NOTICE
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2026 IL App (5th) 260539-U

NO. 5-26-0539

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).

DILLON LEE KAESBERG,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellee,	)	Monroe County.
	)	
v.	)	No. 25-DC-13
	)	
JESSICA LYNNE KAESBERG,	)	Honorable
	)	Jennifer Becker-Roscow,
Respondent-Appellant.	)	Judge, presiding.

JUSTICE CLARKE delivered the judgment of the court.
Justices McHaney and Bollinger concurred in the judgment.

ORDER

¶ 1 *Held*: Where the trial court's decision that the child should attend the Red Bud School District following a hearing was not against the manifest weight of the evidence, the judgment of the trial court is affirmed.

¶ 2 Petitioner-Appellee Dillon Kaesberg filed a petition for dissolution of marriage from respondent-appellant Jessica Kaesberg in the circuit court of Monroe County, Illinois, which was granted by the trial court pursuant to an agreement between the parties and disposed of most issues. The remaining issues were set for trial. At trial, two issues remained: a modification of the right of first refusal and the allocation of educational decision-making rights. In its final order, the trial court declined to modify the right of first refusal, and ordered the child be enrolled in Red Bud Public Schools for so long as the father resides in the district. Respondent now appeals only the portion of the order requiring the minor child to be enrolled in Red Bud Public Schools.

¶ 3 I. BACKGROUND

¶ 4 The parties to the present action were married on July 22, 2017. In April 2018, the parties purchased their marital residence in Waterloo, Illinois, which was located between respondent's job in Creve Coeur, Missouri, and petitioner's chiropractic practice in Marissa, Illinois. Later, on September 18, 2020, the parties' shared child was born. In April 2025 petitioner filed for divorce from respondent in the Monroe County Circuit Court. Then, in July 2025 petitioner moved out of the marital home to an apartment in Red Bud, Illinois, and in February 2026 he bought a home there. Respondent still resides in the parties' former marital home in Waterloo. On December 23, 2025, the parties entered into a marital settlement agreement, and the court granted a judgment of dissolution.

¶ 5 Additionally, that same day the parties entered an agreed judgment allocating parental responsibilities and creating an agreed parenting plan. The agreement settled all issues except education and left open the possibility of modifying the right of first refusal. Regarding education, the parties agreed the child would attend either Waterloo or Red Bud schools, with the court to settle the issue at a later date. Concerning the right of first refusal, the parties agreed to a 24 hour right of first refusal period, which could be modified at trial upon a party's request without a showing of substantial change in circumstances.

¶ 6 In mid-April of 2026, the court held a two-day bench trial on the issues of education and right of first refusal, during which it heard testimony from multiple witnesses and received numerous evidentiary exhibits. In the interest of brevity, the testimony and exhibits related to the best interest factors are summarized below. Additional evidence heard by the trial court will be referenced in the analysis as necessary.

¶ 7 Regarding the child's previous daycare and pre-kindergarten placements, the court heard evidence that she first enrolled in daycare at Discovery Youth Daycare in Red Bud at nine weeks old, where she attended three days per week. Then, when the child was three years old, the parties enrolled her in Child's World pre-kindergarten in Waterloo. During the pendency of the divorce, petitioner refused to send the child to Child's World on his parenting days and instead enrolled the minor child in a pre-kindergarten program at Discovery Youth in Red Bud. In response, respondent filed a petition for a restraining order seeking to prevent the child's enrollment in Discovery Youth pre-kindergarten. The trial court summarily denied the petition and ordered that each parent could enroll the child in a pre-kindergarten of their choice on their scheduled parenting days. Therefore, the minor child attended both Discovery Youth pre-kindergarten and Child's World pre-kindergarten during the pendency of the divorce.

¶ 8 Regarding the child's academic performance and educational needs, the court heard evidence that the child was academically advanced, grasping concepts quickly, and exhibiting strong problem-solving skills and impulse control. The court also heard the opinion of Jamie Brown, assistant director of Child's World, who stated that she believed the child would need an academic challenge because she was one of her most advanced students.

¶ 9 Regarding the academic performance of both schools, the court heard evidence from several witnesses who had experience with Red Bud Public Schools. The court also heard witness testimony related to Waterloo Public Schools, and received Waterloo's course catalogs as exhibits. In addition, the court also received evidence about both school systems' performance metrics from "school report cards" that were entered into evidence by the respondent.

¶ 10 Finally, regarding school routines and travel time, the court heard testimony about the parties' ability to transport the child to and from school. Respondent testified about difficulties or

hardships that would arise if the child attended school in Red Bud because of the length of the commute to her office in Creve Coeur, Missouri. In response, petitioner offered to provide all transportation to and from school on days respondent worked in the office if the child were to attend school in Red Bud.

¶ 11 After the hearing, the court issued its ruling in a written order. In it, the court ordered the child enrolled in Red Bud Public Schools and ordered petitioner, if requested by the respondent before 7 p.m. the night before, to provide transportation to and from school for the minor child on the days when respondent works in the office. The court then declined to modify the right of first refusal. Respondent now appeals only the portions of the order related to the trial court's choice of the Red Bud School District as the place where the child will attend.

¶ 12 II. ANALYSIS

¶ 13 In Illinois, when determining matters of education, including choice of schools, courts look to the statutory factors set forth in section 5-602.5 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/602.5 (West 2024)) to determine what educational decisions are in the minor child's best interest. The statutory best-interest factors are as follows: (1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making; (2) the child's adjustment to his or her home, school, and community; (3) the mental and physical health of all individuals involved; (4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making; (5) the level of each parent's participation in past significant decision-making with respect to the child; (6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child; (7) the wishes of the parents; (8) the child's needs; (9) the distance between the parents' residences, the cost and

difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement; (10) whether a restriction on decision-making is appropriate under section 603.10 of the Marriage Act (*id*. § 603.10); (11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child; (12) the physical violence or threat of physical violence by the child's parent directed against the child; (13) the occurrence of abuse against the child or other member of the child's household; (14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and (15) any other factor that the court expressly finds to be relevant. *Id.* § 602.5(c).

¶ 14 An appellate court will not disturb a trial court's ruling on these factors or the allocation of decision-making rights (including education) unless the decision and findings of the trial court are against the manifest weight of the evidence. *In re Marriage of McLean*, 2025 IL App 5th 250094, ¶ 72. In reaching its decision, the circuit court is not required to make explicit findings on each factor, nor is it required to refer to every factor. *Id*. ¶ 73. Additionally, there is a strong and compelling presumption in favor of the result reached by the trial court because it is in a superior position to evaluate the evidence and determine the best interests of the child. *Id*. Thus, on appeal, the reviewing court's function is not to reweigh evidence, reassess witness credibility, or substitute our preferred outcome for the one chosen by the trial court simply because a different conclusion may be drawn from the same evidence. *Jameson v. Williams*, 2020 IL App 3d 200048, ¶ 51. Instead, a decision will only be found to be against the manifest weight of the evidence when an opposite conclusion is apparent or when the court's findings appear to be unreasonable, arbitrary, or not based on the evidence. *McLean*, 2025 IL App 5th 250094 ¶ 72.

¶ 15 On appeal, appellant argues that the trial court erred in finding that attending Red Bud Public School District was in the minor child's best interest because the statutory factors favored a finding that Waterloo Public School District was the best-interest school district. Specifically, appellant contends that (1) the minor child's actual adjustment and the parties pre-divorce course of conduct favored a finding that the Waterloo Public School District was the best interest choice; (2) that the minor child's demonstrated educational needs and the objective comparative school evidence favored a finding that the Waterloo Public School District was the best interest choice; (3) the distance and travel needs of the parties favored a finding that the Waterloo Public School District was the best interest choice; and (4) the trial court erred in considering petitioners ties to the Red Bud community under factor fifteen, which allows the trial court to consider "other relevant factors" because it was not "child centered."

¶ 16 Turning to appellant's first contention, she states that the minor child's actual adjustment (factor two) and the parties' pre-divorce course of conduct (factor six), favor a finding that Waterloo Public Schools are in the child's best interest, not Red Bud. Specifically, appellant contends that the child lived in Waterloo her whole life until the parties divorced and could not be "well adjusted" to a home she had just moved into. Further, respondent points out that the child's first truly academic placement was Children's World pre-kindergarten, which is located in Waterloo, making that the status quo. Additionally, respondent directs our attention to the trial court's finding that, had the parties not divorced, the child would have attended school in Waterloo, though the trial court noted that the parties had not decided which school in Waterloo (Public School or Catholic School) the child would have attended. Respondent therefore contends that the court erred in finding that Red Bud was the "status quo" because the possibility of the child attending Red Bud Schools did not arise until after the parties divorced and the court entered a

temporary order allowing the child to attend two different pre-kindergartens. Respondent further contends that because the split "Red Bud - Waterloo" status quo arose as a result of unilateral action by petitioner, it was "clear error" for the trial court to have relied on the child's enrollment in Discovery Youth's pre-kindergarten program in selecting Red Bud Schools.

¶ 17 In response, the petitioner contends that while the child lived in Waterloo her whole life until the parties divorced, the child's first academic placement, which was agreed to by both parties, was Discovery Youth, an accredited daycare and pre-kindergarten in Red Bud, which the child started when she was nine weeks old. Petitioner also states that most children at Discovery Youth attend Red Bud public schools and that the child can continue in the Discovery Youth program before or after school as needed. Petitioner therefore contends that Red Bud was as much the status quo as Waterloo was, and that the parties' divorce was what changed that likely course of conduct. Petitioner also contends that the Red Bud status quo arose during the parties' marriage because of the family's ties to Red Bud and because they had never decided which school system the child would attend.

¶ 18 In reply, respondent argues that the joint course of conduct related to Discovery Youth was only in regard to daycare or childcare, not pre-kindergarten, and therefore it does not qualify as a shared decision on "first educational placement." Instead, respondent contends that Child's World pre-kindergarten in Waterloo was the first actual academic placement. Respondent further contends that the split-year in Child's World pre-kindergarten and Discovery Youth pre-kindergarten was not a jointly selected course of conduct, but one petitioner unilaterally created by refusing to maintain the Waterloo pre-kindergarten status quo.

¶ 19 In regard to our analysis of factor two, the child's adjustment to her home, school, and community, we note that the trial court found that (1) the child was well adjusted to her home in

both towns, (2) the child had attended Discovery Youth in Red Bud since she was an infant; (3) Discovery Youth would continue to be available to her before and after school if necessary; (4) that she had gone to pre-kindergarten in both Waterloo and Red Bud, and (5) she had been involved in extra-curricular activities in both. Therefore, the court concluded that the child's adjustment to her home, school, and community favored Red Bud.

¶ 20 In regard to factor six, prior agreements or course of conduct between the parties, we note that the trial court found that during the marriage the child would have attended school in Waterloo by default due to the location of the marital residence. It further found that the parties did not make a final decision on which school in Waterloo the child would attend before their divorce.

¶ 21 While mother argues that the child could not adjust to a house the child just moved into, we note that the trial court's finding was specifically about adjustment to her school/educational facilities. The trial court heard testimony that she had attended Discovery Youth since infancy, and it found that since the pre-kindergarten program was in the same building as Red Bud's elementary school, the child would already be adjusted to it. No similar finding was made as to Waterloo and Child's World.

¶ 22 Next, while respondent contends that the child's first academic placement was in Waterloo, we note that the trial court essentially distinguished pre-kindergarten placement from kindergarten placement, and subsequently found that no actual agreement, or course of conduct, as to kindergarten existed. To the extent the pre-kindergarten placement matters to the analysis, we note that the child attended pre-kindergarten in both Red Bud and Waterloo. To that end, respondent correctly notes that a unilateral course of action by one party is not binding on a court's decision, citing *In re Marriage of Katsap*, 2022 IL App (2d) 210706. However, that opinion's key language is that the court is not bound by one party's unilateral action. *Id.* ¶ 125. *Katsap* does not provide

that the trial court may not consider a unilateral action by one party in reaching its decision because, in *Katsap*, the trial court pointed to the factors that weighed against keeping the unilateral action as the status quo moving forward. *Id*. ¶ 125-127. Respondent also correctly notes, citing *In re Marriage of Fields*, 283 Ill. App. 3d 894, 901-02 (1996), that a temporary domestic-relations order is provisional and cannot establish *res judicata* on the issues it addresses. Instead, the final decision must still be on the merits. *Id*.

¶ 23 Here, there is nothing in the record suggesting the trial court felt bound by the petitioner's or the respondent's actions, unilateral or otherwise. Nor does anything suggest that the trial court mistakenly believed that *res judicata* was created by the temporary order thereby preventing it from addressing the merits of the case when issuing its final order. Thus, we cannot say, upon our review of the record, that the trial court's findings as to factors two and six were against the manifest weight of the evidence.

¶ 24 Turning to respondent's second contention, she states that the minor child's demonstrated educational needs and the comparative school evidence (factor eight) favors a finding that Waterloo Public Schools are in the child's best interest. Specifically, respondent contends that academically, the child is exceptionally advanced, and therefore the more academically rigorous school would be in the child's best interest. Respondent further contends that the only objective evidence comparing the schools in that way was the "school report cards" and that every proficiency or readiness metric favored Waterloo over Red Bud, though she concedes that graduation rate and class size favored Red Bud over Waterloo. Respondent therefore contends that the court erred in finding that both school systems would be able to provide an education that would challenge the child because the analysis was not "is a school district adequate" but instead "which school district is better."

¶ 25 In response, petitioner contends that the quality of an education and a school can be based on more than numerical data and statistics. Instead, petitioner emphasizes the lack of personal testimony about the Waterloo school district compared with the amount of personal testimony about the Red Bud school district, and stresses the importance of personal and emotional attachments beyond just statistics in determining what the child needs. In reply, respondent contends again that statistics are relevant, and that the only source of those statistics, the school report cards, almost entirely favored Waterloo over Red Bud.

¶ 26 In regard to our analysis of factor eight, the child's needs, we note that the trial court found that the child needed a school that would provide for her education needs and that (1) the child was only 5, so it would be speculative to make a determination based on her exact future interests; (2) she was currently an intelligent child who needed to be challenged; (3) Waterloo was a bigger school district that may provide more extra curriculars and a wider variety of classes; however (4) both school districts offered a wide range of extra curriculars, dual credit, and AP classes. Therefore, the court concluded that both Waterloo and Red Bud could provide a challenging education and declined to find this factor weighed in favor of either district.

¶ 27 Here, the question before us is not whether we would find as the trial court did, rather, the question before us is was the trial court's decision against the manifest weight of the evidence. *Jameson*, 2020 IL App (3d) 200048 ¶ 51. As the parties noted in their briefs, both sides introduced evidence at the hearing about the quality of the schools each party wanted the child to attend. In reviewing all of the evidence, we cannot say that the trial court's finding that either school would provide the child with a great education and school experience was against the manifest weight of the evidence.

¶ 28 Turning to respondent's third contention, she states that the distance and travel needs of the parties (factor nine) favors a finding that attending Waterloo Public Schools is in the child's best interest. Specifically, respondent contends that the child attending school in Waterloo would integrate better into the parents' schedules. Respondent explains that, because the child attends school in Red Bud, the length of her commute requires respondent, on days she is in the office, to leave her job early so she arrives in Red Bud in time to pick up the child; otherwise, she must have someone else pick the child up. She further explains that leaving early on days she is in the office could threaten her employment, though there is no indication she has been disciplined or is currently at risk of losing her job. She also points out that if she has someone else pick up and watch the child, it may lead to further conflict between herself and petitioner over the right of first refusal.

¶ 29 In contrast to Red Bud, respondent explains that if the child attended school in Waterloo, then on the days that respondent works from home there would be no need for after-school care, and that on days that she works from the office in Creve Coeur it would permit her to work her regularly scheduled hours. Respondent further explains that, as evidenced by the parties' previous conduct, the drop-off and pick-up times for school and childcare in Waterloo would not interfere with petitioner's employment. Thus, respondent contends that the child attending Waterloo Public School poses the least risk of conflict between the parties and provides the best schedule for the child.

¶ 30 In response, petitioner contends that no testimony shows the child has been negatively impacted by the travel required by the temporary order, which split pre-kindergarten between Red Bud and Waterloo. Petitioner further points out that under the current order requiring the child to attend school in Red Bud, the child actually makes fewer trips between the towns than she used

to. Additionally, petitioner contends that the travel requirements are no more difficult than those required by the temporary order, and that continuing such travel arrangements would be required under the agreed-to parenting schedule. Petitioner also contends that respondent's argument about losing her employment is speculative, as she has not been disciplined, and to the extent that it is not speculative, would apply equally to him. Finally, petitioner points out that because the order requires him to provide transportation if asked, respondent can travel far less if she decides to use it.

¶ 31 In reply, respondent contends that her historical ability to provide transportation to Red Bud for pre-kindergarten is not the same as her current ability, and further contends that her earlier need to "flex" her employment hours shows that transporting the child to Red Bud creates a burden. Respondent also contends that while job loss is not imminent, it does require consideration. Finally, respondent contends that the agreed-to parenting schedule did not agree on which school district the child would attend, that either school district was "workable," or that the parties waived the court's ability to decide the issue.

¶ 32 In regard to our analysis of factor nine, the distance, travel time, and difficulties in transportation, we note that the trial court found that in the past the parties have been able to accommodate each other's schedules and that while respondent indicated she would have issues with transportation if the child attended Red Bud Schools, petitioner had offered to provide transportation to accommodate respondent's schedule. Therefore, the court ultimately ordered that, on days when respondent would work in-office, petitioner would provide transportation for the minor child if respondent timely notified petitioner.

¶ 33 Here, it is clear from the order that the trial court considered factor nine, as the trial court acknowledges that respondent could face difficulties providing transportation for the child if she

attends school in Red Bud. However, as noted by the trial court, petitioner has offered to provide transportation for the minor child if she attends Red Bud, and the court has ordered him to do so on days when respondent works in-office. While respondent claims this may create further tension between the parties, the court declined to modify the right of first refusal and found that, in the past, the parties have worked together and accommodated each other. These conclusions are not unreasonable and are supported by the record. Thus, upon review, we cannot say that the trial court's findings as to factor nine were against the manifest weight of the evidence.

¶ 34 Turning to respondent's fourth contention, she states that the trial court erred in considering petitioner's ties to the Red Bud community under factor fifteen ("the other relevant factors" factor) because it was not, as a factor, "child centered." Specifically, respondent contends that while the court purported to evaluate the "support networks" available to assist with the child, the analysis actually evaluated the parents' communities more than the child's needs. She contends that it was error to consider those networks because of the "overwhelming testimony and evidence" that the parties rarely required external help regarding the child during their marriage. Respondent further contends that the child's attendance at Waterloo Public Schools would not affect the child's continued participation in the Red Bud social community; however choosing Red Bud Public Schools would diminish the child's ties to the Waterloo social community and disrupt continuity of education. Finally, respondent contends that the court gave undue weight to this factor in determining that attending Red Bud was in the child's best interest because she argues that every other factor favored Waterloo.

¶ 35 In response, petitioner contends that his ties to his community weren't just about assistance with the child, but about the stability and permanence that such community ties can create. He contends that respondent's lack of community ties and admitted difficulty maintaining the

Waterloo residence by herself threaten future changes. In reply, respondent states that while the trial court could consider the parties' "roots," it could not reasonably allow those considerations to overpower the other more child-centric factors like adjustment, the parties' decision-making history, the child's needs, and transportation considerations.

¶ 36 In regard to our analysis of factor fifteen, which is any other factor the trial court finds to be relevant, we note that the trial court found that (1) the petitioner had close ties to the community, including the Red Bud football program; (2) the minor child was involved in cheerleading associated with that Red Bud football program; (3) the petitioner knew many current teachers in Red Bud schools; (4) the petitioner had family and friends readily available to help in Red Bud if needed; (5) the respondent had friends in Waterloo, Red Bud, and the surrounding area; and (6) the child's activities in Waterloo were not associated with the school district and would be available regardless of school choice.

¶ 37 Here, respondent's fourth argument centers around the idea that the trial court gave undue weight to the parents' community ties and ignored the required child-centric factors. However, we note that the trial court's findings related to community ties under factor fifteen focused on facts that could impact the child, such as whether the parties knew any teachers at the schools, and whether she could continue in various activities. Additionally, in regard to the respondent's contention that the trial court gave undue weight to the fifteenth factor because the other factors favored Waterloo while the court found in favor of Red Bud, we note that we found, as to each of the other factors, that the trial court's findings were not against the manifest weight of the evidence. Instead, we affirmed the trial court's findings that each of the other factors favored a finding for Red Bed or were neutral based on the evidence in the record. Additionally, nothing in the record or the trial court's order suggests that the trial court gave this factor undue weight over the other

factors or considered it at the exclusion of the other enumerated factors. Thus, we cannot now say that the trial court gave undue weight to factor fifteen. Nor can we say that the trial court's findings under factor fifteen were against the manifest weight of the evidence.

¶ 38 III. CONCLUSION

¶ 39 For the foregoing reasons, we affirm the judgment of the circuit court of Monroe County, Illinois.

¶ 40 Affirmed.