its denial of the petition to terminate maintenance.

In re Marriage of Miller, 2024 IL App (3d) 230098

Decision Under Review: Appeal from the Circuit Court of Iroquois County, No. 15-D-34; the Hon. Kara M. Bartucci, Judge, presiding.

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