STATE OF INDIANA
COURT OF APPEALS

KASANDRA L. TIFFIN Appellant(s), v. CAMERON L. WAGNER Appellee(s).	Cause No. 24A-JP-02137

CERTIFICATION

STATE OF INDIANA)
) SS:
Court of Appeals)

I, Gregory R. Pachmayr, Clerk of the Supreme Court, Court of Appeals and Tax Court of the State of Indiana, certify the above and foregoing to be a true and complete copy of the Opinion of said Court in the above entitled case.

IN WITNESS WHEREOF, I hereto set my hand and affix the seal of THE CLERK of said Court, at the City of Indianapolis, this on this the 17th day of July, 2025.

Gregory R. Pachmayr,
Clerk of the Supreme Court

MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Kasandra L. Tiffin,
Appellant-Respondent

v.

Cameron L. Wagner,
Appellee-Petitioner

May 19, 2025

Court of Appeals Case No.
24A-JP-2137

Appeal from the Vigo Circuit Court

The Honorable Charles D. Johnson, Special Judge

Trial Court Cause No.
84C01-1903-JP-342

Memorandum Decision by Judge DeBoer
Judges Bailey and Vaidik concur.

DeBoer, Judge.

Case Summary

[1] Cameron Wagner (Father) and Kasondra Tiffin (Mother) shared joint legal and physical custody of their son, W.W. (Child). As Child neared kindergarten, Father petitioned to modify custody and child support. Two months later, Mother filed a notice of intent to relocate with Child from Indiana to Illinois, to which Father objected. Following an evidentiary hearing, the trial court concluded that Mother's relocation was not in Child's best interests and Father should be awarded primary physical custody of Child. Mother appeals, claiming the trial court's decisions denying her relocation with Child and modifying physical custody to Father were erroneous. We affirm.

Facts and Procedural History

[2] Child was born to Father and Mother on January 8, 2019. On December 23, 2020, the paternity court ordered the parties to share legal and physical custody of Child, with the parents alternating parenting time "every four days." Appellant's Appendix Vol. 2 at 32.

[3] After keeping the same custody arrangement for nearly three years, Father moved to modify custody and child support[1] on December 7, 2023. On February 21, 2024, Mother notified the trial court of her intent to relocate from West Lebanon, Indiana to Westville, Illinois with Child to live with her fiancé. Father filed his objection the next day. Aware that Child was to begin kindergarten that fall, the trial court held a July hearing on the parties' motions.

[4] During the hearing, the trial court heard evidence that Father, who has lived at his current address in Terre Haute since 2007, has numerous relatives nearby, including his parents, grandparents, an uncle, and cousins. While Father works as an ironworker, paternal grandmother cares for Child. Child had attended preschool, and was enrolled to begin kindergarten, at Terre Haute elementary schools. Child's health care providers are in Terre Haute as well. Father has three other children: two sons and a daughter. One of Father's sons is mentally disabled and lives with Father's parents. Father has no contact with his other son[2] and only has supervised parenting time with his daughter "[e]very other Sunday." Tr. Vol. 2 at 46.

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[1] The trial court ordered Father to pay Mother $90.74 per week in child support in an order dated December 23, 2020. Although Father moved to modify child support and the trial court heard evidence on the matter, child support is not the subject of this appeal.

[2] Father testified that he has had no contact with his "eleven or twelve" year-old son for "a few years" due to an incident of sexual abuse between this son and Father's daughter. Tr. Vol. 2 at 47.

[5] Father shared his concerns about Mother's fiancé with the trial court. For example, Mother's fiancé "took a bar of soap and forced it in [Child's] mouth and busted the inside of his lip[.]" *Id.* at 35. When Father asked her fiancé about the incident, he acted "very" confrontational towards Father and threatened physical violence. *Id*. Father reported the soap incident to the Department of Child Services (DCS), but DCS did not substantiate the allegation. He discussed other injuries he discovered on Child after he returned from Mother's care, including:

> anything from blacked eye [sic], being scratched up, and there's one time he came and right at the crease of his upper thigh and his torso somebody had pinched him and it took the skin off.

[6] *Id.* at 36. Another time when Child was at Mother's, he "got out of the house on his own, [] got on the 4-wheeler, started it, and rode it into a pond."[3] *Id.* at 40. Father also learned about an incident when Child "got into [Mother's] car and locked the doors" while the car sat on a hillside. *Id.* Father's concern was that "[i]f [Child] would have got [sic] it into neutral, the car would have rolled into the pond." *Id.* There was also evidence that Mother "lie[d] to [him] about" where she lived and refused to answer Father's questions about her

[3] Mother characterized the 4-wheeler involved as a "little 4-wheeler that is battery operated," and that only goes three miles per hour. Tr. Vol. 2 at 88, 92.

frequent address changes, stating that Mother had lived at "roughly four [] places since [Child]'s been born[.]" *Id.* at 15, 16.

[7] At the hearing, Mother told the trial court that she lived in West Lebanon, Indiana with her sister and niece and was employed as a Licensed Practical Nurse at a local hospital. She explained that she has family members who can care for Child in Westville, including her parents who live "two [] towns over" from her proposed residence. *Id.* at 87. Mother touted it was in Child's best interests to live with her because she could be more "present in his life," working less and having a more flexible schedule than Father. *Id.* at 88. She agreed to allow Child to continue receiving his medical and dental care with his providers in Terre Haute despite the relocation. Mother expressed concern about Father's alcohol use, claiming that he had been arrested for Operating While Intoxicated twice and still "continues to drink . . . [having] yet to see the error of his ways when it comes to alcohol." *Id.* at 94. Mother even called Father's ex-wife to testify that Father has supervised visits with his daughter because he violated a court order to refrain from drinking while he was around their daughter.

[8] On August 15, 2024, the trial court issued its order finding that Mother's proposed relocation was not in Child's best interests, and made the following findings and conclusions:

> 4. While there is an absence of bad faith, the evidence demonstrates the decision to relocate was made by Mother solely

considering her own interests, and not the best interests of the minor child. The testimony given indicates Mother has moved four (4) different times since the last order establishing custody and visitation was entered on December 14, 2020, with Mother failing to notify the court and Father of any change in her address other than the notice currently at issue. While Father has repeatedly requested from Mother her current whereabouts she only provides the address of her parents in West Lebannon [sic], Indiana.

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6. The minor child is very well adjusted to his life in Terre Haute. He has completed his first year in preschool, has extensive family and strong connections with his paternal grandparents, paternal great grandparents, two (2) step-sibling [sic], paternal uncle and cousins. In addition, minor child has always been treated by Dr. Crispin here in Terre Haute and received dental care at Wabash Valley Children's Dentistry in Terre Haute.

7. There have been several incidents causing the court some concern for the safety of minor child by Mother's fiancé in shoving a bar of soap down the child's throat, Mother's fiancé pinching child to create bruising, the child incurring a burned lip from a toaster while in Mother's care, the child riding a battery powered toy into a pond while in Mother's care, and the child being unattended in Mother's vehicle at the top of a steep hill where he could have accidently placed the car in neutral resulting in injury to minor child and perhaps others.

8. Additionally, due to the distance between the parties, and the minor child beginning school, the current custody and parenting time arrangement is no longer sustainable.

[9] Appellant's App. Vol. 2 at 50-51. The trial court awarded primary physical custody of Child to Father, continued with the parents' order of joint legal custody, and ordered the parties to submit a proposal addressing parenting time and child support within fourteen days of the order. Father was prohibited from consuming alcohol in Child's presence and was ordered to enroll in substance abuse treatment within thirty days. Mother appeals.

Discussion and Decision

[10] Where, as here, the trial court enters findings of fact and conclusions of law *sua sponte*, those findings control only as to the issues they cover. *Dana Companies, LLC v. Chaffee Rentals,* 1 N.E.3d 738, 747 (Ind. Ct. App. 2013), *trans. denied.* "Where there are no specific findings, a general judgment standard applies and we may affirm on any legal theory supported by the evidence adduced at trial." *Id.* (quoting *Argonaut Ins. Co. v. Jones*, 953 N.E.2d 608, 614 (Ind. Ct. App. 2011), *trans. denied*). If there are findings, we examine "whether the evidence supports the findings, and whether the findings support the judgment." *Id.* "Findings and conclusions will be set aside only if they are clearly erroneous, that is, when the record contains no facts or inferences supporting them." *Id.* (quoting *Barkwill v. Cornelia H. Barkwill Revocable Tr.*, 902 N.E.2d 836, 839 (Ind. Ct. App. 2009), *trans. denied*).

[11] Father did not file an appellee's brief. Under such circumstances we apply a less stringent standard of review. Mother need only establish *prima facie* error—

"error 'at first sight, on first appearance, or on the face of it'"—to obtain reversal. *Jacob v. Vigh*, 147 N.E.3d 358, 360 (Ind. Ct. App. 2020) (quoting *Orlich v. Orlich*, 859 N.E.2d 671, 673 (Ind. Ct. App. 2006)). But even under this prima facie standard, we remain obligated to apply the law correctly to the facts in the record to determine whether reversal is warranted. *Tisdale v. Bolick*, 978 N.E.2d 30, 34 (Ind. Ct. App. 2012).

[12] Because "appellate courts 'are in a poor position to look at a cold transcript of the record, and conclude that the trial judge, who saw the witnesses, observed their demeanor, and scrutinized their testimony as it came from the witness stand, did not properly understand the significance of the evidence[,]'" *D.C. v. J.A.C.,* 977 N.E.2d 951, 956–57 (Ind. 2012) (quoting *Kirk v. Kirk*, 770 N.E.2d 304, 307 (Ind. 2002)), our appellate courts grant considerable deference and latitude to trial courts in family law matters. *Myers v. Myers*, 13 N.E.3d 478, 485 (Ind. Ct. App. 2014). This deference is warranted because of trial courts' "unique, direct interactions with the parties face-to-face" which puts them in "a superior position to ascertain information and apply common sense, particularly in the determination of the best interests of the involved children." *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011).

[13] Custody modifications are generally governed by Indiana Code section 31–17–2–21, which provides that a custody modification is permitted only if it is in the best interests of the child and there has been a substantial change in one or more of the factors identified in Indiana Code section 31–17–2–8.

[14] If relocation and modification of custody are both before the trial court, the court is directed to consider several additional factors set forth in Indiana Code section 31–17–2.2–1(c), which governs requests for relocation.[4] These include: (1) the distance involved; (2) the hardship and expense for the nonrelocating parent; (3) the preservation of the relationship between nonrelocating parent and child; (4) the patterns of conduct by relocating parent, including actions to either promote or thwart nonrelocating parent's contact with child; (5) the reasons for and against relocation; and (6) other factors affecting the child's best interests, including those normally considered in custody determinations. *Baxendale v. Raich*, 878 N.E.2d 1252, 1257 (Ind. 2008); Ind. Code § 31-17-2.2-1(c)(1)-(6). Through this sixth factor, the relocation statute incorporates the traditional custody factors while adding relocation-specific considerations. *Baxendale*, 878 N.E.2d at 1257.

[15] Our Indiana Supreme Court explained the interplay between the relocation factors and the traditional custodial modification factors in *Baxendale*:

> First, chapter 2.2 [the relocation chapter] is a self-contained chapter and does not by its terms refer to the general change of custody provisions. Second, the relocation chapter introduces some new factors that are now required to be balanced, but also expressly requires consideration of "other [] factors affecting the

[4] A relocating parent must also prove that relocation is "made in good faith and for a legitimate reason." I.C. § 31-17-2.2-5(e). Since the trial court found Mother's relocation request was made with an absence of bad faith, we focus our analysis on the relocation factors.

> best interest of the child." I.C. § 31–17–2.2–1([c])(6). The general custody determination required under Section 8 is to find "the best interests of the child" by examining the factors listed in that section. As a result, chapter 2.2 incorporates all of the Section 8 considerations, but adds some new ones. Because consideration of the new factors might at least theoretically change this balance, the current statutory framework does not necessarily require a substantial change in one of the original Section 8 factors. Finally, section 31–17–2.2–2(b) of the relocation chapter expressly permits the court to consider a proposed relocation of a child "as a factor in determining whether to modify a custody order." Because section 31–17–2.2–1([c]) already contains a list of relocation-oriented factors for the court to consider in making its custody determination, section 31–17–2.2–2(b) seems to authorize a court to entertain a custody modification in the event of a significant proposed relocation without regard to any change in the Section 8 factors. In most cases the need for a change in a Section 8 factor is likely to be academic because a move across the street is unlikely to trigger opposition, and a move of any distance will likely alter one of the Section 8 factors.

[16] *Id.* While this appeal involves a request for relocation and the modification of custody, the crux of the case comes down to who Child should live with while he attends school. Father believes he should have custody because of the relationships Child already has established in Terre Haute with family members, his school, and health care providers. Mother seeks custody because she has family in Illinois and her schedule is more flexible. We now review the evidence presented to the trial court on the relocation factors.

[17] Mother's proposed relocation to Westville, Illinois is 55.8 miles from Father's home in Terre Haute. Exhibits Vol. 3 at 17. Father testified that the time it

takes to travel from Mother's old address in West Lebanon, Indiana to her new residence in Westville, Illinois is "probably ten (10), fifteen (15) minutes[.]" Tr. Vol. 2 at 17. The trial court also heard evidence that Child was ready to enter kindergarten in the fall of 2024, and given this new milestone, Mother conceded that the parties' existing parenting time schedule—four days on, four days off—is not workable while Child is in school. *See id.* at 88. As the trial court stated in its order, "the current custody and parenting time arrangement is no longer sustainable" given "the distance between the parties" of "over fifty-five (55) miles." Appellant's App. Vol. 2 at 50-51. In this case, the distance involved necessitates a modification of custody—and does not impact the relocation determination—because the trial court is tasked with selecting one parent with whom Child will live while he attends school.

[18] The relocation statute requires the court to consider the financial expense and hardship to the non-relocating parent. Here, the record contains scant evidence from the parties about the financial costs to Father to exercise parenting time if Child was allowed to relocate with Mother. And this makes sense since Mother's new residence is within fifteen minutes of her previous one. In fact, Father testified that he is "fine with doing [parenting time exchanges] how we've been doing it," which consists of exchanging Child in Clinton or Cayuga, Indiana. Tr. Vol. 2 at 30. Father even told the trial court he would agree to meet there at "6:30 every other weekend" if he was awarded custody. *Id.* at 31. Mother presented no evidence in opposition to continuing with the parties'

current arrangement to meet in or around Clinton or Cayuga. Again, while this evidence neither weighs for or against allowing Mother to relocate, the trial court had evidence from which it could consider any hardship and expense to Father.

[19] Looking at the preservation of familial relationship factor, we see that Father has been actively involved with Child's upbringing—sharing equal custody with Mother at least since the paternity court entered its order on June 25, 2019. With almost 56 miles between households, allowing Child to move with Mother to Illinois would have deprived Father of substantial parenting time during his son's school week. *See T.L. v. J.L.*, 950 N.E.2d 779, 789 (Ind. Ct. App. 2011), *reh'g denied* (finding that if the relocation were approved, the father would have more overnights, but he "would still be deprived of seeing [his children] daily after school . . ."). The trial court also received evidence about Father's job as an ironworker. When Father works, Child's paternal grandmother watches Child and her house is "basically [] his daycare." Tr. Vol. 2 at 44. Because of the frequency with which grandmother cares for Child, the two have a very close relationship. At the hearing, Mother attempted to shine a negative light on grandmother's role in Child's life. *See* Appellant's Br. at 20 ("Father's ability to care for W.W. depends on his parents' and grandparents' involvement[.]"). Yet, Mother testified to her own mother's part in caring for Child when Mother is working, doing her clinicals, or at school. During these times, maternal grandmother remains available to transport Child

to or from school. Here, because of the distance between Father and Mother, one parent's primary custody of Child will reduce the amount of workweek parenting time the non-custodial parent will get. And the grandparents' involvement with Child benefits Child—he has two grandmothers to spend time with while his parents work or are at school.

[20] In considering Mother's actions to thwart Father's relationship with Child, the evidence presented does not reflect well on Mother. Father testified that even though he asked her "[p]robably at least twenty" times where she lived, Mother refused to answer Father. Tr. Vol. 2 at 34. Since Child was born, Mother has lived in at least four locations: her uncle's residence; with a now ex-boyfriend; at her parents' home in West Lebanon; and with her current fiancé in Illinois. *Id*. Yet, when Father asked for her address, she would only give him her parents' address. Mother also sent Child to babysitters but Father was never "told the address to babysitters, or babysitter[s'] names and numbers[.]" *Id.* Finally, Father told the trial court of his concerns about his son's safety when Child stayed with Mother and her fiancé. He testified about how he called Mother's fiancé to discuss his son's injured lip and her fiancé threatened to get into a physical confrontation with Father. *See id.* at 35. Mother's evasiveness with providing addresses for herself and Child's caregivers demonstrates an unwillingness to co-parent. And although Mother should have been open and transparent with Father when he attempted to get information about the injuries

Child incurred while at Mother's home, Mother either did not tell Father about the incidents or Father was met with hostility from her fiancé.

[21] Mother testified that her reasons for relocating to Westville were to live with her fiancé and be close to her relatives. She discussed the benefits to Child from his relationships with family members who live near her and her fiancé. She also stated that the flexibility of her current schedule would allow her to spend more time with Child than Father's schedule permits. Father objected to Mother's intended relocation of Child, in part, because of Child's lack of supervision while in Mother's care and Child's safety at the hands of Mother's fiancé. The trial court also found it significant that Mother failed to share important information with Father about where Child was staying when he was with her and there had been numerous instances in which Child was hurt, or could have been hurt, due to the lack of supervision at Mother's.

[22] The trial court heard evidence on other factors affecting Child's best interests, including Mother's fiancé's interactions with Child, Father's history of alcohol abuse, the involvement of extended family in Child's care, and Child's interaction with his older half-brother.

[23] As referenced above and in its order, the trial court expressed concern with "several incidents" for Child's safety while in Mother's care and included incidents involving Mother's fiancé. Appellant's App. Vol. 2 at 51. These incidents are significant since, at the time of the hearing, Mother was engaged

to marry fiancé, and Mother and fiancé will be a family unit with whom Child will live when he spends time with her.

[24] Mother also asks us to consider the evidence of Father's alcohol use. "Evidence of a parent's drug or alcohol use can be relevant to that parent's health and the child's best interests." *Baxendale*, 878 N.E.2d at 1258 (citing *Russell v. Russell*, 682 N.E.2d 513, 515 (Ind. 1997)). Mother characterizes Father's alcohol use as "severe" and argues it "directly impacts Father's ability to care for Child." Appellant's Br. at 19, 18. However, there was no evidence presented showing Father abused alcohol while caring for Child. The trial court heard Mother's evidence about Father's issues with alcohol, and it addressed the problem by entering orders that Father may not consume alcohol while in Child's presence and instructing that he must "engage in [a] substance abuse treatment course[.]" Appellant's App. Vol. 2 at 52. The trial court assessed the credibility of the witnesses who testified, weighed the evidence, and entered orders based on its considerations. Mother is not satisfied with the court's ruling and seeks to have us give more weight to her evidence, which we cannot do.[5]

[25] As to the extended family's involvement with Child, both parties testified that their families would not only assist in Child's care but be a presence in his life.

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[5] Despite both parties raising safety concerns at the July 2024 hearing, neither filed petitions to modify parenting time or custody related to these concerns.

Mother testified that Child has five older adult cousins that live in Westville, all of whom have children of their own, and Mother's parents live "two [] towns over." Tr. Vol. 2 at 87. Father testified that his parents live in Terre Haute, along with Father's uncle, cousins, and grandparents. Father also acknowledged Child's close bond with Father's oldest son, who lives with Father's mother. After hearing this evidence, the trial court concluded:

> The minor child is very well adjusted to his life in Terre Haute. He has completed his first year in preschool, has extensive family and strong connections with his paternal grandparents, paternal great grandparents, two [] step-sibling [sic], paternal uncle and cousins. In addition, minor child has always been treated by Dr. Crispin here in Terre Haute and received dental care at Wabash Valley Children's Dentistry in Terre Haute.

Appellant's App. Vol. 2 at 51. Considering the trial court's findings and the evidence presented, we find the trial court heard evidence touching on each of the relocation factors and Child's best interests, and it did not err when it made its determination to deny Mother's request to relocate with Child and in granting Father primary physical custody of Child.

Conclusion

[26] Here, the trial court's order denying Mother's relocation with Child and modifying physical custody to Father was well supported by the court's findings and the evidence presented, and its judgment and findings were not clearly erroneous.

[27] Affirmed.

Bailey, J., and Vaidik, J., concur.

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