2015 IL App (2d) 150314-U
No. 2-15-0314
Order filed November 3, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re PARENTAGE OF L.S.	)	Appeal from the Circuit Court
	)	of Kendall County.
	)	
	)	No. 11-F-122
	)	
	)	Honorable
(Steven Scott, Petitioner-Appellant v. Kathryn	)	Melissa S. Barnhart,
Paulsen, Respondent-Appellee).	)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices McLaren and Hudson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order designating the respondent-mother as the primary residential custodian of the parties' daughter was not against the manifest weight of the evidence.

¶ 2 L.S. is the minor daughter of petitioner Steven Scott and respondent Kathryn Paulsen. Steven appeals from an order designating Kathryn as L.S.'s primary residential custodian. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On October 19, 2011, Steven filed a petition to establish paternity of L.S., who was born in 2006. The court subsequently entered an agreed order adjudicating Steven the father. On

August 3, 2012, pursuant to a petition for temporary custody, the court designated Kathryn as L.S.'s residential parent, without prejudice. The court appointed Brad Swearingen as the guardian *ad litem*.

¶ 5 Swearingen filed a report on August 1, 2013. He related that Steven and Kathryn were together from December 2001 to June 2012, during which time they resided at Steven's home in Yorkville, Illinois. Kathryn did "the majority of the parenting while the parties lived together." After the separation and during the pendency of the proceedings, L.S. resided primarily with Kathryn. Steven was a plumber but had been short of work due to the economy. He also worked as an announcer for fishing contests and motorcross and supercross events. In doing so, Steven was gone for 28 "weekends" per year, which included three Wednesday-to-Sunday trips and two week-long tournaments. Kathryn was unemployed and was supported by her partner, Jaci Grandgeorge. Kathryn and Jaci married in September 2013.

¶ 6 Swearingen explained in his report that he was initially "prepared to make a recommendation for Kathryn based upon her statements that she could be a stay-at-home mother, she wasn't going to work, and she did not have an alcohol problem." However, it was subsequently disclosed to Swearingen that Kathryn had recently lost a job due to being drunk. Kathryn denied being fired or even having worked, but several people told Swearingen that Kathryn had in fact been working.

¶ 7 Swearingen identified two primary issues with respect to custody: Steven's work schedule and Kathryn's alcohol abuse. According to Swearingen, Steven had recently indicated that he would be cutting back on his work schedule for the year. However, Kathryn's problems were "much more complicated." Swearingen noted that Steven went to great lengths to document Kathryn's problems, offering police reports reflecting incidents of intoxication and

domestic violence.[1] Kathryn, on the other hand, denied having a drinking problem and attributed the disputes resulting in police involvement to Steven's embellishments.

¶ 8 Swearingen acknowledged that this was a difficult case because "Kathryn has a long history of confrontational issues with Steve (and others)" and "Steve's schedule may not be conducive to being the primary parent." Nevertheless, Swearingen determined that "Kathryn's history and her behavior during this case cannot be ignored," recommending joint legal custody with Steven as the primary custodial parent.

¶ 9 The custody trial spanned nine separate dates between October 2014 and February 2015. The parties presented testimony from 18 witnesses, and the report of proceedings encompasses 1,200 pages. It is unnecessary and impractical to recount all of the evidence presented, and we will not attempt to do so.

¶ 10 One of the major issues at trial was Kathryn's drinking habits. Steven's witnesses provided numerous examples of Kathryn's intoxication, sometimes while L.S. was present. For example, Kathryn was reportedly intoxicated at Kendall Pub in October 2011, at the beach in May 2012, at a party during Labor Day weekend 2012, at the "Last Chance Testicle Festival" in June 2013, and at a restaurant in September 2013. Kathryn's estranged mother, sister, and cousin each testified on Steven's behalf. Although they had little, if any, contact with Kathryn in the past several years, they generally recalled their experiences encountering Kathryn drinking to

[1] At trial, Kathryn and Steven each provided evidence of domestic violence perpetrated by the other during the course of their relationship. Neither Swearingen nor the trial court attempted to assess the parties' credibility on these matters, and these allegations are not at issue in this appeal.

excess over the years. A recording of a drunken and belligerent voicemail that Kathryn left her mother in the middle of the night on October 6, 2014, was introduced into evidence.

¶ 11 Additionally, Steven hired investigators to monitor Kathryn's drinking at a gathering in March 2014. One of those investigators testified that Kathryn was intoxicated and that L.S. "went to Jaci exclusively as the primary caretaker" that day. Furthermore, Kathryn's former attorney in this case testified that there were two occasions when L.S. had spent the night at his home after Kathryn became intoxicated and passed out. However, Jaci was present on both occasions, and the attorney did not believe that L.S. was in any danger during these overnight stays. Nor did he see any behavior between Kathryn and L.S. that caused him concern. The attorney testified that Kathryn had also been heavily intoxicated during at least ten FaceTime conversations with him.

¶ 12 Kathryn presented a very different story with respect to her drinking. Kathryn's witnesses generally testified that she currently drank in moderation, was a wonderful mother, and did not rely on Jaci to take care of L.S. There was also evidence from both Kathryn's witnesses and Swearingen that Kathryn had been the primary caretaker for the majority of the child's life. Kathryn denied having been intoxicated on several of the occasions mentioned above. She also denied that L.S. had spent the night at the former attorney's home. However, she admitted that she was intoxicated when she left the voicemail for her mother. Furthermore, Kathryn had recently been seeing a psychotherapist and had submitted to alcohol assessments involving self-reporting. The therapist testified that Kathryn required "a low level of treatment," meaning outpatient psychotherapy. The therapist also observed symptoms consistent with a diagnosis of post-traumatic stress disorder.

¶ 13 Kathryn had her own concerns about Steven. For example, she believed that Steven was irresponsible for taking a picture of L.S.'s rash while the child was naked. According to Kathryn, L.S. was very upset by this and had asked Steven not to take the picture.[2] Kathryn also explained that Steven had inadvertently sent several inappropriate pictures and messages to L.S.'s iPod.[3] Moreover, Kathryn testified that L.S. slept in the same bed as Steven, which L.S. did not feel was appropriate. According to Kathryn, L.S. recently reported having showered with Steven when she was six years old. Kathryn clarified that she was not implying that Steven was doing something sexually improper with L.S. Steven denied ever showering with L.S.

¶ 14 Another major issue at trial was Steven's traveling. Due to the nature of the visitation schedule that was in place, L.S. traveled rather frequently with Steven to motorcross events across the country during 2014. This required Steven to take L.S. to the airport after school on Fridays and to fly her home on Sundays. According to Steven, the events were family-friendly affairs and L.S. was not negatively affected by the traveling. Steven also testified that he had actually decreased his traveling by 24 or 29 days in the past year as compared to previous years. However, Kathryn testified that these events were not appropriate for a young child, because there was alcohol consumption and half-naked women parading around. Additionally, Kathryn testified that the trips exhausted L.S. to the point of vomiting and made school difficult on Mondays. To that end, the school nurse testified that L.S. had been to her office 13 times since September 2014, sometimes complaining of traveling over the weekend and not getting enough

[2] The child's genital area is not visible in the photograph, and Steven denied that L.S. was upset at the time that the picture was taken.

[3] This was apparently due to a syncing problem, and there was no evidence that Steven intentionally sent inappropriate materials to his daughter.

rest. According to the nurse, she frequently saw L.S. on Mondays (7 out of the 13 visits). L.S. was also apparently prone to sinus infections, and there was conflicting evidence as to whether the traveling affected that.

¶ 15 Steven introduced evidence that Kathryn had interfered with his parenting time and that she had not fostered his relationship with L.S. According to Swearingen, Kathryn had been reluctant to give Steven significant visitation during the 2012 Christmas season and had occasionally misused her right of first refusal. Steven testified that he had trouble getting L.S. to return his calls when she was with Kathryn. He also complained that Kathryn and Jaci sent L.S. messages during his parenting time intended to "tug on [L.S.'s] heart strings." Steven provided various examples of Kathryn being slow with her communications and not accommodating his requests to flip weekends with L.S.

¶ 16 On the other hand, Kathryn's attorney confronted Steven with printouts of conversations in which the parties had apparently communicated relatively civilly even while disagreeing. Although Steven said that Kathryn's attorney "picked the good apples" of their communications, he believed that he and Kathryn could work together in the future for L.S.'s best interests. Kathryn testified that she was initially very accommodating with respect to Steven's visitation and his travel schedule but that her ability to communicate was affected when Steven began relationships with her estranged family. She believed that Steven did this to hurt her.

¶ 17 Moreover, the evidence showed that L.S. was in the second grade at the time of trial and had attended the same school since kindergarten. Report cards admitted into evidence suggest that she was having a harder time academically during the 2014-2015 school year than in previous years. There was also evidence that L.S. would have to attend a different school within the district if Steven were granted residential custody. However, Steven testified that he had a

conversation with either a principal or an assistant principal and was told that an exception could be made. According to Steven, L.S. would not have to switch schools "if we can work something out."

¶ 18 The evidence also showed that L.S. had recently started attending counseling. Asked how L.S. came to be in counseling, Kathryn said that L.S. would wake up early in the morning "hysterically crying to the point of vomiting" and expressing "that she was scared that her dad was going to take her away." According to Kathryn, when the school year started, L.S. was frequently seeing the nurse, and Kathryn was getting daily phone calls about L.S. "having anxiety about these traveling experiences with her father." Kathryn then called the pediatrician's office and was referred to a counselor.

¶ 19 In closing arguments, Steven and Kathryn requested joint custody, but each asked to be designated as the primary residential custodian. On March 2, 2015, the court issued a custody judgment awarding the parties joint legal custody and naming Kathryn as the primary residential custodian. The court rearranged the parties' parenting schedule so as to minimize L.S.'s out-of-state travel during the school year. Steven timely appeals from that order pursuant to Illinois Supreme Court Rule 304(b)(6) (eff. Feb. 26, 2010).[4]

[4] Pursuant to Illinois Supreme Court Rule 311(a)(5) (eff. Feb. 26, 2010), our disposition was due on August 27, 2015. By way of background, we extended the briefing schedule in this matter several times upon Steven's motions. On the day that her appellee's brief was due, Kathryn filed a motion for an extension of time that did not comply with applicable court rules. We denied that motion without prejudice. However, Kathryn apparently did not immediately know that we had denied her motion, because our order was sent to her counsel's former business address. One month after the order was entered, Kathryn submitted a brief for filing.

¶ 20 II. ANALYSIS

¶ 21 Steven argues that the court erred in designating Kathryn as the primary residential custodian. We accord great deference to a trial court's custody determination, because that court is in a better position to assess witness credibility and ascertain the child's best interests. *In re Marriage of Iqbal*, 2014 IL App (2d) 131306, ¶ 55. Accordingly, the judgment will not be reversed unless it is clearly against the manifest weight of the evidence and a manifest injustice has occurred. *Iqbal*, 2014 IL App (2d) 131306, ¶ 55. " 'A judgment is against the manifest weight of the evidence when the opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based upon the evidence.' " *In re Marriage of Lonvick*, 2013 IL App (2d) 120865, ¶ 33 (quoting *In re Marriage of Ricketts*, 329 Ill. App. 3d 173, 181-82 (2002)). We review the evidence in the light most favorable to Kathryn as the appellee. *In re Marriage of Debra N. and Michael S.*, 2013 IL App (1st) 122145, ¶ 45. Where the evidence supports multiple inferences, we will accept the inferences that support the trial court's order. *Debra N.*, 2013 IL App (1st) 122145, ¶ 45.

¶ 22 Section 602 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/602 (West 2014)) governs child custody determinations. That section provides, in pertinent portion:

> "(a) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including:

When it subsequently came to Kathryn's attention that her previous motion had been denied without prejudice, she filed a motion for leave to file her appellee's brief *instanter*. We granted the motion and gave Steven an additional 7 days to file a reply brief. Due to these unusual circumstances, the reply brief was not filed until October 22, 2015, and there is good cause for the delay in filing our disposition.

(1) the wishes of the child's parent or parents as to his custody;

(2) the wishes of the child as to his custodian;

(3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest;

(4) the child's adjustment to his home, school and community;

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

(6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person;

(7) the occurrence of ongoing or repeated abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, whether directed against the child or directed against another person;

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

(9) whether one of the parents is a sex offender; and

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

***

(b) The court shall not consider conduct of a present or proposed custodian that does not affect his relationship to the child." 750 ILCS 5/602 (West 2014).

¶ 23 The trial court was presented with sharply conflicting evidence at every turn. In addition to assessing witness credibility, there were numerous issues that the court had to take into account and weigh in determining which custody arrangement would be in L.S.'s best interest.

Front and center was the question of Kathryn's ongoing use and abuse of alcohol. Another major issue was Steven's travel schedule and the effect that L.S's frequent traveling had on her health and well-being. The court also had to consider both Kathryn's availability to be a stay-at-home mother and the fact that she had apparently been L.S.'s primary caretaker for most of the child's life. An additional relevant factor was that designating Steven as the primary residential custodian could have resulted in L.S. having to change schools. Moreover, there was evidence that Kathryn had engaged in gamesmanship with respect to Steven's parenting time and that she did not always facilitate his relationship with L.S.

¶ 24 There was evidence cutting both ways with respect to each of these issues. According to Swearingen, this was "a very troubling case" and the parties were "on their way to ruining a wonderful child." The trial court attempted to fashion an order that would maximize both parents' involvement with L.S. and minimize her travel during the school year. The court recognized that Kathryn exhibited "a lack of candor" with respect to her use of alcohol and that alcohol "contributed to aberrant behavior in the presence of the child." However, the court also found that "much of the testimony from both sides was given over to hyperbole." In light of all the evidence, the court could have reasonably concluded that Kathryn's drinking, while sometimes excessive, did not pose a danger to L.S. To that end, although Kathryn's family members expressed concerns about her ability to parent, they had not interacted with her on a regular basis in several years. Similarly, despite Steven's purported suspicions regarding L.S.'s safety while in Kathryn's care, he acknowledged that he was not able to express an opinion with certainty as to how things were going in Kathryn's home. Indeed, many of the witnesses who had occasion to observe Kathryn's interactions with L.S. had wonderful things to say about Kathryn as a mother. Additionally, designating Kathryn as the primary residential custodian

would allow L.S. to remain in her school and would result in the least possible disruption to L.S. Under these circumstances, the custody order was not against the manifest weight of the evidence.

¶ 25 Steven nevertheless criticizes the trial court's specific findings with respect to several of the statutory best interest factors. For example, the court found that the "wishes of the child as to his custodian" (750 ILCS 5/602(a)(2) (West 2014)) factor was neutral and did not favor either party. Although Steven admits that "the record gives no clear answer" with respect to L.S.'s custodial preferences, he faults the court for noting that Swearingen said that L.S. wanted to keep the same schedule. Steven insists that, in context, Swearingen did not mean to imply that L.S. was showing a preference for Kathryn. Steven also emphasizes that there was evidence suggesting that L.S. was "not perfectly content at her mother's." In light of Steven's acknowledgment that the evidence was unclear as to L.S.'s wishes, the court did not err in determining that this statutory factor did not weigh in favor of either party.

¶ 26 Steven next criticizes the court's findings with respect to "the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest." 750 ILCS 5/602(a)(3) (West 2014). The court found that this factor favored Kathryn, citing evidence that Kathryn had been the primary caretaker of L.S. throughout her life, that Steven's employment often required him to travel, that Swearingen believed that Jaci was "as much a caretaker as Kathryn," and that L.S. maintained contact with both her paternal and maternal relatives. The court also noted that Kathryn was a stay-at-home parent and was primarily responsible for things such as L.S.'s medical and dental appointments, as well as school registration.

¶ 27 Steven argues that the "court's implicit finding that the minor child's interest is served by [Kathryn] not working outside the home is against the manifest weight of the evidence." He cites authority standing for the proposition that a parent's failure to provide financial support may justify a denial of custody. See *In re Marriage of Fahy*, 208 Ill. App. 3d 677, 695 (1991) ("[T]he relative economic positions of the parties are a factor that must be considered in determining the best interests of the child, especially where, as here, one of the parties had no visible means of support at the time of the custody award."). According to Steven, Kathryn did "not provide insight into how she spends her days, what unique tasks she performs in the role of caretaker, or that [L.S.] is particularly dependent on [Kathryn's] care." Additionally, he proposes, Kathryn did not explain why she was unable to work part-time to contribute to L.S.'s support. He also argues that there was "no justification for subjecting [L.S.'s] financial security and well-being to Jaci's benevolence and Steve's resources unaided by any contribution from [Kathryn]."

¶ 28 While Jaci, as Kathryn's wife, has no legal obligation to support L.S. (see *In re Parentage of M.M.*, 2015 IL App (2d) 140772, ¶ 43), the evidence indicated that Jaci and Kathryn decided that Kathryn would be a stay-at-home mother. Such arrangement is neither unusual nor suspect. Nor was there any indication that L.S.'s financial security had been jeopardized. In light of Steven's need to travel frequently for work, the trial court reasonably determined that one of the facts that weighed in favor of Kathryn being the primary residential custodian was her availability to be present for the child on a daily basis.

¶ 29 In a similar vein, Steven argues that the court allowed Jaci "to serve as a surrogate for a parent and to override the primacy of an actual parent." The court did no such thing. It did not find that Jaci was offering care that ought to have been provided by Kathryn, nor did the

evidence compel the court to reach that conclusion. As with most of the issues in this case, there was conflicting evidence as to Jaci's role in the child's life. The fact that L.S. had a relationship with Jaci and looked to her as a caretaker does not necessarily mean that the child did not also look to Kathryn as a caretaker. Indeed, there was evidence that L.S. referred to Kathryn and Jaci as her "moms."

¶ 30 Steven next emphasizes that Kathryn was estranged from several of her family members and that L.S. would not have a relationship with the Paulsen family if it were not for Steven. Suffice it to say that the evidence gave rise to conflicting inferences regarding Steven's motives for maintaining a relationship with Kathryn's family. Steven's facilitation of L.S.'s visitation with Kathryn's family was simply another factor for the court to consider.

¶ 31 Noting that this was an initial custody determination rather than a modification, Steven also argues that the court erroneously placed weight on the fact that Kathryn had always been L.S.'s primary caretaker. See *In re Marriage of Hefer*, 282 Ill. App. 3d 73, 78 (1996) ("A court may consider the period of time that a child has spent with a parent by virtue of a temporary custody order (citation), but there is no presumption in favor of the existing custodian under section 602 as there is in modification cases ***."). There is no indication that the trial court applied any presumption in favor of Kathryn. Instead, the court merely found that Kathryn had historically been more responsible than Steven for taking care of L.S. on a daily basis. The evidence supports that finding. We also reject Steven's attempts to minimize Kathryn's role as the primary caretaker by suggesting that there was no evidence of the specific caretaking functions that she performed. There was indeed evidence that Kathryn got L.S. ready for school, did homework with her, and volunteered regularly at the school. Nor can we accept Steven's suggestion that the role of a primary caretaker is less significant for an eight-year-old than for a

younger child. The point is not that L.S. currently required the constant care than an infant would need; instead, it was relevant that Kathryn had historically served as the caretaker and that L.S. was accustomed to Kathryn acting in that role.

¶ 32 Section 602 also directs courts to consider "the child's adjustment to his home, school and community." 750 ILCS 5/602(a)(4) (West 2014). The trial court found that this factor weighed in favor of Kathryn. The court noted that L.S. had lived primarily with Kathryn and Jaci since 2012 and that L.S.'s school was less than a two-minute walk from their home. The court noted that L.S. would be required to change schools should Steven be awarded custody.

¶ 33 Steven argues that the court erred with respect to this factor for several reasons. He first contends that placement with him would not necessarily require L.S. to change schools. However, the only evidence that he cites is his own vague testimony that a principal or assistant principal told him that something could be worked out to keep L.S. in the school should he get custody. In fact, Steven candidly recognized the possibility that L.S. would have to change schools:

> "Q: *** But you are actually cognizant of the fact that it's likely that she's gonna have to change schools here and you're accepting of that?
>
> A. Yes. There is the possibility that she will have to go to [the school in Steven's neighborhood]."

"Stability for a child is a major consideration with both an initial award of custody and with a modification of custody ***." *Ricketts*, 329 Ill. App. 3d at 180.

¶ 34 Steven also argues that the question of which school L.S. attends is not controlling, because, although L.S. "may be doing well socially at [her current school], she is not doing well academically or emotionally." He emphasizes that the most recent report card and testing results

showed that L.S. was "performing below expectations or target in a number of areas." He also contends that the court misinterpreted Swearingen's testimony on the issue of L.S.'s adjustment, because Swearingen explained that there had been negative changes in L.S. since he last met with her and that they were entering "troubled times." These arguments are unavailing. There was no evidence suggesting that L.S.'s scholastic performance would improve if she switched schools or if Steven were designated as the primary residential custodian. Additionally, Steven acknowledged at trial that he was not aware of any instances in the last two years where Kathryn's behavior had affected L.S.'s education. Furthermore, although L.S. had recently been attending therapy and had consulted the school nurse frequently, the evidence does not support Steven's suggestion that this was indicative of L.S.'s adjustment to her surroundings being "tenuous and crumbling." L.S. was caught in the crosshairs of a custody battle between her parents, and Kathryn was not necessarily solely to blame for any difficulties that L.S. was experiencing academically, emotionally, or otherwise. It bears emphasizing that the teachers' comments about L.S. in her report cards were glowing.

¶ 35 Steven next takes issue with the court's assessment of "the mental and physical health of all individuals involved" (750 ILCS 5/602(a)(5) (West 2014)), even though the court found that this factor weighed in his favor. Once again, he asks this court to reweigh the evidence and find that Kathryn's alcohol use threatened L.S.'s safety. As explained above, Kathryn's lack of candor with respect to her use of alcohol was a factor that the trial court properly considered; however, this was not the only consideration. To the extent that Steven complains that the trial court considered evidence of his controlling and overbearing relationship with Kathryn, we note that the parties each provided, without objection, their respective explanations about the dynamics of their relationship. Additionally, the court expressly acknowledged that it could

only consider conduct that affected the parties' relationship with the child. See 750 ILCS 5/602(b) (West 2014). Nor does the court's order reflect impatience or criticism toward the evidence that Steven presented. The court afforded the parties remarkable latitude in presenting their testimony and arguments. The court's written order reflects that the court carefully considered all of the evidence presented.

¶ 36 Steven challenges the court's findings with respect to "the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child." 750 ILCS 5/602(a)(8) (West 2014). The court found this factor to be neutral. Although the court acknowledged Swearingen's testimony that Steven was the party who was more willing to facilitate L.S.'s relationship with the other parent, the court noted that the parties had cooperated in working out a parenting schedule and had communicated to arrange dates and times for parenting and exchanges. The court found that there had been "a certain amount of 'gamesmanship' regarding L.S.'s visitation/parenting time," but that Kathryn should have foreseen the need for flexibility and Steven should have understood L.S.'s need for a more concrete schedule during the school year.

¶ 37 Steven argues that there was ample evidence that Kathryn did not foster his relationship with L.S. He also calls attention to his own testimony that he affirmatively fostered L.S.'s relationship with Kathryn. To be sure, Steven repeatedly insisted at trial that Kathryn made it difficult for him to exercise his parenting time. He also said that Kathryn was tardy in her communications with him and that she excluded him from certain matters involving L.S. That evidence was concerning, and the trial court should have—and we believe did—take this into consideration, along with all of the other factors. Contrary to Steven's suggestion, the trial court did not find that Steven's frequent travel with L.S. impeded Kathryn's relationship with L.S. or

detracted from Kathryn's parenting time. The court plainly recognized that Kathryn had participated in gamesmanship regarding visitation. Nevertheless, the court deemed this statutory factor to be neutral in light of the fact that the parties had, for the most part, been able to arrange parenting schedules without court intervention. Although evidence that a party has interfered with the other parent's visitation is undoubtedly relevant (see *Ricketts*, 329 Ill. App. 3d at 181-182 (order modifying custody was not against the manifest weight of the evidence where the mother obstructed the father's relationship with the child and deprived the father of substantial parenting time)), in light of the number of issues that the trial court had to weigh and consider in the present case, we cannot say that the judgment was against the manifest weight of the evidence.

¶ 38 Finally, Steven notes the trial court's chagrin in learning that L.S. was "aware of many of the issues and intricacies of this case." Although the court did not make a specific finding as to the source of that knowledge, Steven submits that there was little doubt that it was Kathryn's fault. In the absence of either a specific finding by the trial court that Kathryn was improperly discussing the case with L.S. or direct evidence of the same, we need not speculate as to the source of L.S.'s knowledge.

¶ 39 In closing, we feel compelled to remind the parties that despite the fact that they held back few punches in these custody proceedings, they both requested joint custody. The trial court saw through the bickering and the animosity that this litigation had fueled and believed that the parties were capable of cooperating with respect to L.S. and that it would be in her best interest to do so. "[J]oint custody can succeed only where the parties have an ability to cooperate effectively and consistently with each other towards the best interest of the child." *Ricketts*, 329 Ill. App. 3d at 178-79. To make the trial court's carefully crafted joint custody arrangement

work, it is imperative that both Steven and Kathryn overcome their suspicions of one another, communicate civilly, and foster L.S.'s relationship with the other parent. L.S. deserves no less.

¶ 40 III. CONCLUSION

¶ 41 For the reasons stated, we affirm the judgment of the trial court.

¶ 42 Affirmed.