2016 IL App (2d) 151070-U
No. 2-15-1070
Order filed March 31, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re Aiden M., a Minor	)	Appeal from the Circuit Court
	)	of Winnebago County.
	)	
	)	No. 07-F-737
	)	
	)	
	)	Honorable
(Chera S., Petitioner-Appellee v.	)	Patrick L. Heaslip,
Patrick M., Respondent-Appellant).	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Burke concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order denying respondent's amended counter-petition for modification of custody was not against the manifest weight of the evidence; we affirm.

¶ 2 This case involves a child custody dispute between petitioner/mother, Chera S., and respondent/father, Patrick M. Respondent appeals the trial court's order denying his petition for permanent custody of Aiden M. Respondent argues that the trial court's findings are against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Aiden M. was born on May 8, 2007. On April 16, 2008, an order was entered finding respondent to be Aiden's father. Respondent was further ordered to pay child support. On August 9, 2012, an order was entered increasing respondent's child support obligation. On October 17, 2012, petitioner filed a petition for temporary and permanent custody of Aiden M. On July 25, 2013, respondent filed a counter-petition for temporary and permanent custody. The trial court ruled, however, that the earlier child support orders had established petitioner as the custodial parent. 750 ILCS 45/14(a)(2) (West 2014).[1] With leave of the trial court, respondent filed an amended petition seeking sole custody of Aiden M. subject to reasonable visitation for petitioner. The trial court conducted a hearing on the matter, which took place over the course of three days.

¶ 5 Respondent's first witness, Rockford police officer Michael Garnhart, testified that he had been called to petitioner's home on three different occasions in response to noise complaints. In December 2013, he arrived at petitioner's apartment around midnight and observed Aiden M. running around in the living room. In January 2014, he responded to a call from petitioner's neighbor reporting that Aiden M. may have been struck. Garnhart arrived at approximately 2 a.m., and observed Aiden M. sitting on the couch watching television or playing a video game. Petitioner denied that Aiden M. had been struck in any way. Finally, in July 2014, Garnhart responded to a report of loud arguing in petitioner's apartment. He arrived to petitioner, her boyfriend, and Aiden M. in the apartment. Petitioner explained that she was upset with her boyfriend about his secretive behavior concerning his text messages. This led to an argument and some furniture being knocked over. Although no arrests were made, Garnhart contacted the Department of Children and Family Services (DCFS).

[1] Repealed by P.A. 99-85, § 977, eff. Jan. 1, 2016.

¶ 6 Respondent next called Sandra Rodriguez, a family resource worker for the Rockford Head Start Program. Rodriguez testified that petitioner had enrolled Aiden in the program in 2010. Aiden M. was frequently late or absent, and several occasions, he was dropped off at his residence by the school bus with no one there to receive him. This eventually led to the suspension of bus service for Aiden M. Rodriguez testified that she had also discussed Aiden M.'s dental problems with petitioner several times, advising petitioner of the need to obtain dental exams and treatment for Aiden M.

¶ 7 Respondent's father, David M., testified regarding an incident in June 2012, in which petitioner had refused to allow Aiden M. to leave with respondent. An argument ensued and police were called. David further testified that petitioner regularly uses profanity in front of Aiden M. In addition, Aiden M. told David that petitioner's boyfriend dunked his head in the toilet. David testified that he had observed improvement in Aiden M.'s behavior since he had spent more time with respondent and respondent's family, adding that Aiden M. has a strong, loving bond with all of respondent's family members. David recounted an incident in which respondent was arrested following an argument with petitioner prior to Aiden M.'s birth. Respondent was not charged with any crime.

¶ 8 Respondent next called petitioner's neighbor, Sandy Triplett, who testified that she had observed respondent waiting for long periods of time in his car at petitioner's residence when he was picking up Aiden M. Triplett also observed Aiden M. playing unattended on the roof of a car port at the apartment complex. On two separate occasions, Triplett observed Aiden M. and another boy in the apartment complex showing each other their private parts. When Triplett informed petitioner of these incidents, she was told that it was "no big deal." Triplett testified that she had encountered petitioner's ex-boyfriend, Timothy McClain, on several occasions.

Triplett claimed that McClain usually appeared drunk. Finally, Triplett testified that she heard banging on the doors and other noise coming from petitioner's apartment on February 25, 2012. Triplett went to petitioner's apartment and petitioner cracked the door open to talk to her. Triplett claimed that petitioner appeared high, as if she had been using drugs.

¶ 9 Jennifer Girard, respondent's sister, testified that Aiden M. has a loving relationship with both respondent and respondent's girlfriend, Destiny Peavy. Girard testified that Aiden M. is involved in many activities when he is with respondent and Peavy, and she has seen respondent talking with Aiden about making proper choices. The hearing was continued following Girard's testimony.

¶ 10 The hearing reconvened on May 4, 2015, with respondent calling Shannon Hartman, the former downstairs neighbor of petitioner. Hartman testified that she first met petitioner when she asked her to quiet Aiden M. down one evening between 11:30 p.m. and midnight. Hartman also testified that she had to call the police several times due to Aiden M. making noise at late hours of the night. On one occasion, Hartman thought she heard petitioner hitting Aiden M. On another, Hartman witnessed Aiden M. hanging out of the window of petitioner's second story apartment. This incident led to Hartman calling DCFS and reporting that petitioner would leave Aiden M. in her car at late hours of the night. Hartman also reported that Aiden M. was not sent to school several times per week.

¶ 11 Respondent's next witness was petitioner's ex-boyfriend, Timothy McClain. McClain testified that he spent the night at petitioner's apartment several times per week while he was dating her. McClain testified that petitioner snorted cocaine regularly on weekends and had seen cocaine in her home. She also smoked marijuana every day while he was dating her, even when Aiden M. was with her. McClain testified that on Memorial Day 2014, petitioner punched him

in the mouth in front of Aiden M. On another occasion, petitioner screamed at him and threw items in her apartment while Aiden M. was in the room and crying. McClain testified that, when he stayed at petitioner's apartment, Aiden M. did not have a designated bedtime. Aiden M. would often stay up until late hours, even on school nights. These late nights would result in Aiden M. being late or absent from school. McClain recounted an occasion where petitioner showed up at his parents' home and attempted to kick in their front door. McClain also testified that petitioner texted him regarding his appearance at the hearing in the present case. He claimed that petitioner had threatened to notify the authorities that McClain is a drug dealer if he appeared at the hearing, and she offered to pay any fines associated with his failure to appear.

¶ 12 Respondent's final witness was his current girlfriend, Destiny Peavy, who testified that respondent takes proper care of Aiden M. when Aiden M. is in his custody. Peavy explained that respondent takes Aiden M. to school, talks to his teachers, and makes sure he is fed and bathed. Peavy testified that she thinks of Aiden M. as her own son, and Aiden is extremely close with all of respondent's family members. Peavy claimed that petitioner often uses profanity toward respondent during exchanges of Aiden M. On one occasion, petitioner came to pick up Aiden M. from Peavy's home and emerged from her car with what Peavy believed to be marijuana smoke billowing out of the car door. Peavy testified to another occasion in which she went to pick up Aiden M. at petitioner's residence. Peavy claimed that petitioner refused to get out of bed to prepare Aiden M. for school. Aiden M. missed school that day as a result.

¶ 13 Following Peavy's testimony, the trial court ordered both petitioner and respondent to submit to a drug test before proceeding any further. Respondent's results were negative for all substances tested. Petitioner's results came back positive for benzodiazepine, which was attributable to her prescriptions for anti-depressants.

¶ 14 The hearing resumed with respondent testifying on his own behalf. He testified that he and petitioner had been splitting parenting time of Aiden M. in approximately equal amounts. He also testified that Aiden M. was late or tardy to school 37 times during his kindergarten year, but that every one of these instances was while Aiden M. was in petitioner's care. In addition, petitioner was often late picking up Aiden M. from school. Respondent would sometimes find Aiden M. at a babysitter's house instead of petitioner's home when he went to pick him up. Several times, petitioner would not allow Aiden M. to go with respondent at all. Respondent testified that he was forced to make arrangements for Aiden M. to make it to school because petitioner did not pick up Aiden M. when she was supposed to. Finally, respondent testified that petitioner would often text and call him profanity-laced names.

¶ 15 Petitioner's first witness was Donald Brown, her longtime friend. Brown testified that he watched Aiden M. a couple times per week for petitioner. Brown claimed that he had witnessed an incident where respondent became angry with Aiden M. for failing to put on his shoes.

¶ 16 Petitioner's next witness was her daughter, Alisha Grove, who testified regarding the incident at Brown's house where respondent became angry at Aiden M. for failing to put on his shoes. Grove also testified that Aiden M. would often throw temper tantrums when respondent would come to pick him up from Brown's house.

¶ 17 Petitioner closed her case in chief by testifying on her own behalf. Petitioner testified that the late night incidents involving Aiden M. running around her apartment, prompting neighbors to telephone the police, were caused by respondent providing Aiden M. with sugary drinks before returning him to petitioner. Petitioner also testified that Peavy had posted pictures to Facebook in which she dressed in revealing clothing and posed in a provocative manner. Petitioner claimed that Peavy had also posted mad incendiary comments on Facebook about

petitioner, and she feared that Peavy had been disparaging petitioner in front of Aiden M. Petitioner admitted that she and McClain had domestic violence issues. Specifically, petitioner testified that McClain had punched her, twisted her arm, and punched holes in her walls. Petitioner admitted that she used marijuana with McClain while the two were dating, but claimed that McClain was the one who regularly used cocaine.

¶ 18 Respondent called his mother, Patricia M., in rebuttal. Patricia testified that petitioner had admitted to taking McClain to purchase to cocaine and to having cocaine in her home, although she maintained that the cocaine belonged exclusively to McClain. Petitioner had also admitted that she and McClain hit each other in front of Aiden M. during a camping trip.

¶ 19 The final witness was the court-appointed guardian ad litem (GAL), who provided the trial court with her report. The GAL did not believe that joint custody was a possibility, due to the parties' inability to get along with one another. The GAL opined that there was clear evidence of a change of circumstances since August 9, 2012, the date of the second child support order. To wit, petitioner had been unemployed for long periods of time, and had been involved in an abusive relationship with her ex-boyfriend in Aiden M.'s presence. Furthermore, petitioner lacked any involvement in Aiden M.'s school life and allowed him to stay up late, leading to extensive school absences. The GAL further opined that respondent had the ability to ensure that Aiden M. is attending school. Although respondent had problems with alcohol in the past, the GAL had seen nothing to suggest that he currently had problems with any substances. The GAL accordingly recommended that it would be in Aiden M.'s best interest that respondent be granted primary and sole custody.

¶ 20 The trial court delivered an oral decision, first explaining that the burden was on respondent to demonstrate clear and convincing evidence that: (1) a change in circumstances had

occurred since the 2012 custody order; and (2) a change of custody was in Aiden M.'s best interest. Without any further discussion of whether a change in circumstances had occurred, the trial court proceeded to address Aiden M.'s best interests. The trial court found that: (1) both parents wished to have custody; (2) Aiden M. is too young for his wishes to be taken into consideration; (3) Aiden M. clearly loves both parents and has a close relationship with both of them; (4) Aiden M. is well adjusted to his current home; (5) Aiden M. is doing well in his current school; (6) petitioner has done more to facilitate a relationship with respondent than respondent has done to facilitate a relationship with petitioner; (7) respondent was inflexible in his positions; and (8) both parties had been guilty of domestic violence. The trial court denied respondent's amended counter-petition, finding that respondent had failed to meet his burden of proof, as neither party had testified credibly. The trial court also issued an order stipulating that all exchanges of Aiden M. were to take place at Safe Harbor, and any communication between petitioner and respondent was to occur through Our Family Wizard, a controlled communication system designed to assist parties who were unable or unwilling to communicate in a civil manner. The parties were not to have any communication with each other outside of those means.

¶ 21 Respondent filed a motion to reconsider the trial court's order on June 2, 2015. Respondent then filed an amended motion to reconsider on June 22, 2015. After the trial court heard argument on August 7, 2014, the motion to reconsider was denied. The trial court entered a final order of visitation on October 1, 2015. Respondent filed a timely notice of appeal.

¶ 22 II. ANALYSIS

¶ 23 The sole issue on appeal is whether the trial court erred in denying respondent's amended counter-petition to modify custody. We note at the outset that petitioner has not filed an

appellee's brief. Under these circumstances, a reviewing court is not compelled to serve as an advocate for an appellee, nor is it required to search the record for ways to sustain the trial court's judgment. Accordingly, the trial court's judgment may be reviewed where the record is simple and supports such a finding. *First Capitol Mortgage Corp. v. Talandis Construction Corp.,* 63 Ill.2d 128, 133 (1976).

¶ 24 Proceeding to the merits of respondent's brief, section 610(b) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/610(b) (West 2012))[2] allows for the modification of a prior child custody order if there has been: (1) a change of circumstances and (2) modification is necessary to serve the best interests of the child. *In re Marriage of Smithson,* 407 Ill.App.3d 597, 600 (2011). A party must demonstrate by clear and convincing evidence that a change in circumstances of the child or custodian has occurred and that a modification is necessary to serve the best interests of the child. *Id*. When deciding issues pertaining to custody, the trial court has broad discretion, and its judgment "is afforded 'great deference' because 'the trial court is in a superior position to judge the credibility of witnesses and determine the best interests of the child.' " *In re Marriage of Bates,* 212 Ill.2d 489, 516 (2004) (quoting *In re Marriage of Gustavson,* 247 Ill.App.3d 797, 801 (1993)). Accordingly, a reviewing court will not disturb a trial court's decision to modify the terms of a child custody order unless its decision is against the manifest weight of the evidence. *Bates,* 212 Ill.2d at 515. A judgment is considered to be 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 Karonis,* 296 Ill.App.3d 86, 88 (1998).

¶ 25 Respondent argues that he presented clear and convincing evidence that a change of

[2] Repealed by P.A. 99-90, § 5-20, eff. Jan. 1, 2016

circumstances had occurred, and that a modification of custody was in Aiden M.'s best interests. Although we believe that this is a close case, for the following reasons, we do not believe the trial court's decision was against the manifest weight of the evidence.

¶ 26 We first note that section 610(b) of the Act requires the trial court to "state in its decision specific findings of fact in support of its modification or termination of joint custody if either parent opposes the modification or termination." 750 ILCS 5/610(b) (West 2012). Here, while the trial court illustrated its awareness of respondent's burden of proof, it made no specific findings as to whether a change of circumstances had occurred. The trial court stated in pertinent part:

> "It's outside of two years from the last custody order, so the burden of proof on *** [respondent] is to show by clear and convincing evidence that a change has occurred in the circumstances of the child or the custodian which would be mom, and that the modification is necessary to serve the best interests of the child. You know, there's a reason why the legislatures have drafted this language and used the term clear and convincing evidence because stability in a child's life is much sought after commodity. Now, *** we go to the best interest factors."

¶ 27 In *Vollmer v. Mattox*, the trial court found a transfer of custody to be in the best interest of the child, but "the court did not elaborate upon the reasons for the court's decision to change the custody [of the minor]." *Vollmer v. Mattox*, 137 Ill.App.3d 1, 4 (1985). The order in *Vollmer* failed to recite the requirement from the statute that "a change has occurred in the circumstances of the child or his custodian." Holding that section 610(b) of the Act required the finding of specific facts to justify the change, the court remanded for the trial court to make explicit findings to support the change in custody it had made. *Id.* at 6.

¶ 28 In *In re Marriage of Oliver*, the trial court ordered a change in the child's custody, but limited its findings to a recital that it was in the best interest of the child. *In re Marriage of Oliver*, 155 Ill.App.3d 181, 184 (1987). There were no findings based upon "[c]lear and convincing evidence, upon the basis of facts that have arisen since the prior judgment or that were unknown to the court at the time of entry of the prior judgment, that a change has occurred in the circumstances of the child or his custodian." *Id*. Moreover, there were no "specific findings of fact in support of its modification." *Id*. The appellate court found that the trial court was required to make specific findings of fact to support an order for modification of custody of minor child, and mere recitation that modification was in best interest of the child and that all relevant factors, including those enumerated in statute, had been considered was insufficient. *Id*.

¶ 29 Here, unlike in *Oliver* and *Volmer*, the trial court denied the petition for a modification of custody. Those opinions, coupled with a strict interpretation of the statutory language that a trial court "shall state in its decision specific findings of fact in support of its modification," lead us to the conclusion that, where the trial court ultimately declines to order a modification of custody, strict compliance with the statutory mandate to make specific findings may be eased. See *In re Marriage of Diddens*, 255 Ill. App. 3d 850, 855 (1993) (section 610(b) requires findings on change in circumstances in contested cases where a modification of custody is granted). Trial courts are reminded that best practices in these cases strongly suggest compliance with statutory mandates, notwithstanding the outcome of the case.

¶ 30 Since the 2012 custody order, Aiden M. has reached an age in which he is attending public school and has educational needs. Respondent also presented uncontested evidence that, during Aiden M.'s kindergarten year, he was absent from school 23 days and tardy 14 days while in the custody of petitioner. In addition, the trial court heard uncontested testimony that

petitioner and her ex-boyfriend had exposed Aiden M. to instances of domestic violence on at least two separate occasions since the 2012 custody order. Uncontested evidence of either one of these incidents would be sufficient for finding a substantial change in circumstances. See *In re Marriage of Dunn*, 208 Ill. App. 3d 1033, 1041 (1991) (testimony concerning custodial mother's chaotic lifestyle and the minor child's problems with school attendance were sufficient to find a substantial change in circumstances); *In re Marriage of Dullard*, 176 Ill. App. 3d 817, 820-821 (1988) (testimony that there had been at least one fight in front of children between custodial mother and stepfather was sufficient for trial court to find substantial change in circumstances). Thus, even assuming arguendo there was a change in circumstances, the trial court's best interest determination was not against the manifest weight of the evidence.

¶ 31 Turning to the issue of Aiden M.'s best interests, respondent argues that the trial court's findings based on the relevant statutory factors were arbitrary, unreasonable, and unsupported by the evidence and testimony presented. Section 602 of the Act directs the trial court to consider the following factors in determining custody in accordance with the best interest of the child:

> "(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 abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, whether directed against the child or directed against another person; and
>
> (8) 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) (West 2012).[3]

The factors enumerated in section 602(a) are not an exclusive list of factors, and the trial court is not required to make specific findings for each factor as long as the record reflects that evidence of the factors was considered by the trial court before making its decisions. *In re Marriage of Diehl*, Ill. App. 3d. 410, 424 (1991).

¶ 32 Here, the trial court found that: (1) both parents wanted to have custody of Aiden M.; (2) Aiden M.'s wishes could not be taken into consideration due to his young age; (3) Aiden M. clearly had a close relationship with both parents and those who may affect his best interests; (4) Aiden M. was well adjusted to petitioner's home, is doing well in the school he attends, and petitioner was under no obligation to send Aiden M. to the Head Start Program; (5) petitioner better facilitated a relationship with respondent; and (6) both parties had been engaged in instances of domestic violence. After balancing these factors, the trial court found that respondent had failed to prove by clear and convincing evidence that a modification of custody was in Aiden M.'s best interests.

¶ 33 We express concern over the trial court's findings enumerated as (5) and (6) above, as well as the trial court's absence of comment on the recommendation of the GAL. The finding that petitioner better facilitates a relationship with respondent seems contrary to the testimony

[3] Repealed by P.A. 99-90, § 5-20, eff. Jan. 1, 2016

presented at the hearing. There was testimony of numerous incidents involving petitioner's failure to allow Aiden M. to go with his father at the agreed upon exchange times, petitioner being late or absent in picking Aiden M. up from respondent and school, and refusal by petitioner to address Aiden M.'s fits and tantrums when respondent comes to pick him from petitioner's home. The trial court stated in its findings on May 8, 2015, that:

> "I've read the texts, I've read it all and you both should be ashamed of yourselves. Am I to say one or the other of you would facilitate the relationship with the other, if I had to balance that out right now, I would say that mom did more than you did, [respondent]. You seem inflexible in your positions and it's most unfortunate that you are."

Respondent testified to numerous texts sent by petitioner in which she used profane language to refer to respondent. But the record provided to this court is devoid of the texts entered into evidence. The trial court, after reviewing the texts, found that petitioner was in a better position to facilitate a relationship than respondent. Although we express concern over this finding, we cannot say that the opposite conclusion is apparent or the findings appear to be unreasonable, arbitrary, or not based upon the evidence. See *In re Marriage of Karonis*, at 88.

¶ 34 The trial court also made the following broad finding regarding the credibility of the witnesses:

> "Everyone that came in here and testified embellished if not outright lied at times, and it's a pretty sad state of affairs. In fact, I'm just shocked that this child is as well adjusted as this child is, given the way you two people hate each other and the lengths you will go to make each other as miserable as you possibly can."

¶ 35 We note that, in addition to his own testimony, nine witnesses testified on behalf of respondent. Petitioner, meanwhile, introduced two witnesses in addition to herself. A literal

interpretation of the trial court's credibility findings suggests that each of these witnesses either lied or embellished their testimony. This includes a Rockford police officer, a family resource worker for the City of Rockford, two of petitioner's neighbors, Aiden M.'s grandparents and aunts, respondent's girlfriend, petitioner's ex-boyfriend, and a long-time family friend of petitioner. We cannot accept that the trial court's credibility findings were made to discredit every witness presented at the three hearing dates. Taking the trial court's findings in context, it seems apparent that the credibility of petitioner and respondent was the target of the trial court's ire.

¶ 36 Our concerns notwithstanding, we cannot overlook the trial court's finding that both parties had been engaged in acts of domestic violence. There was evidence presented during the hearing that petitioner has engaged in no less than two instances of domestic violence with her ex-boyfriend in front of her child since the last custody order was entered. We find this troubling to say the least. However, petitioner introduced testimony that respondent had also been engaged in acts of domestic violence in years past. Petitioner's daughter testified that respondent had pushed her during an exchange of Aiden M. at Brown's home. Given that McClain is no longer a part of petitioner's life, the trial court's decision is not unreasonable, arbitrary, or not based upon the evidence. See *In re Marriage of Karonis*, at 88.

¶ 37 Stability for this child is paramount. See *In re Marriage of Ricketts*, 329 Ill. App. 3d 173, 180 (stability for a child is a major consideration with a modification of child custody). The trial court correctly recognized that premise. Furthermore, the trial court's specific remark that the child is well adjusted bolsters his best interest findings. In addition, Aiden M. is now a full-time primary school attendee, and any changes in his conditions or health can be scrutinized by neutral, third-party observers who have a duty to report suspect circumstances. While we may

have decided this case differently had we been the trier of fact, when the manifest weight standard applies, the reviewing court will not substitute its judgment for that of the trial court. See *In re An.W.*, 2014 IL App (3d) 130526, ¶ 55.

¶ 38 Respondent and petitioner share important parenting time with Aiden M, time that they can make a significant difference in their son's life and time that will be critical to his successful development into his adolescent and teen years. Even though petitioner is privileged to enjoy sole custody of Aiden M., and notwithstanding the trial court's order that the parties only communicate through Our Family Wizard, we caution both parents to cooperate going forward with regard to Aiden M.'s life.

¶ 39 As a final matter, we note that this appeal was accelerated under Supreme Court Rule 311(a) (eff.Feb.26, 2010). Pursuant to that rule, the appellate court must, except for good cause shown, issue its decision in an accelerated case within 150 days of the filing of the notice of appeal. Ill. S.Ct. R. 311(a)(5) (eff.Feb.26, 2010). Here, respondent filed his amended notice of appeal on November 2, 2015. Respondent's appellant brief was filed on December 21, 2015. Petitioner's appellee brief was due to this court by January 11, 2016. This court had not received a brief from appellee by the due date. Notice was sent to an attorney whose appearance was incorrectly noted in this court's record. Additional notice was sent to petitioner to alert her to her right to file an appellee brief in this appeal. Still, no brief was ever supplied to this court by petitioner. Under the circumstances of the present case, we believe good cause existed for this decision to be issued after the time frame mandated in Supreme Court Rule 311(a) (eff.Feb.26, 2010).

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we affirm the judgment of the circuit court of Winnebago County.

¶ 40 Affirmed.