

NOTICE

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NO. 5-10-0447

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

<p><i>In re</i> PARENTAGE OF LANDEN MATTHEW AWALT</p> <p>(Troy Travnicek,</p> <p style="padding-left: 40px;">Petitioner-Appellant,</p> <p>v.</p> <p>Stephanie Awalt, now known as Stephanie James,</p> <p style="padding-left: 40px;">Respondent-Appellee).</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Appeal from the Circuit Court of Madison County.</p> <p>No. 06-F-519</p> <p>Honorable Ellar Duff, Judge, presiding.</p>
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JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Chapman and Justice Donovan concurred in the judgment.

RULE 23 ORDER

Held: The trial court's custody and child support determinations, rulings on the inclusion and exclusion of evidence, and denial of the petitioner's petition to require the respondent to accompany the minor child on flights during physical custody exchanges were not an abuse of discretion and were not against the manifest weight of the evidence.

The petitioner, Troy Travnicek, appeals the judgment entered by the circuit court of Madison County granting primary and physical custody of his minor child, Landen, to the respondent, Stephanie Awalt, now known as Stephanie James. On appeal Troy raises the following issues: (1) whether the trial court's custody determination was clear, was against the manifest weight of the evidence, and was an abuse of discretion, (2) whether the trial court's custody determination constituted an abuse of discretion in applying the best-interest standard where the trial court failed to give appropriate weight to the question of whether there is physical violence or a threat of physical violence by the child's potential custodian,

(3) whether the trial court's judgment awarding primary and physical custody of Landen to Stephanie constituted an abuse of discretion in determining the best interest of the minor child where the trial court failed to give appropriate weight to the question of the willingness of each party to cooperate and encourage a close relationship with the other parent, (4) whether the trial court abused its discretion in its ruling on the inclusion and exclusion of certain evidence sought to be admitted during Troy's case in chief, (5) whether the trial court abused its discretion in its determination of the amount of child support to be paid by Troy, and (6) whether the trial court abused its discretion by denying Troy's petition to require Stephanie to accompany the minor child on flights during physical custody exchanges. For the following reasons, we affirm.

The parties began dating in 2005. At the time the parties met, Troy resided in Louisiana. The parties married July 1, 2005, and their marriage was annulled on October 5, 2005. Sometime after the annulment in October 2005, Stephanie informed Troy that she was pregnant with their child. Landen was born July 7, 2006. In Madison County, Troy filed a petition to establish parentage and a petition for custody on July 14, 2006. The trial court entered an order for DNA tests on August 29, 2006. The tests revealed that Troy was the biological father of Landen. On September 19, 2006, Stephanie filed a counterpetition for custody, child support, and other relief. A mediation order was entered November 9, 2006, and the mediator's report was filed November 22, 2006, stating that there was no reasonable likelihood that a mediated agreement on the disputed issues could be achieved.

An order establishing paternity was entered January 7, 2007, reserving the issues of custody and visitation. Subsequently, Stephanie filed a counterpetition for temporary relief on July 24, 2007, requesting child support and a contribution toward her attorney fees. The court entered a temporary order on August 9, 2007, ordering that the parties alternate periods of physical custody, with Stephanie having Landen in her care for approximately three weeks

and Troy having Landen in his care for approximately two weeks on a rotating schedule. The court ordered that Landen would fly back and forth to Troy's current residence in Texas. Accordingly, the court ordered that the exchanges of physical custody would take place at Lambert International Airport in St. Louis, Missouri. Troy was ordered to pay Stephanie temporary child support in the amount of \$800 per month.

In 2007, Troy's employment relocated him to Singapore for 19 months. Due to Troy's employment relocation, Stephanie filed a motion to modify the temporary order entered on January 11, 2008, alleging that there had been a substantial change in circumstances in that Troy had been relocated to Singapore. Stephanie requested that the temporary order be modified to award her primary residential custody of Landen and that Troy's periods of custody be modified. Troy filed an answer to Stephanie's motion on May 14, 2008. Thereafter, on December 23, 2009, Troy filed a petition to require Stephanie to accompany Landen on flights during physical custody changes. Stephanie filed an answer to Troy's petition on January 25, 2010. Stephanie filed an emergency petition for an adjudication of indirect civil contempt and emergency motion for the return of the minor child and to suspend visitation on February 16, 2010, regarding the return of Landen at the end of a physical custody period with Troy. The trial court entered an order on February 17, 2010, ordering Troy to pay the cost of returning Landen to Stephanie, denying the request to suspend visitation, and reserving the issue of make-up time.

On July 6, 2010, Troy filed a motion to transfer venue to St. Clair County, Illinois. Troy alerted the court that the respondent had relocated to Smithton, Illinois, which is in St. Clair County, and he had become aware that Stephanie had obtained an emergency order of protection on behalf of Landen against her current husband, Thomas L. James, in St. Clair County, Illinois. The findings for the emergency order of protection entered on July 6, 2010, revealed that Thomas L. James had been accused of the sexual abuse of two children who

lived with Landen. On the same date, Troy also filed a petition for leave to remove Landen from the State of Illinois to the State of Texas pursuant to section 609 of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/609 (West 2008)). Troy informed the court that he lived in Katy, Texas, and had never lived in Illinois. He is an engineer for ENSCO International Oil, specializing in offshore drilling, and he must live near the coast to perform his profession. He alleged that during the parties' relationship it had always been their intention to reside in Louisiana or Texas. Troy argued that removing Landen from Illinois to Texas would not interfere with his educational experience, because of his young age. Troy further argued that removing Landen to Katy, Texas, would provide the minor child with a better quality of life consisting of more educational and cultural opportunities than those offered in Smithton, Illinois. Troy stated that he would facilitate a reasonable visitation schedule with Stephanie in order to preserve and foster her parental relationship with Landen. Troy also stated that he would share the costs of transportation and chaperoning of Landen during travel to Illinois. On July 7, 2010, Stephanie filed a response to Troy's motion to transfer. The trial court denied Troy's motion to transfer venue.

The pending matters were heard on July 12 and 15, 2010. The following facts were revealed during the hearings. More facts will be added as necessary to resolve the issues on appeal. When the parties began dating, Stephanie had a son, Luke Awalt, age 5, from a previous relationship. She had resided in Madison County, Illinois, and had worked at Great Clips. Troy had lived in Louisiana and was employed as a project engineer by ENSCO International Oil. Troy believed that Stephanie would move to Louisiana. However, Luke's father refused to consent to Luke's removal to Louisiana. Accordingly, Stephanie did not move to Louisiana. The parties' marriage was annulled on October 5, 2005. The parties reunited at a friend's wedding and Landen was conceived. Landen was born July 7, 2006.

Stephanie had lived with Luke and Landen until she married Thomas James on April

7, 2007. They resided in Granite City, Illinois, until 2008, when they moved to Smithton, Illinois. Stephanie and Thomas had a daughter, Abby James, born October 5, 2007. Thomas James has custody of his daughter, Autumn, now age 13, who also resides with them. Stephanie is a stay-at-home mother and is currently unemployed. While Landen is at home with Stephanie, he spends the day with his sister Abby. Landen has developed a strong bond with his siblings and is totally integrated into the James household. Stephanie's parents live in close proximity and see him one to two times per month. Landen has formed a strong bond with his brother Luke, and he is actively involved with the activities and community in Smithton, Illinois.

While Troy was working in Singapore, from the time Landen was 16 months to the time he was 3 years of age, Troy visited Landen four times. Troy currently resides in Katy, Texas, with his fiancée, Suzanne Lee Yeager. They are both employed full-time. Troy leaves around 6 a.m. for work and returns home around 4:30 or 5:30 p.m. On occasion, Troy is required to spend extended periods of time on an oil rig in the Gulf of Mexico. Suzanne is available to take care of Landen during Troy's absence. When visiting Troy in Katy, Texas, Landen has no friends his age outside of daycare. Troy occasionally takes Landen to a neighboring park and to his adult friends' homes. Troy and Suzanne do not have extended family members residing in close proximity to their home in Katy, Texas. Landen has little or no contact with his extended family members while he is visiting Troy in Texas.

Landen interacts with both parties' extended families who reside in Illinois. Troy's brother, Chad, and his family reside in Granite City, Illinois, which is in close proximity to Landen's home in Smithton. Landen is able to visit Troy's extended family when he visits Chad and his family in Granite City, Illinois. Landen has developed a strong and healthy relationship with his paternal and maternal extended family members. Janice Travnicek, Landen's grandmother, testified that Landen is a healthy, well-behaved, loving child, with

no known behavioral problems.

Dr. Rachel Tompkins was appointed by the court to perform a custody evaluation. Her report was filed on November 15, 2009. Dr. Tompkins performed a thorough examination of the parties, observing their interactions with each other and their interaction with Landen. She concluded that both parties were capable of parenting Landen, and she recommended joint custody, favoring Stephanie as the primary physical custodian. Dr. Tompkins saw no convincing reason to disrupt Landen's previous placement with Stephanie. She suggested, "[A]t a more advanced age greater spans of time with his father, including primary physical custody, could be considered."

Troy hired Sarah Jane Murphey, a former Department of Children and Family Services (DCFS) worker, to perform a home study. She spent approximately 5 hours in Texas observing Landen and Troy interacting and approximately 1½ hours observing Landen at his daycare in Texas. She also observed Landen with Stephanie and the three other children in Stephanie's home for approximately one hour. She also spent one hour with Stephanie inquiring about incidents of domestic violence in the home and had two phone conversations with Thomas James.

Lori Mott, a neighbor of Stephanie, testified that she has lived in the same neighborhood as Stephanie and had observed the interactions of Stephanie and Thomas with each other and with their children. She described Landen as an adorable little boy who is well-behaved and follows the lead of his big brother. She also testified that Stephanie is an excellent mother and that all the children are well-behaved. Based on her observations, she believed that the family is "successfully blended." In fact, she did not know that the family was a "blended" family until she had known them for a while.

The trial court entered its judgment on September 16, 2010. After applying the factors set forth in section 602(a) of the Act (750 ILCS 5/602(a) (West 2008)) and having the

opportunity to observe the parties and evaluate the credibility of the testimony, the trial court held that it was in the best interests of Landen that Stephanie be awarded primary legal and physical custody subject to reasonable periods of physical custody with Troy. The trial court noted the parties' inability to communicate and resolve their past issues. The court noted that in spite of the continued unproductive behavior of the parties, Landen appears to be a bright, well-adjusted, and emotionally and physically healthy child. The court noted that despite Stephanie's comments to the contrary, she has not made efforts to interfere with Troy's relationship with Landen. The trial court noted that Landen has bonded with Troy and looks forward to and enjoys his time with his father. There is no evidence that Landen has formed a stronger bond with one parent over the other. Landen has adjusted to the visitation schedule, and there is no evidence that there is any distress or separation issues transitioning from one parent to the other. However, the trial court noted that Landen is approaching school age and that the current visitation schedule is not appropriate and in his best interest. According to the trial court, neither parent is in a position to relocate to a location that will accommodate the current visitation schedule.

The trial court set forth a visitation schedule and noted that, due to the disparity in income, Troy was ordered to pay all the costs incurred for the transportation of Landen. The court then discussed child support and noted that the evidence presented supports a deviation from the statutory guidelines enumerated in section 505 of the Act (750 ILCS 5/505 (West 2008)), due to the amount of time that Troy will have Landen in his physical custody and the costs associated with transporting Landen. The court found that, based on the documentation provided, Troy's net income for purposes of child support was \$136,686.42. The statutory amount of support pursuant to section 505(a)(3) of the Act (750 ILCS 5/505(a)(3) (West 2008)) was \$2,278.10. However, due to the transportation costs, the court ordered Troy to pay Stephanie child support in the amount of \$1,600 per month. The trial court also denied

Troy's petition to require Stephanie to accompany Landen on flights during physical custody exchanges, noting that it was not practical due to Stephanie's other family obligations and the availability of other options. Troy filed a timely notice of appeal on September 17, 2010.

First on appeal, Troy argues that the trial court's findings that it was in Landen's best interests that Stephanie be awarded primary and legal custody was contrary to the manifest weight of the evidence and was an abuse of discretion. Troy's argument is twofold. First, Troy argues that the trial court's order is contradictory and fails to clearly set out whether it is awarding the parties joint custody of the minor child or whether the trial court is awarding sole custody to Stephanie subject to Troy's rights of visitation. Second, Troy argues that the evidence does not support the trial court's decision that it was in the best interests of Landen to award primary legal and physical custody to Stephanie.

A thorough statement of the standard for determining custody issues was stated by this court as follows:

"The primary consideration in determining custody is the best interest and welfare of the child. [Citation.] In determining the best interest of the child, the court must consider the particular facts and circumstances of each case. [Citation.] It is not necessary to find one parent unfit in order to justify an award to another. [Citation.] The trial court has broad discretion in awarding custody, and there is a strong and compelling presumption in its favor. [Citation.] This is because the trial court has the superior opportunity to observe the witnesses and evaluate the evidence. [Citation.] Consequently, a court of review will not overturn a trial court's determination of custody unless the judgment is against the manifest weight of the evidence or is manifestly unjust." *In re Marriage of Stuart*, 141 Ill. App. 3d 314, 317-18 (1986).

A child custody determination 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 Estate of K.E.S.*, 347 Ill. App. 3d 452, 461 (2004).

We first address Troy's argument that the order is contradictory and fails to clearly set out whether the trial court is awarding the parties joint custody of Landen or whether the trial court awarded custody to Stephanie subject to reasonable visitations with Troy. After a thorough review of the trial court's order, we disagree with Troy's argument. The trial court's written order consisted of a 13-page careful evaluation of the evidence and the factors set forth in section 602 of the Act (750 ILCS 5/602 (West 2008)). On page 10 of the order, after considering the factors set forth in section 602 of the Act, the court ordered that Stephanie be awarded primary legal and physical custody of the minor child, subject to reasonable periods of physical custody with Troy. The court also ordered, "The Respondent is hereby awarded the primary custody of Landen Matthew Awalt." The court then ordered Stephanie to apprise Troy whenever she needs to make any nonemergency vital decision (decisions other than day-to-day routine matters). Troy was likewise ordered to immediately notify Stephanie when the need for a vital decision arises while Landen is in Troy's care. The court set forth the actions to be taken during emergency situations and set forth the visitation schedules. We find that the judgment entered by the trial court is clear and that there is no confusion regarding the terms of the custody order. The court awarded primary physical custody to Stephanie with reasonable periods of visitation with Troy.

As to Troy's argument that the trial court erred in its custody determination, he bases his argument on claimed inconsistencies in the testimony. It has been long held that there is a strong and compelling presumption in favor of the trial court's determination of custody because the trial court is in a better position to evaluate the credibility, temperament, personalities, and capabilities of both parents through the several days of proceedings. *Cooper v. Cooper*, 146 Ill. App. 3d 943, 951 (1986).

The written order entered by the trial court provided a detailed explanation of the

weight the trial court assigned to various witnesses, facts, and evidence presented in reaching its determination on the issue of custody. The first seven pages of the order carefully reviewed the evidence presented to the court. The trial court noted Dr. Rachel Tompkins' custody evaluation, which supported the award of primary physical custody of the minor child to Stephanie because "there was no convincing reason to disrupt Landen's historical placement with his mother." The trial court also took into consideration that Landen had become totally integrated into the James household and that Landen had developed a close relationship to his maternal grandparents, who live in the immediate area. He also is able to visit his paternal extended family, who reside in close proximity to him. Because Stephanie is a stay-at-home mother, Landen and his younger sister Abby are with Stephanie during the day. The court also considered that Landen has formed a close bond with his brother Luke.

The trial court also considered Troy's living arrangements and noted that Troy and his fiancée were both employed full-time and that Troy was required to leave for work at 6 a.m. and return between 4:30 p.m. and 5:30 p.m. On occasion, Troy is required to spend extended periods of time on an oil rig in the Gulf of Mexico. Landen goes to daycare during his visits in Texas and has no friends outside of daycare. Troy and his fiancée have no familial relationships or extended family in close proximity to their residence in Katy, Texas.

The trial court further noted that despite the parties' uncooperative nature, Landen is a bright, well-adjusted, and emotionally and physically healthy child. He has developed strong healthy relationships with both parties and his extended maternal and paternal family members. Furthermore, Landen has adjusted to the visitation schedule. After we review this evidence, it is clear that the trial court carefully reviewed all the statutory factors in coming to its custody determination, and the judgment was not against the manifest weight of the evidence or an abuse of discretion.

Next on appeal, Troy argues that the trial court's judgment awarding primary physical

custody of Landen to Stephanie constituted an abuse of discretion where the trial court failed, in determining the best interest of the minor child, to give appropriate weight to the question of whether there is physical violence or the threat of physical violence by the child's potential custodian. Troy points to incidents of alleged physical and sexual abuse in the James household. Troy presented testimony that Stephanie had filed a petition for an order of protection against Thomas James in January 2010, which was later dismissed. Testimony was also presented that Thomas James' former wife, Rebecca, advised Stephanie that Thomas had engaged in inappropriate behavior toward Rebecca's sons and had informed Stephanie that she should be wary. Based on this information, Stephanie made a report to the Smithton police department in regard to suspected abuse of Luke by Thomas. Testimony was also presented that Thomas James had been charged with domestic battery against his former wife, Rebecca, which was later dismissed, and that Thomas had been charged with the unlawful violation of an order of protection regarding Stephanie, regarding which he pled guilty to an amended charge of battery and received court supervision.

Pursuant to sections 602(a)(6) and (a)(7) of the Act, in making a custody determination, the trial court shall consider the physical violence or the threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person, and the occurrence of ongoing or repeated abuse as defined in section 103 of the Illinois Domestic Violence Act of 1986 (750 ILCS 60/103 (West 2008)), whether directed against the child or against another person. 750 ILCS 5/602(a)(6), (a)(7) (West 2008). The trial court specifically addressed the testimony presented regarding the order of protection against Thomas James and its subsequent dismissal, Stephanie's report of suspected sexual abuse of Luke, Thomas James' charge of domestic battery against his former spouse and its subsequent dismissal, and Thomas James' supervision for battery. The trial court found that the testimony given regarding these incidents did not rise to the level

of abuse or domestic violence as defined in section 103 the Illinois Domestic Violence Act of 1986. The court noted that two of these incidents had occurred eight years prior to the birth of Landen and that there was no evidence presented of ongoing violence by Thomas James. In fact, subsequent to these incidents between Thomas James and his former spouse, he was awarded sole custody of his daughter Autumn. The court further found as follows:

"[T]he evidence presented does not support the inference that Thomas James is a violent individual prone to battery and uncontrolled outburst. The evidence viewed in its entirety does not support the inference that the James home is unstable or characterized by turmoil and domestic violence."

The court noted that DCFS had investigated the allegations surrounding the incident in which Stephanie sought an order of protection against Thomas James and that DCFS had concluded that there was nothing to indicate that abuse had occurred. The court's order further stated, "Based on the evidence before the Court, the Court finds that neither party has been charged or convicted of sex crimes as a sex offender or abuser of controlled substances." Again, we note that the trial court carefully reviewed the evidence and applied it to the relevant statutory factors to be taken into consideration. Therefore, we cannot conclude that the trial court abused its discretion in failing to give appropriate weight to the question of whether there is physical violence or a threat of physical violence by the child's potential custodian in determining the best interest of the minor child.

Troy also argues on appeal that the trial court's judgment awarding primary and physical custody of Landen to Stephanie constituted an abuse of discretion in determining the best interest of the minor child where the trial court failed to give appropriate weight to the question of the willingness of each party to cooperate and encourage a close relationship with the other parent. Specifically, Troy asserts that Landen referred to his stepfather, Thomas James, as "daddy" and that Stephanie did not discourage Landen from doing so.

Troy also argues that various statements made by Stephanie reveal her disregard for, animosity toward, and unwillingness to cooperate with Troy. According to Troy, the trial court abused its discretion in failing to place more weight on this factor.

Pursuant to section 602(a)(8) of the Act, in making a custody determination the trial court shall consider the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. 750 ILCS 5/602(a)(8) (West 2008). Once again, the trial court's written order specifically addressed this issue and, in fact, considered it to be a nonissue. The court noted in its written order that Stephanie lives with her husband Thomas, his teenage daughter Autumn, Stephanie's son Luke, and their daughter Abby. The trial court noted that Abby, Autumn, and Luke refer to Thomas as "daddy." Accordingly, Landen also calls Thomas "daddy." The trial court found nothing unusual about this. Furthermore, during the trial, the trial court could not keep silent about Troy's counsel's attempts to make light of this issue. The court stated as follows:

"Excuse me. I can't keep silent on this issue any longer. Landen is four years old. He lives in a household where everybody has called him in the household "daddy". It is understandable that he would address him as "daddy," and it doesn't mean anything, and it's confusing to little children when you keep taking them back and forth, back and forth. Based on all the testimony that I have heard, its [*sic*] very clear to Landen that you are his father. He identifies you as his father. So, if he called Tom "pickle head," do you think[-]"dad," "Tom," "John," "Jane," anything he calls Tom doesn't mean anything because that's what he's hearing. The important thing is whether or not he identifies you as his biological father and whether or not they are doing anything to keep him from identifying you in that way. And based on the testimony from you, your sister-in-law, your mother, and anybody else that has testified, he clearly identifies you as his father. So it shouldn't matter what he's calling

Tom as long as he identifies you as his father. So let's move on from that issue please."

Furthermore, the trial court noted that the parties are unable to resolve their past issues and that each time there is a disagreement regarding Landen, Troy files a motion with the court. Both parties have failed to exercise sound rational judgment in handling disputed matters and have failed to see the deficiency in their own behavior. Instead, each party focuses blame on the other party's behavior. The parties do not trust each other and are uncooperative on a consistent regular basis. Accordingly, the court stated that it could not reasonably conclude that either party is more likely than the other to support and nurture an ongoing positive relationship between the other parent and Landen. However, the court felt safe in concluding that neither of the parties would overtly discourage positive interactions between Landen and the other parent.

Despite Stephanie's negative comments about Troy, the court found that she had not made efforts to interfere with Troy's relationship with Landen. The court found that Landen has an equally strong bond with the parties. The trial court noted that it is imperative that both parties are able to put aside their acrimony and act in the best interests of Landen. Accordingly, we conclude that the trial court did not abuse its discretion by failing to give appropriate weight to the question of the willingness of each party to cooperate and encourage a close relationship with the other parent.

We turn now to Troy's fourth argument on appeal—that the trial court abused its discretion in its ruling on the inclusion and exclusion of certain evidence sought to be admitted by Troy. Troy argues the trial court denied an offer of proof relating to a paternity case regarding Stephanie's son Luke Awalt and denied certain testimony presented by Sarah Jane Murphey. Troy also argues that the court refused to hear testimony on the issue of removal prior to its determination of custody and that Troy's counsel was not allowed enough

time to present her case.

On the first day of the trial, Troy's counsel proceeded into a line of questioning concerning the paternity proceedings concerning Stephanie's son Luke Awalt. Stephanie's counsel objected on relevance grounds, and the trial court sustained the objection. Troy's counsel proceeded with additional questions concerning Luke Awalt and his father, and the trial court clarified its ruling that the objection was sustained. Troy's counsel persisted, and the trial court again sustained the objection but allowed Troy's counsel to proceed with an offer of proof. At the close of the offer of proof, the court restated its ruling sustaining the objection. Troy's counsel requested to reopen the offer of proof, which the trial court denied.

Troy also argues that the trial court would not allow Sarah Jane Murphey to testify about what Stephanie had told her regarding a domestic dispute incident between Stephanie and Thomas James in which the police were called. The trial court stated as follows:

"Again, Counsel, this is corroborative. Why are we going over it again? The fact that this witness would say what the police have already said and what the witnesses have already said doesn't make it any more believable or not believable."

Counsel persisted on the same issue, and the trial court advised again that it was corroborative. The trial court proceeded to explain in detail to counsel why the testimony was corroborative and a waste of the court's time based upon the issues pending before the court. Counsel nonetheless sought to make an offer of proof, which the trial court denied.

Troy also argues that the trial court abused its discretion in denying testimony regarding a petition to remove Luke Awalt filed by Stephanie five years prior to the trial. The court noted that it was not relevant to the court's proceedings and that Troy's counsel could make an offer of proof. At the conclusion of the offer of proof, the trial court noted, "As I told you in pre-trial conferences, the trial court cannot consider anything with relation to removal until the custody issue is determined[,] so none of that testimony is relevant."

Troy also argues that the trial court limited testimony from Richard Fulton, a child protection investigator with DCFS. The trial court expressed concern that his testimony regarding specific details in his file or investigation would constitute a violation of the rules and statutes governing DCFS. Subject to those restrictions, Fulton was allowed to testify and answer all the questions posed by Troy's counsel. Troy also argues that he was limited in time to present his case. However, counsel was allowed to present all the witnesses and evidence, and despite repetitive admonishments from the trial court, counsel repeated the same issues.

In short, the trial court did not make any errors ruling on the admission or exclusion of evidence. The court simply and properly allowed for the presentation of evidence it deemed relevant. There was no prejudice to Troy, and he had ample time to present his case. We note that after a thorough review of the record, the trial court expressed its desire multiple times throughout the trial for the parties to focus on evidence and matters relevant to the court's determination of the issues and not "beat a dead horse" with regard to irrelevant matters. Accordingly, we find that the trial court did not abuse its discretion.

Troy next argues on appeal that the trial court erred in its determination of the amount of child support to be paid by Troy. Section 505(a)(1) of the Illinois Marriage and Dissolution of Marriage Act provides that an individual ordered to pay child support for one minor shall pay 20% of his net income. 750 ILCS 5/505(a)(1) (West 2008). Net income is defined as the total of all income from all sources, minus enumerated exceptions, including income tax, mandatory retirement contributions, and health insurance premiums. 750 ILCS 5/505(a)(3) (West 2008). The trial court's award of child support will not be reversed absent an abuse of discretion. *In re Marriage of Charles*, 284 Ill. App. 3d 339 (1996).

Troy contends that his net income was \$58,403.54. However, Troy's affidavit of assets and liabilities reveals that his gross income is \$104,000 per year, exclusive of stock

options and bonuses. Furthermore, Troy's paycheck stub for the pay period ending May 31, 2010, reflects a gross salary year-to-date amount of \$41,955.36. That figure extrapolated over 12 months totaled more than \$100,000 per year. During cross-examination, Troy testified that he had received cash incentives of \$18,060 year-to-date and a stock grant of \$23,455 year-to-date. Accordingly, the trial court calculated the child support based on all the income and determined that Troy's net income for purposes of determining child support was \$136,686.42. The court found that the statutorily prescribed 20% of that amount would be \$2,278.10 per month. However, the trial court reduced that amount to \$1,600 per month, or 14% of his net income, in light of his travel expenses for visitations with Landen. Accordingly, we conclude that the trial court did not abuse its discretion in ordering Troy to pay Stephanie child support in the amount of \$1,600 per month.

Finally, Troy argues that the trial court committed error and abused its discretion in denying Troy's petition to require Stephanie to accompany the minor child on flights during physical custody exchanges. The court ordered that Troy be responsible for providing supervised transportation for Landen during periods of visitation in Texas. The trial court denied the petition "on the basis that it is not practical due to petitioner's [*sic*] other family obligations and the availability of appropriate alternative options."¹

In response, Stephanie notes that this pattern has been established by the agreement of the parties throughout the long pendency of this matter over three years. Furthermore, the request to require Stephanie to accompany Landen to and from Houston is not practical due to her family obligations: her husband is employed full-time and there are three other young children residing in their home. In contrast, Troy is a single parent of one child and has

¹Troy correctly notes that the trial court mistakenly referred to the "petitioner" instead of the "respondent" in its order denying his petition to require Stephanie to accompany Landen on flights during physical custody exchanges.

already demonstrated that he is able to arrange flights to and from Houston. The court did take notice of this in reducing Troy's child support amount. Accordingly, we cannot conclude that the trial court abused its discretion in denying Troy's petition.

The judgment entered by the circuit court of Madison County is hereby affirmed.

Affirmed.