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IN THE
COURT OF APPEALS OF INDIANA

In Re: The Paternity of B.R.H.;
Sarah B. Hayes,
Appellant-Respondent,

v.

Zachary T. Mehringer,
Appellee-Petitioner.

March 26, 2021
Court of Appeals Case No.
20A-JP-1935
Appeal from the Dubois Circuit
Court
The Honorable Nathan A.
Verkamp, Judge
Trial Court Cause No.
19C01-1609-JP-360

Pyle, Judge.

Statement of the Case

[1] Sarah Hayes (“Mother”) appeals the trial court’s order denying her petition to relocate to Clovis, New Mexico with her four-year-old son, B.M. (“B.M.”).¹

¹ B.M. was formerly known as B.R.H.

Concluding that the trial court did not clearly err in denying Mother’s petition, we affirm the trial court’s judgment.

[2] We affirm.

Issue

Whether the trial court clearly erred when it denied Mother’s petition to relocate.

Facts

[3] Mother, who was twenty-six years old, and Zachary Mehringer (“Father”), who was thirty-five years old, dated in 2015 while Mother pursued a dietetics degree at Indiana State University. Father lived in Dubois, Indiana. After Mother became pregnant at the end of 2015, she and Father were briefly engaged before ending their relationship. Father believed that Mother’s due date was early September 2016. When Mother gave birth to B.M. in August 2016, she failed to tell Father that the baby had been born.

[4] In September 2016, Father filed a petition to establish paternity, custody, child support, and parenting time, wherein he alleged that his child should have been born but that he did not know the date of the child’s birth. After Father subsequently learned that his child had been born in August, Father contacted Mother and asked her about the child’s health and what she had named the child. However, Mother refused to give Father any information about the child.

- [5] Mother failed to attend the October 2016 hearing on Father’s petition. When contacted by telephone, Mother advised the trial court that she would be hiring counsel. The trial court, therefore, continued the hearing.
- [6] In January 2017, the trial court entered an agreed paternity order, which granted Mother sole physical custody of B.M. and Mother and Father joint legal custody of the child. Father was awarded parenting time as agreed to by the parents but not less than in accordance with the Indiana Parenting Time Guidelines (“the Guidelines”), and he agreed to pay \$100 per week in child support.
- [7] Father is an engineer and earns \$50,000 per year. He has worked for his employer in Jasper, Indiana for more than ten years. In early 2017, Father met Tina Mehringer (“Tina”), who owns a restaurant in Dubois, Indiana, and the two began dating in May 2017. Tina began spending time with eleven-month-old B.M. in July 2017.
- [8] In April 2018, B.M. began speech therapy for an expressive language disorder. In connected speech, B.M.’s speech is unintelligible at times. In conversational speech, especially if he’s excited, B.M. sometimes leaves off the ending sounds of words. Also by April 2018, Father’s parenting time had increased to overnight visits on alternating weekends as well as Monday and Wednesday evenings.
- [9] In May 2018, Mother, who had been living at Maternal Grandfather’s (“Maternal Grandfather”) house in Dubois since B.M.’s birth and commuting

to the university, completed her dietetics program and received her degree. Also in May 2018, Mother filed a petition asking the trial court to allow her to relocate with twenty-one-month-old B.M. to Dumas, Texas. In her petition, Mother explained that she had just been offered a position as a registered dietician at a county hospital in Dumas, Texas. Mother further explained that, although she had been working with a recruiter and had applied for several jobs, the only offer of employment that she had received was from the hospital in Texas. Mother also explained that the offer was for full-time employment and included competitive wages and benefits. One of the benefits was that the employer would pay the entire balance of Mother's student loans, which Mother later testified was \$80,000.

[10] Also in the petition, Mother explained that she had not yet been given a specific date to begin her employment because she had to pass a licensure examination before reporting for work. Mother acknowledged Father's parenting time schedule and proposed that, if she relocated to Texas, Father be granted Facetime or similar communication with B.M. several times a week. Mother further proposed that Father be given parenting time anytime that he traveled to Texas. Lastly, Mother proposed that the parties could later agree to times for B.M. to visit Father in Indiana and/or to meet in a location between the parties' residences for Father to exercise parenting time. In August 2018, Father responded to Mother's petition to relocate with a petition asking the trial court to modify B.M.'s custody in favor of Father.

[11] While waiting for the trial court to hold a hearing on her relocation petition, Mother began searching on Match.com for individuals to date in the Dumas, Texas area. In September 2018, Mother met online with Taylor Bisenius (“Bisenius”). Bisenius, who is a master sergeant in the United States Air Force, is stationed at Cannon Air Force Base in Clovis, New Mexico. Mother and Bisenius began corresponding online.

[12] In October 2018, the trial court held a hearing on Mother’s petition to relocate and Father’s petition to modify B.M.’s custody. Shortly thereafter, the trial court issued an order granting Mother’s petition to relocate to Texas and denying Father’s petition to modify B.M.’s custody. The trial court’s one-page order, which did not include findings of fact and conclusions thereon, specifically stated that Mother could relocate to Texas if the employment offer was still available. However, the trial court also explained that should Mother wish to relocate anywhere else, she would need to file another petition, and Father would have the right to object to the relocation. The trial court granted Father “parenting time at all reasonable and agreeable times but not less than [the Guidelines] where distance is a factor.” (App. Vol. 2 at 21).

[13] Although the trial court granted her petition, Mother did not relocate to Texas. She had registered four times to take the dietician licensure examination; however, she only took the examination twice and failed it both times. The Texas job offer “fell through” in January 2019, two months after the trial court had granted Mother’s petition to relocate. (Tr. Vol. 5 at 87). Mother remained

unemployed, and she and B.M. continued to live with Maternal Grandfather in Dubois.

[14] Mother also continued her online relationship with Bisenius, who earns \$100,000 per year and lives in a house on the air force base. None of his family lives in New Mexico. Rather, Bisenius' parents and siblings live in Oregon, and his nine-year-old son lives in Texas with the child's mother. Mother and Bisenius met in person for the first time in January 2019, when Bisenius visited Mother for a week in Indiana. Bisenius continued week-long visits to Indiana throughout the spring of 2019. Mother eventually became pregnant, and she and Bisenius were married in May 2019.

[15] In June 2019, Mother filed a petition to relocate with B.M. to Clovis, New Mexico. Clovis, which is located more than 1000 miles from Dubois, Indiana, is a sixteen-hour drive from Dubois. The cost of a round-trip ticket to Clovis, New Mexico costs between \$500 to \$700, and the trip involves a two-hour flight from Louisville, Kentucky to Dallas or Houston, Texas; a second flight from Dallas or Houston, Texas, to Amarillo or Lubbock, Texas; and a two-hour drive to Clovis.

[16] In the petition, Mother explained that she had recently gotten married and was pregnant. Mother further explained that Bisenius would "remain under military contract [in New Mexico] until October 2024," at which time Bisenius anticipated retiring from the air force. (App. Vol. 2 at 23). Also in the petition, Mother proposed that Father be granted Facetime or a similar communication

with two-year-old B.M. several times a week. She also proposed that Father be granted parenting time pursuant to the Guidelines where distance is a factor.

[17] Father responded to Mother's petition with: (1) a petition to modify custody of B.M.; (2) a petition to restrain Mother from removing B.M. from Indiana; (3) an objection to Mother's relocation; and (4) a motion to reappoint the Guardian Ad Litem ("the GAL") that had previously served in the case. The trial court immediately granted Father's motion to reappoint the GAL and ordered her to file a report with the trial court no less than ten days before the final hearing. In July 2019, Mother filed: (1) a motion asking the trial court to dissolve the parties' joint legal custody of B.M. and to grant her full legal custody of the child; (2) a petition to modify Father's parenting time; and (3) a petition to modify child support.

[18] Also in July 2019, Father and Tina took B.M. on a family vacation to the Outer Banks of North Carolina. Although Mother had refused to allow B.M. to go on the trip after Father had given her advance notice of the trip as required by the Guidelines, Father had gone to court "to fight for that time." (Tr. Vol. 3 at 169). Tina's two sons, one who was in college, and the other who was in high school, and two of the sons' friends also went on the vacation.

[19] In addition to this vacation and his regular alternating weekend and weekly evening parenting time, Father exercised the Guidelines-authorized three additional weeks of parenting time with B.M. in 2019. During one of those weeks, Father went to work in the mornings while Tina and B.M. visited with

both Tina's and Father's relatives. Father took the afternoons off work and spent them with B.M. Father did not have enough vacation time to take off all four weeks.

[20] Father and Tina were married in August 2019. At that time, they both began attending B.M.'s speech therapy appointments because the appointments had transitioned from Mother's house to the local school.

[21] Two months later, in October 2019, the GAL filed her report. In this report, the GAL expressed her concern that, although Mother had filed a petition to relocate to New Mexico, Mother had never visited Bisenius in New Mexico. The GAL was also concerned that Mother had not met Bisenius' immediate family or his son. The GAL's report further stated that Father "ha[d] asked for additional parenting time on several occasions and [Mother] for the most part [had] always sa[id] no." (App. Vol. 2 at 55). The GAL also "d[id] not understand [Mother's] reluctance to work with [Father] on small, sensible schedule adjustments." (App. Vol. 2 at 56).

[22] Mother and B.M. visited Bisenius in New Mexico for the first time in November 2019, shortly before the trial court held the first hearing on her relocation petition. During the visit, Mother wanted to stay in New Mexico for an additional few days, which would have included Father's days for parenting time. Father told Mother that she could stay as long as she wanted to stay so long as he could get make-up parenting time for the days that he missed with B.M. Mother refused to grant Father the make-up days that he had requested,

returned to Indiana, and blamed Father for causing her and B.M. to miss a Veteran's Day celebration at the air force base.

[23] The same trial court judge who had granted Mother's 2018 petition to relocate presided over the hearing on Mother's 2019 petition to relocate and the other pending petitions and motions. The hearing took place over six days in November 2019, December 2019, January 2020, February 2020, March 2020, July 2020, and August 2020.²

[24] The testimony at the hearing included the facts as set forth above. In addition, the testimony revealed that as B.M. had gotten older, the child had developed a close relationship with both Father and Tina. At Halloween, B.M. dressed up as Woody, Father dressed up as Buzz Lightyear, and Tina dressed up as Jessie.

² In December 2019, in a separate cause, Mother filed a petition to obtain a protective order against Father. In the petition, Mother alleged that she had been the victim of domestic violence and stalking and that Father had committed repeated acts of harassment against her and had placed her in fear of physical harm. Mother specifically alleged that Father had: (1) gone to her residence without her permission and taken pictures of the house and her cars; (2) followed her to see if she had been honest about attending church; and (3) turned his vehicle around to follow her vehicle several times. Father filed a motion to dismiss Mother's petition wherein he denied Mother's allegations. The trial court heard evidence regarding the protective order at the January 2020 hearing. The parties agreed to incorporate the evidence adduced at that hearing into the relocation case. At the protective order hearing, Father testified that he had been "very . . . shocked" that Mother had sought a protective order. (Tr. Vol. 2 at 140) He denied following Mother in his vehicle and explained that Tina had once entered Maternal Grandfather's property and had taken pictures one afternoon when Mother had refused to allow B.M. to attend a birthday party at Father's house. Mother had told Father that B.M. could not attend the birthday party because she and B.M. would be out of town. Tina did not believe Mother and wanted photographic evidence that Mother had been dishonest. Both Father and Tina testified that Father had not known that Tina had gone to Mother's property and had taken the pictures. Father also admitted that he had checked one time to see if Mother had been at church, but he denied ever turning his vehicle around and following Mother. The trial court denied Mother's petition for the protective order, and Mother did not appeal the denial.

According to one witness, Father, Tina, and B.M. had “a great family life . . . they all just blended together well.” (Tr. Vol. 2 at 20).

[25] The testimony further revealed that B.M. had a close relationship with both Father’s and Tina’s extended families, including Tina’s sons. Tina’s oldest son, who attends college in Indianapolis, calls Tina three or four times per week and always talks to B.M. if B.M. is at Tina’s home at the time of the call. B.M. also has a “typical grandparent and grandson interaction” with Tina’s parents and calls Tina’s mother, “grandma.” (Tr. Vol. 1 at 239). Tina’s mother, who is employed as a cook at Tina’s restaurant, makes breakfast for B.M. on the Saturday mornings that Father has parenting time with B.M. and then sits down to eat breakfast with B.M. In addition, Tina has two close friends that have grandchildren who are the same age as B.M., and the children have frequent playdates together. B.M. has a bedroom at Father and Tina’s house as well as a playroom where he has “his paw patrol town.” (Tr. Vol. 3 at 179).

[26] The testimony further revealed that, at the time of the July 2020 hearing, B.M. attended two weekly forty-minute speech therapy sessions. Further, B.M.’s pediatrician testified that Mother’s relocation to New Mexico could cause B.M. to suffer from separation anxiety and that it was a “good idea to maintain consistency with regard to medical care.” (Tr. Vol. 2 at 159).

[27] Mother testified at the February 2020 hearing that B.M. had a “strong bond” with Maternal Grandfather with whom both Mother and B.M. had lived since B.M.’s birth. (Tr. Vol. 4 at 27). Mother also testified that she had suffered a

miscarriage following her marriage to Bisenius in May 2019. She further testified that Bisenius had spent a week in Indiana nearly every month for the past year and that, during a twenty-four-month cycle, Bisenius spent eighteen months at the New Mexico base in training and five to six months on deployment. In the past, he had been deployed to Afghanistan and Iraq. When asked if she would be willing to allow Father to have more parenting time than set forth in the Guidelines if she relocated to New Mexico, Mother responded that she “would say professionals wrote up those guidelines for a reason.” (Tr. Vol. 4 at 30). Mother further suggested that Father “could relocate too.” (Tr. Vol. 4 at 48).

[28] When the hearing resumed in July 2020, Mother was pregnant again with a due date in November 2020, and she wanted to relocate to New Mexico by the end of September 2020. She explained that she had not applied for any jobs in Indiana in the two years since she had received her degree because she “need[ed] to pass that [registration] test first.” (Tr. Vol. 4 at 106). Mother also testified that she would not be willing to transport B.M. to meet Father at a mid-way point in Oklahoma. Mother further testified that she would not relocate to New Mexico without B.M., and she agreed that both she and Bisenius had previously stated that their marriage would remain intact even if Mother did not relocate to New Mexico.

[29] Father also testified at the July 2020 hearing. He explained that, although he had attempted to attend as many of B.M.’s medical appointments as possible, Mother would often text him shortly before a scheduled appointment or while

she was at the doctor's office, leaving him no time to get to the appointment. When Father's counsel pointed out that Bisenius had made seven to eight trips to Indiana over the past year and asked Father if he could make seven to eight trips to New Mexico over the course of a year, Father responded that he did not "see how [he could do so] with the time allotted off work per year." (Tr. Vol. 4 at 221). Father also testified that transportation would be a "financial hardship." (Tr. Vol. 4 at 249). Father specifically explained as follows:

[I]f by what I've heard what [Mother] propose[d] over and over in her texts, if I would get a one-week time period with him and with six -- what's in between. So, that one week, to pick him up and have him back in New Mexico, most of that's going to be travel time. Which means the rest of the family hardly gets to see him, if we're going bring him back to Indiana, unless we're going to fly each and every time. Well, that gets expensive. So, if you don't fly, you drive. There's also a pretty big cost with that. This isn't exactly an easy day trip. Straight through, it's I believe -- I believe it's a little bit over a sixteen-hour drive without any stops. If you have a kid, you're going to want stops, at least to make it any fun or pleasurable for him at all. But when it's actual time you have when - when you are here. So, then to have one week and then the two days travel time or so on each end, that's narrowed down to - it would be four solid good days here where I and Tina, I'm sure, are going to want to spend as much time as possible, but the grandparents are going to want see him. All the family members are going to want to see him. It's literally cutting the people he cares about and that care about him out of his life.

(Tr. Vol. 4 at 249).

[30] Father further testified that he did not believe that Mother realized the bonds that B.M. shared with Father, Tina, B.M.'s paternal grandparents, who see B.M. every week, B.M.'s stepbrothers, and B.M.'s step-grandparents, who also love B.M. very much. Father also testified that, if Mother were allowed to relocate with B.M. to New Mexico, Father feared that his relationship with B.M. "would be more over computer than anything." (Tr. Vol. 4 at 248).

Father further explained that computer communication did not:

work great [with four-year-old B.M.] because when you get on initially, he's excited to see you and he will talk to you. He won't listen to what you're saying, but he has so much he wants to tell you, he will talk, talk, talk, talk, talk and by the time he's talked out, then he's kind of done with the call. So, when you then kind of want to talk to him, he's ready to get up and go play. That's just what's on his mind. It's not his fault. It's just him being a kid. With that said, the main issue is how much time you would lose with him. I mean truly lose with him physically. Because that's - those are the important times you remember as a kid. I don't - I have so many fond memories of my grandparents and my parents from when I was a child and not a single one of them is when I talked to them on the phone. It's always about when they did something with me. I believe that is very important. Sorry.

(Tr. Vol. 4 at 248-49).

[31] When Mother testified again at the August 2020 hearing, she expressed her concern that so many of the relatives and friends that Father identified as having a bond with B.M. had a connection to Tina. Mother wondered "where all those people w[ould] go if [Tina] g[ot] a divorce from [Father]." (Tr. Vol. 5 at 120). Mother further expressed concern that Bisenius had "burned up all of

his [vacation days] that [had] carried over from the year prior” and would not be able to continue his pattern of week-long monthly visits to Indiana as he had done in the past. (Tr. Vol. 5 at 141). Mother also testified that she had had two miscarriages during the pendency of the proceedings. The first miscarriage had occurred shortly after she and Bisenius had gotten married in May 2019, and the second one, which Mother testified that Father had “helped contribute [to] with the stress” had occurred in December 2019. (Tr. Vol. 5 at 150). Mother testified that, if she relocated, she would only offer Father parenting time “one week [at a time], not to exceed eight days.” (Tr. Vol. 5 at 163). Lastly, Mother asked the trial court to order Father to pay all or part of her \$50,000 attorney fees that she and Bisenius had paid for with their “nest egg.” (Tr. Vol. 5 at 132).

[32] In October 2020, the trial court issued a detailed fourteen-page order wherein the trial court explained that it had granted Mother’s 2018 petition to relocate to Dumas, Texas because “[t]he move . . . was couched as a once in a lifetime employment opportunity. The hospital . . . was located in an underserved rural area. As such, the hospital offered much to Mother, to include: exceptional salary, benefits and payoff of her student loans.” (App. Vol. 2 at 108). In its order, the trial court further concluded, in relevant part, as follows:

15. The Court has great concern that Mother’s attempt to move is in good faith. It was made clear that [M]other could move so long as her job was made available to her. She made no attempt to secure that job by taking her board examination following the Court’s Order of October 31, 2018. Rather, she pursued a long[-] distance relationship with someone on Match.com.

16. However, the request on its face is for a legitimate reason. Mother desires to be with her husband, [Bisenius].
17. Father has reasonable reasons why he opposes the relocation. His parenting time would be drastically less than he currently has, [B.M.] would be taken from all of his grandparents, his Father, stepmother, step-siblings, friends, etc. Father has developed a strong loving relationship with [B.M.] which he believes will be impossible to maintain if [B.M.] is moved to Clovis, New Mexico. [Father] will not be able to meet with teachers, doctors, attend extra-curricular activities, etc. for [B.M.] if [B.M.] is moved to Clovis, New Mexico.
18. The Court finds that the feasibility of preserving the relationship between the Father and [B.M.], as it currently exists, will not be possible, if [B.M.] moves.
19. The distance and the financial constraints are barriers in preserving the relationship.
20. The actions of the Mother are such that Father's contact will be limited greatly with little opportunity for additional flexibility in seeing [B.M.]
21. Additionally, the parties have, at times, been unable to co-parent when making decisions about what is best for [B.M.] Mother has been rigid and not willing to compromise.
22. The hardship and expense for the non-relocating individual to exercise parenting time, the Court must conclude that the expense in time and money is extensive.
23. [B.M.] has been in Dubois County his whole life in a stable loving environment. He is supported and loved by his Father and his extended family. The level of support and love would be lost if he lived more than 1000 miles away.

24. It is in the best interest of [B.M.] to reside in Dubois County, where both parents currently reside, where all of the grandparents reside, and where all of his providers are located.

25. It is in the best interest of [B.M.] that Mother's Notice of Intent to Relocate the Residence of this child be denied.

26. It is in the best interest of [B.M.] that the parties continue to share joint legal custody of the minor child. Mother's Petition to Dissolve Joint legal custody should be denied.

27. It is not in [B.M.]'s best interest to move to Clovis, New Mexico.

(App. Vol. 2 at 117-18).

[33] The trial court also denied Father's request to modify B.M.'s custody, subject to Mother maintaining her current residence in Indiana. In addition, the trial court increased Father's parenting time to include Sunday nights and reduced Father's child support to \$66.00 per week. The trial court further ordered each parent to pay his or her attorney fees.

[34] Mother now appeals the trial court's denial of her petition to relocate to New Mexico.

Decision

[35] Mother argues that the trial court clearly erred when it denied her petition to relocate B.M. to New Mexico. We disagree.

[36] At the outset, we note that Mother requested the trial court to enter findings of fact and conclusions thereon pursuant to Trial Rule 52(A). We therefore apply

the following two-tiered standard of review: we first determine whether the evidence supports the findings of fact and then determine whether the findings of fact support the judgment. *Troyer v. Troyer*, 987 N.E.2d 1130, 1134 (Ind. Ct. App. 2013), *trans. denied*. We will set aside findings if they are clearly erroneous, which occurs only when the record contains no facts to support them either directly or by inference. *Campbell v. Campbell*, 993 N.E.2d 205, 209 (Ind. Ct. App. 2013), *trans. denied*. It is not enough on appeal that the evidence might support some other conclusion; rather, the evidence must positively require the result sought by the appellant. *D.C. v. J.A.C.*, 977 N.E.2d 951, 957 (Ind. 2012). Accordingly, we will not substitute our own judgment if any evidence or legitimate inferences support the trial court’s judgment. *Id.* In addition, “[i]n reviewing the order being appealed, we will neither reweigh the evidence nor assess witness credibility, instead considering only the evidence that supports the trial court’s judgment together with all reasonable inferences to be drawn therefrom.” *Paternity of X.A.S. v. S.K.*, 928 N.E.2d 222, 224 (Ind. Ct. App. 2010), *trans. denied*.

[37] We further note that there is a well-established preference in Indiana ““for granting latitude and deference to our trial judges in family law matters.”” *Steele-Giri v. Steele*, 51 N.E.3d 119, 124 (Ind. 2016) (quoting *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993)). In this regard, the Indiana Supreme Court has explained as follows:

Appellate deference to the determinations of our trial court judges, especially in domestic relations matters, is warranted

because of their unique, direct interactions with the parties face-to-face, often over an extended period of time. Thus enabled to assess credibility and character through both factual testimony and intuitive discernment, our trial judges are 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).

- [38] INDIANA CODE Chapter 31-17-2.2 governs the proposed relocation of a parent subject to parenting time or custody orders or proceedings. These statutory provisions were substantially amended in 2019, before the evidentiary hearing began in this case. *See* P.L. 186-2019, §§ 10 through 15 (effective July 1, 2019). We will refer to the applicable amended statutes, *see Lynn v. Freeman*, 157 N.E.3d 17, 22 (Ind. Ct. App. 2020), which the trial court also applied.
- [39] Under certain circumstances, such as those in the present case, a parent intending to move residences must file a notice of that intention. *See* IND. CODE § 31-17-2.2-1. The relocating parent has the burden to establish that the proposed relocation is made in good faith and for a legitimate reason. *See* IND. CODE § 31-17-2.2-5(e). If that burden is met, the burden then shifts to the nonrelocating parent to show that the proposed relocation is not in the best interests of the child. *See* IND. CODE § 31-17-2.2-5(f).
- [40] In considering the proposed relocation, the trial court must take into account the following factors:

- (1) The distance involved in the proposed change of residence.
- (2) The hardship and expense involved for the nonrelocating individual to exercise parenting time[.]
- (3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time . . . arrangements, including consideration of the financial circumstances of the parties.
- (4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.
- (5) The reasons provided by the:
 - (A) relocating individual for seeking relocation; and
 - (B) nonrelocating parent for opposing the relocation of the child.
- (6) Other factors affecting the best interest of the child.

I.C. § 31-17-2.2-1(c). The reference to other factors includes those factors applicable in an initial custody determination as set out in INDIANA CODE § 31-17-2-8. *Lynn*, 157 N.E.3d at 26. Those factors include the child's age and sex, the child's relationship with parents, siblings, and others, and the child's adjustment to home, school, and the community. *Id.*

[41] Here, Mother first argues that the trial court erred in determining that her proposed relocation with B.M. was not made in good faith. However, our review of the trial court's order reveals that this is not an accurate assessment of the trial court's reasoning. The record reveals that the trial court merely

expressed concern that Mother had not pursued the Texas employment offer and had instead pursued a long-distance relationship. Despite that concern, the trial court concluded that Mother’s “request on its face [was] for a legitimate reason” because Mother desired to be with her husband. (App. Vol. 2 at 117). We agree with the trial court that Mother proposed an objectively legitimate reason for relocating and further note that “[e]xcept where the stated reasons for relocation are solely pretextual (or illegitimate on their face), a rather low bar in application, we prefer for the resolution of relocation disputes to turn on a judicial determination of the best interests of the child.” *Lynn*, 157 N.E.3d at 25.

[42] In this regard, Mother also contends that the trial court erred in concluding that her requested relocation to New Mexico was not in B.M.’s best interests. However, our review of the trial court’s order reveals that the trial court carefully applied the facts of this case to the relevant statutory and best interest factors, *see* I.C. §§ 31-17-2.2-1(c) and 31-17-2-8, and did not clearly err when it concluded that a relocation to New Mexico was not in B.M.’s best interest.

[43] Specifically, our review of the evidence reveals that distance is a major factor in this case. Clovis, New Mexico is located 1000 miles from Dubois, Indiana, resulting in a sixteen-hour drive. With Father’s work schedule, the distance would create a substantial hardship on Father exercising parenting time with B.M. Air travel would create a similar hardship because of both the time and the cost involved. The evidence further reveals that it would be difficult for Father to maintain the quality of his relationship with B.M. if B.M. relocated to

New Mexico with Mother. In light of the distance between Clovis and Dubois, most of Father's communication with B.M. would be through Facetime or a similar computer application. As Father pointed out, it is difficult to maintain a bond with a four-year-old child when a computer is the primary method of communication. In addition, Mother was very clear that she would only allow Father to have a maximum of eight days for each visit with B.M. Accordingly, Father is correct that, with two days of travel each way, B.M. would only have four days in Dubois to visit with Father and relatives.

[44] We further note that Mother's established pattern of thwarting Father's contact with B.M. began when she failed to tell Father that B.M. had been born. When Father subsequently learned of his child's birth and contacted Mother to ask about the child's health and the child's name, Mother refused to give Father any information. Father has vigorously pursued his parenting time and has gone back to the trial court when necessary, such as when Mother refused to allow Father to take B.M. on a family vacation in 2019.

[45] Our review of the evidence further reveals that B.M. has bonded relationships with Father, Tina, paternal grandparents, step-grandparents, and stepbrothers, all of whom live in Indiana. B.M. would have no extended family in New Mexico. In addition, B.M.'s speech therapist, who B.M. sees twice a week, is in Indiana.

[46] This evidence supports the trial court’s conclusion that relocation was not in B.M.’s best interests. As a result, the trial court’s denial of Mother’s petition to relocate B.M. is not clearly erroneous, and we affirm the trial court’s judgment.³

[47] Affirmed.

Najam, J., and Tavitas, J., concur.

³ We further note that Mother’s reliance on *Paternity of X.A.S.*, 928 N.E.2d at 222 is misplaced. Therein, this Court reversed a trial court’s order that both denied the custodial father’s request to relocate his son to California and awarded custody of the child to his mother. We specifically concluded that the record “d[id] not contain sufficient evidence to support a change from the status quo” and that, as a result, the child should remain with his father. *Id.* at 223. Insofar as *X.A.S.* reversed a modification of custody, its reasoning is inapplicable to the present case where the trial court ordered the parties to maintain the status quo of Mother residing in Dubois, Indiana and continuing to have primary physical custody of B.M. See *T.L. v. J.L.*, 950 N.E.2d 779, 791 (Ind. Ct. App. 2011). In addition, the parents in *X.A.S.* had a cordial relationship for nine years following the award of custody to the father, and there was no evidence of a pattern to thwart the mother’s relationship with the child. We therefore found every indication that with suitable parenting time, the son could preserve his relationship with the mother despite the distance involved in the relocation. *X.A.S.*, 928 N.E.2d at 223, 226-27. In addition, in *X.A.S.*, the twelve-year-old son expressed a desire to move to California with his father. Here, however, due to Mother’s and Father’s strained relationship and Mother’s efforts to thwart Father’s relationship with B.M., the facts are not so favorable as to Father’s ability to continue the present quality of his relationship with B.M. if Mother relocated more than 1,000 miles away to New Mexico. In addition, B.M. who is only four years old, is too young to express a desire to either move to New Mexico with Mother or stay in Indiana with Father.