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2013 IL App (4th) 130237-U

NO. 4-13-0237

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 19, 2013
Carla Bender
4th District Appellate
Court, IL

In re PARENTAGE OF A.A.B., a Minor,)	Appeal from
MELISSA HARPER, f/k/a MELISSA GUBSER,)	Circuit Court of
Petitioner-Appellant,)	Woodford County
v.)	No. 11F45
KEVIN W. BRAASCH)	
Respondent-Appellee.)	Honorable
)	John B. Huschen,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, concluding that the trial court did not abuse its discretion by awarding sole custody of the parties' minor child to respondent.
- ¶ 2 In October 2005, petitioner, Melissa Harper, and respondent, Kevin W. Braasch, began a relationship that resulted in the birth of A.A.B. (born February 11, 2007). In January 2011, the parties ended that relationship. In October 2011, Melissa filed a "petition to determine the existence of the father and child relationship, custody, support, and other related matters" pursuant to section 7 of the Illinois Parentage Act of 1984 (Parentage Act) (750 ILCS 45/7 (West 2010)). In response, Kevin filed a counterpetition on the same issues.
- ¶ 3 Following a four day hearing on the parties' respective petitions, the trial court entered an October 2012 order granting Kevin sole care, custody, and control of A.A.B.

¶ 4 Melissa appeals, arguing that the trial court abused its discretion by awarding Kevin sole custody of A.A.B. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 A. The Circumstances Preceding the Dispute at Issue

¶ 7 From October 2005 through January 2011, Melissa and Kevin were in a relationship that produced their only child, A.A.B. (The parties were not married.) In October 2011, Melissa filed a "petition to determine the existence of the father and child relationship, custody, support, and other related matters." Kevin filed a counterpetition on the same issues.

¶ 8 B. The Hearings on the Parties' Respective Petitions

¶ 9 Given the extensive nature of the evidence, which the parties presented over a four-day period in July and August 2012, we provide a summary to frame the sole issue before this court.

¶ 10 1. *The Parties' Stipulated Evidence*

¶ 11 The parties stipulated to the admission of a May 2012 evidence deposition by Kelly Knutson, a licensed clinical psychologist. In her deposition, Knutson explained that in November 2011, she began weekly therapy sessions with A.A.B. Based on those sessions, Knutson diagnosed A.A.B. with "adjustment disorder with symptoms of anxiety," opining that the two primary reasons for A.A.B.'s diagnosis were (1) the sexual abuse A.A.B. experienced in July 2011 by a neighborhood boy and (2) the parties' custody dispute.

¶ 12 Knutson observed that the parties' respective parenting styles were at "opposite ends of the spectrum." Melissa had a relaxed, interactive, and playful parenting style, whereas Kevin's parenting style was more structured. Knutson advised Melissa to work on providing

more structure and discipline when interacting with A.A.B. In contrast, Knutson requested that Kevin allow A.A.B. to "be instrumental in her interactions" with him instead of continually providing specific direction and guidance. Both parties were receptive to Knutson's guidance and sought additional recommendations from her regarding their respective interaction with A.A.B.

¶ 13 Knutson cautioned the parties that their refusal to be civil to each other was detrimental to A.A.B. The parties informed Knutson that despite A.A.B.'s noticeable progress, she would regress occasionally, turning irritable, frustrated, and refusing to engage in therapy. Knutson attributed A.A.B.'s mood swings to her inability to transition between the differing parenting styles and the parties' lack of civility toward each other. Despite Knutson's warnings, the parties' relationship remained contentious. Knutson did not have any concerns regarding Melissa's parenting style but expressed her desire that Kevin allow A.A.B. to express herself, her emotions, and her feelings by employing a less structured parenting style.

¶ 14 *2. Melissa's Evidence*

¶ 15 Knutson supplemented her deposition by testifying that after June 2012, Knutson changed A.A.B.'s therapy sessions to twice a week—that is, she scheduled two separate weekly therapy sessions with A.A.B. and one parent—because of the continued acrimony between Kevin and Melissa. Knutson reiterated that she did not have any problems with Melissa's parenting style or progress and noted that although her initial interaction with Kevin was not "smooth across the board," Kevin "has done a great job in individual therapy with [A.A.B.] since that time."

¶ 16 Kevin testified that he was 44 years old and was employed (1) for 10 years with the office of the Reporter of Decisions, making \$39,000 annually and (2) as a pizza delivery man

on weekends when he did not have visitation with A.A.B. From May through October 2011, Kevin performed renovations to a farmhouse in El Paso, Illinois. In exchange for buying the material and providing the labor, which Kevin estimated was 20 hours per week, the owner later agreed to let him live in the home and offset the \$400 monthly rent. At the time of the July 2012 hearing, Kevin had a 2 1/2-year credit toward his monthly rent. His monthly costs included (1) \$464 for utilities, (2) \$251 for credit card bills, (3) \$188 for a loan, and (4) \$871 for A.A.B.'s preschool. In February 2012, Kevin enrolled A.A.B. in a new preschool in El Paso, despite acknowledging that Melissa did not agree with that decision.

¶ 17 Because of his depression, Kevin attempted suicide by ingesting sleeping pills (1) in 1985 (while he was in high school), (2) in 1992 (when he was 24 years old), and (3) in 2002. Kevin estimated that prior to his second suicide attempt, he was consuming 8 to 14 beers a week, and he was consuming a "significant amount" of alcohol prior to his third attempt. Kevin had not had a suicidal ideation since 2002 but did see a counselor in 2004, 2006, and for a short time in 2011 and 2012 for depression. Kevin acknowledged that he was taking three separate medications for anxiety and narcolepsy, but he was not currently under medical care. Kevin did not seek professional medical assistance for his alcohol consumption and did not consider himself to be an alcoholic. In August 2011, Kevin quit consuming alcohol because he knew that the custody issue was not going to end amicably, and he wanted to show he could refrain from consuming alcohol. Kevin estimated that prior to August 2011, he was consuming 8 to 10 beers once or twice a week. He also admitted past cannabis and "mushroom" consumption.

¶ 18 When A.A.B. was approximately 18 months old, Kevin took a picture of her at the cat's water bowl. A second picture when A.A.B. was approximately 2 1/2 years old showed

A.A.B.'s face at the cat's food bowl. Kevin explained that A.A.B. did not drink or eat from the cat bowl and he took the pictures because he thought they were funny. Kevin denied that upon learning of A.A.B.'s sexual assault he did not want to call the police. He initially wanted to speak to the grandmother of the neighborhood boy that was accused, but after Melissa informed him that a counselor she spoke to recommended calling the police, he agreed to do so. Kevin also denied that he disparaged Melissa in A.A.B.'s presence.

¶ 19 Although Kevin acknowledged that Melissa quit drinking alcohol in April 2010, he observed that she continued to smoke cannabis. Kevin elaborated that Melissa would smoke cannabis daily in the basement of their home while A.A.B. was in the home, which continued until his October 2011 departure. On one occasion, Kevin had to remove A.A.B. from the home because Melissa, Melissa's mother, and Melissa's two sisters were in the basement smoking cannabis and the odor had reached the first floor, where A.A.B. was located. On another occasion, Kevin came home to find Melissa returning from the basement where she had been smoking cannabis while A.A.B.—who was four years old at that time—was in the bathroom tub unattended. Next to the tub was a digital video disk player and a television set. Kevin attempted to speak to Melissa about the incident but she refused to speak to him. Thereafter, Melissa would leave their home when Kevin would come home from work. After the bathtub incident, Kevin realized that he had to seek sole custody of A.A.B.

¶ 20 Kevin expressed reservations about Knutson's guidance during his individual counseling sessions with A.A.B. Kevin mentioned a counseling session that occurred a week earlier, at which he attempted to exercise discipline when A.A.B. began throwing toys across the room that were hitting lamps and banging a glass cabinet door. Kevin repeatedly told A.A.B. to

stop but, thereafter, Knutson recommended that he let A.A.B. "go." That advice concerned Kevin in that he surmised he would be sending A.A.B. a "mixed message" because he would not tolerate such behavior at his home. Despite his reservations, Kevin confirmed that if he was granted sole custody of A.A.B., he would continue the counseling sessions but might seek a different clinical psychologist.

¶ 21 Kevin explained that in April or June 2011, Melissa quit her job at the office of the Reporter of Decisions. Approximately one month before she quit, Melissa asked for administrative leave because she felt that "people in management and coworkers were trying to sabotage her job." During her administrative leave, Melissa fell into a depression and was later prescribed medication. During that time, Kevin assumed an increased parenting role by driving A.A.B. to day care, cleaning the home, and preparing meals. Kevin estimated that throughout A.A.B.'s lifetime, Melissa and he equally provided for her care.

¶ 22 Melissa testified that she was a 40-year-old, stay-at-home mother to A.A.B. Melissa attended college and received a Bachelor of Arts in English Literature. In January 2011, (1) Melissa's relationship with Kevin ended and (2) Kevin began working a second job at a farmhouse. Thereafter, Kevin returned on an "infrequent" basis until October 2011, when he moved out of the home he had shared with Melissa and A.A.B. During their relationship, Melissa stated that she provided the majority of A.A.B.'s care. Melissa requested sole custody of A.A.B. because (1) she did not "get along well" with Kevin; (2) her relationship with Kevin was negatively affecting A.A.B.; and (3) since October 2011—when Kevin moved out of the home—A.A.B. had become angry, disobedient, and depressed.

¶ 23 Melissa conveyed the circumstances leading to A.A.B.'s sexual abuse, stating that

on July 23, 2011, A.A.B. was watching a video in Melissa's home with two neighborhood brothers while Melissa was out back assisting her nephew with a college paper. Twenty minutes later, A.A.B. ran out of the home and told Melissa that one of the boys had touched her inappropriately. Melissa called Kevin and asked him to return home because "something" happened to A.A.B. After working at the farmhouse, Kevin arrived and recommended that Melissa let the boys' grandmother "handle" the issue, but Melissa filed a police report.

¶ 24 On December 11, 2011, Melissa spoke with Kevin regarding his concern that A.A.B. have proper clothing already packed when he picked up A.A.B. for his visitation period. Ten days later, Kevin arrived and became frustrated because Melissa could not remember their earlier conversation and A.A.B. did not have her pajamas packed. Melissa asked Kevin to go into A.A.B.'s room to find the pajamas while she searched upstairs. When she returned to A.A.B.'s room, she closed the door behind her and an argument ensued. Melissa eventually left A.A.B.'s room, and Kevin followed, yelling at her in an angry tone, which scared A.A.B. Kevin then left with A.A.B. but returned shortly thereafter because A.A.B. had not given Melissa a goodbye kiss. As a result of that incident, child exchanges now occur at a neutral location. (During his direct examination, Kevin also testified about the December 21, 2011, incident; his testimony was substantially the same as Melissa's aforementioned account.)

¶ 25 In January 2011, Melissa spoke to Christina Witkowski, A.A.B.'s preschool teacher, regarding a stick figure A.A.B. had drawn with a large penis. Melissa asked Witkowski to be vigilant and report if A.A.B. engaged in any strange behavior. On December 12, 2011, Melissa told Witkowski about the details of A.A.B.'s sexual abuse. Witkowski responded by saying, "I know" several times. When Melissa asked how Witkowski knew about A.A.B.'s

sexual abuse, Witkowski responded by stating that A.A.B. had been "exhibiting the signs" since her 2010 arrival at the preschool. Melissa then left A.A.B. in Witkowski's care, but upon her return at the end of the school day, Melissa confronted Witkowski as to why she had not mentioned her observations as Melissa had requested. During that confrontation, Melissa raised her voice and cursed at Witkowski before finally leaving the facility.

¶ 26 In February 2012, Melissa married Robert Harper and moved into Harper's home. Melissa did not intend to seek employment, explaining that A.A.B. needed the shared time between them that her improved financial situation with Harper would allow her to provide. A.A.B. was scheduled to start kindergarten in August 2012, but Melissa had yet to register A.A.B. for school. Once enrolled, Melissa intended to become a school volunteer.

¶ 27 Melissa admitted that she was an alcoholic who had not had an alcoholic beverage since April 2010. At that time, Kevin responded by reducing his alcohol intake. When Kevin did drink alcohol, Melissa noticed that he did so discreetly. Melissa also admitted that December 5, 2011, was the last time she smoke cannabis, explaining as follows:

"I was not very happy with myself. I was getting fed up with it, and I had a child, and it was time. I was pretty ashamed of the incidents like the one Kevin described."

Melissa then explained that on "two or three" occasions in the fall of 2011, she left A.A.B. in a bathtub unattended while she smoked cannabis in her basement. On one occasion, Melissa placed a television set near the tub so that A.A.B. could watch unattended.

¶ 28 Melissa acknowledged that in 1993 she had been diagnosed with depression and in December 2011, she began taking a daily dosage of an antidepressant.

¶ 29 Harper—Melissa's husband—testified that he was a 50-year-old senior analyst for State Farm, making approximately \$108,000 annually. Harper first met Melissa in 2000 as bandmates, and while they were friends initially, in September 2011, they began dating and eventually married. Harper supported Melissa's decision to become a stay-at-home mother because he surmised that Melissa's time was better spent with A.A.B. given his income level. Harper admitted that (1) although he smoked cannabis on a daily basis for the past 20 years, he quit doing so in January 2012 and had no intention of resuming that habit and (2) it was possible that in the past, he had been under the influence of cannabis while in A.A.B.'s presence.

¶ 30 Robert Lemieux testified that he had been Harper's coworker for approximately 12 years, and they became good friends about 6 years ago. Lemieux sat next to Harper on a daily basis as they fulfilled their respective analyst responsibilities for State Farm. Lemieux described Harper as a reliable employee with a good work ethic. Outside of work, Lemieux and his family would socialize with Harper about once a month. In August 2011, Harper—who had been a widower—introduced Melissa to Lemieux. At that meeting, Lemieux observed Melissa smoking cannabis but had not seen her do so since that time. Lemieux acknowledged that Harper had smoked cannabis on a daily basis for the past six years.

¶ 31 In January 2012, Lemieux assisted Harper with a kitchen renovation because of his impending marriage to Melissa. At that time, Harper told Lemieux that he had stopped smoking cannabis. Lemieux recounted several social gatherings where he observed Melissa's interaction with A.A.B. Lemieux described Melissa's parenting style as attentive and loving, noting that, when warranted, Melissa also provided A.A.B. appropriate guiding discipline. Lemieux commented that he did not observe anything that caused him concern regarding the

interaction among Harper, Melissa, and A.A.B.

¶ 32 Lemieux's wife, Jeanne, testified that after she met Melissa in the fall of 2011, she observed Melissa to be a patient, creative mother to A.A.B. Jeanne stated that Harper deferred to Melissa on parenting issues, but appropriately provided A.A.B. guidance in Melissa's absence. Jeanne had never seen Harper drink more than two beers in her presence, and she had no knowledge of Harper's prior cannabis habit.

¶ 33 Lindsay Rabbe testified that she knew Melissa for 12 years, explaining that she first saw Melissa playing in a band, and for the past 8 years they have been good friends. Sometime during their friendship, she became Melissa's bandmate, and they practiced playing music weekly and performed on stage. Lindsay then recounted numerous gatherings where she observed Melissa taking care of A.A.B. During those instances, Lindsay noted that (1) when Melissa and Kevin were a couple, Melissa was A.A.B.'s primary care provider; (2) Melissa never raised her voice to A.A.B.; and (3) Melissa did not criticize Kevin in A.A.B.'s presence. Lindsay characterized Melissa as a "warm, loving, kind parent."

¶ 34 Lindsay acknowledged that Melissa was a recovering alcoholic who participated in Alcoholics Anonymous in 2003 or 2004 and later relapsed. Lindsay recalled that (1) November 2009 was the last time she saw Melissa consuming alcohol and (2) Melissa rarely smoked cannabis, noting two such times in the past two years.

¶ 35 *3. Kevin's Evidence*

¶ 36 Kevin testified that, contrary to Melissa's inference, he did not leave the home he shared with her and A.A.B. voluntarily. Instead, in October 2011, Melissa informed Kevin that she had changed the locks to the home while Kevin was visiting with A.A.B. Kevin admitted an

alcohol-related incident that occurred in 2008 or 2009, in which he struck Melissa, causing her to fall into their bathtub. Although Melissa did not sustain any injuries, Kevin explained that they had been drinking, an argument ensued, and he attempted to push his way past Melissa, who was blocking the entrance to the bathroom. In this regard, Kevin stated that "I fully admit that I meant to push past [Melissa], but I didn't intend for her to go into the bathtub." Sometime prior to the bathtub incident, Kevin also admitted "slapping" a beer out of Melissa's hand. (During her direct examination, Melissa also testified to the two aforementioned incidents; her testimony was substantially the same as Kevin's account.)

¶ 37 Witkowski testified that beginning in August 2010, A.A.B. attended the preschool she owned until she terminated A.A.B.'s enrollment because of an incident with Melissa. Witkowski explained that on December 12, 2011, Melissa told her about A.A.B.'s sexual abuse. Witkowski then expressed her regret at hearing Melissa's news as follows:

"And when [Melissa mentioned A.A.B.'s sexual abuse] I said *** looking back [in] hindsight there were some signs of that earlier. I think it had happened a couple of months earlier, and [A.A.B.] was showing some signs, but *** signs like she was wetting her pants. And I had talked to Kevin and Mel[issa] both about that, and Kevin said that he was taking her to the doctor for [a] urinary tract infection, and after he had done that[, A.A.B.] had stopped wetting her pants. So that's what I had attributed that to."

¶ 38 When Melissa picked up A.A.B. later that day, Melissa yelled and cursed at Witkowski because she had not mentioned her concerns earlier. Witkowski attempted to explain

unsuccessfully that she did not suspect sexual abuse at that time. This incident left Witkowski "unnerved," which caused her to call the police, file a report, and later terminate A.A.B.'s enrollment. Witkowski added that (1) this was the first time Melissa acted in such a manner and (2) if Kevin was awarded sole custody, A.A.B. was welcome back at her facility.

¶ 39 Scott Wilson testified that he knew Kevin since 1989 and Melissa since the "early nineties," explaining that from 2002 until 2006, he played in a band with Melissa, and they would practice weekly with their bandmates. During those years, Melissa would "consistently" consume alcohol and "black out." After he left the band, Scott and his wife socialized with Kevin and Melissa on a weekly or biweekly basis. Scott observed that Kevin and Melissa had agreed to certain responsibilities at social events, elaborating that Melissa would refrain from drinking alcohol and take care of A.A.B., which permitted Kevin to drink alcohol. At the next social event they would reverse roles. Scott noted, however, that Melissa would "often" drink excessive amounts of alcohol when it was her responsibility to watch A.A.B. Kevin responded by stopping his drinking and caring for A.A.B. Although Melissa quit drinking alcohol in April 2010, Scott stated that she continued to smoke cannabis.

¶ 40 Scott last spoke to Melissa in July 2011, after he challenged Melissa's assertion that she was seeking sole custody of A.A.B. because Kevin was responsible for the sexual abuse A.A.B. endured. After Scott clarified that A.A.B.'s sexual abuse occurred while Melissa was caring for A.A.B. and Kevin was at work, Melissa responded by screaming something that Scott could not comprehend. Scott expressed concern that Melissa was having "some sort of breakdown" because in prior conversations, Melissa would discuss grandiose plans of starting a nonprofit organization or traveling to Europe on a musical tour based on plans supposedly made

with people Scott did not know. When Scott asked about A.A.B.'s care given her plans, Melissa responded that Kevin would care for A.A.B. in her stead.

¶ 41 Scott summarized the parenting styles of Kevin and Melissa as follows: "Kevin would try to teach [A.A.B.] to read, Mel[issa] would teach [A.A.B.] how to make funny faces." Scott stated that along with imposing structure, Kevin would also play with A.A.B. by coloring books and "regular" play, opining that Kevin would make a good custodial parent because Kevin has a "sense of responsibility." Specifically, Scott stated, as follows:

"For example, when [A.A.B.] was born[, Kevin] quit smoking ***.

[']I don't want to raise my child around cigarette smoke, I don't want her to think it's okay to smoke ***. ['] *** [W]hen Mel[issa] quit her job[, Kevin] had to go out and get a second job *** because he was dedicated to making sure [A.A.B.] was going to be taken care of. Then when he got kicked out of the house[, he immediately started working on this rental house he now lives in. *** He basically cut out any sort of social life because *** when he wasn't with [A.A.B.,] he was working on that house. His responsibility *** is what impresses me most about his parenting."

Scott contrasted Melissa's interaction with A.A.B. as similar to that of a sister or playmate.

¶ 42 Scott admitted that Kevin also drank alcohol to the extent he would pass out, but stated that he could "count on [his] hands over the past 20 years how many times Kevin has passed out in my presence." Scott also admitted that he was a recovering alcoholic who last drank in June 2009 and had smoked cannabis a couple of months ago.

¶ 43 Diana Braasch, Kevin's mother, testified that in addition to Kevin, she had another son and a daughter, each of whom had children that ranged from ages 12 to 22 years old. Diana would see her children and grandchildren "quite often" at family gatherings, which included the major holidays. Diana added that Kevin had "a large family support system in place" to assist him. Diana observed that during his relationship with Melissa, Kevin was the primary caregiver. Diana characterized Kevin's parenting style as loving and caring, adding that it was wonderful to see his interaction with A.A.B. Diana denied making disparaging comments about Melissa in A.A.B.'s presence. Instead, Diana expressed her love for Melissa and that she felt close to her when she and Kevin were a couple. Diana recounted a 2010 conversation she had with Melissa in which Melissa stated that she deferred to Kevin on discipline issues because she did not like to see A.A.B. upset or cry, which usually occurred if, for instance, A.A.B. was placed in a corner as a result of bad behavior. Diana admitted that, on occasion, she would not restrain A.A.B. in a car seat if she was traveling to church, which was two blocks away.

¶ 44 *4. The Remaining Evidence*

¶ 45 The parties also presented evidence concerning (1) A.A.B.'s sleeping arrangements when she was staying with various members of their respective families and (2) disparaging remarks made by certain members of Kevin's family against a third party that are not the subject of this appeal.

¶ 46 *5. The Trial Court's Determination*

¶ 47 In granting custody of A.A.B. to Kevin, the trial court made, in part, the following findings:

"[The guardian *ad litem*] put the two issues *** into focus

in this case. We have [Melissa] and [Robert] who have a long history of drug *** and alcohol use. We have [Kevin] who is rigid, provides maybe too much structure to [A.A.B.]; he is concerned about the counselor, which is imperative to this child, this counseling. Really comes down, in this court's mind, to choices during a time [A.A.B.] needed a mom and a dad.

[Melissa] was pursuing another relationship. [Kevin] was trying to provide a house for [A.A.B.]. When [Melissa] was getting married and trying to explain two dads, [Kevin] was registering [A.A.B.] for day care and school. When it's all said and done, [the court] believe[s] that the best interests of [A.A.B.] is to be with [Kevin]. He will provide structure for [A.A.B.] for her lifetime, he will get things done, as [Kevin's counsel] suggested. [Kevin] is responsible, he's got the financial ability to care for her, he's got an environment [where A.A.B. can] learn.

[The court has] a choice here. [The court] could provide [Melissa] with custody and order her not to use drugs. [The court] can give custody to [Kevin] and order him not to interfere with *** counseling. [The court is] a lot more confident that [Kevin], if [the court] order[s] him to make sure [A.A.B.] continues to go to the doctor, that it will happen. More so than if [the court] order[s] [Melissa] not to consume drugs or alcohol. ***

Sole custody is granted to [Kevin]."

¶ 48 This appeal followed.

¶ 49 II. THE TRIAL COURT'S BEST INTEREST FINDING

¶ 50 A. The Statutory Provisions at Issue and the Standard of Review

¶ 51 The "'parent and child relationship' means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations." 750 ILCS 45/2 (West 2010). Under the Parentage Act, the trial court must determine parentage and after doing so must make additional findings regarding child support, custody, and visitation if so requested by a party. *J.S.A. v. M.H.*, 384 Ill. App. 3d 998, 1011, 893 N.E.2d 682, 693 (2008).

¶ 52 Here, the dispute between the parties does not concern parentage, but instead the trial court's determination to award custody to Kevin, the father, instead of Melissa, the mother, which is a determination governed by section 602 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) in accordance with the best interest of the child. See 750 ILCS 45/14(a)(1) (West 2010) ("In determining custody *** the court shall apply the relevant standards of the *** Marriage Act[.]"); see also 750 ILCS 5/602 (West 2010) (outlining a minimum of 10 factors a trial court should consider—as well as other relevant factors—prior to making a child-custody determination that is in the best interest of the child).

¶ 53 In *In re B.B.*, 2011 IL App (4th) 110521, ¶ 32, 960 N.E.2d 646, this court set forth our standard of review in such cases, as follows:

"On appeal, we give great deference to the trial court's
best-interests findings because that court had a better position than

we do to observe the temperaments and personalities of the parties and assess the credibility of witnesses. [Citations.] Thus, a reviewing court will not reverse a trial court's custody determination unless it (1) is against the manifest weight of the evidence, (2) is manifestly unjust, or (3) results from a clear abuse of discretion. [Citation.] Moreover, this court will not substitute its judgment for the trial court's and will find an abuse of discretion only when the trial court acted arbitrarily without conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of law so that substantial injustice resulted." (Internal quotation marks omitted.)

¶ 54 B. The Trial Court's Custody Determination

¶ 55 Melissa argues that the trial court abused its discretion by denying her sole custody of A.A.B. We disagree.

¶ 56 In support of her argument, Melissa contends generally that the trial court either improperly weighed a variety of factors in Kevin's favor or ignored other factors that the court should have weighed in Melissa's favor. In this regard, Melissa highlights the missed "red flags" and "warning signs" concerning (1) disparaging comments certain members of Kevin's family made against a former family member in a different child-custody case, (2) Kevin's negative attitude toward Knutson, (3) the physical violence Kevin inflicted upon Melissa, and (4) Kevin's refusal to admit that he was an alcoholic. Melissa summarizes her claims by stating as follows:

"[I]t is clear from a thorough review of the evidence that

the trial judge neglected to weigh all the evidence presented *** in an appropriate manner given the statutory factors to be considered by the court. A proper review of the evidence makes clear that the court did not consider all the evidence and that the trial court's decision was erroneous."

¶ 57 We first reject Melissa's contention that the trial court either ignored or did not consider certain evidence because the record reveals that the first pronouncement the court made prior to its ruling concerned the evidence the court considered in arriving at its decision, which expressly included the evidence presented at trial; the admitted exhibits, including Knutson's deposition; and the parties' closing arguments. Indeed, the court then articulated its application of that specific evidence to the statutory factors contained in section 602 of the Marriage Act.

¶ 58 The problem with Melissa's claim is that it is rooted in her subjective views regarding the weight the trial court placed on specific evidence and in turn, the application of that "improperly weighted evidence" to the statutory factors. However, as we have already stated, our review does not involve reweighing the evidence to reach a different result. See *In re Marriage of Pfeiffer*, 237 Ill. App. 3d 510, 513, 604 N.E.2d 1069, 1071 (1992) (This court does not reweigh the evidence, assess the testimony's credibility, or set aside the trial court's determination "merely because a different conclusion could have been drawn from the evidence").

¶ 59 In this case, the trial court acknowledged that the decision before it was difficult "because of the acknowledged and admitted differences in the parenting styles of the parents." In this regard, the court properly noted its singular focus was the best interest of A.A.B. To that end, the court considered the parties' respective (1) family networks; (2) mental and physical

health; (3) interaction with each other, to include instances of physical violence; (4) substance-abuse issues; (5) willingness to encourage "a close relationship" by sharing custody despite the parties' inability to be civil with each other; (6) choices and subsequent actions with regard to other personal relationships; (7) abilities to nurture, teach, supervise, and protect A.A.B.; and (8) financial circumstances and responsibilities. After doing so, the court stated the it "had to balance [Kevin's] failure *** to nurture [A.A.B.] with [Melissa's] failure to protect [A.A.B.], noting that "no doubt" existed that A.A.B. was safer with Kevin.

¶ 60 As we have previously mentioned, our review concerns whether the trial court's overall decision to grant sole custody to Kevin was in A.A.B.'s best interest. Given the evidence presented and the court's conscientious application of that evidence to the appropriate statutory factors, we conclude that the court's decision to grant Kevin sole custody of A.A.B. was neither against the manifest weight of the evidence, manifestly unjust, nor a clear abuse of the court's discretion. Accordingly, we reject Melissa's argument to the contrary.

¶ 61 III. CONCLUSION

¶ 62 For the reasons stated, we affirm the trial court's judgment.

¶ 63 Affirmed.