2012 IL App (2d) 111198-U
No. 2-11-1198
Order filed March 23, 2012

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF VALERIE CECELIA PHILP, Petitioner-Appellant, and BRIAN KEITH PHILP, Respondent-Appellee.	))))))))))	Appeal from the Circuit Court of Du Page County. No. 09-D-818 Honorable Linda E. Davenport, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justice Hudson concurred in the judgment.
Justice Schostok specially concurred.

ORDER

Held: Where the trial court's finding that removal of the parties' minor child to Nebraska would not be in the child's best interests was not against the manifest weight of the evidence, the trial court's denial of the petition for removal was affirmed.

Petitioner, Valerie Cecelia Philp, appeals from the trial court's denial of her petition for removal pursuant to section 609 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/609 (West 2010)). In the petition, Valerie sought to move to Nebraska with the parties' minor child to secure employment. For the following reasons, we affirm.

¶ 1 BACKGROUND

¶ 2 Valerie and respondent, Brian Keith Philp, were married on April 26, 2008. Their daughter, Heidi, was born on September 10, 2008. Valerie filed a petition for dissolution of marriage in April 2009. Both parties were represented by counsel. While the dissolution petition was pending, on June 3, 2010, Valerie filed a petition for removal, seeking to remove Heidi to Arizona so that Valerie could resume a relationship with her first husband, Derek Nierman, by whom she was pregnant. In entering the judgment for dissolution on July 2, 2010, the trial court denied Valerie's petition for removal. The parties share joint legal custody of Heidi, with Valerie being the primary residential custodian. Brian was awarded visitation with Heidi every Tuesday evening, every other weekend from Thursday at 4 p.m. until Sunday at 7 p.m., and alternating holidays.

¶ 3 On March 10, 2011, Valerie filed a *pro se* motion seeking permission to travel to Arizona with Heidi from April 20 to May 30 in order to spend time with family and with Derek, whom she planned to marry "in the near future." She stated in the motion that the time was "much needed in order to move the relationship forward." Valerie concluded her motion, "Also, in consideration of Mr. Philp's parenting time, he will only be missing two weekends with Heidi, which I'm willing to make up in the coming months." Valerie withdrew the motion on March 25, 2011, because the "dates did not work out."

¶ 4 On June 27, 2011, Valerie filed a *pro se* petition to remove Heidi to Nebraska in order to accept an employment offer. The trial court conducted an evidentiary hearing on October 28, 2011. Valerie appeared *pro se*. In the proceedings leading to the hearing, Brian had appeared *pro se*, but on the day of the hearing, he arrived with the attorney who had represented him in the dissolution proceedings. Brian's counsel sought leave to "refile" his appearance. Valerie informed the court

that she was not aware that Brian had representation. The court noted that Valerie was being informed "right now" and granted Brian's counsel leave to tender his appearance over Valerie's objection.

¶ 5 Valerie testified on her own behalf in narrative form. Valerie and Heidi had lived in Hinsdale, Illinois, since October 2010. Valerie's second child, Reghan, born on October 28, 2010, also lived with them. Reghan's father was Derek Nierman, Valerie's first husband, who lived in Arizona. Derek purchased the $900,000 Hinsdale house in which Valerie and her daughters lived.

¶ 6 Valerie was born and raised in Nebraska and attended college there. Since college, she consistently worked in the medical and dental sales field. In 2006, Valerie was hired by Dentsply Tulsa Dental Products. In 2008, Dentsply promoted her to regional sales manager, responsible for the state of Illinois and eastern Wisconsin. Valerie's annual base salary was $85,000. The position required extensive travel and work weeks of 50 to 60 hours. Valerie was concerned about not being available to her two young daughters. In January 2011, Dentsply gave her the choice of resigning or being put on probation because she had failed to meet her sales quota for the past two years. Valerie chose to resign on January 12, 2011. She began actively searching for a job in March 2011. Her goal was to find a career opportunity in the field in the Chicagoland area that would not require such extensive travel. Valerie applied for over 170 positions and had six job interviews.

¶ 7 On May 19, 2011, Valerie received an e-mail from a recruiter with Stryker Instruments about a sales position in Omaha, Nebraska. Valerie had sought employment with Stryker five years earlier because it was her "career goal." She had also submitted her resume to Stryker for five other sales positions in the Chicagoland area. The only job Stryker offered was the Omaha position. Valerie underwent an "extensive interview process" and received a written employment offer on June 28,

2011, for a position as an associate sales representative that required a three-year commitment. The position provided an annual base salary of $48,000, a $1,000 monthly expense reimbursement, a $6,000 annualized bonus, an $8,500 lump sum relocation package, and a comprehensive benefits package. The Stryker position was "more than just a job. It [wa]s a career move" that provided Valerie with an opportunity to advance her career. This was extremely important to her as a single mother wanting to provide the best she could for her children.

¶ 8 Valerie testified that she continued "aggressively" seeking work in the Chicagoland area after receiving the Stryker offer. Valerie was unemployed at the time of the hearing and unable to provide for herself and Heidi. She received $688 per month in child support from Brian. Since Valerie resigned from her job, Derek had been providing not only for his daughter, Reghan, but also for Valerie and Heidi. Derek purchased the Hinsdale home in which Valerie lived and the vehicle she drove. Derek was spending about $9,600 each month to provide Valerie and her daughters with the lifestyle they enjoyed. Valerie said that her current living situation was "unstable, at best." Although the Hinsdale home was nice, it was not hers and was not permanent. Valerie had no employment prospects in the area. She explained that she did not want to take "the easy way out" but wanted to be an "excellent role model" by providing for herself and her daughters.

¶ 9 Valerie testified that, if the removal petition were granted, she planned to move to Omaha with both Heidi and Reghan. She located a four-bedroom rental home in Omaha with a fenced-in backyard. Valerie signed a lease that allowed her a refund of her security deposit if the removal petition were denied. Valerie also chose a day care center that she had personally visited. Based on the recommendation of a long-time friend, Valerie found a pediatrician. She shared all of this information with Brian.

¶ 10 Valerie testified that Heidi's quality of life, and her own, would be improved due to the nature of her new employment. She said that her previous job with Dentsply required extensive travel and long hours. Valerie acknowledged that her new position with Stryker assigned her the sales territory of the state of Nebraska, which encompassed 77,000 square miles, but explained that the position was concentrated at the University of Nebraska Medical Center. Valerie had lived in Nebraska for 20 years and described it as not having "much form of human life" west of Lincoln. Compared to her position with Dentsply, Valerie's travel requirements with Stryker would be "diminished considerably," allowing her to be more available to Heidi.

¶ 11 In addition to an improved financial situation for Heidi, Valerie said that Heidi's quality of life would be improved because of the family support system available in Omaha. Heidi had no family in Illinois other than her parents. In Omaha, Heidi had grandparents, aunts, uncles, cousins, and long-time friends. Valerie testified that her extended family was close-knit and would provide her and Heidi with additional "help, support, love and guidance" that they did not enjoy in Illinois.

¶ 12 Valerie testified that she had no desire to interfere with Brian's visitation. She believed that it was in Heidi's best interests to have a loving, healthy relationship with both parents. She had been flexible with Brian regarding visitation—sometimes giving Brian extra visitation time and sometimes "swapping" visitation time upon Brian's request. Valerie established a Skype account to facilitate Brian's visitation.

¶ 13 Valerie testified that the distance between Omaha and Chicago was approximately 439 miles and a 7-hour drive. Brian's current visitation schedule was every Tuesday evening from 4 p.m. until 7:30 p.m. and every other weekend, beginning on Thursday at 4 p.m. until Sunday at 7 p.m. Valerie proposed a schedule that would provide Brian with 3 fewer days each month (9, as opposed to 12)

but 34 more hours each month (198, as opposed to 164). Under the proposed schedule, Brian would get the first nine days of each month with Heidi, beginning on Saturday at 10 a.m. and ending on the following Sunday at 4 p.m. Under both the proposed and current visitation schedules, Heidi would alternate holidays with each parent.

¶ 14 Valerie acknowledged the increased transportation costs created by the proposed move. She was willing to share the driving with Brian by meeting at the halfway point. Valerie offered to waive day care contributions from Brian to help cover his cost. She would continue phone and Skype contact and pay for the "family wizard" service to facilitate communication.

¶ 15 Valerie acknowledged her first removal petition, saying that she had not always made the right decisions, but her sole purpose in seeking removal then was to provide her daughters with a loving two-parent household. Valerie's children were always her top priority. Her goal in the current petition was to provide the best possible life for Heidi and Reghan.

¶ 16 Valerie called Brian to testify as an adverse witness. Brian lived alone in Woodridge, Illinois. He had moved to Illinois three years ago to accept a job as a medical device salesperson with Dynasplint Systems and because of Valerie's job promotion. Brian was raised on Long Island, New York. His family was currently there, and in Florida and Alabama. Other than Heidi, Brian had no family in Illinois.

¶ 17 Brian testified that he was opposed to removal. Brian agreed that Valerie's proposed visitation schedule provided him more "extended time" with Heidi than he currently had. However, Brian did not believe that the extended time would help him foster a close relationship with Heidi because it did not allow for regular, consistent contact. Brian had never missed a day of visitation.

He believed that consistent contact with his daughter was very important. Valerie had been flexible regarding his visitation time with Heidi.

¶ 18 Brian acknowledged that Valerie attempted to communicate with him by e-mail about the proposed removal. He had not contacted the day care center or pediatrician and had done "minimal" research on the Omaha area. Brian agreed that Heidi could benefit from living near extended family and that it was important to Valerie as a single mother to have access to a strong family support system. Brian testified that he had looked for Omaha employment opportunities for himself in the event that the court granted the removal petition. In August 2011, his company had posted an opening for a position in Omaha similar to his current position.

¶ 19 Brian acknowledged that, under the judgment of dissolution, Valerie was solely responsible for Heidi's health care insurance premiums. Heidi was currently covered under Derek's health insurance policy. With respect to out-of-pocket medical expenses for Heidi, Brian was responsible for only 33% while Valerie was responsible for 67%. Brian agreed, that under these circumstances, it was "pretty paramount to Heidi's well-being that Valerie secure a level of employment which will meet and exceed her financial obligations."

¶ 20 Valerie then called Josann Miller, Heidi's day care director, who testified that Heidi was doing very well at the center. Valerie regularly communicated with Miller as to Heidi's progress and development. Miller described Valerie's and Heidi's relationship as a "great loving relationship." Miller testified that Brian picked up and dropped off Heidi on a fairly frequent basis. Miller had less interaction with Brian than she did with Valerie, but Brian talked with the staff as needed, such as when Heidi was being potty trained. When asked to describe Brian's relationship with Heidi, Miller

responded that Heidi was always very clean and well-dressed, and seemed to be happy when Brian brought her to school.

¶ 21 Dr. Monica Babbit-Tanquilut testified that she was a periodontist to whom Valerie had sold dental supplies. Valerie was extremely organized, professional, and committed to being successful. Babbit-Tanquilut wrote a letter of recommendation for Valerie. The two had become friends and often got together with their children. Valerie's top priority was her children.

¶ 22 Valerie next called Judy Knight, a friend, who testified that she was a close friend of Valerie's. They met four years ago on a business trip. Knight babysat for Heidi. Valerie's support system in Illinois consisted of a few friends, and Knight and her husband.

¶ 23 Valerie's father, Gary Cook, and her mother, Mary Johnson, each testified. They were divorced but each had lived in Omaha for decades. Valerie was close to both of them, communicated with them several times each week, and sought advice and emotional support from them. Both Cook and Johnson praised Valerie's work ethic and dedication to her children. They each saw Heidi three or four times per year. Valerie and Heidi enjoyed a very close, affectionate relationship. Both Cook and Johnson described the close-knit extended family in Omaha and how they were involved in the lives of their other grandchildren on a daily basis. If Heidi and Valerie moved to Omaha, they each anticipated similar involvement with them.

¶ 24 Both Cook and Johnson were asked about their relationship with Brian. Cook testified, "I don't have a relationship with him now. We do not speak." He stated that if Heidi moved to Omaha, he would whatever he could to facilitate a healthy relationship between Brian and Heidi because he felt it was important since he had been a single father himself. When asked about her relationship with Brian, Johnson replied, "There isn't really one." She testified that she would help

facilitate a healthy relationship between Heidi and Brian if removal were granted. Upon questioning by the trial judge as to how she would encourage that relationship, Johnson agreed that it was a "tough question" for her to answer. She had not spoken to Brian since before the divorce.

¶ 25 After Valerie rested, Brian testified in his own behalf that he opposed removal because he did not feel it was "in Heidi's best interest for the travel time she would been [*sic*] subdued [*sic*] to, as well as the decrease in frequency with her father." Brian rested.

¶ 26 The trial court heard closing argument from both parties. The court denied the removal petition, stating:

> "I have weighed and considered all of the testimony of all of the witnesses and the parties, the arguments that I just heard, the exhibits that were admitted into evidence *** Section 609 of the Illinois Marriage and Dissolution of Marriage Act, the appropriate statute, all of the Eckert factors, and all of the applicable case law following Eckert.
>
> Based on all of the above, I find that removal of Heidi to Nebraska is not in her best interest at this time, and the petition is denied. That's the order of the Court."

Valerie timely appeals.

¶ 27 ANALYSIS

¶ 28 Represented by counsel on appeal, Valerie argues that (1) the trial court's denial of her removal petition was against the manifest weight of the evidence and (2) the trial court erred in allowing Brian's attorney to file his appearance on the day of hearing. We address each in turn.

¶ 29 Section 609(a) of the Act provides that the trial court may grant leave to a custodial parent to remove a child from Illinois when the removal would be in the best interests of the child. 750 ILCS 5/609(a) (West 2010). The best interests of the child is the "paramount question." *In re*

Marriage of Eckert, 119 Ill. 2d 316, 325 (1988). The parent seeking removal bears the burden of proving that removal is in the best interests of the child. 750 ILCS 5/609(a) (West 2010)*; Eckert*, 119 Ill. 2d at 325. Cautioning that there is no bright-line test and that a child's best interests must be decided on a case-by-case base, our supreme court suggested five factors that might aid the trial court: (1) the likelihood of the proposed move to enhance the quality of life for the child and the custodial parent, (2) the motives of the custodial parent in seeking removal, (3) the noncustodial parent's motives in resisting removal, (4) the visitation rights of the noncustodial parent, and (5) whether a "realistic and reasonable visitation schedule can be reached if the move is allowed." *Eckert*, 119 Ill. 2d at 326-27. These factors are not exclusive, and the trial court should hear any and all relevant evidence. *In re Marriage of Collingbourne*, 204 Ill. 2d 498, 523 (2003); *Eckert*, 119 Ill. 2d at 326. No single factor is controlling, and the weight to be given each factor varies upon the facts of each case. *Collingbourne*, 204 Ill. 2d at 523. We will not reverse a trial court's best-interests determination unless it is "clearly against the manifest weight of the evidence and it appears that a manifest injustice has occurred." *Eckert*, 119 Ill. 2d at 328. "A decision is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the court's findings are unreasonable, arbitrary, and not based on any of the evidence." *In re Marriage of Matchen*, 372 Ill. App. 3d 937, 946 (2007). "The presumption in favor of the result reached by the trial court is always strong and compelling in this type of case." *Eckert*, 119 Ill. 2d at 330.

¶ 30 Here, the trial court denied the petition, finding that "removal of Heidi to Nebraska is not in her best interest at this time." The court indicated that it had considered and weighed all of the testimony and admitted exhibits, the arguments, section 609 of the Act, the *Eckert* factors, and all of the applicable case law following *Eckert*. Although the trial court's ruling was sparse, the court

was not required to make specific factual findings as long as the record reflected that the court considered evidence of the factors before making its decisions. See *In re Marriage of Diehl*, 221 Ill. App. 3d 410, 424 (1991) (reviewing the trial court's custody determination and application of the best-interest factors in section 602 of the Act (currently 750 ILCS 5/602(a) (West 2010))); *In re Marriage of Berk*, 215 Ill. App. 3d 459, 464 (1991) (affirming the trial court's denial of a removal petition and stating that the trial court was not required to "announce the weight and significance it attache[d] to all evidence heard"). We further note that, as the appellant, Valerie bore the burden of providing a record sufficient to support her claims of error (*Premier Title Co. v. Donahue*, 328 Ill. App. 3d 161, 168 (2002)), and could have moved for detailed findings in the trial court. In the absence of such findings, we will presume that the court made findings consistent with its judgment. See *Hanson-Suminski v. Rohrman Midwest Motors, Inc.*, 386 Ill. App. 3d 585, 596 (2008)

¶ 31 Valerie maintains that the second and third *Eckert* factors, the motivations of each parent, virtually canceled each other out because both parties were focused on Heidi's best interests. With respect to the first, fourth, and fifth *Eckert* factors, Valerie argues that the trial court's decision was against the manifest weight of the evidence. The record reflects that the court heard evidence relevant to each of the factors.

¶ 32 The first factor is the likelihood of the proposed move to enhance the quality of life for the child and the custodial parent. Valerie testified about her employment and financial situation—past, present, and prospective. All of the witnesses testified about Heidi's and Valerie's current living situation. Valerie and both of her parents testified about the extended family and living situation in Omaha.

¶ 33 Regarding the fourth and fifth *Eckert* factors, pertaining to visitation, both Valerie and Brian testified about the current visitation schedule, including Brian's assiduously exercising visitation and Valerie's never interfering with it. Valerie testified about the proposed visitation schedule and the details in executing it. Both Valerie and Brian testified as to how they thought the proposed schedule would impact Brian's relationship with Heidi. The court heard testimony from Valerie's parents that they had no relationship with Brian but would help facilitate his visitation if Heidi moved to Omaha.

¶ 34 Although Valerie raises no argument about the second and third *Eckert* factors—Valerie's motivation in seeking removal and Brian's motivation in opposing it, respectively—the court could have, and should have, considered them. These factors necessarily involve credibility determinations. The court heard evidence about Valerie's voluntary resignation and Brian's willingness to address the possibility of his seeking employment in Omaha.

¶ 35 Additionally, the *Eckert* factors are not exclusive; the court was to consider any and all evidence relevant to Heidi's best interests. See *Collingbourne*, 204 Ill. 2d at 523. In this case, Heidi's young age is noteworthy as she had just turned three at the time of the hearing. See *Shinall v. Carter*, 2012 IL App (3d) 110302, ¶¶ 48-49 (reversing the trial court's grant of the mother's petition to remove the two-year-old child to Colorado, in part, considering the effect on the very young child of lengthy travel and long gaps between visits). Furthermore, where, as here, the removal petition was filed less than two years after the initial custody determination, the trial court should consider that fact in assessing the best interests of the child. *In re Marriage of Bednar*, 146 Ill. App. 3d 704, 711 (1986).

¶ 36 The court was in the best position to weigh the evidence, assess the credibility of the witnesses, and balance the *Eckert* factors. *Collingbourne*, 204 Ill. 2d at 522. Here, the trial judge also had the benefit of having had presided over the parties' dissolution proceedings just 15 months

earlier and was therefore quite familiar with the parties and their history. Accordingly, on this record, where the court stated that it considered all of the relevant law, and was presented with sufficient evidence to which to apply the law, we cannot say that the trial court's denial of the removal petition was against the manifest weight of the evidence.

¶ 37 Valerie next contends that she was denied due process and a fair trial because the trial court erred in permitting Brian's counsel to file his appearance on the day of the removal hearing without proper notice to Valerie and in not allowing Valerie time to retain her own attorney. We disagree.

¶ 38 When the case was called on October 28, 2011, Brian's attorney informed the trial court that he was "seeking leave to refile [his] appearance." Valerie objected because she was unaware that Brian had representation and had not received any notice. She asked, "Was it something that I was supposed to have received?" The following exchanged occurred:

> "THE COURT: He has the right, just like you do, to file counsel [*sic*] at any time, so—
>
> MS. PHILP: Without notification to the other party?
>
> THE COURT: It's just being done right now.
>
> MS. PHILP: Okay.
>
> THE COURT: So over your objection, that's going to be granted."

Valerie made no request for leave to obtain counsel or for a continuance.

¶ 39 There was nothing improper about counsel's appearance. Both the supreme court rule and the local rule require that an attorney file a written appearance before addressing the court. Ill. S. Ct. R. 13(c)(1) (eff. Feb. 16, 2011) ("An attorney shall file his written appearance *** before he addresses the court ***."); 18th Judicial Cir. Ct. R. 1.27 (Oct. 1, 1991) ("An attorney *** shall file a written appearance before addressing the Court."). Here, the appearance was entered prior to

counsel's addressing the court and was filed in the record. Valerie has provided no authority to support the proposition that she was entitled to advance notice of Brian's counsel's appearance. Valerie relies on Illinois Supreme Court Rule 13(a) (eff. Feb. 16, 2011), which provides that "copies of the appearance shall be served in the manner required for the service of copies of pleadings," and Illinois Supreme Court Rule 12 (eff. Dec. 29, 2009), which governs proof of service and the effective date of certain types of service, such as service by mail. Valerie received personal notice of the appearance on the day of the hearing; thus, the cited provisions are not relevant here.

¶ 40 Furthermore, Valerie forfeited her argument that the trial court erred in proceeding without allowing her time to obtain counsel because she did not request leave to obtain counsel or a continuance. See *In re Marriage of Gary*, 384 Ill. App. 3d 979, 989 (2008) (holding that where the respondent never requested that the trial court condition the entry of an injunction on the petitioner's posting of a bond, the respondent forfeited the issue on appeal). We also note that the August 23, 2011, report of proceedings reveals that Brian told the court that he did not think that he would be proceeding *pro se*—over two months prior to the removal hearing.

¶ 41 Nonetheless, Valerie argues that the trial court should have advised her "of her opportunity to seek her own counsel." Valerie's reliance on *Oko v. Rogers*, 125 Ill. App. 3d 720 (1984), is misplaced because the plaintiff there argued that she was denied a fair trial because the trial court assisted the *pro se* defendant with his case. *Oko*, 125 Ill. App. 3d at 722-23. In *Beaver v. Owens*, 20 Ill. App. 3d 573 (1974), the court held that the defendant was not denied due process when, despite the trial court's warnings, he elected to proceed *pro se*. *Beaver*, 20 Ill. App. 3d at 574. The holding in *Beaver* does not require the trial court to advise a party; indeed, the trial court may not "presume to represent" a *pro se* party (*Oko*, 125 Ill. App. 3d at 723). Moreover, we note that, when addressing Brian's counsel's request to file his appearance, the trial court told Valerie, "He has the

right, *just like you do*, to file counsel [*sic*] at any time." (Emphasis added.) Valerie, like Brian, was represented by counsel during the dissolution proceedings. That she voluntarily elected to proceed *pro se* on her removal petition does not amount to a lack of due process.

¶ 42 In any event, Valerie received a fair trial. That she was not familiar with the proper evidentiary procedure does not compel a different conclusion. See *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009) (stating that "*pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys"). Throughout the hearing, the court explained to Valerie why it was sustaining objections to admission of her evidence based on foundation and hearsay. Accordingly, Valerie was not denied a fair trial. See *In re Marriage of Winters*, 160 Ill. App. 3d 277, 286 (1987) (holding that the respondent was not denied a fair trial where the trial court was "particularly indulgent of [the respondent's] lack of familiarity with trial practice and extended him appropriate consideration of his motions and requests").

¶ 43 Finally, in connection with Valerie's last argument, we note Brian's motion to supplement the record with the August 23, 2011, report of proceedings, which we granted. In the motion, Brian asked to assess the costs of supplementing the record to Valerie. We deny the request. Illinois Supreme Court Rule 323(a) (eff. Dec. 13, 2005) requires the appellant to make a written request to the court reporter to prepare the transcripts of the proceedings that the appellant wants included in the record on appeal, and to serve the appellee that request with the docketing statement. The appellee may then serve the appellant with a designation of additional portions of the proceedings that the appellee deems necessary. Brian did not take advantage of this provision, but instead, chose to file a motion to supplement the record. Moreover, although the August 23, 2011, report of

proceedings provided a context for the October 28, 2011, report of proceedings, it was not necessary to our resolution of the issues on appeal.

¶ 44 For the foregoing reasons, we affirm the judgment of the circuit court of Du Page County.

¶ 45 Affirmed.

¶ 46 JUSTICE SCHOSTOK, specially concurring:

¶ 47 Removal is a difficult issue that can have a tremendous impact on divorced parents and their children. The custodial parent's ability to take positive steps to better his or her life and the lives of the children is often pitted against the noncustodial parent's ability to maintain a close bond with the children. Where, as here, both parents appear to be motivated by good intentions, the choice between these options is far from obvious. In reviewing removal cases, we must apply a deferential standard and must affirm unless the trial court's decision was against the manifest weight of the evidence. In light of this standard of review, I agree with the majority that we must affirm here. However, I write separately because I believe that the parties here deserve a better explanation of the removal determination than the trial court provided.

¶ 48 As the majority notes, in removal cases a court must look to the five factors identified in *Eckert* (although it may also consider any other relevant factors). Here, although the trial court stated that it considered the *Eckert* factors in reaching its decision, it provided absolutely no explanation of how it weighed those factors in its determination. The majority correctly notes that a trial court need not provide a blow-by-blow discussion of how it arrived at a particular conclusion. *Diehl*, 221 Ill. App. 3d at 424. Nevertheless, the utter lack of any explanation here not only leaves the parties in the dark, it hampers our own review. For instance, the majority notes that the second and third factors (the motivation of the parties in seeking and opposing removal) should have been considered by the trial court along with the other factors. It is quite possible that the trial court gave these

factors little weight, as the record suggests that both parties had honorable intentions in adopting their positions—Valerie gave Brian advance notice of her request and does not appear to be seeking to interfere with Brian's visitation, and Brian appears to have supported Valerie's desire to achieve a more stable income and living situation, even going so far as to look for work in Nebraska. Under these circumstances, a trial court would be correct to focus primarily on the other *Eckert* factors. *In re Marriage of Hansel*, 366 Ill. App. 3d 752, 756-57 (2006). However, given the trial court's lack of explanation, we have no idea whether it considered these two factors to be of slight or paramount importance, let alone whether it made any of the credibility determinations which the majority notes are typically involved in assessing these two factors.

¶ 49 Although the remaining *Eckert* factors appear far more relevant to this removal determination, the trial court never discussed how those factors affected its determination. In my view, these factors are closely balanced. Valerie's repeated good faith attempts to find a job in the Chicago area, and the inherent uncertainty regarding whether she and Heidi can continue to rely on her first husband's generosity to secure their living situation, are powerful arguments in favor of removal on the first factor. On the other side, Brian's constancy in maintaining a close relationship with Heidi, and the inevitable impairment of that relationship that would be caused by her move to Nebraska, especially as school schedules loom in the coming year (all relevant to the fourth and fifth factors), weigh heavily against removal. Given the closeness of the balance, I agree that the trial court's determination is not against the manifest weight of the evidence. My reason for writing separately is not to criticize the ultimate decision of either the trial court or the majority. Rather, I simply wish to offer some guidance to the parties—in the absence of any such guidance from the trial court—as to how those decisions may have been reached. Regardless of the trial court's power to issue a decision without explaining it in any way, I believe that in light of the seriousness of the

issues raised in a case like this one it behooves the trial court to provide some illumination of its reasoning.

¶ 50 Similarly, although the trial court was within its rights to proceed to trial without providing Valerie time to obtain an attorney, it would have been a better practice to explicitly offer her a continuance to secure representation. Valerie was *pro se* and might well have wished for such a continuance but might not have been aware of her right to ask for one. It is of course possible that, if offered a continuance, she would have declined because she preferred to resolve the removal petition without any further delay. Nevertheless, I urge the trial court in the future at least to offer the choice of a continuance. Our courts should advance the goals of a just result and the litigants' sense that they had a fair hearing, not simply haste in clearing the docket.