

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

|                                  |   |                                         |
|----------------------------------|---|-----------------------------------------|
| John Weilbacher,                 | : |                                         |
| Plaintiff-Appellee,              | : |                                         |
| v.                               | : | No. 25AP-1007<br>(C.P.C. No. 17DR-2665) |
| Tiffany Weilbacher (Funderburg), | : | (REGULAR CALENDAR)                      |
| Defendant-Appellant.             | : |                                         |

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D E C I S I O N

Rendered on September 17, 2026

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**On brief:** *Tiffany Weilbacher (Funderburg)*, pro se.  
**Argued:** *Tiffany Weilbacher*.

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APPEAL from the Franklin County Court of Common Pleas,  
Division of Domestic Relations

BOGGS, P.J.

{¶ 1} Defendant-appellant, Tiffany Funderburg (f.k.a. Weilbacher), appeals the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, which modified the agreed shared parenting plan concerning Funderburg and plaintiff-appellee, John Weilbacher, and their two minor children. For the following reasons, we reverse the trial court’s decision.

**I. PROCEDURAL HISTORY AND FACTS**

{¶ 2} Funderburg and Weilbacher were married on July 14, 2012 and had two children born during the course of their marriage, J.W. (d.o.b. 9/20/2014) and N.W. (d.o.b. 11/28/2015). On July 17, 2017, Weilbacher filed for divorce, which was finalized by an agreed judgment entry from the Franklin County Court of Common Pleas, Division of Domestic Relations, on January 29, 2019.

{¶ 3} As part of their divorce, Weilbacher and Funderburg signed an agreed shared parenting plan, dated January 29, 2019, for their two children. The agreed shared

parenting plan established that both parents would be the residential parents and legal custodians of the children and that Funderburg, who had moved to Alabama, would be the residential parent for school placement purposes. The agreed shared parenting plan also set out that, during the school year, Weilbacher would have, at a minimum, one three-day weekend with the children each month in Alabama. The agreed shared parenting plan stated that, during the summer, Weilbacher would have parenting time, in a location of his choice, the first week of June, July, and August. The plan also stated that the parties would alternate school breaks and holidays. On visits when Weilbacher was not visiting the children in Alabama, Weilbacher and Funderburg agreed to meet in Bowling Green, Kentucky to exchange the children.

{¶ 4} On April 11, 2025, Weilbacher filed several pro se motions and documents, including a motion for contempt and a motion to modify the agreed shared parenting plan, with the Franklin County Court of Common Pleas, Division of Domestic Relations. In those filings, Weilbacher alleged that Funderburg was violating the agreed shared parenting plan and that her actions were destroying the children's relationship with him. Weilbacher stated that Funderburg was promoting another man as the children's only father and that this would lead to long-term mental and emotional damage to his children and constituted abuse. Weilbacher also argued that he had been cut out of medical, educational, and religious decisions regarding the children. Further, he stated that Funderburg had denied Weilbacher's requests for the children to visit Ohio on various holidays, instead suggesting that Weilbacher visit Alabama.

{¶ 5} The trial court scheduled a hearing for June 11, 2025. On April 14, 2025, notice of the hearing was sent to Funderburg via certified mail. On April 29, 2025, the Franklin County Clerk of Courts received certified mail delivery information for Funderburg from the U.S. Postal Service.

{¶ 6} On June 11, 2025, the trial court held a hearing, which Weilbacher attended. Funderburg, however, did not. At the hearing, Weilbacher testified that, in January 2024, he became disabled due to a heart condition and was not able to travel to Alabama as he once was. He requested a more equitable halfway point to meet for the children's visits to Ohio, additional time with the children in the summer, and he expressed concerns about the children's education, as Funderburg was homeschooling them in Alabama. The trial

court inquired whether Weillbacher wanted the children to live with him, to which he replied, “Absolutely. I -- I honestly -- I’m afraid for them.” (June 11, 2025 Tr. at 10-11.) The magistrate also asked Weillbacher whether, with his health concerns, he would be physically able to take care of the children, to which Weillbacher stated, “I think I could.” *Id.* at 12. The same day, the trial court issued a *capias* for Funderburg’s failure to attend the hearing.

{¶ 7} In her brief to this court, Funderburg states that she received notice of the *capias* on June 17, 2025 and immediately contacted the court. That same day, the trial court withdrew the *capias*. On June 24, 2025, the trial court received a motion for a continuance from Funderburg wherein she requested to continue the hearing set for June 11, 2025, stating there was a “mix up on court date.” (Mot. at 1.)

{¶ 8} On July 10, 2025, the trial court issued and adopted a magistrate’s decision on Weillbacher’s motion to modify parental rights based on the orders contained within the court file, Weillbacher’s testimony from the June 11, 2025 hearing, and his motions to the court. The trial court granted Weillbacher’s motion to modify parental rights and designated him the sole residential parent and legal custodian of the children.

{¶ 9} On July 18, 2025, Funderburg filed objections to the magistrate’s decision. Funderburg argued that the children have no desire to live with Weillbacher and have been living in Alabama since the parties’ divorce in January 2019. Funderburg also argued that she was not properly served notice of the hearing, that the signature on the service notice was not hers, and that she only received the documents by regular mail. On August 28, 2025, Funderburg filed additional objections to the magistrate’s decision after she received the transcript of the June 11, 2025 hearing. Funderburg again argued that service was improper, that Weillbacher did not specifically plead for custody, that the magistrate’s decision was not in the children’s best interests, and that it was “inequitable” to force the children to move multiple states away “due to one missed hearing that was caused by an honest mistake.” (Aug. 28, 2025 Supp. Objs. to the Mag.’s Decision at 4.)

{¶ 10} On October 9, 2025, the trial court held a hearing on Funderburg’s objections to the magistrate’s decision. Weillbacher testified that while he did not initially intend to ask the court for custody, as the process went along he did. (Tr. at 7.) Weillbacher also testified that he had spent 18 days over the previous year with the children, and that was representative of the time he would annually spend with them. Weillbacher also stated that

his phone calls with the children have been “atrocious” ever since he filed to modify the shared parenting plan. (Tr. at 9.)

{¶ 11} Funderburg also testified at the October 9, 2025 hearing and was represented by counsel. Funderburg testified that she and the children have been living in Alabama since the parties’ divorce and that she homeschools the children and is self-employed and works from home. Funderburg stated that she believes the children would be traumatized immediately if Weilbacher were granted custody. She also testified that the children are bonded and have great relationships with her current husband and their half-sibling. Funderburg also stated that she misread the hearing notice that was sent to her but that she had intended to attend the hearing, offering evidence of a hotel reservation she made for the misread date. She also testified that she called the court when she realized she had missed the hearing, and she believed the court had issued a new date for the hearing and was surprised and hysterical when she received the magistrate’s decision. (Tr. at 20.) Funderburg stated that they would schedule Weilbacher’s visits at his request and that he was able to have a visit every month either in Columbus or in Alabama but that “he only accepted some of those visits, three visits per year each year for the past six-and-a-half years. That was [Weilbacher’s] choice, not mine.” (Oct. 9, 2025 Tr. at 28.) She also stated that she did not sign for the notice of the hearing and that she thought the hearing was to put in place a different visitation plan. Funderburg stated that the shared parenting plan “has worked but [Weilbacher] doesn’t exercise the visitation that he has been granted, and he’s wanting dates and extended visits that are not part of the shared parenting plan, and that is what’s causing his animosity.” *Id.* at 36.

{¶ 12} Funderburg, through counsel, requested the trial court to remand this matter to the magistrate for a full hearing on these issues. Funderburg’s counsel stated:

We’re acknowledging that maybe situations have changed. It’s a 2019 order. It’s a fairly old order and, you know, as father brought up, he is now not working. So maybe that -- those changes need to be made, but that is our concern is that just because mom did not show up at the hearing because she misread this, that this should be stricken, and that we should have an actual hearing where we can go through this evidence, see what would actually be in the best interest of the children.

*Id.* at 51.

{¶ 13} The trial court urged the parties to come to an agreement for temporary orders and that if the parties can't, "I'll do it for you. Then I'll write my decision, and I'll tell you what it is." *Id.* at 55. The parties then agreed to an interim order, which was adopted by the trial court, for Weilbacher to have parenting time from October 18, 2025 to November 2, 2025, and again from December 20, 2025 to January 4, 2026. The court stated, "This order will exist until further court order. . . . If you do work out something that satisfies all of your -- your entire case, . . . then I won't have to write that decision and you'll let me know. But if not, then I will decide the issues that were brought up here today." *Id.* at 60.

{¶ 14} On December 5, 2025, the trial court rejected Funderburg's objections and again adopted the magistrate's decision. The trial court found that Funderburg was properly served with the notice for the hearing. The trial court rejected Funderburg's argument that Weilbacher did not specifically plead for custody of the children in his motion to modify the agreed shared parenting plan. The trial court found that Weilbacher said he "absolutely" wanted the children to live with him and that Funderburg was put on notice "that a modification of the parties' Agreed Shared Parenting Plan could occur as a result of a hearing before the Magistrate." (Dec. 5, 2025 Decision at 5.) Finally, the trial court examined the best interests of the children and found it was in their best interests for Weilbacher to have legal custody, thereby overruling Funderburg's final objection.

{¶ 15} On December 30, 2025, Funderburg filed this appeal.

## II. ASSIGNMENTS OF ERROR

{¶ 16} Funderburg argues the following assignments of error:

1. The trial court abused its discretion by failing to properly weigh and consider all best interest factors.
2. The trial court erred as a matter of law by failing to contact the Appellant to determine why she was not present for the magistrate's hearing on June 11, 2025.
3. The trial court erred in awarding sole custody of the minor children to the Appellee, although the findings were not supported by any evidence.

4. The trial court erred as a matter of law in granting a motion to modify parental rights (change of custody) when only a Motion to Modify Shared Parenting Plan was filed.
5. The trial court erred as a matter of law in misapplying the standard for modification of an existing custody arrangement.
6. The trial court's findings of Appellant's parenting capabilities are clearly erroneous and contrary to the weight of evidence presented at trial.

### III. DISCUSSION

#### A. Notice: Assignments of Error Nos. 2, 4, and 5

{¶ 17} We first turn to Funderburg's assignments of error which argue the trial court erred in failing to provide her sufficient notice. In her second assignment of error, Funderburg argues that the trial court erred when it did not contact her after she missed the June 11, 2025 hearing to determine the reason for her absence. In her fourth and fifth assignments of error, Funderburg argues that the trial court erred in its judgment because Weilbacher's motion only asked the trial court to modify the parties' parenting time and that she was not sufficiently notified that the hearing could result in a change in custody.

{¶ 18} While nothing prevented the trial court from contacting Funderburg to determine why she failed to appear at the June 11, 2025 hearing, Funderburg does not cite, and we cannot find, any legal authority that imposes such a duty on the trial court. Due process of law involves the essential rights of notice, hearing, and the opportunity to be heard before a competent tribunal. *State v. Edwards*, 157 Ohio St. 175 (1952). Nothing in the record indicates that the trial court did not notify Funderburg of the hearing or failed to provide her with an opportunity to be heard. Certainly, had the trial court taken pause to determine why Funderburg was not at the hearing or to consider her motions and filings after the hearing but before the magistrate issued her decision, a great deal of time, uncertainty, and stress for the parties and their children could have been avoided. However, common sense and the desire for judicial economy does not impose a duty on a court to contact a party who failed to appear for a hearing, as Funderburg argues here.

{¶ 19} While we see merit in Funderburg's argument that the trial court took a drastic step by awarding sole custody to Weilbacher after the June 11, 2025 hearing, we do not find reversible error here in terms of lack of notice. R.C. 3109.04(E)(2)(b) provides that

a court may modify a shared parenting plan on its own motion or by request of one or both parents “if the court determines that the modifications are in the best interest of the children.” *See also Bruns v. Green*, 2020-Ohio-4787, ¶ 11 (“[R.C. 3109.04](E)(2)(b) authorizes the trial court—on its own initiative or at the request of one or both parents—to modify the terms of a shared-parenting plan when modification is found to be in the best interest of the child.” *See also Clyburn v. Gregg*, 2011-Ohio-5239, ¶ 22 (4th Dist.).)

{¶ 20} Certainly, the trial court could have taken a more measured step and merely adjusted the parenting time awarded to Weilbacher as he requested in his motion and before the magistrate at the hearing. However, the trial court was authorized under R.C. 3109.04(E)(2)(c), and Funderburg was on notice, that it could terminate the shared parenting plan should it find that shared parenting was not in the best interest of the children. We therefore overrule appellant’s second, fourth, and fifth assignments of error.

#### **B. Weight of the evidence: Assignments of Error Nos. 1, 3, and 6**

{¶ 21} In Funderburg’s remaining assignments of error, she argues that the trial court’s decision was not supported by the weight of the evidence. She namely argues that the trial court failed to properly weigh the best interests of the children and that awarding sole custody to Weilbacher was not supported by the evidence. At oral argument before this court, Funderburg requested that the 2019 agreed shared parenting plan be reinstated.

{¶ 22} A juvenile court’s resolution of legal custody must be based on the best interest of the children. *In re D.K.*, 2023-Ohio-4148, ¶ 41 (1st Dist.), citing *In re Allah*, 2005-Ohio-1182, ¶ 10 (1st Dist.). “R.C. 3109.04 governs the allocation of parental rights and responsibilities and sets forth the procedures and standards courts are to use in proceedings pertaining to such matters.” *Gupta v. Sharan*, 2022-Ohio-4479, ¶ 68 (10th Dist.), citing *In re A.G.*, 2014-Ohio-2597, ¶ 41. R.C. 3109.04(B)(1) requires the trial court to consider the best interest of the children when allocating parental rights and responsibilities. *Id.* The trial court must consider all relevant factors related to the child’s best interest, including but not limited to, those specified in R.C. 3109.04(F)(1)(a) through (j). *Gupta* at ¶ 68, citing *Rankin v. Rankin*, 2021-Ohio-1967, ¶ 28 (10th Dist.).

{¶ 23} When a trial court is considering the best interest of a child, R.C. 3109.04(F)(1) requires it to consider:

- (a) The wishes of the child’s parents regarding the child’s care;

(b) If the court has interviewed the child in chambers pursuant to division (B) of this section regarding the child's wishes and concerns as to the allocation of parental rights and responsibilities concerning the child, the wishes and concerns of the child, as expressed to the court;

(c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;

(d) The child's adjustment to the child's home, school, and community;

(e) The mental and physical health of all persons involved in the situation;

(f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights;

(g) Whether either parent has failed to make all child support payments, including all arrearages, that are required of that parent pursuant to a child support order under which that parent is an obligor;

(h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state.

{¶ 24} R.C. 3109.04(F)(2) also states that a trial court must consider, but is not limited to, the following factors:

(a) The ability of the parents to cooperate and make decisions jointly, with respect to the children;

(b) The ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent;

(c) Any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent;

(d) The geographic proximity of the parents to each other, as the proximity relates to the practical considerations of shared parenting;

(e) The recommendation of the guardian ad litem of the child, if the child has a guardian ad litem.

{¶ 25} We generally review a trial court's decision concerning child custody for an abuse of discretion. *C.T.F. v. A.B.M.*, 2025-Ohio-1036, ¶ 10-11 (10th Dist.), citing *Taylor v. Taylor*, 2018-Ohio-2530, ¶ 5 (10th Dist.), citing *Booth v. Booth*, 44 Ohio St.3d 142, 144 (1989); *Wireman v. Wireman*, 2023-Ohio-3007, ¶ 19 (3d Dist.), citing *Davis v. Flickinger*, 1997-Ohio-260 ("An appellate court reviews a domestic relations court's decision regarding parental rights for an abuse of discretion."). Modifications to a shared parenting plan are likewise reviewed under an abuse of discretion standard. *Ramsey v. Ramsey*, 2014-Ohio-1921, ¶ 43 (10th Dist.); *Bentley v. Harper*, 2019-Ohio-5420, ¶ 7 (4th Dist.). See also *H.R. v. L.R.*, 2009-Ohio-1665, ¶ 13 (10th Dist.) (stating that a trial court "has broad discretion in determining the appropriate allocation of parental rights and responsibilities"). An abuse of discretion occurs when the court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 26} Should an appellate court find that the trial court abused its discretion in a child custody determination, the court should generally reverse and remand the matter for further proceedings. *Miller v. Miller*, 37 Ohio St.3d 71 (1988). This court has recently noted, however, that under App.R. 12(C)(1), if a majority of an appellate panel finds that the trial court’s judgment is against the manifest weight of the evidence, the panel may weigh the evidence in the record and render the judgment. This court stated:

While *Miller* directs that an appellate court may not reverse and render the judgment that the trial court should have rendered when there is merely an abuse of discretion, it may do so, pursuant to App.R. 12(C), when the trial court’s judgment is against the manifest weight of the evidence.

*Mahbub v. Mahbub*, 2025-Ohio-5867, ¶ 14 (10th Dist.), *appeal not accepted for review*, 2026-Ohio-1471.

{¶ 27} When an appellate court is reviewing whether a judgment is against the manifest weight of the evidence, it “must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way.” *In re Z.C.*, 2023-Ohio-4703, ¶ 14, citing *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 20. When weighing the evidence, a reviewing court must be mindful of the presumption in favor of the finder of fact. *Id.*, citing *Eastley* at ¶ 21. “The underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the trial judge is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.” *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984). “Weight of the evidence concerns ‘the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. . . . Weight is not a question of mathematics, but depends on [the evidence’s] effect in inducing belief.’” (Further quotation marks deleted and citation omitted.) *T.H. v. N.H.*, 2021-Ohio-217, ¶ 48 (10th Dist.), quoting *Eastley* at ¶ 12. “The phrase “some competent, credible evidence” . . . presupposes evidentiary weighing by an appellate court to determine whether the evidence is competent and credible.’” *Id.*, quoting *Eastley* at ¶ 15. An appellate court reviews the trial court’s decision to see if the “award of custody is supported by a substantial amount of credible and competent evidence [and, if it is,] such an award will

not be reversed as being against the weight of the evidence.” *Bechtol v. Bechtol*, 49 Ohio St.3d 21, 23 (1990).

{¶ 28} When we look to the evidence that was before the magistrate and the trial court, we are dubious that there was a substantial amount of credible, competent evidence to support the trial court’s decision. The only evidence in the record was Weilbacher’s testimony, his pleadings, and the attached documents, including a letter from a certified nurse practitioner that stated he should restrict travel due to his “medically fragile state.” The June 11, 2025 hearing was brief, with the transcript being only 18 pages. Weilbacher’s testimony indicated that he wanted more time with his children, particularly in the summer months, a more equitable drop-off and pick-up point to exchange the children, and he expressed concerns about Funderburg’s husband or boyfriend taking his place as the children’s father. Weilbacher also expressed concerns about Funderburg homeschooling the children and whether the children were receiving adequate treatment for autism diagnoses. Weilbacher stated that “my kids need more time with me because they are slowly -- there’s like no relationship left anymore.” (June 11, 2025 Tr. at 5.)

{¶ 29} The magistrate asked minimal questions of Weilbacher, the only witness at the hearing. She inquired whether Weilbacher had been paying child support and asked about the derivative benefits the children receive through his social security disability. The magistrate also asked

[the magistrate]: [. . .] So your motion -- I guess I just want to be clear that you’re not asking that the children come live with you?

Mr. Weilbacher: Absolutely. I -- I honestly -- I’m afraid for them. Their emotional/mental state is not best.

*Id.* at 10-11.

{¶ 30} The magistrate then asked whether Weilbacher had a support system to help with the children and whether he would physically be able to care for the children despite his health condition. Weilbacher testified that he still has two siblings and three grown children that he obtained custody of from another divorce. The magistrate also asked about Weilbacher’s income and Weilbacher testified as to his estimation of Funderburg’s income-earning capabilities. At the conclusion of the hearing, the magistrate stated that she would “get the decision done on the custody as quickly as I can.” *Id.* at 18.

{¶ 31} The magistrate’s decision noted that “the evidence presented comprised of the pleadings and orders contained within the court file and the testimony of father.” (July 10, 2025 Mag.’s Decision at 1.) Conspicuously absent was *any* evidence or testimony from Funderburg, with whom the children had been living since the parties’ divorce in 2019. It is upon this scant evidence that the magistrate not only granted Weilbacher’s motion to modify the shared parenting agreement, but also designated him the sole residential parent and legal custodian of the children. As the Supreme Court of Ohio has noted, “substantial” evidence is “evidence with some weight; it must have importance and value.” *Our Place, Inc. v. Ohio Liquor Control Comm.*, 63 Ohio St.3d 570, 571 (1992). We do not find that the scant, one-sided evidence presented to the magistrate amounts to substantial, competent, credible evidence to support the decision to remove the children from their home and primary caregiver of the last six years.

{¶ 32} We now turn to the trial court’s weighing of the best interests of the children as part of its review of Funderburg’s objections to the magistrate’s decision. At this point in the proceedings, the trial court had the additional testimony of Funderburg from the October 9, 2025 hearing to consider, which the court noted in its decision. The court stated:

Given the testimony before the Magistrate, the Court cannot find that the Magistrate erred in her decision to grant [Weilbacher] sole custody. Moreover, given the testimony of the parties at the hearing before this Court, this Court finds further evidence that it would be in the best interests of the minor children for [Weilbacher] to have legal custody.

(Dec. 5, 2025 Decision at 12.)

{¶ 33} As we have noted, to determine whether a trial court decision was against manifest weight of the evidence, we “must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way.” *In re Z.C.* at ¶ 14. The central best interest factors that the court weighed were the children’s interactions and relationships with their parents and siblings; the children’s adjustment to their home, school, and community; the parent more likely to honor and facilitate court-approved parenting time; and whether one of the parents willfully denied the other parent’s rights to parenting time.

The trial court examined these factors and found that it was in the children's best interest to be in Weilbacher's custody.

{¶ 34} We do not agree. Rather we find that the trial court improperly weighed these factors, as these factors do not indicate a change in custody was in the best interest of the children. The children have been living with Funderburg for the past seven years in Alabama and are established in their community in terms of activities, religious community, and extended family. While Weilbacher testified that the children are fine with him and that he believes he has a local support system to help him, the children have spent minimal time with him in Ohio. Also troubling was the trial court's weighing of the parties' allocation of parental time. It is clear that Weilbacher wants more time with his children. However, it is also clear that Funderburg did not withhold time that Weilbacher was allocated in the agreed shared parenting plan. Rather, Weilbacher did not utilize the time he was allocated. We do not find that the trial court properly weighed the evidence regarding this factor, nor does such indicate that it was in the best interest of the children to change custody. Furthermore, due to the scant evidence in the record and the hurried nature of the proceedings, several of the factors listed under R.C. 3109.04(F) had little to no evidence presented and therefore the trial court could not have considered as a result, including the children's wishes for their placement.

{¶ 35} Accordingly, we sustain Funderburg's first, third, and sixth assignments of error to the extent those assignments of error argue that the trial court's decision was against the manifest weight of the evidence, and we similarly hold that the magistrate's decision was not supported by substantial, competent, and credible evidence. Having found the trial court's judgment was against the manifest weight of the evidence, we reverse the judgment and reinstate the parties' 2019 agreed shared parenting plan. Consequently, having reversed the trial court's decision as being against the manifest weight of the evidence, we need not determine whether the trial court abused its discretion in terminating the 2019 agreed shared parenting plan. We note, however, that the trial court's decision to change the legal custody of the parties' children and uproot their lives with such scant, one-sided evidence certainly calls into question whether the trial court's attitude rises to the level of being unreasonable, arbitrary, and unconscionable.

**IV. CONCLUSION**

{¶ 36} Having sustained appellant's assignment of error that the trial court's judgment was against the manifest weight of the evidence, pursuant to App.R. 12(C), we render judgment and reinstate the 2019 agreed shared parenting plan.

*Judgment reversed.*

BEATTY BLUNT and MENTEL, JJ., concur.

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