FILED
July 10, 2017
Carla Bender
4th District Appellate
Court, IL

2017 IL App (4th) 170114-U

NO. 4-17-0114

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: Parentage of T.R., a Minor	)	Appeal from
	)	Circuit Court of
(Terian Reed,	)	Vermilion County
Petitioner-Appellant,	)	No. 13F392
v.	)	
Molly Lamb,	)	Honorable
Respondent -Appellee).	)	Nancy S. Fahey,
	)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Steigmann and Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding (1) the trial court did not err in awarding respondent the majority of parenting time; (2) even if inadmissible hearsay exhibits were improperly admitted, the letters did not affect the outcome of the judgment; and (3) the court did not err in refusing to consider the petition to relocate in making the initial decision allocating parenting time.

¶ 2 Petitioner, Terian Reed, and respondent, Molly Lamb, have a minor child, T.R. (born March 4, 2004). In November 2014, petitioner filed a petition to determine the father-child relationship, custody, and visitation. Respondent subsequently filed a petition to relocate to Missouri, which remained pending at the time of the appeal. Following a hearing, the trial court entered an order granting respondent the majority of parenting time and providing for visitation for petitioner.

¶ 3 Petitioner appeals, arguing the trial court erred by (1) awarding respondent the majority of parenting time, (2) admitting inadmissible hearsay exhibits, and (3) failing to properly consider respondent's intent to relocate to Missouri. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In November 2014, petitioner filed a petition to determine the father-child relationship, custody, and visitation. The petition sought joint custody of T.R. or, alternatively, sole custody for petitioner. The parties engaged unsuccessfully in mediation and, in July 2015, the trial court appointed a guardian *ad litem*. In September 2016, respondent filed a petition to relocate, seeking to remove T.R. from Illinois to St. Charles, Missouri, where respondent's partner was employed as an airplane mechanic. In January 2017, the trial court held a hearing on the allocation of parenting time.

¶ 6 A. Hearing Regarding Allocation of Parenting Time

¶ 7 At the beginning of the hearing, respondent, in part, sought to admit into evidence three letters. The first letter was from T.R.'s fourth-grade teacher during the 2013 to 2014 school year and stated respondent was T.R.'s primary guardian, the primary contact for the school, and attended all school events. The second letter was from T.R.'s teacher for the 2011 to 2012 and 2012 to 2013 school years. The letter stated respondent was actively involved in T.R.'s education and completed most of the required 26 hours of family volunteer work herself. The third letter was from the principal of the school where T.R. attended fifth grade and stated, during the 2014 to 2015 school year, respondent attended all conferences and numerous school events. Petitioner objected, pointing out the letters were unsigned. Counsel for respondent stated the letters were sent to her via e-mail and offered to provide the e-mail copies. The trial

court judge stated, "I'm go[ing to] allow all of the exhibits and I will give them the weight—the appropriate weight that I deem necessary." The court then heard the following evidence.

¶ 8 1. *Karen Klett*

¶ 9 Karen Klett testified she was T.R.'s teacher for the 2015 to 2016 school year. At the beginning of the school year, Klett tried calling respondent, but her number was not working. Klett then called petitioner, who returned her call and told her that he should be contacted for anything regarding T.R. The school tried respondent's phone number another time that year, when a progress report was not returned, and the number still did not work. Despite some scheduling difficulties with respondent, both respondent and petitioner attended separate parent-teacher conferences.

¶ 10 According to Klett, petitioner was actively involved with T.R.'s schooling and was often at the school. Petitioner and his fiancée, whose children attended the same school, helped with school events. Petitioner also made an effort to ensure T.R. completed and turned in missing assignments.

¶ 11 2. *Respondent*

¶ 12 Respondent testified she lived in her grandmother's house in Tilton, Illinois, and her fiancé, Tyler Bradfield, lived in Missouri. T.R. was the oldest of respondent's four children, and Bradfield and respondent had a seven-month-old baby. Respondent wished to relocate to Missouri, where she spent a few nights each week. Respondent testified she bought a vehicle in Missouri, which still had Missouri tags. However, respondent registered the vehicle in Illinois and was waiting for the Illinois tags to arrive. Respondent's second oldest child was previously enrolled in school in Missouri, but Bradfield's work schedule changed and respondent enrolled the child in school in Danville. Although she wished to move to Missouri, respondent testified

she would not move out of state if T.R. was not allowed to move out of state. The court later stated it was uninterested in further testimony regarding relocation and would make a determination about that issue, if necessary, after it determined the appropriate allocation of parenting time.

¶ 13 Respondent testified she was not currently employed but did some work as a freelance makeup artist. Beginning in 2002, respondent worked in customer service, but she was laid off in 2010. She then received unemployment benefits for 99 weeks. Respondent had other brief periods of employment, including working for Mr. Taxi from February 2015 until June 2015, when she got into an accident.

¶ 14 According to respondent, petitioner was not very involved in T.R.'s life until T.R. was 9 or 10 years old. Prior to 2014, petitioner did not have much contact with T.R. beyond brief visits. After T.R.'s birth in 2004, respondent testified petitioner would see T.R. "20 minutes here, 20 minutes there," and the family would sometimes spend Sundays together. After T.R.'s birth, respondent and petitioner attended T.R.'s doctor's appointments together. However, in 2005 or 2006, petitioner moved to Chicago to go to culinary school. Petitioner would occasionally visit from Chicago but did not always visit T.R. or tell respondent when he was in town, as he had an ongoing relationship with another woman. Respondent took T.R. up to Chicago to visit approximately once a month while petitioner was in culinary school. After he moved to Chicago, petitioner stopped attending T.R.'s doctor's appointments.

¶ 15 Respondent testified T.R. attended Northeast Elementary Magnet School for first through fourth grades. However, during her fourth-grade year (the 2013 to 2014 school year), respondent and petitioner failed to complete the mandatory 26 volunteer hours required for T.R.'s continued attendance.

¶ 16 Although the parties did not complete the volunteer hours for T.R.'s fourth-grade year, respondent testified petitioner did do some of the volunteer hours in previous years, although respondent did the majority of the hours. During the 2011 to 2012 school year (T.R.'s second-grade year), petitioner took T.R. to the "daddy/daughter" dance. Petitioner also took T.R. to a "daddy/daughter" date night in her third-grade year. Starting at age three, T.R. attended dance classes paid for by petitioner's parents and respondent's mother. Respondent testified she took T.R. to every single dance class, rehearsal, and recital for the eight years T.R. took classes. According to respondent, petitioner attended recitals, but she recalled he missed one due to illness.

¶ 17 Respondent testified her relationship with petitioner ended in 2010. According to respondent, petitioner never exercised regular visitation with T.R. until a temporary parenting plan was put in place in 2015. However, respondent allowed petitioner to see T.R. as often as he showed interest in doing so.

¶ 18 After the temporary parenting plan was put in place, petitioner had T.R. every other weekend (Friday through Monday) and every other Wednesday evening. After 2014, petitioner began to be more involved in T.R.'s life and attended medical appointments.

¶ 19 In 2014, when T.R. was 10 years old, respondent discovered T.R. had a hickey and called petitioner to discuss the matter. Petitioner was involved in speaking to T.R. about the hickey. Respondent occasionally called petitioner for help disciplining T.R. when she felt she needed support.

¶ 20 From 2013 to 2014, respondent was prescribed hydrocodone and felt she became physically dependent on the drug. Accordingly, respondent had her doctor wean her off the hydrocodone. Following the car accident in June 2015, respondent was again prescribed

hydrocodone. After approximately three weeks, respondent spoke to a counselor and began going to a methadone clinic to stop using the hydrocodone. Respondent testified she had dropped her dosage at the methadone clinic by more than 30% since she gave birth to her youngest child and is on a program to continue lowering her dose. Her youngest child had neonatal abstinence syndrome and spent approximately five weeks in the neonatal intensive care unit. Respondent goes to the methadone clinic every other day and the medication helps relieve her back pain. T.R. stayed with petitioner consistently during the five weeks in 2016 when respondent's youngest child was in the neonatal intensive care unit.

¶ 21 3. *Jerry Reed*

¶ 22 Jerry Reed, petitioner's father, testified he and his wife were very involved in T.R.'s life since she was born. According to Reed, petitioner spent two years in Chicago for culinary school and would visit home every other weekend. Petitioner would visit T.R. at his parents' house when he came to town. In 2011, Reed and his wife took T.R. and her cousin to Disney World. That same year, petitioner's mother became ill and began to deteriorate. After his wife became ill, Reed testified they would see T.R. two or three times a week when petitioner brought her over.

¶ 23 Reed observed T.R. interact with the children of Ashley Wells, petitioner's fiancée, and they got along well. In Reed's opinion, petitioner was a good father and T.R. and Wells' children were all treated the same. According to Reed, if petitioner was not working, he would take T.R. to her dance lessons and attend her recitals.

¶ 24 4. *Amanda Winland*

¶ 25 Amanda Winland testified her sister, Ashley Wells, was engaged to petitioner. Ashley and petitioner had been in a relationship for 12 years, and T.R. has been a part of

petitioner's life that whole time. In Winland's opinion, T.R. and petitioner have a good, bonded relationship. Petitioner and Wells often attend T.R.'s sporting events and concerts. T.R. also attended family get-togethers with petitioner.

¶ 26 5. *Ashley Wells*

¶ 27 Ashley Wells testified she lived with petitioner, her two daughters, and her uncle. On a part-time basis, T.R. also lived with Wells. Wells stated their house has four bedrooms, but they were adding on a fifth so the girls could have their own rooms. Wells' uncle was "mentally handicap[ped]" and Wells provided care for him. According to Wells, petitioner brought T.R. around more consistently in the last three or four years. During the time period from November 2012 to November 2014, petitioner would call Wells and tell her he was visiting T.R. at least twice a week to help with her homework and visit. Petitioner would sometimes ask to take T.R. for a visit and respondent would not allow him to do so, depending on her mood. Wells became actively involved in T.R.'s schooling during her fifth-grade year because Wells' children went to the same school. Wells and petitioner regularly attended parent-teacher conferences for the girls together. T.R. and Wells' daughters got along very well and were bonded.

¶ 28 Wells described an incident that occurred during T.R.'s sixth-grade year. T.R. was working the concession stand at a basketball game and came up to Wells, asking to spend the night. Wells spoke to respondent on the phone and respondent agreed to allow T.R. to spend the night. Approximately 15 minutes later, respondent called Wells "freaking out" and asking if T.R. was with Wells. Wells reminded respondent of their earlier conversation, but respondent did not recall agreeing to allow T.R. to spend the night.

¶ 29 In 2015 and 2016, T.R. was involved in the Boys and Girls club, a police academy, and track. According to Wells, respondent never made T.R. follow through with these

activities. During that same year, T.R.'s grades dropped, so petitioner took away her cellular phone, went to the school every day, and made T.R. prove to him her missing papers had been turned in. Also during the same time period, Wells overheard respondent on the phone with T.R. telling T.R. about the guardian *ad litem* report and accusing petitioner and Wells of lying.

¶ 30 6. *Petitioner*

¶ 31 Petitioner testified he helped respondent bring T.R. home from the hospital after she was born. During T.R.'s first year, petitioner and respondent would spend Sundays together going shopping in Champaign. In August 2005, petitioner moved to Chicago for culinary school. According to petitioner, he would visit every other weekend and see T.R. every time he was in town. Respondent was uncomfortable with petitioner taking T.R. for visits, so he would visit her at respondent's house. Petitioner testified he would also visit T.R. when she was with his parents. During T.R.'s second- and third-grade years (2012 to 2013 and 2013 to 2014), petitioner completed volunteer hours for T.R's school and attended parent-teacher conferences. Petitioner also testified he took T.R. to doctor's appointments.

¶ 32 Petitioner testified respondent was unhappy that he was dating her and Wells at the same time. According to petitioner, sometime in 2012, respondent decided she was unhappy with the situation and threatened to move away with T.R. Petitioner said he used to see T.R. often before respondent decided she was unhappy and began restricting visits. In 2012 or 2013, petitioner declined respondent's request to move in with her to help take care of her children while she weaned herself off of some prescription drugs.

¶ 33 In 2014 or 2015, respondent called petitioner and asked him to come talk to T.R. about a hickey she received. Petitioner took T.R. to a park near her home and discussed the matter with her. Petitioner testified consistently with Wells' testimony regarding his involvement

with T.R.'s schooling. While T.R. was with petitioner, he made sure she finished her missing assignments and attended extracurricular activities. According to petitioner, respondent never made T.R. attend extracurricular activities.

¶ 34 In his original petition, petitioner asked for a shared amount of time between himself and respondent. However, when he found out about respondent's use of methadone and her intention to move to Missouri, petitioner wanted to have the majority of parenting time. Petitioner opined the stability in his home and the network of family support would be best for T.R. Petitioner was employed and able to take care of T.R. financially, and he had a support network to provide care for her while he was at work. Petitioner was unaware respondent was again living in Illinois until he heard her testimony that day.

¶ 35 B. The Trial Court's Ruling

¶ 36 In a lengthy docket entry, the trial court went through each of the statutory factors and determined respondent should have the majority of parenting time. The court stated it was overwhelmingly apparent respondent provided the majority of the time performing caretaking functions in the 24 months preceding the filing of petitioner's petition. In reaching its decision, the court noted respondent's testimony and the exhibits from the school's support staff. The court stated petitioner, in the past 18 months, had become more involved in parenting T.R., but prior to that, he had assumed and accepted respondent was responsible for the majority of the caretaking functions.

¶ 37 With regard to family ties, the trial court noted T.R. appeared to get along well with both parents. The court was concerned about the mental condition of Wells' uncle. The court stated it was "totally in the dark" regarding what his mental condition was or his involvement in the household and with T.R. The court specifically stated it was not ruling on

respondent's petition for removal and noted it was unlikely to allow the petition based on the numerous people in the community who loved and supported T.R.

¶ 38 Although petitioner attempted to paint respondent as an irresponsible drug user, the trial court rejected this argument. The court found respondent was upfront about her problems with prescription drugs, had sought appropriate medical help, and appeared to be following the advice of her doctors. The court noted there was no evidence of the Department of Children and Family Services (DCFS) being involved in any way.

¶ 39 Finally, the trial court found both parents were capable of meeting T.R.'s needs. The court applauded petitioner's steps to become a more active and financially responsible parent. However, the court further noted, until 2015, respondent had met all the day-to-day physical, emotional, and financial needs of T.R. After addressing each of the statutory factors, the court awarded the majority of parenting time to respondent and entered a parenting plan that awarded petitioner overnight parenting time every other weekend and every other Wednesday.

¶ 40 II. ANALYSIS

¶ 41 On appeal, petitioner argues the trial court erred by (1) awarding respondent the majority of parenting time, (2) admitting inadmissible hearsay exhibits, and (3) failing to properly consider respondent's intent to relocate to Missouri. We turn first to whether the court erred in awarding respondent the majority of parenting time.

¶ 42 A. Allocation of Parenting Time

¶ 43 As an initial matter, petitioner appears to suggest there are no witnesses to compare or credibility determinations to be made because respondent did not testify in her case in chief and called no other witnesses. We reject this argument. Six witnesses testified, and the testimony is replete with inconsistencies and conflicting accounts. Although counsel for

respondent elected to conduct direct examination of her client following petitioner's counsel's examination of her client as an adverse witness, it does not follow that the testimony in the case is without inconsistencies or conflicts for the trial court to weigh.

¶ 44 "The trial court's findings as to the child's best interest are entitled to great deference because the trial judge is in a better position than are we to observe the temperaments and personalities of the parties and assess the credibility of witnesses." *In re Marriage of Stopher*, 328 Ill. App. 3d 1037, 1041, 767 N.E.2d 925, 928 (2002). We will not overturn the trial court's custody determination unless it is manifestly unjust, against the manifest weight of the evidence, or results from a clear abuse of discretion. *Id.* at 1041, 767 N.E.2d at 929. "It is a well-established rule that the credibility of witnesses should be left to the trier of fact because it alone is in the position to see the witnesses, observe their demeanor, and assess the relative credibility of witnesses where there is conflicting testimony on issues of fact." *In re Marriage of Kaplan*, 149 Ill. App. 3d 23, 28, 500 N.E.2d 612, 616 (1986). We will overturn such a determination only if it is against the manifest weight of the evidence. *Id.* "A judgment is against the manifest weight of the evidence when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary[,] or not based on the evidence." *In re Custody of K.P.L.*, 304 Ill. App. 3d 481, 488, 710 N.E.2d 875, 879 (1999).

¶ 45 In allocating parental responsibilities, the trial court is to apply the relevant standards from the Illinois Marriage and Dissolution of Marriage Act (Act). See 750 ILCS 46/802(a) (West 2016). Parenting time is allocated according to the child's best interest. 750 ILCS 5/602.7(a) (West 2016). The court must consider all relevant factors, including the following factors expressly laid out in the statute:

"(1) the wishes of each parent seeking parenting time;

(2) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to parenting time;

(3) the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities or, if the child is under 2 years of age, since the child's birth;

(4) any prior agreement or course of conduct between the parents relating to caretaking functions with respect to the child;

(5) the interaction and interrelationship of the child with his or her parents and siblings and with any other person who may significantly affect the child's best interests;

(6) the child's adjustment to his or her home, school, and community;

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

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on parenting time is appropriate;

(11) the physical violence or threat of physical violence by the child's parent directed against the child or other member of the child's household;

(12) the willingness and ability of each parent to place the needs of the child ahead of his or her own needs;

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

(14) the occurrence of abuse against the child or other member of the child's household;

(15) whether one of the parents is a convicted sex offender or lives with a convicted sex offender and, if so, the exact nature of the offense and what if any treatment the offender has successfully participated in; the parties are entitled to a hearing on the issues raised in this paragraph (15);

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

(17) any other factor that the court expressly finds to be relevant." 750 ILCS 5/602.7(b) (West 2016).

¶ 46 Here, the trial court addressed each of these statutory factors in its lengthy docket entry. The court found it "overwhelmingly apparent" respondent had provided for T.R.'s emotional, physical, and financial needs and performed the majority of caretaking functions in

the 24 months preceding the filing of petitioner's petition. 750 ILCS 5/602.7(b)(3), (7), (8) (West 2016). Indeed, the record shows petitioner assumed and accepted that respondent was responsible for the daily care of T.R. 750 ILCS 5/602.7(b)(4) (West 2016). His regular visitation and payment of child support appear to be a direct result of the temporary parenting plan entered by the court in July 2015, almost eight months after he filed his petition. Although there was some testimony that he did visit T.R. before that, it appeared to be sporadic and unpredictable. Petitioner testified this was a result of respondent's unwillingness to allow him visitation with T.R. anywhere but at her home. However, respondent testified she always made T.R. available to petitioner and encouraged visitation. The trial court had the opportunity to observe the witnesses' demeanor and weigh their credibility and determined it was in T.R.'s best interest to remain with respondent as her primary caregiver.

¶ 47 Petitioner argues respondent's use of methadone and problems with prescription drugs weigh in favor of him having the majority of parenting time. The trial court noted petitioner's attempts to paint respondent as an irresponsible drug user and expressly rejected this characterization in the docket entry. The court stated respondent was responsibly addressing a problem with prescription painkillers and following the advice of her doctors. 750 ILCS 5/602.7(b)(7) (West 2016). This finding is consistent with respondent's testimony. We decline to substitute our judgment for that of the trial court, which had the opportunity to see the witnesses, observe their demeanor, and assess their credibility. Also, as the court noted, although respondent's youngest child was born with neonatal abstinence syndrome, respondent testified she was under medical care throughout her pregnancy, and the record shows no evidence of DCFS involvement. Accordingly, we conclude the court's finding was not against the manifest weight of the evidence.

¶ 48 We acknowledge the record shows evidence of petitioner's fitness to have a majority of parenting time. We commend him on the active and involved role he has evidently more recently played. However, the trial court's conclusion was supported by sufficient evidence and we do not think the court abused its discretion in determining it was in T.R.'s best interest to award respondent the majority of parenting time. While the evidence "may have supported a contrary conclusion by the trial court, the evidence also supports the conclusion before us on review." *In re Marriage of Jaster*, 222 Ill. App. 3d 122, 128, 583 N.E.2d 659, 663, (1991). Accordingly, we affirm the court's judgment awarding respondent the majority of parenting time.

¶ 49 B. Inadmissible Hearsay Exhibits

¶ 50 Petitioner argues the trial court committed reversible error by admitting into evidence the unsigned letters from school personnel offered by respondent.

¶ 51 "[T]he circuit court exercises broad discretion in admitting relevant evidence that may assist the court in arriving at a custody determination [citation], and the court should hear and weigh all available relevant evidence [citation]." *Johnston v. Weil*, 241 Ill. 2d 169, 180, 946 N.E.2d 329, 337 (2011). However, "[a] letter is hearsay as to its contents and is not admissible unless it falls within one of the exceptions to the hearsay rule." *In re Marriage of Kutinac*, 182 Ill. App. 3d 377, 384, 538 N.E.2d 862, 866 (1989). We note respondent has not argued an exception to the hearsay rule applies. However, even if the letters were inadmissible hearsay, we conclude the testimony was such that the presence or absence of the letters would not have affected the outcome. See *Prince v. Herrera*, 261 Ill. App. 3d 606, 616, 633 N.E.2d 970, 977 (1994) (even if a witness gave inadmissible hearsay testimony, the testimony did not change the outcome of the proceeding where similar testimony was properly admitted).

¶ 52 Although the trial court specifically mentioned respondent's testimony and "exhibits from school staff" in support of its conclusion respondent spent the majority of time performing caretaking functions in the 24 months preceding the filing of the petition, the remaining evidence supported its finding even if these letters had been excluded. It is clear T.R. lived with respondent from birth and respondent provided the majority of day-to-day caretaking functions, with petitioner having occasional visits. None of the testimony contradicts this, and petitioner's more regular visits with T.R. (after the filing of the petition and a temporary court order) do not change this fact. In fact, the trial court also noted petitioner himself "assumed and accepted" that respondent was primarily responsible for providing care for T.R. To argue respondent's three letters from school staff were so prejudicial as to require reversal under these circumstances is disingenuous. We reject this argument and decline to reverse where the three letters could not have changed the court's finding where all the testimony and other evidence in the case supported the same conclusion. Accordingly, we affirm the court's judgment.

¶ 53 C. Consideration of the Relocation Petition

¶ 54 Finally, petitioner argues the trial court committed reversible error in refusing to consider evidence related to respondent's petition to relocate T.R. to Missouri. Petitioner argues the petition to relocate and evidence related to that petition are so entwined with the decision regarding parenting time that the court should have considered it in allocating parenting time.

¶ 55 In support, petitioner cites *In re Parentage of Rogan M.*, 2014 IL App (1st) 132765, ¶ 23, 7 N.E.3d 243, for the proposition that removal is related to custody. In *Rogan M.*, the mother sought to appeal the denial of a removal petition while the father's petition for a change in custody remained pending in the trial court. *Id.* ¶¶ 5-6. On appeal, the mother argued a removal petition was a "custody-related issue," such that she could pursue an interlocutory

appeal under Illinois Supreme Court Rule 304(b)(6) (eff. Feb. 26, 2010), which—at the time—provided for the immediate appeal of a "custody judgment" or a "modification of custody." *Rogan M.*, 2014 IL App (1st) 132765, ¶ 21, 7 N.E.3d 243. The appellate court did not dispute that removal is related to custody, but it rejected the argument that it was so inherently tied to custody to qualify for immediate appeal under Rule 304(b)(6). *Id.* ¶ 23.

¶ 56 In the instant case, petitioner argues that removal is so custody-related that the trial court erred in refusing to consider respondent's petition in allocating parenting time. *Rogan M.* is thus distinguishable, as that case addressed whether the denial of a removal petition was subject to immediate appeal. Also, the court in *Rogan M.* acknowledged removal was custody-related, but not so inherently tied to custody as to qualify as a custody judgment or modification of custody. *Id.* This undercuts petitioner's present argument. Accordingly, we do not find petitioner's reliance on *Rogan M.* persuasive.

¶ 57 Petitioner also cites *In re Marriage of Creedon*, 245 Ill. App. 3d 531, 615 N.E.2d 19 (1993). The relevant language from *Creedon* is as follows:

> "A custodian's petition for removal and a noncustodian's petition to change custody must be decided under different sections of the Act, and there is potential for confusion if the two petitions are ruled upon at the same time. In [*In re Marriage of*] *Ballegeer*, [236 Ill. App. 3d 941, 945, 602 N.E.2d 852, 855 (1992)], for example, the trial court granted a change of custody without considering the petition for leave to remove. Even if the petition for leave to remove would have been denied, the custodian had the right to decide to remain in the State and retain custody. (See also

> *In re Marriage of Benson* (1991), 217 Ill. App. 3d 564, 567, 577 N.E.2d 867, 870 (if a custody petition is unrelated to a removal petition, a trial court is not required to rule on the removal petition first).) Nevertheless, where the custodian will choose to leave the State without the children if the petition for removal is denied, a trial court which does not consider whether the children are better off out of State with the custodian, or in State with the noncustodian, is ignoring reality." *Id.* at 536, 615 N.E.2d at 23.

Creedon and the cases it cites involve petitions for a change of custody that were filed in response to a petition for removal. That is, the basis for the change in custody is the custodial parent's desire to move. In such a situation, if the trial court considers the custody question without considering the removal petition, the custodial parent loses the opportunity to remain the custodial parent and remain in the state if the removal petition was denied.

¶ 58 In the present case, we have an initial determination as to the allocation of parenting time, which is unrelated to the petition to relocate. If the trial court had awarded petitioner the majority of parenting time, respondent's petition to relocate would have been moot. However, the court awarded respondent the majority of parenting time. It is now up to respondent to either pursue or abandon her petition to relocate. If she pursues the petition and it is denied, as the court indicated it was inclined to rule, she then has "the right to decide to remain in the State and retain custody." *Id.* We also note the Act has separate provisions and separate factors to consider for the allocation of parenting time (750 ILCS 5/602.7 (West 2016)) and petitions to relocate (750 ILCS 5/609.2 (West 2016)). We conclude the court did not err in reserving consideration of the petition to relocate until after it made the initial allocation of

parenting time under the separate statutory factors enumerated in the Act (750 ILCS 5/602.7(b)(1)-(17) (West 2016)). Accordingly, we affirm the court's judgment.

¶ 59 III. CONCLUSION

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

¶ 61 Affirmed.