NOTICE
Decision filed 11/16/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260484-U

NO. 5-26-0484

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

In re PARENTAGE OF E.H., a Minor	)	Appeal from the
	)	Circuit Court of
(Shawn P. Harvey,	)	Champaign County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 22-FA-268
	)	
Audrey C. Durrant,	)	Honorable
	)	Chad S. Beckett,
Respondent-Appellant).	)	Judge, presiding.

JUSTICE HACKETT delivered the judgment of the court.
Justice Clarke concurred in the judgment.
Justice Sholar dissented.

ORDER

¶ 1 *Held*: We affirm the order of the circuit court denying the mother's petition to relocate and allocating the majority of parenting time to the father where mother did not sustain her burden of proving that the proposed relocation was in the best interest of the child.

¶ 2 The petitioner, Shawn P. Harvey (Father), and the respondent, Audrey C. Durrant (Mother), are the parents of one child, E.H. Mother appeals an order of the circuit court of Champaign County denying her petition to relocate to Canada with the child and allocating the

majority of parenting time to Father. She argues that both rulings were against the manifest weight of the evidence. We affirm.[1]

¶ 3 I. BACKGROUND

¶ 4 Mother and Father were involved in a long-term relationship but never married. Their son, E.H., was born in October 2015. During the course of their relationship, the parties moved several times due to Mother's job opportunities as a pediatric surgeon. Their relationship ended in late 2020 or early 2021. At that time, the parties were living in Tampa, Florida. In February 2021 Father filed a petition to establish paternity and for allocation of parental responsibility and parenting time with a Florida court. In March 2022 while Father's petition remained pending, Mother sought leave to relocate to Illinois with the child because she had received a job offer from a hospital in Champaign County.

¶ 5 On October 12, 2022, the Florida court entered a final order finding that the proposed move to Illinois would be in E.H.'s best interest. The order incorporated a long-distance parenting plan pursuant to which Mother had 270 overnights with E.H. and Father had 95. It provided that each parent was entitled to daily communication with the child during the other parent's parenting time through telephone, FaceTime, or other electronic means, and the parties were ordered to facilitate such contact and to keep their contact information current. The parties were to provide each other with written notice 21 days before traveling internationally with E.H. or 10 days before traveling out of state with the child. The parenting plan further provided that if Father moved to the Champaign-Urbana area on or before May 1, 2023, the parties agreed to a 50/50 allocation of

[1]This cause involves an accelerated appeal under Illinois Supreme Court Rule 311(a) (eff. July 1, 2018). Under Rule 311(a)(5), the appellate court is required to issue a decision within 150 days after the filing of a notice of appeal, except for good cause shown. Ill. S. Ct. R. 311(a)(5) (eff. July 1, 2018). Our decision in this case was due on or before October 19, 2026. However, we granted the appellant's requests for two extensions of time to file her brief, and the case involves complex issues. Under these circumstances, we find that good cause exists to issue our disposition outside the 150-day deadline.

parenting time. The order further provided that if Father moved to Champaign-Urbana after that date, he would not be required to show a change in circumstances to request a modification of parenting time, and the "presumptive" allocation would be equal.

¶ 6 A. Initial Proceedings in Illinois

¶ 7 On October 24, 2022, Mother filed with the Champaign County circuit court a petition to enroll foreign judgment for purposes of enforcement or modification. She requested "full custodial rights" to E.H. Initially, Father filed a motion to dismiss Mother's petition, arguing that the Florida parenting order was not a final judgment because the Florida court reserved jurisdiction to determine certain issues. However, in March 2023 Father moved to Champaign County and filed a motion for leave to withdraw his motion to dismiss, acknowledging that Champaign County was the proper forum in which to litigate the parties' parenting issues.

¶ 8 On March 30, 2023, Father filed a petition for adjudication of indirect civil contempt. He alleged that Mother violated the provisions of the Florida judgment that provided for an equal division of parenting time in the event Father moved to Champaign and daily electronic communication between Father and the child during Mother's parenting time.

¶ 9 At an April 27, 2023, hearing, the circuit court granted Mother's motion to enroll the Florida judgment without objection. The court subsequently entered an agreed order registering the Florida judgment on May 15, 2023.

¶ 10 On June 2, 2023, Mother filed a petition to modify parenting time. She alleged that prior to moving to Illinois, Father lived in Texas and refused to provide her with his address or tell her where E.H. would reside during Father's parenting time. She further alleged that Father often disparaged her in E.H.'s presence and was unable to control his anger.

¶ 11 The circuit court held a hearing over two days on June 2 and 3, 2023. In a docket sheet entry, the court found that Mother violated the Florida parenting order, as enrolled in the Illinois court, and that her violations were willful and contumacious. The court ordered each parent to facilitate electronic communication with the other parent each night at 7:00 p.m. and to encourage the child to participate. The court further ordered both parties to refrain from disparaging each other and "to confine their communications strictly to those necessary to carry out the orders of the court." The court ordered the parties to enroll E.H. in Champaign public schools for the 2023-2024 school year and set forth an interim parenting time schedule.

¶ 12 On August 11, 2023, the court held a hearing on temporary allocation of parenting time. The record does not contain a transcript or bystander's report of the hearing. The circuit court found that the parties should share parenting time and parental responsibilities equally on a temporary basis. The court set forth a temporary parenting time schedule in a docket entry, which also provided that both parties were to exercise all parenting time within Champaign County "until further order." The court ordered the parties to use the Talking Parents app for all non-emergency communications. The court entered a written order on temporary parenting time incorporating these provisions on September 5, 2023.

¶ 13 On November 17, 2023, the circuit court appointed William Culp as a limited guardian *ad litem* (LGAL) for E.H. Specifically, the court found that it would be in E.H.'s best interest for the LGAL to interview the parties and the child "and conduct such other investigation as appropriate" to determine "the child's perspective" as to the statutory best interest factors in

sections 602.5(c) and 602.7(b) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/602.5(c), 602.7(b) (West 2022)).[2]

¶ 14 On January 3, 2024, Mother filed a petition for adjudication of indirect civil contempt alleging that Father traveled to Texas with E.H. on December 23, 2023, in violation of the requirement that he exercise parenting time in Champaign County, and he had not returned to Illinois as of the date she filed the petition. Mother further alleged that Father refused to allow her to exercise her parenting time that was scheduled for the periods of December 25 to 27, 2023, and December 29, 2023, to January 3, 2024. There is no indication in the record of how this petition was resolved.

¶ 15 B. Modifications of Parenting Time in 2024

¶ 16 On February 20, 2024, Mother filed a petition for a finding of serious endangerment and to restrict Father's parenting time. She alleged that Father picked E.H. up from school on February 15 and drove with the child while "intoxicated and significantly impaired." During the drive home, Father was involved in a motor vehicle accident. He struck another vehicle, then passed out in his own vehicle with E.H. still in the car. Mother further alleged that when she arrived at the scene to retrieve her child, she witnessed Father resisting arrest and being verbally abusive to the responding officers.

¶ 17 The matter was set for a March 19, 2024, hearing. Father requested a continuance, alleging that he would be in an inpatient substance abuse treatment program in Ohio at the time and would not be able to leave to attend the hearing. At the March 19 hearing, the circuit court continued the

[2]Specifically, the court cited section 605.5(c)(1), (2), (3), (4), (8), (12), (13), and (15), and section 602.7(b)(2), (3), (5), (6), (7), (8), (11), (14), and (17). Those factors relate to the allocation of parenting time and parental responsibility for decision-making. See 750 ILCS 5/602.5(c), 602.7(b) (West 2022).

matter over Mother's objection and entered an order suspending Father's parenting time and allocating all parenting time to Mother on a temporary basis.

¶ 18 On June 4, 2024, Father filed a motion to vacate the March 2024 order suspending his parenting time and to modify the September 2023 temporary parenting order. He alleged that he successfully completed inpatient treatment for his substance abuse issues between March 4 and May 10, 2024. He further alleged that he was then working in Indiana as a sound technician on a one-week-on, one-week-off basis. He requested parenting time be allocated equally on an alternating weekly basis.

¶ 19 On August 8, 2024, the circuit court held a hearing on Mother's motion for a finding of serious endangerment and to restrict Father's parenting time and Father's motion to modify the previous parenting order. Several witnesses testified about the motor vehicle accident that occurred on February 15, 2024. Anne Odom, whose car was rear-ended by Father, testified that after her car was struck, she went to talk to the other driver, who did not respond. The back window opened "and a small child leaned out and said, 'My dad's not okay and he hasn't been okay for like the last week and I don't know what's wrong.' " Odom identified Father as the driver. She testified that he never spoke to her and appeared to have lost consciousness. However, when he was subsequently taken from his vehicle to the ambulance, Odom heard him screaming. According to Odom, there was minimal damage to both vehicles, and neither she nor the child were injured in the accident.

¶ 20 Deputy Kyle Selleck and Deputy Derek Rasmussen, who responded to the accident, also testified. Both deputies observed indications that Father was intoxicated, such as slurred speech, lethargy, and bloodshot, glassy eyes. Deputy Rasmussen also smelled alcohol on Father's breath. According to Deputy Selleck, E.H. reported that his father had been "loopy" and "sick" over the

last few weeks before the accident. He confirmed Odom's testimony that no injuries resulted from the accident. Deputy Rasmussen stated that Father was "very belligerent" when he was carried to an ambulance. As a result, Deputy Rasmussen rode in the ambulance at the request of staff. He later learned that Father's blood alcohol content (BAC) was .39 when his blood was drawn at the hospital. He noted that the legal limit is .08. Emergency room treatment records were admitted into evidence without objection. The records confirmed that Father's BAC was .392.

¶ 21 Mother testified that E.H. told her Father "had been acting loopy" for a few weeks before the accident. Asked about E.H.'s emotional response to the accident, Mother testified that he was scared and "was concerned about his father." In addition, E.H. was "somewhat clingier than normal" the day of the accident.

¶ 22 Father testified that he attended an inpatient substance abuse program from early March to mid-May of 2024 and that, as of the time of the hearing, he attended weekly Alcoholics Anonymous (AA) meetings in Champaign on Saturdays. Father further testified that a breathalyzer device with an ignition lock had been installed in his vehicle the previous month. He was willing to submit to additional alcohol monitoring as a condition of exercising parenting time.

¶ 23 During a recess, the parties came to an agreement regarding temporary parenting time. They agreed that Father would have parenting time on two Saturdays in August, and that, beginning on September 7, 2024, Father would have parenting time on alternating weekends from 11:00 a.m. on Saturday to 5:00 p.m. on Sunday. They further agreed that Father was not to consume alcohol during his parenting time or during the 12 hours before his parenting time began. He would be subject to one alcohol test one hour before his parenting time was to begin, and Mother would be permitted to request one additional test during each weekend. The circuit court found this agreement to be fair and in the child's best interest.

¶ 24 The circuit court entered a written modified temporary parenting time order on October 16, 2024, incorporating the parties' agreed terms. The order required Father to sign up for alcohol testing and monitoring through the BACtrack program and to list Mother as a monitor with full access to his compliance. The order further provided that any positive results would lead to Father's parenting time being terminated.

¶ 25 On November 27, 2024, the circuit court entered a second modified temporary parenting time order expanding Father's parenting time to alternating weekends from Friday at 6:00 p.m. to Sunday at 5:00 p.m. The order maintained the requirements that Father abstain from alcohol and submit to breathalyzer tests.

¶ 26 Also on November 27, 2024, Father filed a petition for parenting time abuse by Mother. He alleged that Mother refused to allow his scheduled parenting time on the weekend of November 22, 2024. He requested a finding of contempt, sanctions, and make-up parenting time. On the same date, Father filed a petition seeking holiday parenting time.

¶ 27 On December 9, 2024, the circuit court held a hearing on Father's petitions. The court denied the petition for parenting time abuse, finding that the allegations therein were not proven. In a docket entry, the court set forth a schedule of holiday parenting time. A written holiday parenting time order was entered on December 27, 2024.

¶ 28 C. LGAL Report, Father's Petition to Modify the November 2024 Order

¶ 29 On December 30, 2024, Mother filed an emergency petition for adjudication of civil contempt. She alleged that she arrived late to pick the child up from parenting time with Father due to a misunderstanding and that Father then refused to return the child to her.

¶ 30 On January 6, 2025, Mother notified Father of her intent to relocate to the New York City area due to a job offer. On January 10, 2025, she filed a petition for temporary and permanent

relocation. She alleged that (1) she had been unemployed since July 30, 2024; (2) she had been unable to find employment as a pediatric surgeon in Champaign; (3) she had an offer of a job in New York that would begin on January 31, 2025; (4) neither party was employed in Illinois; (5) neither party had family members or other significant ties to the Champaign area; and (6) the New York metropolitan area offered E.H. better educational opportunities, more cultural and extracurricular activities, and more racial diversity than the Champaign area.[3]

¶ 31 On February 18, 2025, the LGAL filed a three-page report with the court. In describing his investigation, the LGAL noted that he conducted two interviews with E.H. in December of 2023, one in the presence of each parent, and observed E.H. with each parent in January 2024. In addition, he reviewed the court records, the police report from Father's arrest for driving under the influence (DUI), and correspondence from White Light Behavioral Health, where Father underwent inpatient treatment for alcohol abuse.

¶ 32 The LGAL described E.H. as a "bright and curious" child. He stated that E.H. "clearly views [Mother] as a devoted mother," and his time with her "is enriching and he does well in school while in her care." The LGAL noted, however, that E.H. seemed "more relaxed and expressive" when he was with Father and that he "may not be as open" with Mother. E.H. told the LGAL that he loved both his parents and enjoyed spending time with both of them. The LGAL opined that E.H. would adjust well to the proposed relocation to New York City. He recommended that, if the court allowed Mother to relocate, E.H. should spend as much time as possible with Father during school breaks.

¶ 33 Mother withdrew her petition for temporary and permanent relocation at a status hearing on April 3, 2025. The matter came for a hearing on all pending temporary parenting issues on April

[3]Mother is black and Father is white.

9 and 10, 2025. The court first inquired about the status of Mother's December 2024 contempt petition. Mother's counsel informed the court that Mother was no longer requesting a finding of contempt because Father had returned the child to her. Counsel noted, however, that he would present evidence concerning the allegations of the contempt petition during the hearing and that Mother may be entitled to attorney fees as a result.

¶ 34 Father was called as a witness by Mother. He testified that he worked for Markey's Audio Visual, which was based in Indianapolis. However, as of November 2024 he no longer worked at Markey's warehouse in Indianapolis. Instead, he had been taking "traveling gigs." Father explained that this meant he traveled to work at events throughout the country. He testified that, in addition, he would "be working with the Local 482 Stagehand Union here in Champaign."

¶ 35 When asked about the DUI accident that occurred in February of 2024, Father acknowledged that he had "too much" to drink before picking E.H. up from school that day. Father recalled that he drank whiskey, but he did not remember how many drinks he had. He also could not recall whether he recognized at the time that he was impaired.

¶ 36 Father testified that at the time of the hearing, he attended multiple AA meetings at two different locations in Champaign. However, he did not see a professional substance abuse counselor "any longer."

¶ 37 Next, Father testified about the BACtrack testing required of him under the parenting order then in effect. He stated that Mother requested an additional test every Saturday whether it was his parenting time or not. He further testified that neither the BACtrack device nor the breathalyzer device in his vehicle had yielded a positive result for alcohol use.

¶ 38 Mother testified that she is a pediatric surgeon. At the time of the hearing, she worked for Harlem Hospital in New York on a *per diem* basis, having begun her employment there in February

of 2025. She explained that she worked there in person while E.H. was with Father over his spring break and otherwise worked remotely performing chart reviews. In addition, Mother did "locum" work for various agencies. She explained that locum work involved working as a "visiting surgeon" as needed for different hospitals. Previously, she worked for the Judge Group from May to December of 2024, conducting physical examinations for physicians seeking Veterans Administration insurance. Before that, Mother was employed as a pediatric surgeon at Carle Hospital from June 2022 to July 2023.

¶ 39 Mother testified that Father called E.H. every night during her parenting time, and she did nothing to prevent them from talking to each other. She did not call E.H. during Father's parenting time.

¶ 40 Next, Mother testified about the events described in her December 2024 contempt petition. She noted that, pursuant to court order, Father had parenting time from December 27 through December 29, 2024, but there was a misunderstanding about the time she was to pick E.H. up on December 29. She explained that, under a holiday parenting time order, Father's parenting time ended at 6:00 p.m., while the general temporary parenting time order provided for Father's weekend parenting time to end at 5:00 p.m. Mother mistakenly believed that the holiday order was still in effect, providing for a 6:00 p.m. exchange, but in fact, they had reverted to the previous schedule, which provided for a 5:00 p.m. exchange. She testified that when she attempted to pick up E.H. on December 29, Father informed her that he had gone to the park where exchanges normally took place at 5:00 p.m. and that, because she did not show up, he brought E.H. back to his house. Mother acknowledged that she was the one who had made a mistake. As such, she decided to wait until the following day to pick E.H. up rather than involve the police. However,

when she attempted to pick up E.H. on December 30, Father refused to answer the door or send E.H. out of the house.

¶ 41 When Mother filed her contempt petition on December 30, 2024, Father still had not returned E.H. to her. Asked when Father returned the child, Mother testified, "I believe I got him back at school the next day. I picked him up from his after-school program."

¶ 42 Mother's counsel asked if Mother ever denied Father parenting time. She replied, "Only when he was noncompliant with the blowing into the BACtrack one hour prior to parenting time." She noted that Father failed to comply with this requirement two or three times. However, on one occasion, he later completed the test, and she allowed him to have parenting time. Mother testified that she did not refuse to allow Father parenting time on any other occasions.

¶ 43 When asked if she still had concerns about Father's alcohol abuse, Mother replied, "He seems to have that in control. And I'd like to believe that it will continue." She confirmed that all BACtrack results to date had been negative. Mother was concerned, however, about conduct captured on videos recorded when Father submitted to BACtrack testing. She explained that the video recordings showed Father cursing at her and giving her the finger. She testified, "That is a lot of venom to be directed at the mother of your child." Mother was concerned that E.H. was being exposed to bad language.

¶ 44 On cross-examination, Mother testified that she suffered from epilepsy and was on medication for the condition. She noted that her first epileptic seizure occurred in 2001 after she was struck by a vehicle as a pedestrian. Mother explained that the type of seizures she suffered were "absence" seizures, which lasted approximately three or four seconds. She described them as causing her to essentially black out while awake.

¶ 45 Mother was asked about a motor vehicle accident that occurred on February 9, 2025, while she was driving home from New York with E.H. The accident occurred on the highway near Indianapolis. Mother testified that it happened toward the end of a long drive, and she was tired. The drive takes approximately 16 to 18 hours, and Mother made the drive in one day, with stops to recharge her electric vehicle and take naps. According to Mother, she lost control of her vehicle when she hit black ice. The vehicle left the road and struck a tree. Asked if she fell asleep at the wheel, Mother acknowledged, "It's possible." She denied that she had a seizure.

¶ 46 Mother testified that she had a driver's license, but she acknowledged that she did not have a car. She explained that at the time of the accident, her intent was to move to New York City, where having a car would not be beneficial. Father's counsel showed Mother Petitioner's Exhibit 8, which she identified as a disclosure form from the Illinois Secretary of State for drivers to identify conditions affecting their ability to drive. Reading the form, Mother noted that one of the conditions on the form was seizures. She acknowledged that she never completed and submitted this form, noting that she had never seen it before.

¶ 47 Mother testified that on December 3, 2024, a judgment of foreclosure had been entered against her involving her home in Champaign County. Her testimony concerning the status of the home was somewhat confusing. She indicated that the home had been sold, but she stated that the sheriff's sale had not occurred. She testified that she was still living in the home and that she intended to remain there until E.H. completed the current school year. She intended to move once the school year ended, but she had not decided where. She noted that, at the time, she had two potential job offers.

¶ 48 Mother further testified that she completed her medical residency in 2012. Since that time, she had held five full-time positions in addition to performing locum work. She acknowledged that

Carle Hospital's medical executive committee had investigated her for "looking concerningly hungry" and "walking in socks." She asserted that Carle Hospital had a history of targeting physicians of color, noting that the hospital was currently under investigation as a result.

¶ 49 Gregory Renshaw testified on Father's behalf. Renshaw was Father's sponsor from AA. He first met Father in late November or early December of 2024. He explained that, as Father's sponsor, he met with Father every other week. Their meetings lasted "at least an hour," but could last up to three hours. Renshaw had no doubts about Father's commitment to remaining sober.

¶ 50 Father's next witness was his mother, Renee Mallett. Mallett lived in Lakeway, Texas, which is near Austin. Her other son and his family lived in Buda, Texas, which is also near Austin, while E.H.'s grandfather lived in Iowa.[4] Mallett noted that Champaign was approximately 1,500 miles away from her home. She testified that Father and Mother "lived all over the place" with E.H. during their relationship.

¶ 51 Mallett frequently visited Father and Mother while they were together, and she stayed in their house during these visits. Asked to describe her observations of both parents' interactions with E.H., Mallett noted that Father played with E.H. and read him bedtime stories, while Mother often "stood back" and let Father do most of the household chores and interaction with E.H. She noted that Mother was around less than Father due to work. Mallett acknowledged that the last time she saw Mother with E.H. was in May of 2021.

¶ 52 Next, Father testified on his own behalf. Asked where the parties lived over the course of their relationship, Father stated they initially lived in San Antonio. When E.H. was an infant, they moved to Edinburg, Texas. Approximately six months to one year later, they moved to Des Moines, Iowa. According to Father, the family then moved back to Edinburg, where they still

[4]Father specified that his father lived in Des Moines.

owned a home, when Mother began doing locum work. During this period, Mother traveled for work most of the time. Father stated that he did not work, and instead cared for E.H. He testified that the family remained in Edinburg for approximately one and one-half to two years and then moved to Tampa in 2019 for Mother's work.

¶ 53 Father next described the seizures Mother experienced. He explained that during a seizure, Mother's eyes opened wide and she bit her top lip. According to Father, the seizures lasted "a minute, minute-and-a-half maybe" and happened often. He asserted that he helped Mother "cover up the seizure disorder on a multitude of occasions."

¶ 54 In rebuttal, Mother confirmed that Father did not work from the time E.H. was born until the parties separated. She testified, however, that E.H. was in daycare full time while they lived in Edinburg, Texas. Regarding her seizures, Mother noted that before the parties moved to Tampa, the seizures "were accelerating." However, the neurologist she saw in Tampa told Mother that the medications she had been taking were not appropriate for her condition. Mother switched to a different medication in 2021, and since that time, her seizures had been fully controlled "as far as [she was] aware."

¶ 55 Announcing its ruling on Father's petition to modify parenting time, the circuit court first addressed the statutory best interest factors for the allocation of parenting time. See 750 ILCS 5/602.7(b) (West 2024)). The court found that most of these factors were neutral or inapplicable. However, the court discussed two of the factors at length—specifically, the mental and physical health of all individuals involved (*id.* § 602.7(b)(7)) and the needs of the child (*id.* § 602.7(b)(8)).

¶ 56 Regarding the mental and physical health of all individuals involved, the circuit court found that Father had "anger issues." The court stated that Father's anger at Mother sometimes impaired his judgment. The court likewise found that Mother's struggles to find a permanent position

affected her judgment, noting that "for reasons other than just racism, or lack of being able to find the right fit, [Mother] simply has not been able to establish herself professionally in one location." The circuit court also addressed Mother's seizure disorder, opining that she still experienced occasional seizures. Regarding Mother's February 2025 vehicle accident, the court stated, "I haven't heard enough evidence to suggest it was anything other than a bad experience on the—in icy conditions."

¶ 57 Addressing the needs of the child, the circuit court found that gainful employment with a substantial salary for at least one parent would benefit E.H. In addition, the court found that spending significant time with both of his parents would be in the child's best interest. The court further found that E.H. needed stability and noted that moving around as much as the parties had done made it difficult to provide him with the stability he needed. The court stated, "I think that his parents, if they don't find it here, wherever the next place is, it—it better be pretty compelling testimony that someplace else is gonna provide that stability."

¶ 58 The circuit court denied Father's petition to modify its November 2024 temporary parenting order. The court indicated it would give Father the majority of summer parenting time while E.H. was out of school, but it would otherwise maintain the existing schedule of alternating weekends. The court found that no restriction on parenting time was necessary as the evidence showed that Father was remaining sober. However, the court indicated that it would continue to require BACtrack testing as a condition. The court subsequently set forth these provisions in a written third modified temporary parenting order in July 2025.

¶ 59 D. Mother's Move to Canada, Modification of Temporary Parenting

¶ 60 On June 23, 2025, Father filed an emergency petition for a temporary restraining order (TRO), alleging that he observed Mother and E.H. at the airport early that morning with Mother's

boyfriend and her dog. He further alleged that Mother sold her home on June 9 and that he believed she was seeking to "leave this jurisdiction" and go to Canada with the child. He requested a TRO prohibiting Mother from leaving Champaign County and ordering her to appear in court with the parties' child the next day. The following day, the circuit court denied the emergency petition, finding that because Mother appeared to have already left Champaign County, it was not possible for the court to grant the specific relief requested. At a July 17, 2025, status hearing, Father's counsel informed the court that E.H. had been returned to Father in Champaign County on July 6, 2025.

¶ 61 On July 18, 2025, Father filed a petition for adjudication of indirect civil contempt, parenting time abuse, and restriction of parental responsibilities. He alleged that Mother violated the terms of the Florida parentage judgment, as enrolled in Illinois, by (1) failing to provide him with a new address after selling her home on June 9, 2025; (2) traveling outside the United States to Canada with E.H. from June 23 to July 6, 2025, without providing him with an itinerary or a location where E.H. could be reached; and (3) failing to allow Father to have telephone contact with E.H. between June 23 and July 5, 2025. Father further alleged that Mother failed to provide him with parenting time the weekend of April 25 to April 27, 2025, as scheduled. He argued that these actions created a risk of serious endangerment justifying a suspension of Mother's parenting time.

¶ 62 On July 30, 2025, Father filed a petition to modify the third modified parenting time order. He alleged that Mother had moved with E.H. to Etobicoke, Ontario, Canada. Father requested that the court allocate the majority of parenting time to him. Although the timing is not clear from Father's pleadings, Mother later testified that she moved to Ontario in June 2025 after her Champaign County home was sold.

¶ 63 On August 1, 2025, Mother's attorney was allowed to withdraw as counsel with Mother's agreement. On August 19, 2025, the matter came for a status hearing. Mother appeared remotely via the Zoom video conferencing platform. The court allowed Mother 21 days to retain counsel or enter her appearance *pro se*. The court ordered that the child "remain in Champaign County until further order of the court."

¶ 64 The matter proceeded to a hearing on Father's motions on September 9, 2025. At the outset, Mother entered her appearance as a *pro se* litigant.

¶ 65 Father testified that E.H. was then in fourth grade at Westview Elementary School, the same school he had attended for the past three years. Father stated that he planned to stay in Champaign "for as long as it takes for [E.H.] to, to grow up and graduate here."

¶ 66 At the time of the hearing, Father worked for the stagehand union, Local 482, through the local university. He explained that through an agreement between the union and the university, he worked at the university, which paid the union for his services, and the union paid Father. In addition, he continued to work for Markey's, which was based in Indianapolis. However, Father no longer worked at the company's Indianapolis location. He traveled to work at events for Markey's approximately every other month. He noted that his mother came to Champaign to care for E.H. when he traveled for work.

¶ 67 Father acknowledged that he was then on probation for DUI, which would continue until November 2026. He testified that he had a restricted driving permit that allowed him to drive from 7:00 a.m. to 7:00 p.m. Sunday through Friday. He was also required to use a breath-testing device installed in his vehicle.

¶ 68 Mother testified about her decision to move to Canada. She stated that she was living with her mother in Etobicoke, Ontario, a suburb of Toronto where she grew up. Mother testified that

under the current political climate, the United States did not feel welcoming to people of color, "especially a male child of color" like E.H. She stated, "I did what many people do when they find themselves in times of trouble, they go home." Explaining why she believed moving to Canada would be in E.H.'s best interest, Mother stated that she did not feel the same burden of racism growing up in Canada that she felt in the United States, and she wanted E.H. to have the same freedom. She further testified that Canadian children do better than children in the United States in terms of "academic placement" and that university tuition is less expensive there.

¶ 69 Ruling from the bench, the court first noted that if Mother wanted to relocate to Canada with E.H., she must first file a petition to relocate, which she had not yet done. The court stated, "I certainly would entertain that request, if it was presented." The court noted that, although it could allow relocation with a fleshed-out record, "the most stable placement that [E.H.] has had has been in Illinois from what I've seen." Addressing Mother's concerns about racism, the court stated, "I agree with you. I'm terrified about what's going on in my country." The court stated, however, "Illinois has especially demonstrated a resistance to the kind and quality of racism that [Mother] is referencing."

¶ 70 The circuit court went on to state that Father was not the only parent who gave the court concerns about potentially dangerous decisions regarding the use of an automobile. The court pointed to Mother's February 2025 vehicle accident which, according to the court, occurred "under circumstances that at least appear to be related to her continued problems with epilepsy." The court stated, "I don't have any testimony to that effect, I don't have any, anything to really sink my teeth into." However, the court emphasized that "when given the opportunity to explain the circumstances, [Mother] essentially said I fell asleep, or, or I don't quite remember what happened."

¶ 71 The court allocated the majority of parenting time to Father with "liberal and expansive [parenting] time" for Mother. Father was to remain subject to breathalyzer tests. The court entered a written fourth amended parenting time order on October 9, 2025, containing more detailed findings. Specifically, the court found that Mother relocated indefinitely without prior notice to Father or approval of the court, in violation of removal procedures under Illinois law. The court further found that E.H. was well-adjusted to life in Champaign County and to the educational program at the Champaign public school he attended. The court allocated the majority of parenting time to Father. Mother was to have "reasonable and liberal parenting time," but the order did not set forth a schedule. Instead, it provided that Mother's parenting time would take place "upon reasonable notice and specification of times" to Father via the Talking Parents app. It further provided that Mother's parenting time was to take place in Champaign County for periods of up to one week at a time unless agreed to by the parties in writing or approved by the court.

¶ 72 E. Mother's Petition to Relocate, Final Parenting Order

¶ 73 On December 5, 2025, Mother filed a *pro se* petition for temporary and permanent relocation. She alleged that she received a job offer as a pediatric surgeon at a hospital in Regina, Saskatchewan, which was to begin in January 2026. She further alleged that neither parent had family, employment, or "long-term roots" in Champaign County. She alleged that Father worked "on contract at rotating locations" away from home, during which time E.H. did not reside with either of his parents. Finally, Mother alleged that the proposed relocation was in E.H.'s best interests due to "improved educational, cultural, and developmental opportunities." She requested that E.H. remain in Champaign County to complete the school year and then be allowed to relocate permanently. Attached as an exhibit was a copy of a letter from the Saskatchewan Health Authority

offering Mother a position as a pediatric surgeon. The position was to run from January 1, 2026, to December 31, 2026, at a salary of $652,542.

¶ 74 The circuit court held a hearing on Mother's relocation petition and the permanent allocation of parenting time over two days on February 4 and 5, 2026. Father's attorney asked the circuit court to consider evidence presented at all prior proceedings to avoid unnecessary repetition, and the court indicated that it would. Mother once again appeared *pro se*.

¶ 75 The first witness to testify was Father. He stated that at that time, he worked as a recruitment specialist for Express Employment Professionals (Express) with a salary of $65,000 per year. He began working at this job in November 2025. Although Father usually worked from 8:00 a.m. to 5:00 p.m. Monday through Friday at Express's offices, he occasionally had "other check-ins" and duties to perform "at other locations." He explained that he occasionally worked weekends to "do a check-in here and there," but he generally did not work for "extended periods" on weekends.

¶ 76 Father testified that E.H. attended Westview Elementary School. The school was located approximately two miles from Father's home, between his home and his job. Father dropped E.H. off at school each morning at 7:45 a.m. School let out at 2:50 p.m. Most days, E.H. took a bus to the YMCA for after-school care, where Father picked him up. On Tuesdays, however, E.H. had basketball after school, and the mother of one of his friends drove him to the YMCA after basketball.

¶ 77 Father further testified that E.H. had attended the same school for first through fourth grades and was doing well in school. E.H. had "a bunch of friends" from school. Father named some of E.H.'s friends and described some of the activities and outings he engaged in with those friends. E.H. also participated in sports programs at the YMCA, including indoor soccer. Father

noted that E.H. was friends with Archer, a child from the indoor soccer team. He stated, however, that E.H. had not made friends with many children from the YMCA who do not go to his school, mainly because those children were younger than him. E.H. also was friends with children in the neighborhood. Asked about the ethnicity of E.H.'s peer group, Father replied, "It's everything." He stated that E.H.'s group of friends included children of "all flavors."

¶ 78 Father identified Petitioner's Exhibit 5 as a nomination from E.H.'s teacher to attend the National Youth Leadership Forum Pathways to STEM, a weeklong program at Loyola University in Chicago. He testified that E.H. wanted to participate in the program. Although Father and Mother agreed that E.H. should be allowed to do so, they had not yet communicated about proceeding with arrangements.

¶ 79 Father noted that E.H. had recently begun taking guitar lessons after his grandfather gave him a guitar for Christmas. He described E.H. as "a very happy kid."

¶ 80 Father acknowledged that he pled guilty to DUI. He further acknowledged that there were restrictions on his driver's license, including the requirement that a breathalyzer device be installed in his car. He testified that the device, called a BAIID, had not detected alcohol since it was installed. Father admitted that he missed a few BACtrack tests. He explained that he does not carry the device with him wherever he goes, and sometimes he forgets to take the test when he gets home.[5] He stated, "I can pretty well guarantee that every day that there's a missed test on here I have multiple tests that I took in the car."

¶ 81 Father was asked about the events surrounding a positive BACtrack test on Saturday, September 27, 2025. He testified that he was in St. Louis working at an event at Busch Stadium

[5]As discussed above, Father was subject to a requirement of taking one BACtrack test per week when requested to do so by Mother. A printout of BACtrack test results admitted into evidence showed a missed test at 11:27 a.m. on Saturday, December 27, followed by a negative test result at 11:45 a.m. the same day and a missed test on Saturday, December 20, with no follow-up test.

that day. E.H. was home in Champaign being cared for by Father's father. Father acknowledged that the BACtrack device registered his BAC as .07 at 11:30 that morning. He noted, however, that it registered as .00 when he tested again 25 minutes later. Father denied that he was drinking that day. Asked to explain the positive result, Father testified that, pursuant to BACtrack's directions, the procedure to be followed after a positive result is to wait 20 minutes before retesting. However, he blew into the device several extra times without waiting 20 minutes because he had to get back to work. He stated that the battery on the device died as a result of the extra tests he took. After recharging it, he tested again at 11:55 a.m. and the result was .00.[6] Father noted that he had been using a sunscreen with "a very high level of alcohol in it."

¶ 82 Father testified that, at the time of the hearing, he had been sober for two years. He still attended AA meetings and met with his sponsor.

¶ 83 Father estimated that Mother called E.H. "about once every other week," but he acknowledged that she communicated with him by text message more frequently. He testified that communications between the parties via the Talking Parents app were "exceptionally minimal."

¶ 84 Asked why he believed that remaining in Champaign County was in E.H.'s best interest, Father replied, "There's absolutely no reason to change the environment for a child who is exceeding at what he is supposed to do."

¶ 85 On cross-examination, Father testified that before the parties moved to Champaign County, he had no connections to the community. He stated, however, that he now had a home and a job there. Father opined that Westview Elementary School was "doing a pretty good job" with E.H.'s education, but he wished it had more music programs.

[6]A printout of BACtrack test results shows a missed test at 11:27 a.m., followed by several tests indicating a BAC of .070 at 11:29 a.m., a BAC of .059 at 11:31 a.m., a BAC of .049 at 11:33 a.m., a BAC of .040 at 11:34 a.m., a BAC of .031 at 11:36 a.m., a BAC of .029 at 11:39 a.m., and a BAC of .000 at 11:55 a.m.

¶ 86 Mother asked Father if he had spoken with E.H. regarding whether E.H. wanted to move to Canada or stay in Champaign County. In response, Father stated, "We've had small discussions, but I don't *** feel it's fair to ask him questions like that." Father testified, however, that E.H. said he liked his friends and did not want to move again.

¶ 87 Father testified that his father cared for E.H. when he traveled for work. He acknowledged that his father has a problem with alcohol, but he indicated that he never observed alcohol abuse while his father was caring for E.H.

¶ 88 Father stated that he wanted E.H. to have a relationship with Mother. The court asked Father whether he would be willing to facilitate the arrangement if the permanent allocation order included "several weeks at a time" of parenting time for Mother in Canada. Father indicated that he would be willing to do so and would follow the court's orders.

¶ 89 Finally, Father testified that he was confident he could raise E.H. on his own. Asked why, he stated that he and E.H. had managed without much help from Mother "for the better part of [E.H.'s] life." He acknowledged that Mother "participated some" and that she "contributed financially," but he claimed that she was "distant."

¶ 90 Mother's sister, Lorraine Sloan Solomon, testified that E.H. was her "favorite nephew at the moment." She testified that E.H. visited the family in Canada "several times" over the previous two summers and enjoyed his visits. In addition to spending time with Mother and E.H. in Canada, Solomon visited them in Champaign for a week in October of 2024. During that visit, Solomon "observed a family dynamic that was warming, inviting, welcoming." She testified that E.H. loved his mother. Solomon was aware that Mother called E.H. frequently because she often had to wait for Mother to finish her chats with E.H. before she could talk to her.

¶ 91 Solomon testified that Mother had the support of family members in Canada, including Solomon, who intended to visit and remain in E.H.'s life if and when he moved to Saskatchewan. She further testified that she and Mother had four siblings in Canada—Roslyn, Annie, Dalton, and Charles, all of whom had children close to E.H.'s age. She noted that they also had cousins with children E.H.'s age.

¶ 92 Solomon testified that E.H. would have access to universal health care in Canada and that there are no school shootings in Canada. She acknowledged that her experience with the Canadian school system was primarily limited to the schools in the vicinity of Toronto, where she lived, but she noted that the education system was standardized.

¶ 93 On cross-examination, Solomon stated that most of E.H.'s cousins lived in the Toronto area, and all of Mother's siblings lived in the province of Ontario. She acknowledged that the city of Regina is approximately 1,800 miles from Toronto, and no other members of Mother's family resided in Saskatchewan at that time. Solomon was asked to list the names and ages of all the children in her family. Solomon's only child was an adult; however, her siblings had children between the ages of 8 and 13 in addition to older children.[7]

¶ 94 Mother's next witness was her cousin, Carol Gutierrez. Gutierrez and Mother grew up together until Mother "migrated to Canada." They continued to have a very close relationship.

¶ 95 Gutierrez spent time with Mother, Father, and E.H. before Mother and Father ended their relationship. The first time she saw them together as a family was during a visit to Texas when E.H. was three months old, and the last time was shortly before they left Florida, at which time E.H. was six or seven years old. Gutierrez saw Mother and her family frequently over this period, and she observed both parents' interactions with E.H. Gutierrez described Mother as a "very

[7]At the time of the hearing, E.H. was 10 years old.

selfless" and "very protective" mother. She testified that Mother never tried to exclude Father from E.H.'s life. By contrast, she felt that when Father was present, the environment was unsafe because Father "would drink eight cans of beer every single night."

¶ 96 Gutierrez recalled two incidents involving concerning behavior by Father. Once, he called the police and claimed that Mother and Gutierrez had kidnaped E.H. when they took him to a dentist appointment Father did not know about. The other time, Father called the police to report that Mother had attacked him while he was "super inebriated.

¶ 97 Gutierrez believed that residing with Mother was in E.H.'s best interest. She explained that Mother provided her child with "a safe, stable environment."

¶ 98 On cross-examination, Gutierrez testified that she lived in Boston. Although she stated that she had regular contact with E.H. by telephone and FaceTime, she acknowledged that she had not spent time with him in person since he and Mother moved to Illinois. Gutierrez described Father as "violent," but did not give any examples of violent behavior.

¶ 99 In response to questioning by the circuit court, Gutierrez testified that she had blocked Father from communicating with her because he swore at her and insulted her and her husband. Gutierrez further testified that Father told her he had obtained a court order prohibiting members of Mother's family from having contact with E.H. She noted, however, that he did not show her the alleged order.

¶ 100 The circuit court took the matter under advisement and entered its final written order on April 23, 2026. The court first discussed the statutory relocation factors. See 750 ILCS 5/609.2(g) (West 2024). Addressing the circumstances and reasons for the proposed relocation (*id.* § 609.2(g)(1)), the court found that Mother sought to relocate due to an offer of new employment.

Although it did not specify that this factor weighed in favor of or against relocation, the court stated that it had "no issue" with Mother's reason for seeking to move.

¶ 101 Turning its attention to the reasons for Father's opposition to the proposed move (*id.* § 609.2(g)(2)), the court noted that E.H. had already moved frequently for Mother's employment and that he had lived in Champaign County longer than he had lived in any previous location. The court again did not explicitly weigh this factor, but the court opined that there was no reason to believe the proposed move to Saskatchewan would be any different from Mother's previous short-term moves for employment.

¶ 102 In considering the history and quality of each parent's relationship with the child, (*id.* § 609.2(g)(3)), the court found that both parents had bonded with E.H. The court further found that, although both parties were generally "capable of exercising good judgment in parenting decisions," both had made "objectively serious" mistakes. The court stated that Father failed to address his alcoholism for years and ultimately drove under the influence while E.H. was in the car. The court then noted that despite experiencing seizures that left her unconscious for up to one minute, Mother drove home from New York with E.H. in the vehicle, became unconscious, and had a single-car accident. The court found that Father was more willing to acknowledge his mistakes and make changes, which tipped this factor "strongly" in favor of Father.

¶ 103 With respect to the educational opportunities available to E.H. at both locations (*id.* § 609.2(g)(4)), the court found that E.H. was thriving in the Champaign school he attended. Although Mother argued that the educational opportunities available to E.H. in Saskatchewan were better than those available in Illinois, the court noted that she did not provide specific evidence related to those opportunities. The court thus concluded that this factor weighs in favor of Father "[t]o the extent [it] favors either party."

¶ 104 Next, the court considered the presence or absence of extended family members at both locations (*id.* § 609.2(g)(5)). After noting that neither party had family members in either Regina or Champaign, the court highlighted evidence that Father's mother had travelled to Illinois to assist in E.H.'s care. The court acknowledged evidence that Mother's relatives were willing to travel to Saskatchewan to provide support, but noted that they had not yet done so. The court again found, "To the extent this factor favors either party, it favors [Father]."

¶ 105 The court next addressed the anticipated impact of the proposed move on the child (*id.* § 609.2(g)(6)). The court found that the impact of the parties' repeated moves on E.H. had been "detrimental," and that the prospect existed for yet another move within a short period of time if the court were to grant Mother's petition for relocation. The court concluded that this factor strongly weighed against relocation.

¶ 106 The court stated that it could fashion a reasonable allocation of parenting time if relocation were allowed (*id.* § 609.2(g)(7)), explaining that parenting time over the summer and other school breaks "would provide meaningful parenting time." The court noted, however, that this was true regardless of how it ruled on the question of relocation. It thus concluded that this factor was neutral.

¶ 107 As to the wishes of the child (*id.* § 609.2(g)(8)), the court noted "the findings of the GAL as to [E.H.'s] bonding with both parties and his desire to remain close with both parents." The court found this factor to be neutral.

¶ 108 The next factor addressed by the court was any possible arrangements for the exercise of parental responsibilities appropriate to the parties' circumstances and resources and the developmental level of the child (*id.* § 609.2(g)(9)). The court stated that "neither parent appears to require special consideration as to their respective resources," and found this factor to be neutral.

¶ 109 With respect to the minimization of any impairment to the parent-child relationship caused by a parent's relocation (*id.* § 609.2(g)(10)), the court found that extended visits would be adequate to minimize any adverse impact on either parent's relationship with the child. The court thus found this factor to be neutral as well.

¶ 110 The final relocation factor is any other factor the court expressly finds relevant. See *id.* § 609.2(g)(11). Here, the court found two such factors relevant. First, the court addressed Mother's concerns about racism. The court acknowledged these concerns were valid but found that "generalized references to inequity" were not persuasive absent specific evidence of the adverse impact on E.H. Second, the court considered Mother's earlier attempt to relocate to Ontario with E.H. without prior notice to Father. The court noted that her actions made it necessary for the court to enter a modified temporary parenting order giving Father the majority of parenting time. The court did not expressly weigh either of these factors.

¶ 111 Based on its consideration of all the factors, the court concluded that Mother failed to meet her burden of proving that relocation would be in E.H.'s best interest. It therefore denied her petition to relocate to Saskatchewan.

¶ 112 Turning its attention to the allocation of parenting time, the court first indicated that it had already addressed most of the statutory best interest factors concerning allocation of parenting time in its removal analysis. See *id.* §§ 602.7(b)(1)-(3), (5)-(9), (17). With respect to the factor that concerns any instances of abuse (*id.* § 602.7(b)(14)), the court stated that this factor had been "addressed in the removal analysis to the extent that [the] Court has found that [Father] allowed his alcoholism to put [E.H.] at risk and [Mother] has allowed the symptoms of her epilepsy to put [E.H.] at risk." The court found that four of the remaining factors were inapplicable. See *id.* §§ 602.7(b)(10), (11), (15), (16).

¶ 113 The court then found that two of the factors—any prior agreement between the parties relating to caretaking functions (*id.* § 602.7(b)(4)) and the willingness and ability of each parent to foster a close and continuing relationship between the child and the other parent (*id.* § 602.7(b)(13))—were neutral. In support of this finding, the court noted that the parties had "a nominal agreement as to parental decision making" and found that despite their initial reluctance to do so, both parties had made efforts to encourage and facilitate E.H.'s relationship with the other parent.

¶ 114 The court devoted considerable attention to the remaining factor—the willingness and ability of each parent to place the child's needs ahead of his or her own needs (*id.* § 602.7(b)(12)). The court observed that both parents loved their child and that both "demonstrated remarkable levels of dedication and concern." However, the court found that while Mother "found it necessary to uproot [E.H.] again and again due to the exigencies of her career," Father followed Mother in an effort to remain a meaningful part of his son's life even though doing so "compromised (or at least delayed) his own career aspirations." The court thus found that Father was more willing than Mother to place E.H.'s needs ahead of his own desires.

¶ 115 In reaching this conclusion, the court found that Father's efforts to remain sober following his February 2024 arrest for DUI constituted further evidence of his willingness to put "his own selfish desires aside for the sake of his child." The court emphasized that Father had remained sober for over two years and had complied with the terms of his probation in the DUI case and with the "stringent requirements" imposed on him in this case to verify his sobriety.

¶ 116 The court concluded that, upon consideration of the statutory factors, allocation of the majority of parenting time to Father was in E.H.'s best interest. The court went on to state that this decision was "in large measure a product of [Father's] willingness to provide [E.H.] with a stable

residence in Champaign County." The court thus indicated that if Father wished to relocate to a different community with the child, this would provide "immediate grounds for review of this parenting time allocation." The court further found that it was in E.H.'s best interest "to spend substantially all of his school break period[s] with [Mother]" and set forth a parenting schedule in accordance with that finding.

¶ 117 Mother subsequently retained counsel and filed this timely appeal on May 21, 2026.

¶ 118 II. ANALYSIS

¶ 119 On appeal, Mother contends that the circuit court's findings regarding both relocation and allocation of parenting time were against the manifest weight of the evidence. We disagree.

¶ 120 A. Petition for Relocation

¶ 121 The paramount question in a relocation case is whether the proposed move is in the best interest of the child. *In re Marriage of Hefer*, 282 Ill. App. 3d 73, 79 (1996). The parent who requests permission to relocate has the burden of proving by a preponderance of the evidence that the proposed relocation is in the child's best interest. *In re Marriage of Kavchak*, 2018 IL App (2d) 170853, ¶ 65.

¶ 122 In determining whether relocation is in the child's best interest, the circuit court must consider the following factors: (1) the circumstances and reasons for the proposed move, (2) the reasons for any objection to the proposed relocation by the other parent, (3) the history and quality of each parent's relationship with the child, including whether either parent has failed to exercise parental responsibilities allocated to him or her, (4) the educational opportunities available to the child at both locations, (5) the presence or absence of extended family members at both locations, (6) the anticipated impact relocation will have on the child, (7) the circuit court's ability to fashion a reasonable allocation of parental responsibilities if the relocation is allowed, (8) the wishes of

the child, (9) possible arrangements for exercising parental responsibilities that are appropriate to the circumstances and the parties' resources, (10) minimization of any impairment to the relationship between the child and the other parent that might be caused by the relocation, and (11) any other relevant factors. 750 ILCS 5/609.2(g) (West 2024). The determination "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 on the circumstances of each case." *Kavchak*, 2018 IL App (2d) 170853, ¶ 65 (citing *In re Marriage of Eckert*, 119 Ill. 2d 316, 326 (1988)). Due to "the case-by-case nature of our review, the result cannot be reduced to a simple tally of which party 'won' a majority of the enumerated factors." *In re Marriage of Levites*, 2021 IL App (2d) 200552, ¶ 71.

¶ 123 On appeal, we do not "reweigh the competing considerations." *Kavchak*, 2018 IL App (2d) 170853, ¶ 65. Instead, we review the circuit court's decision deferentially. *Id.* This deference is warranted because the circuit court had the opportunity to observe both parents and is therefore better able to evaluate their temperaments and personalities. *In re Marriage of Fatkin*, 2019 IL 123602, ¶ 32. We will reverse a decision on relocation only if it is against the manifest weight of the evidence. *Kavchak*, 2018 IL App (2d) 170853, ¶ 65. A decision is against the manifest weight of the evidence if the record clearly calls for the opposite conclusion to the one reached by the circuit court or if the decision depends on factual findings that "are clearly, plainly, and indisputably erroneous." *In re P.D.*, 2017 IL App (2d) 170355, ¶ 18. There is a strong and compelling presumption in favor of the circuit court's ruling. *Fatkin*, 2019 IL 123602, ¶ 32.

¶ 124 The first two factors for consideration are the circumstances and reasons a parent is seeking to relocate and the reasons the other parent opposes the relocation. 750 ILCS 5/609.2(g)(1), (2) (West 2024). The court found that Mother sought to relocate to pursue a job opportunity, while Father opposed the proposed relocation arguing that E.H.'s need for stability outweighed Mother's

desire to pursue this opportunity. As Mother points out, the court did not expressly weigh these factors either in favor of or against relocation. However, the court did explicitly state that it had "no issue" with Mother's decision to seek employment in Saskatchewan, and the court highlighted evidence that Mother's previous moves had not provided the child with stability. Thus, the court appears to have found that neither parent had an improper motive and that these factors balanced each other out.

¶ 125 Mother argues, however, that both of these factors should have weighed in favor of relocation. With respect to the circumstances and reasons she sought to relocate, Mother notes that the circuit court previously found that having at least one parent earning a substantial salary would benefit E.H. As such, she contends, the circuit court should have found that the salary she was offered to work in Regina as a benefit to E.H. We agree that the extent to which the move might enhance Mother's financial security is a proper consideration. A circuit court may consider evidence that a parent's quality of life will likely be enhanced by the proposed move "as long as the court is satisfied that it has a bearing on the child's best interests." *Kavchak*, 2018 IL App (2d) 170853, ¶¶ 88-89. Thus, we agree that this factor weighs in favor of relocation.

¶ 126 With respect to Father's reasons for opposing relocation, Mother asserts that "the record is full of evidence that [Father] detests [Mother] and would do anything to make [Mother's] life more difficult while disregarding what would be best for [E.H.]" For this reason, she contends that this factor, too, should have weighed in favor of relocation. We disagree. Although the record clearly shows that Father dislikes Mother and has not always hidden his feelings from his son,[8] the record

[8]As we will discuss in more detail, the Florida court found that Father had disparaged Mother in front of the child prior to entering its final parentage order in October of 2022. We will address the valid concerns this raises over Father's willingness and ability to foster and encourage a relationship between E.H. and Mother whether the court can minimize any impairment to Mother's relationship with E.H. when we consider those factors.

is devoid of any evidence that he opposes the proposed relocation to make Mother's life more difficult or for any reason other than his belief that the move would not be in the child's best interest. As such, we reject Mother's claim that the court should have weighed this factor in favor of relocation.

¶ 127 The next statutory factor is the history and quality of each parent's relationship with the child, including whether either parent failed to exercise parenting time. See 750 ILCS 5/609.2(g)(3) (West 2024). Here, there is no evidence that either parent failed to exercise their parenting time, and there is ample evidence to support the court's finding that both parents were bonded with E.H. However, the court went beyond that to find that both parents had made "objectively serious" mistakes, citing their respective car accidents. Mother argues that the court improperly "equated Father getting into an accident for driving while intoxicated with a .392 blood alcohol level with [Mother] getting into an accident due to icy conditions." We agree that the court's comments equating the two accidents were not well considered.

¶ 128 Moreover, we agree with Mother that the evidence does not support the court's findings that she was not properly managing her epilepsy and was thereby endangering E.H. As Mother points out, the court initially found no reason to believe that her car accident was caused by anything other than icy road conditions. As she further notes, the court indicated months later that the accident *appeared* to be related to her condition, but acknowledged there was no specific evidence of this. Mother testified that her epilepsy was successfully managed with medication, and we note that the Florida parentage judgment, which was enrolled in Illinois, included an express finding that this was the case. Father presented no medical evidence to contradict Mother's testimony that her medication was working and no medical evidence that Mother should not have been driving. Indeed, he testified that he had not seen Mother have a seizure since 2021. We thus

agree that the court's finding that Mother was not exercising good judgment regarding managing her condition was not supported by the evidence.

¶ 129 Mother goes on to argue that this factor should have weighed in favor of relocation. In support of this argument, she points to evidence that witnesses described her as a good mother who had a good relationship with her son, as well as the LGAL's observations that she had a close bond with E.H., who did well in school while in her care, and provided him with an enriching environment. She also points to evidence that Father reacted angrily to the requirement of submitting to BACtrack testing and asserts that this hostility demonstrates that he does not understand the severity of his alcoholism and is unwilling to adequately address the problem.

¶ 130 Undisputed evidence showed that both parents had a close relationship and strong bond with E.H., and Father testified that E.H. continued to do well in school after the majority of parenting time was allocated to him in September 2025. Undisputed evidence also showed that Father had managed to remain sober for two years. Mother acknowledged as much in her own testimony. Father testified that he attended AA meetings and met regularly with his sponsor. On the whole, we believe consideration of the nature and quality of each party's relationship with the child does not weigh in either party's favor.

¶ 131 We emphasize that while we reject the circuit court's determination that this factor weighed strongly in Father's favor and against relocation, we are not required to overturn the court's ultimate conclusion. As stated above, the decision in a relocation case "cannot be reduced to a simple tally of which party 'won' a majority of the enumerated factors." *Levites*, 2021 IL App (2d) 200552, ¶ 71.

¶ 132 The next factor is the educational opportunities available to the child at both locations. See 750 ILCS 5/609.2(g)(4) (West 2024). To meet the burden of proving that this factor favors

relocation, a parent must provide specific evidence of distinctions between the schools the child would attend in both communities. See, *e.g.*, *In re P.D.*, 2017 IL App (2d) 170355, ¶ 30 (finding "presumed general knowledge" insufficient to show that schools in the proposed new location are better); *In re Marriage of Sale*, 347 Ill. App. 3d 1083, 1088 (2004) (finding evidence on this factor insufficient where the mother offered no evidence concerning test scores, curriculum, or facilities); see also *In re Marriage of Belt*, 2026 IL App (5th) 251051-U, ¶ 142 (finding evidence sufficient on this factor where the mother provided reports rating two school districts based on their academics, teachers, clubs and activities, college preparation, diversity, and administration, but reversing the decision based on other factors).[9]

¶ 133 Here, Mother offered general testimony that Canadian school children out-performed children in the United States academically and that Canadian schools did not experience gun violence. However, she did not offer any specific information about the curriculum, extra-curricular activities, faculty, or facilities available to E.H. in Regina, the community where she intended to live. We emphasize that it was Mother who bore the burden of proving that relocation was in E.H.'s best interest. See *Kavchak*, 2018 IL App (2d) 170853, ¶ 65. We do not believe she carried that burden with respect to the educational opportunities available to E.H. in Regina.

¶ 134 The next factor concerns the presence or absence of extended family members at both locations. See 750 ILCS 5/609.2(g)(5) (West 2024). The circuit court correctly noted that E.H. did not have extended family in either community. The court nevertheless found that, to the extent this factor favored either party, it favored Father and weighed against relocation. The court found evidence that Father's parents had visited E.H. in Illinois to help care for him while there was no

[9]We cite *In re Marriage of Belt*, 2026 IL App (5th) 251051-U, as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025).

evidence that Mother's family members had visited Mother and E.H. in Saskatchewan to provide support, despite expressing a willingness to do so. As Mother correctly points out, however, she had not yet moved to Saskatchewan from Ontario at the time of the hearing, thus making it impossible for her family to have visited her there.

¶ 135 Father's father, with whom E.H. has an established relationship, lives in Des Moines, Iowa, which is only 353 miles from Champaign according to Mapquest. See *Hoskin v. Union Pacific R.R. Co.*, 365 Ill. App. 3d 1021, 1024-25 (2006) (stating that the appellate court may take judicial notice of matters capable of instant and indisputable verification, including the distances between cities). This is significantly closer than any other extended family members live to either community. As discussed, the evidence established that Mother's siblings live near Toronto, 1,800 miles from Regina, and Father's mother and brother live near Austin, Texas, 1,500 miles from Champaign. Thus, to the extent this factor weighs in either direction, we agree it weighs slightly against relocation.

¶ 136 The next factor for consideration is the anticipated impact of the proposed move on the child. See 750 ILCS 5/609.2(g)(6) (West 2024). The court found that this factor weighed heavily against relocation because the court believed that the parties' many previous moves had been detrimental to E.H. and that it was likely Mother would move with E.H. again within a short time if allowed to relocate to Saskatchewan. Mother argues that the court should have given weight to the LGAL's report, in which he opined that E.H. would adjust well to a proposed move to New York. Mother further notes that the evidence showed that E.H. had "not demonstrated any ill effects" from the parties' previous moves.

¶ 137 We acknowledge that the evidence showed that E.H. was a happy, well-adjusted child who did not appear to have suffered any detrimental effects as a result of his parents' numerous previous

moves, all but one of which occurred before E.H. started school. However, the evidence also showed that, at the time of the final hearing in this matter, E.H. had attended the same school and had lived in the same community for nearly four years. He was thriving in that school and was involved in activities he enjoyed. E.H. had made friends with children in his school and his neighborhood. A long-distance move would sever these connections. Evidence that E.H. had adjusted well to previous moves does not preclude the circuit court from considering the negative impact of severing his connections.

¶ 138 Moreover, in view of Mother's history of frequent moves and the evidence that she was offered a position in Regina for a one-year period, the court was correct to consider the prospect of another move following shortly thereafter. Stability and continuity are important considerations in determining a child's best interest. See *In re Marriage of Lonvick*, 2013 IL App (2d) 120865, ¶ 33; see also *Hefer*, 282 Ill. App. 3d at 77. Here, those considerations weighed heavily against allowing relocation. While the evidence may not support a finding that relocation to Saskatchewan would be "detrimental" to E.H., we believe the evidence does support the court's finding that the proposed move would have a negative impact and would not be in E.H.'s best interest.

¶ 139 Another factor to consider is the wishes of the child. See 750 ILCS 5/609.2(g)(8) (West 2024). There was limited evidence regarding this factor. The LGAL's report noted that E.H. had a strong bond with both of his parents and enjoyed spending time with each of them, as the circuit court noted in its ruling. Father testified that E.H. indicated that he liked his friends in Champaign County and did not want to move again, but he also testified that he did not ask E.H. about his preferences in terms of whether he wanted to move to Canada or remain in Illinois. Mother attempted to present evidence that E.H. told one of his friends he wanted to move to Canada with Mother. However, that evidence, which consisted of an affidavit from the friend's mother, was

excluded on the grounds that it was hearsay. We note that the LGAL interviewed E.H. in December of 2023 and January of 2024, when E.H. was eight years old. The LGAL believed that E.H. was too young at that time to express a reasoned preference regarding where he wanted to live. By the time this matter came for a final hearing, E.H. was 10 years old. The circuit court did not order a supplemental LGAL report or conduct an *in camera* examination of the child. While such an inquiry could have been helpful, it was not required. On the record before us, the circuit court correctly found this factor to be neutral.

¶ 140 The three remaining enumerated factors are the circuit court's ability to fashion a reasonable allocation of parental responsibilities if relocation is allowed (*id.* § 609.2(g)(7)), possible arrangements for exercising parental responsibilities appropriate to the circumstances and resources of the parties (*id.* § 609.2(g)(9)), and the minimization of any impairment to the relationship between the child and the other parent that might be caused by the relocation (*id.* § 609.2(g)(10)). In addressing these factors, it is important to recognize that Mother moved to Canada before the court ruled on her petition for relocation. Thus, the court would have to fashion a reasonable long-distance parenting plan, determine whether such a plan was feasible in light of the parties' circumstances and resources, and seek to minimize the impairment of one parent's relationship with the child regardless of how it ruled.

¶ 141 In addressing the factors individually, the court found that giving Mother extended parenting time during the summer and other school breaks would be a reasonable allocation. We agree. It is not realistic to allocate time equally between the parents of a school-aged child when they live far apart. The court's allocation resulted in Mother having significant periods of parenting time and also mandated that she be afforded the opportunity for daily communication with the child during Father's parenting time.

¶ 142 The court further found that neither party appeared to require special consideration of their circumstances and resources. Again, we agree. Although Mother earned a salary that was substantially higher than Father's, the parties did not have limited resources or other circumstances that made traveling for parenting time exchanges unrealistic. See *Levites*, 2021 IL App (2d) 200552, ¶ 76. In addressing this factor, however, the circuit court additionally considered whether Mother had established that the resources available to E.H. in Regina were superior to those available in Champaign. Mother correctly contends that this factor concerns the resources available to the parents in exercising their parental responsibilities. Thus, the court's consideration of generally available resources for the child in assessing this particular factor was improper. However, that does not change our conclusion that the circuit court correctly found that the parties' resources and circumstances did not require special consideration and that this factor was neutral.

¶ 143 The court next found that allocating extended periods of parenting time to Mother would be adequate to minimize any impairment to her relationship with E.H. Mother challenges this finding, pointing to evidence that Father made disparaging remarks about her. In the 2022 Florida parentage judgment, the Florida court expressly found that Father made disparaging remarks about Mother in the presence of the child. Evidence demonstrated that he continued to express his anger toward Mother in Talking Parents messages and while submitting to BACtrack testing at her request. Father denied making these remarks in front of E.H., explaining that he always left the room before using the BACtrack device. Despite his denial, this evidence could raise concerns about Father's ongoing conduct during his parenting time.

¶ 144 Significantly, however, some of Mother's conduct raises similar concerns. Printouts of the Talking Parents messages between the parties entered into evidence reveal that Mother frequently failed to respond to messages from Father regarding the child. She acknowledged as much in her

testimony. The Talking Parents messages further reveal that, at times, Mother failed to facilitate daily electronic communication as required. As discussed above, the circuit court found Mother in contempt as a result of such conduct. On one occasion, she accused Father of poisoning E.H. in a Talking Parents message. In addition, there is undisputed evidence that Mother moved to Ontario in June 2025 without providing notice to Father or obtaining court permission to relocate. The circuit court has the ability to enforce the provisions regarding parenting time and daily communication against Father in Champaign County, but it does not have the ability to enforce them against Mother in Canada. Here, we believe the court correctly found that it could minimize the impairment to Mother's relationship with E.H.

¶ 145 Finally, Mother challenges the circuit court's findings as to the two other factors it expressly found relevant (750 ILCS 5/609.2(g)(11) (West 2024))—her concerns about racism and her attempt to relocate with the child without first providing notice to Father and obtaining permission from the court. With regard to Mother's concerns about racism, she testified that she did not feel the burden of racism growing up in Canada that she has felt living in the United States. However, she did not offer any concrete evidence regarding the situation in the community where she intended to relocate. She did not, for example, provide evidence about the racial diversity or prevailing attitudes in Regina. Mother testified that her former employer in Champaign, Carle Hospital, was being investigated for disparately targeting physicians of color. However, she did not provide examples of how racist attitudes in the community at large affected, or were likely to affect, E.H. This is not to say Mother's concerns are not valid. However, we do not find the evidence sufficient to demonstrate that E.H. is less likely to experience adversity due to racism in Regina than he is in Champaign.

¶ 146 Mother also contends that the court considered the fact that she traveled to Canada with E.H. in June 2025 without providing notice to Father but ignored the fact that Father similarly traveled to Texas with the child in December 2023 without providing notice to Mother. In support of this argument, she points to her January 2024 contempt petition. As noted above, the record does not reveal how that petition was resolved. Nevertheless, Mother did attach to that petition a copy of a plane ticket showing that E.H. traveled to Austin, Texas, as Mother alleged. Mother's argument overlooks the fact that she did not merely travel to Canada without providing notice to Father as mandated by court order; rather, she *relocated* and brought E.H. with her. While relocation without first seeking court approval is not necessarily a reason to modify custody, it is nevertheless a pertinent consideration. See *In re Marriage of Adams*, 2017 IL App (3d) 170472, ¶¶ 19, 22.

¶ 147 In conclusion, we reiterate and emphasize that it was Mother who bore the burden of proving that relocation was in E.H.'s best interest and also, that we must give deference to the circuit court's decision. *Kavchak*, 2018 IL App (2d) 170853, ¶ 65. Keeping these principles in mind and viewing the evidence as a whole, we cannot say that the record clearly calls for the opposite conclusion from the one reached by the circuit court. See *In re P.D.*, 2017 IL App (2d) 170355, ¶ 18. As such, the court's decision to deny Mother's request to relocate was not against the manifest weight of the evidence.

¶ 148 B. Allocation of Parenting Time

¶ 149 Circuit courts must allocate parenting time in accordance with the best interest of the child. 750 ILCS 5/602.7(a) (West 2024). In determining the child's best interest, circuit courts must consider all relevant factors, including (1) the wishes of each parent; (2) the wishes of the child, taking into account the child's maturity and ability to express a preference related to parenting

time; (3) the amount of time each parent spent on caretaking functions for the child in the two years before the petition requesting an allocation of parenting time was filed; (4) any prior agreement or course of conduct between the parents; (5) the child's relationship and interaction with parents, siblings, and any other individuals who might significantly affect the child's best interest; (6) the child's adjustment to home, school, and community; (7) the mental and physical health of all the individuals involved; (8) the needs of the child; (9) the distance between the parties' residences, the cost and difficulty of transporting the child, the daily schedules of the child and the parents, and the parents' ability to cooperate; (10) whether a restriction on parenting time is appropriate; (11) any physical violence or threat of violence; (12) the willingness and ability of each parent to place the child's needs ahead of his or her own needs; (13) the willingness and ability of each parent to facilitate and encourage the relationship between the child and the other parent; (14) any abuse against the child or any member of the household; (15) whether either of the parents is a convicted sex offender or lives with a convicted sex offender; (16) the terms of a parent's military family-care plan if the parent is a military member who is being deployed; and (17) any other factor the circuit court expressly finds relevant. *Id.* § 602.7(b). Although the circuit court must consider all applicable factors, it is not required to make explicit findings or references to each factor. *In re G.L.*, 2017 IL App (1st) 163171, ¶ 43.

¶ 150 The circuit court is "in the best position to assess the credibility of witnesses and determine the child's best interest." *In re Marriage of Whitehead*, 2018 IL App (5th) 170380, ¶ 15. It is also in the best position to observe the temperaments and personalities of the parties. *Id.*, ¶ 21. As such, we accord great deference to the circuit court's decision regarding parenting time. *Id.*, ¶ 15. We will not reverse the allocation of parenting time unless it is against the manifest weight of the

evidence, manifestly unjust, or the result of an abuse of discretion. *In re Marriage of McLean*, 2025 IL App (5th) 250094, ¶ 86; *In re Custody of G.L.*, 2017 IL App (1st) 163171, ¶ 24.

¶ 151 Before addressing Mother's arguments, it is important to emphasize that Mother had already relocated when this case proceeded to a final determination on the allocation of parenting time. The circuit court found that Mother failed to meet her burden of demonstrating that relocation was in the best interest of E.H., and we have upheld that finding. In light of this, allocating the majority of parenting time to Mother would only make sense if the court found that the best interest factors so heavily favored such an allocation that it outweighed the court's relocation findings. Indeed, the circuit court explicitly stated that Father's willingness to remain in Champaign County was the primary reason for allocating the majority of parenting time to him and indicated that if Father wanted to relocate, the court would reconsider its ruling. With this in mind, we turn our attention to the merits of Mother's contentions.

¶ 152 Mother first contends that the circuit court erred in relying on its analysis of the relocation factors because its determination that relocation was not in the child's best interest was against the manifest weight of the evidence. We have already rejected Mother's argument that the court's relocation decision was against the manifest weight of the evidence.

¶ 153 Mother next argues that the circuit court's findings regarding factor 14—any abuse against the child or members of his household—was against the manifest weight of the evidence. See 750 ILCS 5/602.7(b)(14) (West 2024). As stated above, the circuit court addressed this factor by noting its prior findings related to the parties' respective vehicle accidents. As we have already discussed, we agree with Mother that the court should not have equated Mother's accident, which was likely caused by icy road conditions, with Father's DUI. The record before us contains no evidence of abuse against the child or any member of the household. There was an indicated finding of neglect

against Father by the Illinois Department of Children and Family Services as a result of the DUI. Because the evidence clearly established that Father had remained sober for two years following that accident, we do not believe this factor necessarily should have been weighed against Father, but it also should not have been weighed against Mother.

¶ 154 Mother next challenges the court's finding that factor 13 was neutral. This factor concerns the willingness and ability of each parent to facilitate and encourage the child's relationship with the other parent. *Id.* § 602.7(b)(13). Her arguments concerning this factor are largely the same as the arguments she raised concerning the court's ability to mitigate any impairment of the parent-child relationship. See *id.* § 609.2(g)(10). As we have already discussed at length, both parties demonstrated an unwillingness to foster and encourage each other's relationship with E.H. at times. While we may have weighed this factor differently, we cannot say that the record clearly calls for a different conclusion from the one reached by the circuit court. See *In re P.D.*, 2017 IL App (2d) 170355, ¶ 18.

¶ 155 Next, Mother argues that the court erred in finding that Father was more willing and able to put the child's needs ahead of his own. See *id.* § 602.7(b)(12). In making this finding, the circuit court stated that Father sacrificed his own career to follow Mother and engage in parenting duties while Mother "found it necessary to uproot" E.H. for career opportunities. The court further found that Father's efforts to maintain his sobriety constituted additional evidence of his willingness to put E.H.'s needs ahead of his own.

¶ 156 Mother argues that these findings were against the manifest weight of the evidence for several reasons. She posits that there was no evidence Father would have advanced further in his career had he stayed in one location. She notes that relocation for a parent's employment opportunities "is a very common experience for many children" and argues that her decision to

accept job offers requiring relocation should not be seen as a failure to put the child's needs ahead of her own, where the evidence showed she had been unable to find a position locally. Mother also challenges the court's finding with regard to Father's efforts to remain sober, noting that his probation had not yet been completed and emphasizing that the DUI itself indicates an unwillingness to place the child's needs ahead of his own. Although we agree with some of these points, we do not find the court's decision to weigh this factor in Father's favor to be against the manifest weight of the evidence.

¶ 157 While Father's efforts to maintain his sobriety are commendable, we do not believe this is a factor that should weigh against Mother merely because she did not have to overcome an addiction. We likewise do not believe Mother's decision to pursue job opportunities available to her in a new location demonstrates an unwillingness to put the child's needs ahead of her own, particularly when Mother was unemployed, and there were no local positions available in her field.

¶ 158 Indeed, the circuit court expressly found that both parents "demonstrated remarkable levels of dedication and concern" for their child. However, we find that there is evidence in the record to support the circuit court's apparent finding that this factor weighs in Father's favor.

¶ 159 Finally, Mother correctly points out that the primary basis for the circuit court's allocation decision was its decision to deny her petition to relocate. She argues that such a decision is not consistent with a thorough analysis of the statutory best interest factors pertinent to allocation of parenting time. In support of this argument, Mother cites *In re Marriage of Smith*, 2013 IL App (5th) 130349. We find *Smith* distinguishable and reject Mother's contention.

¶ 160 In *Smith*, the mother was granted temporary approval to relocate with the parties' child to Ohio while dissolution proceedings were pending. *Id.* ¶ 2. Two years later, the circuit court entered a final judgment of dissolution in which it denied her petition to relocate permanently. *Id.* In

addition, "the court entered two alternate rulings concerning" the allocation of parenting time and parental responsibility, then called physical and legal custody. *Id.* It provided that if the mother moved back to Illinois within 30 days, she would retain primary physical custody and would share joint legal custody with the father. *Id.* If, on the other hand, she did not return to Illinois within 30 days, the father would have sole legal custody and primary physical custody. *Id.*

¶ 161 On appeal, this court first reversed the circuit court's decision to deny the mother's petition for permanent relocation, finding among other things that the child was thriving in his new home in Ohio and that returning to Illinois would cause him to be "uprooted from the home and daycare he has known for over two years." *Id.* ¶¶ 10-11. We then took issue with the circuit court's decision to fashion alternate custody arrangements. *Id.* ¶ 11. We explained that "[s]uch an immediate and radical shift in the determination of what constitutes the 'best interests' of the child" was not contemplated by the applicable statute, "which requires a detailed analysis of" the pertinent factors. *Id.* (citing 750 ILCS 5/602 (West 2010) (now at 750 ILCS 5/602.7 (West 2024)).

¶ 162 Here, by contrast, the circuit court denied Mother's request to relocate after considering all the applicable relocation factors, a decision we have upheld. The court also considered the applicable factors related to the allocation of parenting time and fashioned a single parenting time arrangement based on its assessment of those factors. Although the decision relied in large part on the court's analysis of the relocation factors, there is a considerable degree of overlap between the two sets of factors. *Adams*, 2017 IL App (3d) 170472, ¶ 21. The order provided for a review of its decision in the event Father sought to relocate with E.H. to a different community. Significantly, such a review would necessarily entail evaluating a new set of circumstances in light of the statutory factors, which stands in stark contrast to the order at issue in *Smith*. We find no error in the circuit court's decision to allocate the majority of parenting time to Father based largely on his

decision to remain in Champaign County where Mother did not meet her burden of demonstrating that a proposed relocation was in the child's best interest.

¶ 163 III. CONCLUSION

¶ 164 For the foregoing reasons, we affirm the order of the circuit court denying Mother's petition to relocate and allocating the majority of parenting time to Father.

¶ 165 Affirmed.

¶ 166 JUSTICE SHOLAR, dissenting.

¶ 167 I respectfully dissent. Although the majority correctly concludes that several findings central to the circuit court's decision were unsupported by the evidence, it nevertheless affirms by relying on deference and the burden of proof. However, deference to the circuit court does not permit us to sustain a judgment after rejecting much of the reasoning on which it rests. I would vacate the relocation and parenting time rulings and remand for a new best interest determination.

¶ 168 A relocation decision is reviewed under the manifest weight of the evidence standard. *In re Marriage of Eckert*, 119 Ill. 2d 316, 328 (1988). However, that standard does not insulate findings that are plainly contrary to the record. *Id.* In *In re Marriage of Gualandi*, 2024 IL App (5th) 240238, ¶ 89, this court vacated a best interest ruling where the statutory factors were not properly considered, and the guardian *ad litem*'s investigation was incomplete. I find this case instructive, where the same fundamental problems are present in the record before us.

¶ 169 The majority rejects several of the circuit court's most consequential findings. The majority agrees that the court improperly equated father's decision to drive E.H. with a blood-alcohol concentration of .392 with mother's single-car accident. Mother attributed the accident to black

ice, and the majority concluded that the accident was likely caused by icy road conditions. The majority further agrees that the finding that mother failed to manage her epilepsy and endangered E.H. was unsupported. Mother testified that medication controlled her condition since 2021. The Florida judgment contained the same finding. Father testified that he had not seen mother experience a seizure since 2021, and no medical evidence connected mother's accident to her epilepsy. The majority also rejected the circuit court's determination that the history and quality of the parental relationships weighed strongly in father's favor and concluded that mother's reasons for relocating favored relocation.

¶ 170 These are not immaterial errors. These issues supplied much of the circuit court's explanation for denying relocation. Once those findings are removed, the surviving rationale rests principally on stability. However, the record did not support the circuit court's finding that E.H.'s previous moves were detrimental to him. On the contrary, the majority's decision describes E.H. as happy, well adjusted, and acknowledges that he did not demonstrate any detrimental effects from those moves. While stability is relevant, it cannot substitute for evidence that the proposed relocation would be contrary to his best interests.

¶ 171 The evidence supporting relocation deserved more meaningful weight by the majority. Mother had been unable to obtain employment in her medical specialty in Champaign, Illinois. As such, she accepted a pediatric-surgery position in Regina, Saskatchewan, with a salary of $652,542. The resulting financial security during the position's term and improvement on mother's quality of life bears directly on E.H.'s welfare. See *In re Marriage of Kavchak*, 2018 IL App (2d) 170853, ¶¶ 51, 90; *In re Marriage of Eaton*, 269 Ill. App. 3d 507, 515-16 (1995). The majority recognizes that mother's reasons for relocating favored her request. Yet, the majority allows that consideration to be overcome by a stability finding that the record does not adequately support.

¶ 172 The circuit court's treatment of mother's employment history is particularly difficult to reconcile with the record. Mother is a pediatric surgeon who accepted a position paying more than $650,000 annually after being unable to secure employment in her medical specialty locally. Rather than fully weighing the benefit the opportunity would bring to mother and E.H., the court treated mother's career-driven moves as evidence that she placed her own needs before E.H.'s.

¶ 173 The record likewise contains substantial evidence bearing on father's willingness and ability to foster E.H.'s relationship with mother. The Florida judgment expressly found that father disparaged mother in E.H.'s presence. The record further contains evidence of continuing hostility toward mother, including communications and conduct that raised legitimate concerns regarding father's ability to facilitate a healthy coparenting relationship. Yet, the circuit court treated this consideration as essentially neutral, and the majority largely does the same. Although the record also contains evidence that mother did not always facilitate father's relationship with E.H., the evidence concerning father's disparagement and continuing hostility required more careful treatment than a conclusory finding that the parties stood on equal footing. A parent's willingness to encourage and support a child's relationship with the other parent is a central best-interest consideration. See 750 ILCS 5/602.7(b)(13) (West 2024). On this record, this evidence warranted more careful consideration than it received.

¶ 174 In the case before us, the circuit court made its decision without a guardian *ad litem* investigation directed to the Saskatchewan relocation actually before it. The limited guardian *ad litem* interviewed E.H. in December of 2023 and January of 2024, when E.H. was eight years old and mother contemplated a move to New York. The guardian *ad litem* did not supplement his investigation to address Saskatchewan. Moreover, the guardian *ad litem* did not obtain E.H.'s current views when he was ten, nor did the court conduct an *in camera* review. Nonetheless, the

circuit court relied on portions of the report concerning E.H.'s bonds with his parents while giving little weight to the guardian *ad litem*'s opinion that E.H. would adjust well to the proposed relocation to New York. Succinctly stated, there was no neutral inquiry obtained from E.H. when he was ten years old.

¶ 175 *Gualandi* explains that a guardian *ad litem* serves as the "eyes and ears" and must take reasonable steps to obtain information bearing on the child's best interest. *Gualandi*, 2024 IL App (5th) 240238, ¶ 87. The question is not whether a supplemental report was formally required in every relocation case. The question is whether the investigation on which the court relied addressed the matter the court had to decide. Here, it did not. The investigation concerned a different destination, was based on interviews conducted approximately two years before the final hearing, and did not obtain the current views of a child whose age and ability to express a reasoned preference had changed. Under these circumstances, *Gualandi* points not toward affirmance based on deference, but toward vacatur and remand for a best interest determination supported by a complete and current investigation.

¶ 176 The majority's reliance on mother's burden of proof does not cure these defects. Her burden does not authorize affirmance, particularly where the circuit court placed weight on unsupported findings and resolved critical statutory factors on an incomplete record. Nor does it answer the majority's own conclusion that numerous findings were erroneous. The appropriate remedy is to have the evidence evaluated again under the correct factors, not to reconstruct a rationale from the portions of the order that remain.

¶ 177 Additionally, I am troubled by the manner in which the circuit court assessed father's history of alcohol abuse. Father's efforts to maintain sobriety are commendable and should be encouraged. Nonetheless, the court repeatedly emphasized father's post-accident rehabilitation

while minimizing the seriousness of the conduct that gave rise to the litigation. Father drove with E.H. in the vehicle while intoxicated at a blood-alcohol concentration of .392, resulting in a collision, a DUI conviction and probation, and an indicated finding of neglect. The court's repeated focus on father's subsequent compliance, while simultaneously treating mother's unsupported alleged shortcomings as equivalent concerns, further demonstrates why confidence in the overall best interest analysis is undermined.

¶ 178 The allocation of majority parenting time to father cannot be separated from the flawed relocation analysis. The circuit court stated that its allocation was "in large measure" based on father's willingness to remain in Champaign and that any future relocation by him would provide immediate grounds for review. However, a child's best interest cannot turn primarily on which parent remains at a favored address. See *In re Marriage of Smith*, 2013 IL App (5th) 130349, ¶ 11. The statute requires an evidence-based consideration of all relevant parenting-time factors. See 750 ILCS 5/602.7(a), (b) (West 2024). Here, the court incorporated findings that the majority has disapproved, treated the parties' willingness to foster the other parent's relationship as neutral despite substantial contrary evidence, and again relied on the unsupported conclusion that mother's epilepsy endangered E.H.

¶ 179 Based on the record before this court, I would conclude that E.H.'s best interest was not determined through a sufficiently supported consideration of the statutory factors. Because the circuit court relied on material findings that the majority itself rejects, because the guardian *ad litem* investigation did not address the proposed Saskatchewan relocation, and because the parenting-time award was substantially derivative of those errors, I would vacate the judgment and remand for a new hearing, an updated guardian *ad litem* investigation, and new findings on the relevant statutory factors.

¶ 180 For these reasons, I respectfully dissent.