IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
March 21, 2014 Session

# CASSIDY ARAGON v. REYNALDO ARAGON

**Appeal from the Chancery Court for Montgomery County**
**No. DI090483 Ross H. Hicks, Chancellor by Interchange**

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**No. M2013-01962-COA-R3-CV - Filed April 21, 2014**

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This post-divorce case concerns parental relocation. Father sought to relocate to Arizona, citing family ties and increased career opportunities. The parties agreed that Father spent substantially more time with the child than Mother; however, Mother objected to the relocation, arguing that the move had no reasonable purpose. The trial court agreed with Mother and entered a parenting plan naming Mother primary residential parent. Because the trial court made no best interest finding regarding either the proposed relocation, or the parenting plan, we vacate the judgment of the trial court and remand for further proceedings. Vacated and Remanded.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Vacated and Remanded**

J. STEVEN STAFFORD, J., delivered the opinion of the Court, in which DAVID R. FARMER, J., and Richard H. Dinkins, J., joined.

Steven C. Girsky, Clarksville, Tennessee, for the appellant, Reynaldo Aragon.

M. Joel Wallace, Clarksville, Tennessee, for the appellee, Cassidy Aragon.

## OPINION

### Background

Plaintiff/Appellee Cassidy Aragon ("Mother")[1] and Defendant/Appellant Reynaldo Aragon ("Father") were married in 2006. One child was born to the marriage in July 2007 ("Daughter"). Mother also has a child from another marriage; custody of this child is not at issue in this appeal. The parties divorced in 2010. At the time of the divorce, a parenting plan was entered, but it did not name a primary residential parent; rather, the plan specified that each parent would spent 182.5 days a year with the child. However, in actuality, after the divorce, the parties reached an agreement, by which Mother would work overseas[2] and Father would finish nursing school in Clarksville, Tennessee and would care for both the child, and his former step-daughter. Mother does not dispute that Father spent substantially more time with the child while she was working overseas.

Although Mother was not ordered to pay child support, the parties agree that, at times, she sent Father support for himself and the child to enable Father to care for the child and attend school. Mother contended that she sent approximately $2,000.00 per month during the months she was overseas. Father, however, denied that Mother paid the support consistently. Mother admitted that she received child support from the father of her older child, but she only gave that money to Father, who was caring for the older child, at "times." Mother further testified that she did not pay any support during interim periods between contracting jobs because she was home with the children at that time and did not have the funds to pay Father, despite the fact that Mother was making up to $15,000.00 per month in her contracting job, as well as receiving child support for her older child.

Upon Father's graduation from nursing school, Father informed Mother that he obtained a nursing job in Tuscon, Arizona and sought to relocate from Clarksville, where the parties had been residing. This job allowed Father to earn approximately $24.00 per hour at the hospital where his mother had worked for thirty years. Although Father later testified that he did not search for a similar job in the Clarksville area, Father testified that he believed that his job prospects and salary would be better in Arizona. The parties previously lived in Arizona and both have family there. In contrast, Father asserted that he had no family support in Tennessee and that his job "coupled with the family support I will receive almost necessitates my relocation to Arizona."

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[1] In the parties' Marital Dissolution Agreement, the parties agreed that Mother "shall be restored to her maiden name of Peters, and her full legal name after entry of the Final Order in this cause shall be Cassidy Lynne Granite." However, throughout these proceedings, Mother has used the name Cassidy Aragon. Accordingly, we will use Mother's chosen name in this appeal.

[2] Mother testified that she has a Bachelor's Degree in Intelligence Collection and Analysis and a Master's Degree in Conflict Resolution at the International Political Level. Mother further testified that she was trained in the Army as an interrogator and that she speaks the Serbian Croatian language. Mother's overseas contracting job allowed her to use these skills.

Mother subsequently filed a petition in opposition to Father's move and sought to be designated the primary residential parent. Mother specifically asserted that Father's proposed move to Arizona did not have a reasonable purpose and that it was in the child's best interest to be placed in her custody. In May 2012, the parties entered an Agreed Order to Permit Relocation, allowing Father to relocate and setting a nearly equal division of parenting time from the entry of the order until the scheduled hearing on the relocation issue. Father relocated to Arizona on May 26, 2012.

On April 2, 2012, the trial court held the hearing as scheduled, but the presentation of the evidence lasted longer than anticipated. Accordingly, the trial court ordered the parties to return to court for another hearing on a second, non-consecutive day. However, the trial court specifically declined to enter a temporary order governing the custody of the child during this interim period. During the interim period, Father attempted to take the child back to Arizona and was arrested at the airport for custodial interference. Father was released on bond pending resolution of the charges.

The second hearing took place on July 26, 2012. At trial, Mother testified that she had moved to Hermitage, Tennessee, and had bought a house, where she intended to stay for the foreseeable future. According to Mother, she was likely to receive a job in the criminal justice field in Nashville. Mother testified that she lived in the home with her boyfriend, who is a member of the armed services, but that he was recently transferred to North Carolina. Mother admitted that she had considered moving to North Carolina if she was not awarded custody of the parties' child, but testified that her intention was to stay in Tennessee to attend law school at Belmont University. Mother also admitted that she had applied to law school in New Hampshire, but that she did so while still under the impression that Father would be moving to join her. Several witnesses also testified on behalf of Mother regarding the close and loving relationship between the child and her step-sister, which relationship Mother contended would be harmed by the child's relocation.

Mother also testified that she and Father had moved several times during their marriage at Father's behest. For example, according to Mother, she and Father moved to New Hampshire for Father to become a police officer. A few months later, Father determined that he wanted to move to Tennessee to start a business instead. The business, however, never materialized, and according to Mother, Father refused to find replacement employment. At that time, Mother testified that she was forced to take the overseas contracting job. Mother testified that she agreed to work overseas so that Father could go to nursing school. According to Mother, the parties agreed that Mother would return to school after Father finished nursing school. Mother further testified that Father had initially agreed to move to be near Mother while she was in school. However, Mother testified that Father changed his mind and

informed her that he intended to stay in Tennessee after graduating from nursing school. Mother agreed with this plan and bought a home in Tennessee. However, Mother testified that Father soon changed his mind again and expressed his intent to move to Arizona. At this point, Mother testified that she objected to the move. According to Mother, neither she nor Father were particularly close to Father's family in Arizona. Instead, she testified that when the parties lived there previously, the family was unable to substantially help with child care.

Mother also presented testimony from a former instructor at Father's nursing school, who testified that while some nursing facilities in the area were not hiring, many others were due to a "nursing shortage." The instructor testified, however, that she could not opine as to the salaries of nurses in Tennessee in comparison to Arizona. Mother testified that she asked Father to look for jobs in Tennessee, but that he refused because he knew that his mother could easily get him a job in Arizona and he believed that he would make more money there.

In contrast, Father testified that moving to Arizona would relieve the parties of the financial burden of child-care, as his family would be able to care for the child while he worked. Father also testified that both he and Mother had concerns regarding placing the child in day-care, which concerns would be removed by placing the child in the care of family. Father further testified that both he and Mother had difficulty obtaining jobs in 2008, leading Mother to take an overseas contracting job and Father to attend nursing school. Father called several witnesses to testify as to his parenting of the child, including friends, day care teachers, and neighbors. All the witnesses agreed that Father is a loving and attentive parent.

On August 9, 2012, the trial court issued a temporary order naming Mother as primary residential parent and setting forth a temporary parenting schedule so that the child could be enrolled in school. Father was required to exercise all of his parenting time in Tennessee. On January 7, 2013, the trial court set forth its final order. In its order, the trial court acknowledged that Father spent substantially more time with the child based on the arrangement made by the parties, but stated that "[t]here is no proof in this case that [Father] has better opportunities in the [Clarksville] area because he has not made any inquiries or pursued such opportunities." The order goes on to state that, "While it appears that [Father] posits a rational basis for his move, the move is nonetheless not reasonable under all the circumstances . . . . The proof offered in this case . . . does not sustain the allegations of such increased salary and increased opportunities." Several months later, on August 2, 2013, the trial court entered a permanent parenting order, designating Mother as primary residential parent and allocating 285 parenting days to Mother and 80 days to Father. Father was also ordered to pay child support. Father now appeals.[3]

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[3] On March 4, 2014, Father filed a motion for this Court to consider post-judgment facts pursuant

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**Issues**

Father raises two issues in this case, which are taken from his brief:

1. Whether the trial court erred in concluding that the Father's requested relocation did not have a reasonable purpose?
2. Did the trial court err in concluding that it was in the best interest of the child to reside primarily with Mother?

**Standard of Review**

Because this case was tried by the court, sitting without a jury, we review the factual issues *de novo* upon the record with a presumption of correctness. Tenn. R. App. P. 13(d). Unless the evidence preponderates against the trial court's findings, we must affirm, absent error of law. ***Id***. In order for the evidence to preponderate against the trial court's findings, it must support another finding of fact with greater convincing effect. ***Walker v. Sidney Gilreath & Assocs.***, 40 S.W.3d 66, 71 (Tenn. Ct. App. 2000).

In applying the *de novo* standard, we are mindful that "[t]rial courts are vested with wide discretion in matters of child custody and that the appellate courts will not interfere except upon a showing of erroneous exercise of that discretion." ***Hyde v. Amanda Bradley***, No. M2009-02117-COA-R3-JV, 2010 WL 4024905, at *3 (Tenn. Ct. App. Oct.12, 2010) (citing ***Johnson v. Johnson***, 169 S.W.3d 640, 645 (Tenn. Ct. App. 2004)). Because "[c]ustody and visitation determinations often hinge on subtle factors, including the parents' demeanor and credibility during . . . proceedings," appellate courts "are reluctant to second-guess a trial court's decisions." ***Hyde***, 2010 WL 4024905, at *3 (citing ***Johnson***, 169 S.W.3d at 645). Accordingly, appellate courts review a trial court's decision regarding which parent to name as the primary residential parent for an abuse of discretion. *See* ***Fulbright v. Fulbright***, 64 S.W.3d 359, 365 (Tenn. Ct. App. 2001) (citation omitted); *see also* ***Porter v. Porter***, No. M2012-00148-COA-R3-CV, 2013 WL 313838, at *14 (Tenn. Ct. App. 2013) (Kirby, J., concurring) (declining to reverse the trial court's ruling only because of the "high standard" required under abuse of discretion review). "[A] trial court's decision regarding custody or visitation should be set aside only when it 'falls outside the spectrum of rulings that might reasonably result from an application of the correct legal standards to the evidence

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to Rule 14 of the Tennessee Rules of Appellate Procedure. Specifically, Father asked this Court to consider the fact that the criminal charges against him had been dismissed. By order of March 7, 2014, Father's motion was denied.

found in the record.'" ***Curtis v. Hill***, 215 S.W.3d 836, 839 (Tenn. Ct. App. 2006) (quoting ***Eldridge v. Eldridge***, 42 S.W.3d 82, 88 (Tenn. 2001)). Thus, it is not within the province of appellate courts to tweak a parenting plan in hopes of achieving a better result than the trial court. *See* ***Eldridge***, 42 S.W.3d at 88. As our Supreme Court has explained:

> When no error in the trial court's ruling is evident from the record, the trial court's ruling must stand. This maxim has special significance in cases reviewed under the abuse of discretion standard. The abuse of discretion standard recognizes that the trial court is in a better position than the appellate court to make certain judgments. The abuse of discretion standard does not require a trial court to render an ideal order, even in matters involving [parental responsibilities], to withstand reversal. Reversal should not result simply because the appellate court found a "better" resolution. *See* ***State v. Franklin***, 714 S.W.2d 252, 258 (Tenn. 1986) ("appellate court should not redetermine in retrospect and on a cold record how the case could have been better tried"); *cf.* ***State v. Pappas***, 754 S.W.2d 620, 625 (Tenn. Crim. App. 1987) (affirming trial court's ruling under abuse of discretion standard while noting that action contrary to action taken by the trial court was the better practice); ***Bradford v. Bradford***, 51 Tenn. App. 101, 364 S.W.2d 509, 512–13 (1962) (same). An abuse of discretion can be found only when the trial court's ruling falls outside the spectrum of rulings that might reasonably result from an application of the correct legal standards to the evidence found in the record. *See, e.g.,* ***State ex. rel Vaughn v. Kaatrude,*** 21 S.W.3d 244, 248 (Tenn. Ct. App. 2000).

***Eldridge***, 42 S.W.3d at 88. The trial court's discretion, however, is not unbounded. ***Hogue***, 147 S.W.3d at 251 (citation omitted). The court must base its decision upon proof and apply the appropriate legal principles. ***Id.*** (citation omitted).

**Analysis**

The issues in this case involve Father's request to relocate to Arizona with the parties' minor child. Father's request is governed by Tennessee Code Annotated Section 36-6-108, the Parental Relocation Statute:

> (a) If a parent who is spending intervals of time with a child

desires to relocate outside the state or more than fifty (50) miles from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. Unless excused by the court for exigent circumstances, the notice shall be mailed not later than sixty (60) days prior to the move. . . .

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(b) Unless the parents can agree on a new visitation schedule, the relocating parent shall file a petition seeking to alter visitation. The court shall consider all relevant factors, including those factors enumerated within subsection (d). The court shall also consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation and determine whether a deviation from the child support guidelines should be considered in light of all factors including, but not limited to, additional costs incurred for transporting the child for visitation.

* * *

(d)(1) If the parents are not actually spending substantially equal intervals of time with the child and the parent spending the greater amount of time with the child proposes to relocate with the child, the other parent may, within thirty (30) days of receipt of the notice, file a petition in opposition to removal of the child. The other parent may not attempt to relocate with the child unless expressly authorized to do so by the court pursuant to a change of custody or primary custodial responsibility. The parent spending the greater amount of time with the child shall be permitted to relocate with the child unless the court finds:

(A) The relocation does not have a reasonable purpose;
(B) The relocation would pose a threat of specific and serious harm to the child that outweighs the threat of harm to the child of a change of custody; or
(C) The parent's motive for relocating with the child is vindictive in that it is intended to defeat or deter visitation rights of the

> non-custodial parent or the parent spending less time with the child.
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> * * *
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> (e) If the court finds one (1) or more of the grounds designated in subsection (d), the court shall determine whether or not to permit relocation of the child based on the best interest of the child. If the court finds it is not in the best interests of the child to relocate as defined herein, but the parent with whom the child resides the majority of the time elects to relocate, the court shall make a custody determination and shall consider all relevant factors . . . .

Tenn. Code Ann. § 36-6-108 (detailing numerous factors the court may consider in determining the child's best interest).

Based upon the above language, this Court has explained:

> Where the parents do not spend substantially equal intervals of time with the child, Tennessee Code Annotated § 36-6-108 has "a legislatively mandated presumption in favor of [the] relocating custodial parent. . . ." ***Collins***, 2004 WL 904097, at *2. *See also* ***Elder v. Elder***, No. M1998-00935-COA-R3-CV, 2001 WL 1077961, at *5 (Tenn. Ct. App. Sept. 14, 2001). Under Tennessee Code Annotated § 36-6-108(d)(1), the trial court must grant the primary residential parent permission to relocate unless the parent opposing relocation proves at least one of three enumerated grounds: (1) that the relocation does not have a reasonable purpose; (2) that the relocation poses a threat of specific and serious harm that outweighs the risk of harm that would result from a change of custody; or (3) that the primary residential parent's motive for the relocation is vindictive. Tenn. Code Ann. § 36-6-108(d)(1)(2008); ***Webster v. Webster***, No. W2005-01288-COA-R3-CV, 2006 WL 3008019, at *8 (Tenn. Ct. App. Oct. 24, 2006). The parent opposing the relocation bears the burden of proof to establish one of these three grounds, and if he or she fails to do so, the relocation must be permitted. ***Webster***, 2006 WL 3008019, at *14; ***In re Iyana R. W.***, No. E2010-00114-COA-R3-JV, 2011 WL 2348458, at *3 (Tenn. Ct. App. June 8,

> 2011). If the parents do not spend substantially equal intervals of time with the child, the trial court will not address the issue of whether the relocation is in the best interest of the child until and unless one of the statutory grounds is proven. *See* Tenn. Code Ann. § 36-6-108(e); ***Kawatra v. Kawatra***, 182 S .W.3d 800, 803 (Tenn. 2005).

***Rudd v. Gonzalez***, No. M2012-02714-COA-R3-CV, 2014 WL 872816, at *7 (Tenn. Ct. App. Feb. 28, 2014).

Father's first issue concerns the trial court's determination that his move had no reasonable purpose. Father next argues that the trial court erred in finding that it was in the child's best interests to name Mother primary residential parent. From our review of the record, however, the trial court did not make a finding that naming Mother primary residential parent was in the child's best interest. Instead, the trial court made no best interest finding at all. As discussed in more detail below, the trial court's failure to make such a finding is in violation of the Parental Relocation Statute, Rule 52.01 of the Tennessee Rules of Civil Procedure,[4] as well as the basic tenets of child custody jurisprudence.

Because the trial court failed to comply with the applicable law regarding best interest, we decline to consider the other issue raised in this case. The custody of the child at issue turns on the child's best interest. Accordingly, the result in this case may change based on the trial court's best interest analysis. As such, consideration of the other issue raised by Father would be premature. Thus, we will first consider the trial court's failure to make any best interest finding in this case.

There is no dispute that Father was spending substantially more time with the child than Mother. Accordingly, pursuant to the Parental Relocation Statute, Father "shall be permitted to relocate unless" Mother establishes one of the enumerated findings regarding the move. Tenn. Code Ann. § 36-6-108(d)(1); ***Webster***, 2006 WL 3008019, at *14. Here, Mother asserted that Father's move did "not have a reasonable purpose" because Father had made no attempt to seek a job in Tennessee. The trial court agreed with Mother and made the following findings:

> 15. [Father] cites in his petition as a reason for his move to

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[4] Rule 52.01 of the Tennessee Rules of Civil Procedure provides, in pertinent part: "In all actions tried upon the facts without a jury, the court shall find the facts specially and shall state separately its conclusions of law and direct the entry of the appropriate judgment."

Tucson, "greater opportunity for greater income" and the "support, companionship and assistance of family and friends in the Tucson area." He produced 9 witnesses, 7 of them from the Clarksville area in support of his petition. This number of witnesses and testimony is indeed indicative that [Father] does indeed have a strong support network in this area. This substantiates and lends credibility to [Mother's] testimony that until December, 2011, [Father] had always indicated his intentions to stay and work in this area after his graduation. There is no proof in this case that Mr. Aragon has better job opportunities, greater salary opportunities or career advancement opportunities in the Tucson area. In fact, there is no proof whatsoever with regard to [Father's] comparable job opportunities in the Middle Tennessee or Southern Kentucky area because he has not made any inquiries or pursued such opportunities.

16. While it appears that [Father] posits a rational basis for his move, the move is nonetheless not reasonable under all the circumstances. The parties agreed that [Mother] would give up her equal parenting time, travel overseas and provide a substantial income to the parties so that [Father] could go to school and find productive employment. After getting the benefit of this agreement, (i.e. going to school, receiving [Mother's] financial support, and graduating from school) he then decided not to pursue employment in this area as had previously been assumed, and moved to Tucson. "Doubtless, relocation because of a better job opportunity, greater salary and career advancement opportunities, establishes a "reasonable purpose" within the meaning of the statute. The proof offered in this case, however, does not sustain the allegations of such increased salary and increased opportunities." [sic] ***Butler v. Butler***, No. M2002-00347-COA-R3-CV, 2003 WL 367241 (Tenn. Ct. App. 2003).

Based on all the foregoing, the Court finds by a preponderance of the evidence that [Father's] relocation to Arizona did not have a reasonable purpose as defined in T.C.A. §36-6-108(d)( I )(A).

[Mother's counsel] should prepare an Order consistent with this opinion. The parties are directed to negotiate regarding a Parenting Plan to be entered in this matter. If they are unable to

> agree on the provisions of such a Parenting Plan, each party is to submit to the Court their proposed Parenting Plan not later than February 1, 2013.

From our review of the trial court's order, the trial court failed to comply with the Parental Relocation Statute. As previously discussed, the parties agreed that Father spent substantially more time with the child. Accordingly, the trial court was required to allow Father to relocate with this child unless Mother proved one of the specific circumstances outlined in the statute, specifically, that the move was not for a reasonable purpose. *See* Tenn. Code Ann. § 36-6-108(d)(1). The trial court apparently concluded that Mother had proven that the move was not for a reasonable purpose. However, that finding is not the end of inquiry. According to the Parental Relocation Statute, "If the court finds one (1) or more of the grounds designated in subsection (d), the court **shall** determine whether or not to permit relocation of the child based on the best interest of the child." Tenn. Code Ann. § 36-6-108(e) (emphasis added). Accordingly, even when the trial court concludes that a relocation is not for a reasonable purpose, the trial court must still consider whether the best interest of the child is served by permitting the move. Nothing in the trial court's order on appeal, however, indicates that the trial court endeavored to determine whether the child's best interest would be served by permitting the relocation.

In interpreting a statute, the Tennessee Supreme Court has explained:

> [A] reviewing court must ascertain and give effect to the legislative intent without restricting or expanding the statute's intended meaning. The courts must examine the language of the statute and, if the language is unambiguous, apply the ordinary and plain meaning of the words used. Furthermore, every word in a statute is presumed to have meaning and purpose. In short, "[t]he cardinal rule of statutory construction is to effectuate legislative intent, with all rules of construction being aides to that end."

***U.S. Bank, N.A. v. Tenn. Farmers Mut. Ins. Co.***, 277 S.W.3d 381, 386 (Tenn. 2009) (citations omitted). The Parental Relocation Statute provides that a trial court "shall" make a best interest determination if the parent opposing relocation meets his or her burden to show one of the grounds for opposing the move. The use of the word "shall" in a statute typically indicates that the legislature intended the requirement to be mandatory, not directory. ***Bellamy v. Cracker Barrel Old Country Store, Inc.***, 302 S.W.3d 278, 281 (Tenn. 2009) (quoting ***Stubbs v. State***, 216 Tenn. 567, 393 S.W.2d 150, 154 (1965) ("When 'shall' is used . . . it is ordinarily construed as being mandatory and not discretionary.")). Thus, the trial court was

required to make a best interest finding. The trial court here simply failed to do so. Instead, the trial court simply denied Father's request to relocate with the child and asked counsel for Mother to prepare a parenting plan, which plan named Mother the primary residential parent of the child and awarded Mother substantially more visitation than Father. Further, there is nothing in the record that indicates that the trial court considered the child's best interest in approving Mother's proposed parenting plan. *See* Tenn. Code Ann. § 36-6-106(a) ("In a suit for annulment, divorce, separate maintenance, or **in any other proceeding** requiring the court to make a custody determination regarding a minor child, the determination shall be made on the basis of the best interest of the child.") (emphasis added); *see also* ***Greer v. Greer***, No. W2009-01587-COA-R3-CV, 2010 WL 3852321, at *7 (Tenn. Ct. App. Sept. 30, 2010) (citing ***Tuetken v. Tuetken***, 320 S.W.3d 262 (Tenn. 2010) (noting that a trial court is not bound by an agreement of the parties as to parenting but "instead **must** evaluate whether the agreed arrangement is in the best interest of the children") (emphasis added)). The trial court erred in entering a parenting plan placing custody and the vast majority of parenting time with Mother without first determining whether the proposed relocation was in the child's best interest, and if not, whether the parenting plan ultimately submitted by Mother was in the child's best interest.

Because the trial court's order fails to indicate that the court considered the best interest of the child , the trial court also failed to make appropriate findings of fact on this issue. This Court has previously held that a custody determination on behalf of a child is a "fact-intensive issue" that requires detailed findings of fact and conclusions of law by the trial court. *See* ***Pandey v. Shrivastava***, No. W2012-00059-COA-R3-CV, 2013 WL 657799, at *5 (Tenn. Ct. App. Feb.22, 2013) (concerning parental relocation) (citing Tenn. R. Civ. P. 52.01 (requiring findings of fact and conclusions of law in bench trials)). In similar cases, this Court has vacated the judgment of the trial court where the court failed to make findings to support its rulings or where it failed to engage in a best interest analysis. *See, e.g.,* ***Iman v. Iman***, No. M2012-02388-COA-R3-CV, 2013 WL 7343928, at *13 (Tenn. Ct. App. Nov. 19, 2013) (vacating the judgment of the trial court when it failed to make appropriate findings of fact and failed to "make an explicit finding that modification was in the child's best interest"); ***Pandey***, 2013 WL 657799, at *5–*6 (vacating based on the lack of findings); ***Hardin v. Hardin***, No. W2012-00273-COA-R3-CV, 2012 WL 6727533, at *5 [ (Tenn. Ct. App. Dec. 27, 2012) (vacating based on the trial court's failure to make a finding that modification of the parenting plan was in the child's best interest).

This Court has previously held that the General Assembly's decision to require findings of fact and conclusions of law is "not a mere technicality." ***In re K.H.***, No. W2008-01144-COA-R3-PT, 2009 WL 1362314, at *8 (Tenn. Ct. App. May 15, 2009). Instead, the requirement serves the important purpose of "facilitat[ing] appellate review and promot[ing] the just and speedy resolution of appeals." ***Id.***; ***White v. Moody***, 171 S.W.3d 187, 191 (Tenn.

Ct. App. 2004); ***Bruce v. Bruce***, 801 S.W.2d 102, 104 (Tenn. Ct. App. 1990). "Without such findings and conclusions, this court is left to wonder on what basis the court reached its ultimate decision." ***In re K.H.***, 2009 WL 1362314, at *8 (quoting ***In re M.E.W.***, No. M2003-01739-COA-R3-PT, 2004 WL 865840, at *19 (Tenn. Ct. App. April 21, 2004)). In this case, the trial court failed to make any findings regarding the best interest of the child. Best interests, however, is the "paramount consideration," the "pole star, the alpha and omega," of any child custody determination. ***Bah v. Bah***, 668 S.W.2d 663, 665 (Tenn. Ct. App. 1983). Without findings indicating that the trial court made a best interest analysis in refusing to allow the child to relocate with Father and subsequently awarding custody, and the majority of parenting time, to Mother, the trial court did not apply "the correct legal standards to the evidence found in the record." ***Eldridge***, 42 S.W.3d at 88 (citing ***State ex. rel Vaughn v. Kaatrude,*** 21 S.W.3d 244, 248 (Tenn. Ct. App. 2000)).

We recognize that this is the second issue raised by Father in this case. However, as previously discussed, best interests is the "paramount consideration" in any child custody cases. ***Bah***, 668 S.W.2d at 665. The trial court, however, failed to make any findings regarding the child's best interest. Without a best interest finding, the trial court failed to complete its duty pursuant to the Parental Relocation Statute and Rule 52.01. We decline to consider the other issue raised in this case until such time as the trial court has fulfilled its obligations under the applicable law. Consequently, we vacate the judgment of the trial court and remand for the trial court to consider the child's best interest with regard to these issues. All other issues are pretermitted.

**Conclusion**

We vacate the judgment of the trial court and remand for all further proceedings as are necessary and are consistent with this Opinion. Costs of this appeal are taxed one-half to Appellant Reynaldo Aragon, and his surety, and one-half to Appellee Cassidy Aragon, for all of which execution may issue, if necessary.

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J. STEVEN STAFFORD, JUDGE