

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

V.L. Court of Appeals No. {48}L-26-00100

Appellant Trial Court No. 22289915

v.

A.R. **DECISION AND JUDGMENT**

Appellee Decided: October 16, 2026

* * * * *

Martin J. Holmes, Jr., for appellant.

John James Manore, III, for appellee.

* * * * *

MAYLE, J.

{¶ 1} Appellant, V.L. (“father”), appeals the March 20, 2026 judgment of the Lucas County Court of Common Pleas, Juvenile Division, modifying the shared-parenting plan that he has with appellee, A.R. (“mother”). For the following reasons, we affirm.

I. Background and Facts

{¶ 2} Mother and father share one child, S.R. (“child”). Father lives in Toledo and mother lives in Ontario, Canada, approximately 10.5 hours from father’s home. Since June 2020, they have been operating under a shared-parenting plan, which was modified

in December 2023. In October 2024, when mother filed a motion to modify the shared-parenting plan, father was designated the residential parent for school purposes, child lived with father during the school year, mother had parenting time during holidays designated in the trial court's long-distance parenting plan and four-day weekends during the school year, and child lived with mother during the summers. In her motion, mother asked the trial court to modify the parties' shared-parenting plan to order that child attend school in mother's school district.

{¶ 3} The magistrate hearing the case held a trial in November 2025. Father, mother, and Audrey Sweeney, child's guardian ad litem, each testified.

{¶ 4} Father testified first on cross-examination. He said that he and mother were operating under a 2023 shared-parenting plan, which names both parents as residential parent and legal custodian, with father named residential parent for school purposes.

{¶ 5} When father initially attempted to enroll child in a Toledo school, he was unsuccessful because he did not have a copy of the new shared-parenting plan and was not on child's birth certificate. Mother assisted him with registering child. He eventually provided the school with mother's contact information, claiming that he did not have her new phone number at first. He also enrolled child in ballet and karate classes. The ballet school used an enrollment form that requested father's family name, which inadvertently resulted in child being enrolled with father's last name instead of her true last name, which is the same as mother's. He denied telling child that she should use his last name.

{¶ 6} Although child came to live with him in January 2024, father did not find her a doctor until late 2024 or early 2025. He sent mother a link to child's MyChart page,

but he did not do anything else to provide mother information about the doctor. He did not know the name of the doctor. Father initially had plans to take child to a dentist, but he was unable to send child to the practice he planned on using, and he and mother eventually agreed that child would see a dentist in Canada during her summer breaks.

{¶ 7} Father worked at Amazon. His schedule usually required him to be at work at 4:30 a.m. Sunday through Wednesday, but for the two months before the hearing, he had been required to be at work by 4:00 a.m. For childcare while he was working, father initially used his parents. He then employed other caregivers, including a woman who came to his home early in the morning, a live-in male nanny, and a woman who cared for child in her home. Although mother asked for information about the caregivers, father was less than forthcoming with things like their surnames and contact information. He did not give the caretakers mother's contact information.

{¶ 8} Regarding child's school in Toledo, father first enrolled her in Burroughs School. He acknowledged that child struggled with the transition to Burroughs. Related to her struggles, father spoke once with child's school counselor, and he did not recall much contact from the school on this issue. Based on child's difficulties at Burroughs, father considered homeschooling her, which would have required him to quit his job. He also temporarily sent her to Acton Academy in Dublin, Ohio, which required them to stay with father's family members in the Columbus area for the three weeks child attended Acton. He discussed moving to Dublin with mother around the time that he enrolled child in Acton. Father enrolled child in Toledo Christian Academy for her fourth-grade year.

{¶ 9} Father had a legal issue in Canada that he was told by the trial court to resolve by April 2024. He believed that he had taken care of the issue based on his conversation with the Ontario police, who told him that he would be able to cross the border without being arrested. He later acknowledged that an arrest warrant was still active but insisted that it did not prevent him from traveling into Canada to exchange child with mother.

{¶ 10} Father acknowledged that mother was entitled to any four-day weekends during the school year and admitted that he denied mother two of them during 2025. The first time, he mistakenly denied her parenting time because he was operating under the belief that mother had to provide him notice, which was not part of their current shared-parenting plan. The second time, in October, he claimed that he did not know about a change in the school calendar until he was out of state with child for a religious observance.

{¶ 11} Regarding the religious observance trip, father testified that he did not give mother notice of the out-of-state trip because the shared-parenting plan only required him to give advance notice of vacations, and this trip was not a vacation. He admitted, however, that he had gone on the same trip the year before and had given mother notice of the 2024 trip, which he referred to as a camping trip, not a religious observance.

{¶ 12} Father claimed that mother historically gave him limited information about her address and travel plans.

{¶ 13} Mother refused a package that father sent by UPS for child's birthday.

{¶ 14} On direct examination, father testified that mother helped him enroll child in school in Toledo because he did not have a filed-stamped copy of the shared-parenting plan and was not on child's birth certificate. Father made a good faith effort to enroll child in school before involving mother by emailing and calling the admissions staff but was unsuccessful. He was told that mother would be able to enroll child without the shared-parenting plan, which is why he asked mother for help.

{¶ 15} Father did not initially provide mother's contact information to the school or some activity providers because he did not have her new phone number.

{¶ 16} Father explained that child likely ended up enrolled with his last name at her ballet school because the enrollment form asked for father's name and family name. He had not asked the ballet school to fix the issue. He also acknowledged that it took him over a year to find child a primary care physician. He did not know the name of child's doctor.

{¶ 17} Father's parents watched child on Sunday mornings when father was working, and a woman named Diane came to his house to watch child Monday through Wednesday mornings. He did not provide mother with Diane's last name or a background check because they were not required by the shared-parenting plan. He also felt that giving the sitter mother's contact information was unnecessary because of how far away mother lived; he gave the sitter contact information for his family members in case of emergency. The school did not have Diane's contact information. She did not pick child up from school; she only watched child three mornings a week. When father had the live-in male nanny, he did not provide mother with any of the nanny's

information beyond his first name and did not obtain a background check. He did not tell the school about that childcare arrangement; he believed that child had mentioned it to her counselor. Father confirmed that mother did not ask for his nanny's last name in a series of messages discussing childcare. Historically, mother did not provide that type of information to him when child was residing in Canada. She also historically failed to provide father with her address. He admitted that this "[p]robably a little bit" was part of the reason why he "dripped out information to" mother.

{¶ 18} Since father had started his temporary schedule at his job, he took child to the babysitter around 3:45 a.m. Before that, he took her to the sitter around 4:15 a.m. She went back to sleep after she got to the sitter's. Father denied leaving child home alone in the mornings.

{¶ 19} Regarding child's schooling, father considered homeschooling her despite his work schedule. He said that he would quit his job and work from home if child were homeschooled. He agreed that child struggled at Burroughs—the school reported sadness, crying, and counselor visits—but he believed that child was seeing the counselor as a way to seek attention. She also thought that father would get her a cat if she pretended to be sad. Father spoke with child's school counselor only once. He did not discuss that conversation with mother because "there was really nothing of substance to relay." He did not tell child that he did not want her to see the counselor. Mother sent father several messages about child having emotional problems and being homesick at school.

{¶ 20} Father admitted that the Canadian warrant remained active and that he did not clear it by the court's April 2024 deadline. However, he said that he was following the advice of the Ontario police, who told him that he would be able to travel across the border despite the warrant. He was able to cross the border to exchange child with mother, so in his mind, the issue was "dealt with." He explained that the charges arose from prior counsel's advice to put a tracker on mother's car. Although prior counsel's law firm "offered up" "quite a lot of money" because of the legal trouble the advice caused, the firm did not get him out of trouble in Canada. Ultimately, father described the warrant situation as "resolved, but not concluded."

{¶ 21} Father asserted that the relocation clause in the shared-parenting plan did not require mother's agreement to allow him to move. He said that he discussed moving to Dublin with mother in March 2024 when he told her about different schooling options he was considering for child. Ultimately, he did not move. He did not have any say in the matter when mother moved to Canada. He acknowledged that he did not seek modification of the agreement before enrolling child at Acton Academy in Dublin for three weeks. She was at the school for such a short time because of the burdens of the commute and father's inability to find a job in the Dublin area. Mother did not agree to sending child to Acton; she preferred that child attend school in Canada.

{¶ 22} Father admitted that he denied mother one four-day weekend, in February 2025, after mother gave him notice that she intended to exercise her parenting time on all four-day weekends. He acknowledged that child had a four-day weekend in October 2025 that mother did not receive because he was away on a ten-day religious trip, which

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he did not advise mother of. He claimed that he did not have to tell mother about his travel because it was not a vacation. He did not respond to mother's messages in the days leading up to the long weekend, and mother learned about the trip from child during a video call. Father maintained that the trip was a protected religious observance not subject to vacation notice, although he admitted that he had gone on the same trip the year before and called it a camping trip. He also admitted to not always paying close attention to school emails and that he missed two notices about the October weekend being changed from a three-day weekend to a four-day weekend. He claimed that he did not know about the change until after he left for his trip. The last time he had checked the school calendar was mid-September, and the weekend was still at three-day weekend at that point.

{¶ 23} At some point while child was living with father, they were in a minor car accident. Father did not tell mother about the accident and did not respond to mother's messages asking him about the accident.

{¶ 24} Child began attending Toledo Christian Academy, her current school, about three months before trial. She liked the school "a lot." Father said that her biggest complaint about Burroughs was that the food was bad, but she really liked the food at her current school. She also liked that there was no bullying at her current school and that everyone there was nice. Father claimed that mother had never shared an email from the school counselor discussing concerns about child.

{¶ 25} Father believed that he responded to mother's inquiries in their communication app within the 48 hours required by their shared-parenting plan. He

claimed that the times when he did not respond were for questions that were “asked and answered five or six times.” After mother asks the same thing multiple times, father “just ignore[s] it just because . . . [he] felt like [he] was being harassed . . . being asked the same question and answering multiple times.”

{¶ 26} Father pointed out that mother had not corrected child’s birth certificate to include his name by the time designated in a prior court order. His name was not originally on the birth certificate because mother “absconded while she was pregnant.”

{¶ 27} Father sent child a package that mother rejected. She claimed that it was sent to the wrong address.

{¶ 28} In response to the court’s questions, father confirmed that he notified mother of his religious trip in 2024 (although he referred to it as a camping trip) but did not notify her in 2025. He checked the school calendar in the middle of September to confirm the three-day weekend in October 2025. He did not recall seeing an email from the school in mid-September 2025, changing that weekend to a four-day weekend. When mother started messaging him about visiting on that four-day weekend, he was already on his trip and in an area without cell service.

{¶ 29} Regarding the Canadian warrant, father confirmed that it was still active, but he had traveled into and out of Canada without incident. He considered the matter resolved because the Canadian police told him, “don’t worry about it.”

{¶ 30} Father also confirmed that he only gave mother the first name of his childcare providers, despite the fact that the shared-parenting plan names both parents as residential parent and legal custodian of child.

{¶ 31} When the GAL questioned father, he testified that the big issue with the warrant in prior court hearings was the fact that he was not crossing the border for exchanges with mother, which was no longer a problem.

{¶ 32} Father admitted that he and mother are not good at communicating with each other. If the court chose to keep child with him, father said that he would improve his communication with mother because he “do[es] not want to do this again.” He was willing to take a communication class with mother.

{¶ 33} Father said that he would honor the court’s orders if it chose to reallocate parental rights and send child back to Canada. He did not think that it was in child’s best interest to return to Canada.

{¶ 34} Mother testified that she lives in Ontario, Canada, with her husband and children. At the time of the hearing, child resided with her during summer break and school vacations.

{¶ 35} In Canada, child had not had childcare providers other than mother and her husband, which would continue to be the case if the court modified the shared-parenting plan. This explained why mother had not provided father with the names of caregivers when child primarily resided with mother. Father, who did find alternate caregivers for child, did not provide the names, contact information, or background information for the caregivers to mother. When she pressed him, father provided only the caregivers’ first names. For example, after child told mother that she was being woken up by a man who lived in her house, mother tried to get information about this person, but father never provided full details. Mother believed that she was entitled to caregiver information

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under the shared-parenting plan. She claimed that she “[a]lmost never” got complete answers to her questions about child’s care.

{¶ 36} Father failed to provide mother with complete information regarding child’s primary care physician, and she did not know the doctor’s name as of the time of trial. Father tried to find child a dentist in Toledo but was unsuccessful, so mother offered to take her to the dentist in Canada when she was there for the summers. Father agreed to this plan.

{¶ 37} Father also failed to give mother any details about the car accident that he and child were in; the only information she got about the situation came from child.

{¶ 38} Regarding the four-day weekend in October 2025 that father did not allow her to have as parenting time, mother testified that it was initially a three-day weekend, but the school changed its schedule in mid-September, which was published on the school resource board and sent to parents in two separate emails. She messaged father in the days leading up to the weekend to confirm their exchange of child, but father did not respond. Mother learned during a video call with child that they were in Arizona and child would not be going to Canada for the weekend. Father did not tell her about the trip in advance or provide travel details, as required by the shared-parenting plan.

{¶ 39} Father also denied mother a four-day weekend in February 2025 because mother did not give adequate notice, which is not required under the parties’ shared-parenting plan.

{¶ 40} Mother assisted with child’s enrollment in school when she first moved to Ohio. She provided the school with a copy of the court’s judgment entry and shared-

parenting plan, which she believed that father also had at the time. The school did not have mother's contact information when she enrolled child, despite father providing the school with enrollment forms. When child was enrolled in school in Canada, mother provided the school with father's contact information.

{¶ 41} Father gave child's last name as his last name—not her given last name, which is the same as mother's—for ballet classes and one medical provider. Child also told mother that father told her to use his last name as her last name when she was in Ohio.

{¶ 42} Mother and father discussed child going to Acton Academy, but mother never agreed to the switch. She thought that child should return to Canada for school. Mother also thought it was too soon for father to move to Columbus. When mother asked questions about the move, father gave her incomplete, "cryptic" answers. Based on her conversations with child, mother believed that child was "couch surfing" at father's family members' houses and basically living in Dublin for a period of time. By the time father and child returned to Toledo, child had missed about a week of school at Burroughs.

{¶ 43} In September 2024, father told mother that he intended to take child camping in Arizona. He did not mention that the trip had any religious significance. In 2025, father took child on the same camping trip but did not tell mother about it in advance.

{¶ 44} Father was supposed to resolve his Canadian legal issues by April 2024, but, according to the local police in mother’s town, his case was still active, and a warrant still existed.

{¶ 45} Child struggled emotionally while she was at Burroughs. When mother tried to discuss the issue with father, he was “pretty dismissive” of her concerns.

{¶ 46} Child told mother that “she misses her siblings, she misses her mom, she misses her family.” Mother asked that child be returned to Canada with her, which she thought was in child’s best interest. She also told the court,

In previous times I haven’t been the most communicative with [father] and I have made mistakes, but honestly I would be crystal clear moving forward. I understand how it feels to be on the other side of the situation now, to be the parent that is not there, and I know—I admit that I have made mistakes in the past, and I’d really just like to see the best for [child]

{¶ 47} On cross-examination, mother testified that the communications between her and father were “guarded” because she thought that “both of us would be concerned that the other person would bring something to court” However, mother did not think that she had poor communication with father “in the vast majority of [their] interactions.”

{¶ 48} Mother admitted that father gave her the name and phone number of child’s dental provider, and that father took child to the dentist while she was in Ohio. Ultimately, they decided to get child’s dental care in Canada because it was free.

{¶ 49} Mother also admitted that she rejected delivery of a package that father sent to child. She claimed that she rejected it because customs fees were owed on it. Father

claimed that he had paid the customs fees before sending the package. She did not think that father had denied child any mail that she had sent.

{¶ 50} Father offered mother 18 days of additional parenting time with child during school breaks, which mother accepted.

{¶ 51} The parties' shared-parenting plan included a term that required them to attempt mediation before filing any motions related to any issues with child. Mother admitted that she did not attempt mediation before filing her motions with the court.

{¶ 52} In response to the GAL's questions, mother said that she would honor and follow the court's orders in this case and would encourage a good relationship between father and child.

{¶ 53} Regarding child's last name at her ballet school, mother admitted that mix-ups could happen with child's last name, but "there are several things that happened in a row that it makes [mother] curious and critical of that it was on purpose and not a mess up."

{¶ 54} Finally, the court called Sweeney, the GAL, as its own witness. She testified that she was recommending that the parties continue with shared-parenting on the same schedule and enroll in a communication class together. She did not see a change in circumstances sufficient to justify changing the shared-parenting plan. Although child said that she wanted to move back to Canada, both the child's therapist and Sweeney thought that child "romanticizes where she's not. If she's in Canada, she wants to be in America. If she's in America, she wants to be in Canada." She did not think it was in child's best interest to move back to Canada.

{¶ 55} Child was doing “phenomenal” at her current school, was assimilated to America, and was “doing perfectly fine here.” Sweeney thought that staying in America was in child’s best interest because she did not “believe that [child] is going to keep that opinion once she gets up to Canada, because we’ve seen this before” and that it was not a good idea to “root her out” of Ohio. She believed that child missed her siblings in Canada “[b]ut that that doesn’t mean that she’s not equally as happy and adjusted in dad’s home, and I think she is.” Ultimately, Sweeney believed that “if you move [child] to Canada, we’re all going to be back here again, because give it some time, let there be a tiff, let there be something that goes wrong, [child] is going to know I can change my mind and go back. And I think that’s what we’re going to see, we’re creating, we’re creating a problem here with these.” She thought that “it’s best for [child] to have consistency and to stay where she’s at.”

{¶ 56} Sweeney admitted that child had clearly stated that she wanted to return to Canada so she could go to school there and be with her siblings. She was not concerned that child would struggle academically if she returned to Canada.

{¶ 57} Sweeney reviewed all of the statutory best-interest factors in reaching her conclusion. The child’s wishes were just one of 12 factors that she looked at. Nothing she heard at the trial changed her opinion.

{¶ 58} Finally, Sweeney said that father’s work schedule was not new; he had been working essentially the same schedule at the time of the last trial.

{¶ 59} After hearing the testimony and evidence, the magistrate issued her decision finding that a change in circumstances had occurred, and it was in child's best interest to modify the shared-parenting plan. The magistrate concluded that

the subject child wishes to return to Canada for the school year. She has consistently stated that she tried going to school in American but now wants to return to Canada and that she misses her siblings. Further, father has not been forthcoming with information to mother and has not demonstrated a willingness to cooperate and make joint decisions with respect to the child. Neither parent has a good history in this regard although mother has shown remorse and therefore the Court expects mother to act accordingly and not repeat past transgressions. Further, father did deny mother her parenting time in October 2025 during which time he took the child on a trip.

The Court understands the GAL's concern that the child will want to change school placements in the future. The Court makes this decision based on present facts and circumstances and not future ones.

Respectfully, the Court finds that it is in the best interest of the child at this time to modify the current shared-parenting agreement[.]

{¶ 60} As relevant to this appeal, in reaching her conclusion, the magistrate found that the parties live 10.5 hours away from each other, with mother in Canada and father in Ohio.

{¶ 61} Father had difficulty getting child enrolled in school, but he reached out to mother, who provided the necessary information to the school. "This is the only testimony the Court can recall where the parents worked together for the betterment of the child."

{¶ 62} It took father 13 months to get child a doctor in Ohio. Neither parent knew the doctor's name, and mother could not access the medical portal to get the name "due to not having necessary information provided to her."

{¶ 63} According to the magistrate, “[t]he only improvement in communication between the parents is that they are at least communicating directly with each other and not through a 3d party as they were previously. The substance of their communication has not improved. Although both parents want to continue to have shared-parenting, there is no joint decision making happening.” The magistrate also found that it was clear that mother and father “have been in constant conflict with each other. They have been unable to set their conflict aside in order to raise this child. Mother admits to past disrespect toward father when she was the primary parent. Unfortunately, now that father is the primary parent he is treating mother how he felt she treated him. If its [sic] not spelled out in the shared-parenting agreement, then father does not provide the information to mother.”

{¶ 64} Father’s job requires child to get up at 3:30 a.m. to go to a babysitter’s house. When mother asked about daycare providers, father only gave her a first name. He did not give the caretakers mother’s contact information because she lives so far away. He justified doing so because mother did not give him information when child was with mother.

{¶ 65} When child was involved in a minor car accident, father did not tell mother about it. Mother heard about it from child. “This is another example of father not freely exchanging information pertaining to the child with mother.”

{¶ 66} Regarding father’s trip to Arizona in October 2025 that overlapped with a four-day weekend, the magistrate found that father’s claim that he did not have to give mother details of the trip because it was a religious observance was not credible because

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father gave mother notice of the same trip the year before and called it a camping trip. She also found his claim that he did not know about the school's schedule change not credible.

{¶ 67} In prior litigation, child said that she wanted to live with father. This time, child consistently said that she wanted to live with mother in Canada. She also consistently said that she misses her siblings. The magistrate "understands the GAL's concern that the child will always want to live with the other parent and glorify the parent she is not living with. However, the Court cannot speculate on future wishes of the child." Child was doing well in school and liked her current school.

{¶ 68} Mother refused to accept a package that father sent to child because she did not want to pay the customs fee.

{¶ 69} Father had not resolved his Canadian legal issues but had been able to cross the border for child exchanges. The magistrate thought that "[t]his is a legal issue best addressed between father and a Canadian lawyer."

{¶ 70} Father enrolled child in school in Dublin and briefly had plans to move to the Columbus area. He did not have housing in the area, and child reported to mother that she was staying with father's relatives. "Per the shared-parenting agreement, the parties are to have advance discussion and consultation in good faith about major decisions regarding the child's education. This did not happen."

{¶ 71} Regarding the parties' communication, the magistrate found that

the roles of mother and father have been reversed. Now its [sic] father not being forthcoming about information regarding the child to mother. If its [sic] not specifically delineated in the agreement, then father

does not provide the information. One factor the Court weighed in its previous decision was mother's lack of being forthcoming with information to father as part of its finding a change in circumstances. The Court's expectation is that father would be a better communicator with mother. Father was not. The "mother never told me this information so I don't have to tell her" rational [sic] is unacceptable. Now, the Court finds that father is not forthcoming with information to mother. It was not in the child's best interest to have mother withhold information and its [sic] not in the best interest of the child for father to do so as well. . . . Mother admitted that she used to treat father like he is currently treating her. She expressed remorse for that behavior now that she has experienced it. Father showed no remorse only some perceived justification.

The magistrate specifically found that father should have been more forthcoming with information about child's daycare providers and should have given the providers mother's contact information.

{¶ 72} Father filed objections to the magistrate's decision. He argued that the magistrate abused her discretion by finding that (1) there was a change in circumstances justifying moving child back to Canada; (2) mother was remorseful for her poor communications with father; (3) mother is likely to act in good faith in her dealings with father in the future; (4) father is the one to blame for the parties' poor communication; (5) there were no discussions about child's education; (6) child had to wake up early for father's job without considering that father's schedule was a temporary situation; (7) mother was entitled to attorney fees; and (8) litigating without attempting mediation, as required by the shared-parenting plan, was justified.

{¶ 73} After reviewing father's objections, the trial court overruled them all. It found that "the Magistrate did not abuse her discretion in any of Father's areas of concern. Rather, the Magistrate, exercising her discretion, simply did not rule as Father

hoped. Likewise, the Court finds that the Magistrate ruled based on the manifest weight of the evidence she had before her. Once again, her findings contradict what Father expected.” It modified the shared-parenting plan so that mother was the residential parent for school purposes and father had specific parenting times.

{¶ 74} Father now appeals, raising six assignments of error:

I. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE AND CONTRARY TO THE SPECIFIC RECOMMENDATIONS OF THE GUARDIAN AD LITEM IN FINDING THAT APPELLEE MOTHER IS REMORSEFUL FOR HER PAST CONDUCT AND IS LIKELY TO ACT IN GOOD FAITH IN FUTURE DEALINGS WITH APPELLANT [sic].

II. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE AND CONTRARY TO THE SPECIFIC RECOMMENDATIONS OF THE GUARDIAN AD LITEM IN FINDING THAT APPELLANT IS THE ONE TO BLAME FOR THE PARTIES INADEQUATE COMMUNICATION.

III. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE BY APPLYING INAPPROPRIATE WEIGHT TO A TEMPORARY SITUATION WHEN THE COURT CITES TO APPELLANT’S JOB REQUIRING THE MINOR TO BE AWAKENED EARLY IN THE MORNING.

IV. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE AND CONTRARY TO THE SPECIFIC RECOMMENDATIONS OF THE GUARDIAN AD LITEM IN FINDING THAT THERE HAS BEEN A CHANGE OF CIRCUMSTANCES SIGNIFICANT ENOUGH TO JUSTIFY ORDERING THE MINOR BACK TO CANADIA [sic] FOR FUTURE SCHOOLING AFTER THE MINOR SPENT THE LAST TWO (2) YEARS IN OHIO SCHOOLS.

V. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE WHEN THE COURT IGNORED THE MANDATE IN THE

PARTIES' SHARED-PARENTING PLAN REQUIRING A MEDIATION PRIOR TO LITIGATION WHEN NO ATTEMPT AT MEDIATION WAS MADE BY APPELLEE PRIOR TO FILING HER MOTION.

VI. THE COURT ABUSED ITS DISCRETION WHEN IT ISSUED FINDINGS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE WHEN FINDING THAT THE PARTIES ARE TO HAVE ADVANCED DISCUSSION AND CONSULTATION IN GOOD FAITH ABOUT MAJOR DECISIONS REGARDING THE CHILD'S EDUCATION. THIS DID NOT HAPPEN.

II. Law and Analysis

A. Standard of review

{¶ 75} The decision that father appeals from is the trial court's ruling on objections to the magistrate's decision. A trial court reviews a magistrate's decision de novo. *Boersma v. Brancatto*, 2013-Ohio-3052, ¶ 8 (6th Dist.). In completing this de novo review, "[n]ot only is the [trial] court not bound by the magistrate's decision, the court has an obligation to conduct an independent review as to the objected matters to ascertain whether the magistrate has properly determined the facts and appropriately applied the law." *Id.*, citing Civ.R. 53(D)(4)(d), and *Kovacs v. Kovacs*, 2004-Ohio-2777, ¶ 6 (6th Dist.).

{¶ 76} On appeal, however, we review a trial court's ruling on the objections to a magistrate's decision for an abuse of discretion. *Id.* at ¶ 9. Abuse of discretion means that the trial court's decision was unreasonable, arbitrary, or unconscionable. *State ex rel. Askew v. Goldhart*, 75 Ohio St.3d 608, 610 (1996). An unreasonable decision is one that lacks sound reasoning to support the decision. *Hageman v. Bryan City Schools*, 2019-Ohio-223, ¶ 13 (10th Dist.), citing *AAAA Ents., Inc. v. River Place Community*

Urban Redevelopment Corp., 50 Ohio St.3d 157, 161 (1990). “An arbitrary decision is one that lacks adequate determining principle and is not governed by any fixed rules or standard.” *Id.*, citing *Porter, Wright, Morris & Arthur, LLP v. Frutta del Mondo, Ltd.*, 2008-Ohio-3567, ¶ 11 (10th Dist.). And an unconscionable decision is one “that affronts the sense of justice, decency, or reasonableness.” *Id.* Moreover, an abuse of discretion “involves more than a difference in opinion” *State v. Weaver*, 2022-Ohio-4371, ¶ 24. Importantly, “[f]or a court of appeals to reach an abuse-of-discretion determination, the trial court’s judgment must be so profoundly and wholly violative of fact and reason that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias.” (Internal quotation omitted.) *Id.*

{¶ 77} In determining whether the trial court abused its discretion, we presume that the trial court’s factual findings were correct, and “will not reverse a particular factual determination in a child custody decision unless it is against the manifest weight of the evidence.” *Funkhouser v. Funkhouser*, 2019-Ohio-733, ¶ 17 (6th Dist.). Findings that are supported by some competent, credible evidence in the record are not against the manifest weight of the evidence. *Marlowe v. Marlowe*, 2023-Ohio-1417, ¶ 134 (6th Dist.); *C.E. Morris v. Foley Constr. Co.*, 54 Ohio St.2d 279 (1978), syllabus. Our review is deferential to the trial court because “the trial judge has the best opportunity to view the demeanor, attitude, and credibility of each witness, something that does not translate well on the written page.” *Davis v. Flickinger*, 77 Ohio St.3d 415, 418 (1997). Giving deference to the trial court’s findings is “crucial in a child custody case, where there may

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be much evident in the parties’ demeanor and attitude that does *not* translate to the record well.” (Emphasis in original.) *Id.* at 419.

{¶ 78} Thus, our review of the trial court’s decision on the allocation of parental rights and responsibilities encompasses two separate decisions: (1) whether the trial court’s decision was an abuse of discretion, and (2) whether the factual findings underlying the trial court’s decision were supported by some competent, credible evidence (i.e., are not against the manifest weight of the evidence).

B. Father waived his mediation argument.

{¶ 79} In his fifth assignment of error, father argues that the trial court abused its discretion by ignoring the clause in the parties’ shared-parenting plan that requires them to attempt private mediation of any child-related issue before filing a motion with the court. Mother responds that father did not timely raise the issue, and her motions were not required to be mediated.

{¶ 80} When a party proceeds with litigation despite a mediation clause in their custody agreement, that party waives any objection they might have related to the mediation clause. *Bowling v. Bowling*, 2021-Ohio-1857, ¶ 32 (12th Dist.); *Carr v. Carr*, 1999 WL 598837, *2 (9th Dist. Aug. 11, 1999). Here, there is no evidence in the record that father raised the issue of mother failing to mediate (beyond asking one question during trial) before he filed his objections to the magistrate’s decision. That is, he proceeded with the litigation—all the way through a trial—without raising the mediation clause and only brought up mediation after he received an unfavorable decision from the magistrate. Under these circumstances, we find that the trial court did not abuse its

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discretion by “ignoring” the mediation clause and not sending the parties to mediation. Accordingly, father’s fifth assignment of error is not well-taken.

C. The trial court did not abuse its discretion by modifying the parties’ shared parenting plan.

{¶ 81} In his fourth assignment of error, father argues that the trial court abused its discretion by finding a change in circumstances significant enough to justify returning child to Canada for school. He essentially contends that (1) the trial court should have given more weight to the GAL’s opinion and recommendation and (2) the magistrate’s conclusion that the parties’ circumstances have changed is against the manifest weight of the evidence.

{¶ 82} A juvenile court’s modification of a shared-parenting plan is governed by R.C. 3109.04. R.C. 2151.23(F)(1). Under the statute, there is a distinction between modifications to the shared-parenting *decree* and modifications to the shared-parenting *plan*. *Fisher v. Hasenjager*, 2007-Ohio-5589, ¶ 24, 28. A shared-parenting decree or order allocates parental rights and responsibilities by designating the child’s residential parent and legal custodian. *Id.* at ¶ 26. A shared-parenting plan, on the other hand, details the implementation of the shared-parenting order and “includes provisions relevant to the care of a child, such as the child’s living arrangements, medical care, and school placement.” *Id.* at ¶ 30. The distinction is important because R.C. 3109.04 includes different standards for modification of the decree and modification of terms of the plan. Modification of the parent who is designated the residential parent for school

purposes is a modification of the terms of the shared-parenting plan, even if it results in a change in living arrangements. *In re E.L.C.*, 2015-Ohio-2220, ¶ 38, 45 (12th Dist.).

{¶ 83} Under R.C. 3109.04(E)(2)(b),

The court may modify the terms of the plan for shared-parenting approved by the court and incorporated by it into the shared-parenting decree . . . upon the request of one or both of the parents under the decree. Modifications under this division may be made at any time. The court shall not make any modification to the plan under this division, unless the modification is in the best interest of the children.

In other words, all that is required for a trial court to modify the terms of a shared-parenting plan is a finding that the modification is in the best interest of the child. *Fisher* at ¶ 33. This is different from a modification of the shared-parenting decree (i.e., modification of the allocation of parental rights and responsibilities), which requires both a finding that there has been a change in circumstances with the child or the parents and a finding that the modification is in the best interest of the child. *Id.*; R.C. 3109.04(E)(1)(a).

{¶ 84} Here, the trial court modified a term of the shared-parenting plan. That is, it modified “provisions relevant to the care of a child, such as the child’s living arrangements, medical care, and school placement.” *Fisher* at ¶ 30. Thus, the trial court was only required to determine that the change was in child’s best interest. *Id.* at ¶ 33; R.C. 3109.04(E)(2)(b).

{¶ 85} To determine what is in a child’s best interests, R.C. 3109.04(F)(1) requires the court to “consider all relevant factors, including, but not limited to:”

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

(b) If the court has interviewed the child in chambers . . . , 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 . . . 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.

{¶ 86} Subsection (F)(1)’s catchall provision allows the trial court to consider factors outside of the statute in its best-interests determination. *Marlowe*, 2023-Ohio-1417, at ¶ 138 (6th Dist.). Additionally, “a trial court does not have to mention each and every fact in support of a decision finding that it is in the best interest of a child . . .” to modify a shared-parenting plan. *Meyers-Decator v. Decator*, 2010-Ohio-4699, ¶ 33 (6th Dist.).

{¶ 87} In reaching its modification decision, a trial court is not bound to follow the recommendations of a guardian ad litem. *In re A.S.*, 2009-Ohio-5504, ¶ 20 (6th Dist.), 26.

citing *In re Andrew B.*, 2002-Ohio-3977, ¶ 64 (6th Dist.), *In re J.P.-M.*, 2007-Ohio-5412, ¶ 63 (9th Dist.), and *Smith v. Quigg*, 2006-Ohio-1495, ¶ 66 (5th Dist.). ““The function of a guardian ad litem or for a representative for the child is to secure for such child a proper defense or an adequate protection of its rights. The ultimate decision in any proceeding is for the judge and not for the representative of the parties’ and a trial court does not err ‘in making an order contrary to the recommendation of the child’s representative . . .’.” *Id.*, quoting *In re Height*, 47 Ohio App.2d 203, 206 (3d Dist. 1976). As the factfinder, the trial court determines the weight to be given to the GAL’s recommendation. *A.L. v. K.T.*, 2016-Ohio-2865, ¶ 23 (6th Dist.).

{¶ 88} In this case, the trial court adopted the magistrate’s best interest determination when it adopted the magistrate’s decision. The magistrate’s decision shows that she considered the best-interest factors in R.C. 3109.04(F)(1); she was not required to mention every fact that went into that decision. Our review of the record does not reveal anything that the magistrate and trial court failed to consider or that requires us to reverse the trial court’s decision on that basis. The fact that father does not agree with the way the trial court weighed the evidence before it does not render the trial court’s decision an abuse of discretion. *See Weaver*, 2022-Ohio-4371, at ¶ 24 (abuse of discretion “involves more than a difference in opinion . . .”). Moreover, the trial court was not required to follow the GAL’s recommendation. The court was free to give the recommendation the weight it saw fit and disregard the recommendation if it chose. Father does not cite any authority to the contrary.

{¶ 89} After thoroughly reviewing the record, we find that the trial court’s factual findings are not against the manifest weight of the evidence and the court did not abuse its discretion by adopting the magistrate’s decision. Accordingly, father’s fourth assignment of error is not well-taken.

D. The trial court’s factual findings are supported by the weight of the evidence.

{¶ 90} In his first, second, third, and sixth assignments of error, father challenges specific factual findings the magistrate made, and the trial court adopted. In his first assignment of error, for example, he complains that the magistrate’s determination that mother was “remorseful” for her past conduct and is likely to act in good faith in the future is unsupported by the record.

{¶ 91} To be supported by the weight of the evidence, there must be some competent, credible evidence in the record underlying each factual finding. *Marlowe*, 2023-Ohio-1417, at ¶ 134 (6th Dist.); *C.E. Morris*, 54 Ohio St.2d 279, at syllabus. After carefully reviewing the record, we find that each of the facts that father disputes is supported by some competent, credible evidence. Thus, they are not against the manifest weight of the evidence. Therefore, father’s first, second, third, and sixth assignments of error are not well-taken.

III. Conclusion

{¶ 92} For the foregoing reasons, the March 20, 2026 judgment of the Lucas County Court of Common Pleas, Juvenile Division, is affirmed. Father is ordered to pay the costs of this appeal under App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.

Christine E. Mayle, J.

JUDGE

Myron C. Duhart, J.

JUDGE

Charles E. Sulek, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.supremecourt.ohio.gov/ROD/docs/.
