Filed 5/29/18 A.W. v. A.R. CA2/3

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

A.W., Plaintiff and Respondent, v. A.R., Defendant and Appellant.	B280978 (Los Angeles County Super. Ct. No. MF007237)

APPEAL from a judgment of the Superior Court of Los Angeles County, Scott J. Nord, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

The Law Office of Greg May and Greg May for Defendant and Appellant.

A.W., in pro. per.; Law Office of John C. Bigler and John C. Bigler for Plaintiff and Respondent.

In this child custody move-away case, A.R. (mother) appeals a paternity judgment that denied her request to relocate the parties' minor child from California to New Mexico, and granted primary physical custody to respondent A.W. (father), with visitation/parenting time to mother.

As discussed below, we perceive no prejudicial abuse of discretion in the trial court's ruling, which denied the move-away request as not being in the minor's best interests. Therefore, the judgment is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Events leading up to the trial on mother's request for a move-away order*.

The parties were in a nonmarital relationship. The minor was born in June 2012, while the parties were living together. In April 2014, mother moved out of the family home and the parties discussed an informal custody arrangement. At that time, father proposed that mother have the minor five days a week and that he have the minor two days a week, until the minor adjusted to the new arrangement, at which time they would transition to a 50/50 time allocation.

On July 31, 2014, father filed a petition to establish his parental relationship to the minor, who was then two years of age. (Fam. Code, § 7630.)[1] Father's petition requested joint legal custody and joint physical custody of the minor.

After a few months of the five-day/two-day arrangement, father asked that they step up his time share to a 50/50 arrangement per their original agreement, but mother denied that they had agreed to do so. Unable to resolve their custody

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1 All unspecified statutory references are to the Family Code.

dispute informally, on March 20, 2015, father filed a request for an order for joint legal and joint physical custody.

On March 23, 2015, mother filed responsive papers. She admitted father's paternity, requested sole legal custody and sole physical custody, and requested the move-away order which is the subject of this appeal. After her relationship with father ended, mother had married another man in November 2014, he had been reassigned to an air force base in Albuquerque, New Mexico, and mother now was seeking an order allowing her to take the minor with her to that state.

On April 21, 2015, pursuant to the stipulation of the parties, the trial court entered an interim order for joint legal custody and joint physical custody, on a 50/50 custodial basis.[2] The stipulated order provided that each parent had the right of first refusal in providing childcare, if the other parent was away from the minor for more than four hours during that parent's custodial time and that parent's spouse or significant other was unavailable to care for the minor. The stipulated order also provided for the appointment of a child custody evaluator to assess mother's relocation request, and for the evaluator's report to be received in evidence without further foundation.

The extensive custody evaluation (Trial Exhibit 107), which was completed on July 1, 2015, concluded with the recommendation that mother be granted primary physical custody, with joint legal custody. Among other things, the evaluator found that although the minor "dearly loves his dad,"

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[2] Because the parties were never married, the language in the stipulated order that the minor was a child "of the marriage" clearly was a clerical error.

the minor had a "very strong preferential attachment to his mother."

2. *The trial on the move-away request*.

On April 29, 2016, the matter came on for trial, which was conducted over a three-day period. The trial court heard testimony from both parents and from mother's husband. Because the trial court focused on three discrete incidents in reaching its decision, we summarize them here.

The right of first refusal incident. On September 18, 2015, father's fiancée, Tesla, who was pregnant, went for a routine checkup and was rushed to the hospital due to complications, in order to commence delivery of the baby. The minor was in father's care that day, and father's sister was with the minor while father was at the hospital. At about 9:00 p.m., mother was monitoring Tesla on social media and determined that Tesla was in labor. Mother texted father to wish Tesla good luck on the delivery, and inquired where the minor was. Shortly thereafter, at about 11:30 p.m., mother texted father to tell him that she was coming to father's home or to the hospital to pick up the minor. Mother drove to father's home, saw that his car was not there, and then drove to the hospital, where she saw his parked vehicle. Mother then returned to father's house, and demanded that father's sister let her take the minor, who was asleep inside. Mother then contacted law enforcement officers to enforce her four-hour right of first refusal under the interim custody order. The officers arrived at 1:30 a.m. and directed father's sister to hand the minor over to mother.[3]

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[3] Following the right of first refusal incident, father sought a domestic violence restraining order (DVRO) against mother, and the transcript of that hearing was a trial exhibit herein.

The car seat incident. After father's car was involved in a minor accident in June 2015, mother asked father whether he had replaced the minor's car seat. Father told mother that his insurance company had advised him that he was not required to do so. Mother responded that a California Highway Patrol officer had advised her that replacing a child car seat after an accident, although not legally required, is "the safer choice." Mother offered to buy a new car seat that same day. Father responded, "Do you not trust me as [the minor's] father to do what I need to do?"

The following week, mother texted father "I am letting you know now that if you do not have a new car seat for [the minor] when you pick him up on Friday, I will not allow you to take [him] until you get him a new car seat. I will not allow you to endanger him." Father advised mother that he had ordered a new car seat and was waiting for it to arrive. Mother asked father to cancel the order and to pick up a new car seat at Wal-Mart that day. To accommodate mother, father arranged to

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Commissioner Palazzolo, who heard the DVRO matter, granted a motion to dismiss, finding the evidence did not "rise[] to the level of domestic violence under the code." He found, however, that the incident relating to the right of first refusal was "a gross misjudgment," and he rejected mother's claim that " 'I was just thinking of . . . the best interests of my child,' " stating, "I don't believe it for a second." He also warned mother, "I don't know if you are going to get a move away. . . . Especially if this kind of behavior repeats itself. . . . I am going to think long and hard about any move away by a parent who engages in this kind of behavior." Thereafter, Commissioner Palazzolo recused himself pursuant to Code of Civil Procedure section 170.1, subdivision (a)(6), and the matter was reassigned to Commissioner Nord.

borrow a car seat from friends, who would be bringing it over. Mother asked father to send her a picture of the minor sitting in the borrowed car seat. Father then advised mother that UPS had delivered the new car seat, and he sent mother a picture of the minor sitting on top of the box in which the car seat had been shipped. Mother then demanded to see a picture of the minor seated in the new car seat.

The haircut incident. Tesla cut hair at home as a hobby, but was not licensed. Mother requested that Tesla refrain from cutting the minor's hair, and father agreed. One Saturday, after the minor had a haircut at a retail establishment with both parents present, Tesla trimmed his hair at home because the hair stylist "did a terrible job and . . . it was uneven all over" and Tesla corrected it.

Mother objected to Tesla's having done so, as a violation of their earlier agreement. At trial, mother conceded that you don't "have to be a licensed hair stylist to cut your child's hair," but she "wanted to be included in the decision." In response to the court's question whether haircutting "is a big enough decision" that required joint decisionmaking, mother stated "I would just like for [father] and [me] to be able to communicate about haircuts and styles and have it [be] something that he and I agree on rather than the two of them agreeing and just carrying it out."

3. *The statement of decision and judgment*.

On June 6, 2016, the court issued an extensive proposed statement of decision, which it later adopted as its final decision in the matter. Contrary to the evaluator's recommendation, the court denied mother's move-away request and awarded father

primary physical custody, with visitation/parenting time to mother.[4] The court ruled, inter alia:

"Under [section] 7501, [subdivision] (a), there is a presumption that a parent with sole physical custody has the right to change a child's residence subject to the court's power to restrain a removal that would prejudice the child's right or welfare. This presumption applies only if the moving party has sole physical custody in fact. It also arises only if there is a final physical custody order. Neither of those factors appear[s] in this case. And, as such, [the statute] is not applicable." Rather, the court is required to "make a de-novo determination based on the child's best interests."

The court's general impressions of each parent were "that they both love [the minor] and want what is best for him. However, both clearly go about it in a very different manner. [¶] It is evident to the Court that Mother lacks a moderation speed with respect to [the minor]. . . . This was on full display on at least two different occasions. The first being the issue regarding the forced reclaiming of [the minor] at approximately 2:00 a.m. with the help of the Sheriff's Department. While it is undisputed that Mother had a right of first refusal, her actions were so over

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[4] A child custody evaluator's recommendation is not binding on the trial court, and is simply evidence the court must consider and weigh along with the other evidence in the case. (*Osgood v. Landon* (2005) 127 Cal.App.4th 425, 436 [trial court "properly could conclude that [evaluator's] concerns were overstated" and did not err in awarding custody to relocating parent even though evaluator recommended that primary physical custody be awarded to the nonmoving parent]; see, generally, Hogoboom & King, Cal. Prac. Guide: Family Law (The Rutter Group 2017) § 7:256.)

the top that it defies any type of justification." Mother knew that Tesla "was in labor and that [the minor] was home with [father's] sister and her husband. Mother at no time stated that [father] left him home alone to fend for himself or anything of that kind. Nor did she say that [the minor] was ever left with people she did not trust or know. . . . [I]t is odd that parties that share joint legal custody and, in fact exercise it in this case, require constant assurance that the minor is safe. And the mere fact that Mother is not responded to and requires police intervention in the early morning hours to assure her of that fact, shows how irrationally Mother behaved."

She "was so driven to assert her right of first refusal and to take back [the minor] that she failed to see that it was not in [the minor's] best interest . . . . Especially, after she learned he was safe with Father's sister as the caretaker . . . . In fact, she learned that fact at approximately 11:30 p.m. but still called the Sheriff's Department and waited another two hours for them to arrive and take [the minor]."

The "second issue about this lack of moderation came about with respect to the car seat issue. . . . Father was in an accident but [the minor] was not in the car. By all accounts, the accident was minor. However, Mother refused to allow Father to have his visitation with [the minor] until he obtained a new car seat. She stated that this was the policy of the National Highway Traffic and Safety Administration (NHTSA). That in fact is not the policy of the NHTSA. The recommendation from the NHTSA is that the car seat be replaced if the accident is moderate to severe, not minor. . . . She was so obsessed with this [issue] that . . . she felt that she could withhold a visitation because she made a unilateral decision about the situation."

As for the haircut incident, upon returning home from the haircut, father and Tesla "realized it was not a good job and fixed it. Nothing severe, just, to the Court's perspective, cleaning it up. Again, Mother made a mountain out of a molehill."

The court found father was not blameless, in that he did not communicate with mother when he accompanied Tesla to the hospital, and father previously had agreed that Tesla would not cut the minor's hair. However, the court found that father "will follow Court Orders and specific Orders can be put [in] place regarding communication."

The court also found this was not a close case, and that the minor's best interest was to reside primarily with father, the non-moving parent. In its analysis, the trial court discussed the following eight factors applicable to move-away cases, enumerated in *In re Marriage of LaMusga* (2004) 32 Cal.4th 1072, 1101 (*LaMusga*):

(1) *The minor's paramount interest in stability and continuity in the custodial arrangement and the harm that may result from disruption of established patterns of care and emotional bonds*. This factor weighed heavily against the minor moving away with mother.

(2) *The distance of the move*. This factor weighed against the minor living primarily with mother. The distance between father's home and mother's new home in New Mexico was approximately 790 miles, father lacked adequate financial resources for extensive visitation, and mother was better able to afford that expense.

(3) *The minor's age*. The factor strongly supported the minor living primarily with mother. The minor "is relatively

young and his primary attachment is to both parents, especially his mother."

(4) *The minor's relationship with both parents*. This factor weighed heavily against the minor living primarily with mother. The trial testimony and the custody evaluation showed that the minor "is bonded with both parents and their new spouse or fiancée. In addition, [the minor] is bonded with his new younger sibling."

(5) *The relationships between both parents, including their ability to communicate and cooperate effectively and their willingness to put the minor's interests above their own*. The court found this factor weighed heavily against the minor living primarily with mother. The court reiterated that it had "significant issues with the Mother and how she has handled multiple situations as they affect [the minor]. Clearly, she was not looking into [the minor's] best interest but [was] more concerned with her own."

(6) *The minor's wishes*. This was a neutral factor because the minor was not mature enough for the court to consider his wishes.

(7) *The reasons for the move*. The court found mother had legitimate reasons for relocating to New Mexico, and that the move was not motivated by a desire to frustrate father's contact with the minor. The court observed, however, that the move was not "child-centered," and that mother was moving for her own benefit, not for the benefit of the minor.

(8) *The extent to which the parents currently shared custody*. Because the parties equally shared custody, this factor weighed heavily against the minor living primarily with mother.

Mother filed a timely notice of appeal from the judgment of paternity.

CONTENTIONS

Mother contends: the best interests test applies because this was an initial custody judgment and the parties shared physical custody; the trial court's finding that the minor was equally bonded to both parents is both erroneous and ambiguous; the trial court applied an incorrect legal standard in examining whether the reason for the move was "child centered"; the trial court erroneously considered the factors of stability and continuity in the existing custodial arrangement and the existing time share of physical custody; the trial court erroneously considered the parties' relative abilities to pay for visitation travel and imposed travel costs on mother; the trial court placed undue and punitive emphasis on various instances of mother's conduct that had no bearing on the minor's best interest; and the trial court erred as a matter of law in weighing her purchase of a house in New Mexico as a factor in granting custody to father.

DISCUSSION

1. *General principles; the best interest standard governed the trial court's inquiry; our review is governed by the deferential abuse of discretion standard.*

In ruling on mother's request for a move-away order, the trial court properly made a de novo determination under the best interest of the child standard.

When, as here, "the parents have joint physical custody, modification of the coparenting arrangements is not a change of custody requiring change of circumstances. Instead, the trial court has wide discretion to choose a parenting plan that is in the best interest of the child. [Citation.] The joint custody moving

parent does not have the presumptive right to change the child's residence, and bears no burden of proving the move is essential or imperative. ([*In re Marriage of*] *Burgess* [(1996)] 13 Cal.4th [25,] 38–39, fn. 10 [(*Burgess*)].) Nor does the opposing nonmoving parent bear the burden of showing substantial changed circumstances require a change in custody or that the move will be detrimental to the child. [¶] The value in preserving an established custodial arrangement and maintaining stability in a child's life is obvious. *But when the status quo is no longer viable and parents have joint custody, a court must review de novo the best interest of the child.* It can fashion a new time-share arrangement for the parents." (*Niko v. Foreman* (2006) 144 Cal.App.4th 344, 363-364, italics added; accord, *LaMusga*, *supra*, 32 Cal.4th at p. 1089, fn. 3; *Mark T. v. Jamie Z.* (2011) 194 Cal.App.4th 1115, 1125-1126 (*Mark T.*).)

We review the trial court's custody decision under the deferential abuse of discretion standard. "The precise measure is whether the trial court could have reasonably concluded that the order in question advanced the 'best interest' of the child." (*Burgess*, *supra*, 13 Cal.4th at p. 32.) Discretion is abused when the trial court applies the wrong legal standard or its factual findings are not supported by substantial evidence. (*Edwards Wildman Palmer LLP v. Superior Court* (2014) 231 Cal.App.4th 1214, 1224.)

2. *No abuse of discretion in the trial court's ruling.*

Here, the trial court applied the correct legal standard. The statement of decision reflects that in ruling on the request for a move-away order, the trial court made a de novo determination based on the best interest of the minor.

Further, as discussed in greater detail below, notwithstanding mother's arguments to the contrary, the trial court's decision that the minor's best interest is served by awarding primary physical custody to father is supported by substantial evidence in the record. The evidence established that mother repeatedly placed her own interest ahead of the best interest of the minor, as exemplified by the right of first refusal incident and the car seat incident. Therefore, the trial court acted within the bounds of its discretion in concluding that the minor's best interest required the award of primary physical custody to father.

3. *Mother's challenge to the sufficiency of the evidence and her contention the trial court gave undue weight to the three incidents are meritless.*

Mother contends the trial court placed "undue and punitive emphasis" on instances of her conduct, i.e., the three incidents, which had no bearing on the minor's best interest and were either unsupported by substantial evidence or were found by the trial court to have been precipitated by father's failure to communicate with her. As discussed below, mother's challenge to the sufficiency of the evidence is meritless, and mother's argument that the trial court gave undue weight to the three incidents is at odds with basic principles of appellate review.

a. *Standard of appellate review*.

" '[W]here the findings are attacked for insufficiency of the evidence, our power begins and ends with a determination as to whether there is *any* substantial evidence to support them; . . . we have no power to judge . . . the effect or value of the evidence, to weigh the evidence, to consider the credibility of the witnesses, or to resolve conflicts in the evidence or in the

reasonable inferences that may be drawn therefrom.' " (*Leff v. Gunter* (1983) 33 Cal.3d 508, 518; accord, *In re Marriage of Smyklo* (1986) 180 Cal.App.3d 1095, 1098.)

b. *The car seat incident*.

Mother contends that no substantial evidence supports the finding that she denied father custodial time unless he obtained a new car seat. In this regard, the trial court stated: "Mother refused to allow Father to have his visitation with [the minor] until he obtained a new car seat." The evidence before the trial court included the following text message from mother: "I am letting you know now that if you do not have a new car seat for [the minor] when you pick him up on Friday, I will not allow you to take [him] until you get him a new car seat. I will not allow you to endanger him." Thus, the challenged finding is supported by the evidence.

Mother also contends there was no substantial evidence to support the trial court's finding that she acted unreasonably in not allowing the minor to travel in the car seat that had been involved in the accident. However, the evidence at trial was that there is no requirement from the NHTSA or any other source that a car seat must be replaced following a minor accident. Therefore, the trial court was entitled to conclude that mother acted unreasonably in unilaterally insisting that the car seat be replaced, and in threatening to withhold visitation until father complied with her demand.

c. *The right of first refusal incident*.

Mother contends the trial court in its decision placed "undue emphasis" on her exercise of her right of first refusal. The argument is meritless because an appellate court's role is limited to determining whether there is substantial evidence to

support the trial court's decision, not to " '*weigh the evidence . . . or to resolve conflicts in the evidence or in the reasonable inferences that may be drawn therefrom*.' " (*In re Marriage of Smyklo*, *supra*, 180 Cal.App.3d at p. 1098, italics added.)

Here, the evidence at trial showed that while father and his fiancée were at the hospital for an emergency delivery, and the minor was safely asleep at father's home in the care of his aunt, mother summoned law enforcement officers, who arrived in the early morning hours to enforce her four-hour right of first refusal. It was the province of the trial court to determine the weight to be given this evidence.

Mother also argues that, as the trial court found, this incident was precipitated by father's failure to communicate with her, but she contends the trial court's finding that father failed to communicate "barely begins to describe [father's] conduct." Stated another way, mother contends the trial court should have assigned greater culpability to father in this incident. As indicated, the trial court found father "clearly has blame and plenty. The issue of the 'right of first refusal' . . . occurred because Father did not properly communicate with Mother." Mother's contention the trial court should have assigned greater blame to father is simply an improper invitation to this court to reweigh the evidence.

d. *The haircut incident*.

Mother contends the trial court abused its discretion in weighing the haircut incident in awarding custody to father. Again, the weight to be given to mother's conduct in that situation was within the purview of the trier of fact.

e. *No merit to mother's claim it was prejudicial error for the trial court to consider these incidents*.

Mother argues the trial court's "unwarranted focus on [her] past conduct was prejudicial."

The contention is meritless. The incidents discussed above were relatively recent in time and were relevant to the trial court's inquiry into the best interest of the minor. Therefore, the trial court was entitled to weigh the evidence of those incidents, along with all other relevant and admissible evidence in the matter. Based on the evidence adduced at trial, the court properly concluded that mother's conduct in "multiple situations" revealed that "she was not looking into [the minor's] best interest but [was] more concerned with her own."

4. *No merit to mother's contention the trial court erred in stating the minor was equally bonded to both parents.*

Mother contends the trial court erroneously found the minor was *equally bonded* to both parents, based on the court's incorrect reading of the evaluator's report. In this regard, the statement of decision provided: (1) "As stated during the testimony and in the [custody] [e]valuation, [the minor] is bonded *equally to both parents*;" and (2) "[the minor] is relatively young and his primary attachment is to *both parents, especially his mother*." (Italics added.)

Thus, while mother faults the trial court for finding that the minor was bonded "equally" to both parents, the trial court at the same time found that the minor was "especially" bonded to mother.

As for the evaluator's report, on which the trial court relied, the report opined the minor had a "very strong preferential attachment to his mother." However, the evaluator's report also

contained evidence to the contrary; the report included the statement of a caregiver who took care of the minor two or three days a week; the caregiver stated "they were 'both great parents.' [The minor] would get excited to see each of them, *but cried more when the dad left*." (Italics added.)

Thus, the trial court's finding that the minor was equally bonded to both parents, but "especially" to mother, is a fair reading of the evaluator's report. Moreover, mother is not aggrieved in this regard, since the trial court did find that the minor is "especially" attached to her.

5. *No merit to mother's contention the trial court prejudicially misapplied the* LaMusga *factors to rule in favor of father.*

Mother contends the trial court erroneously considered the factors of "the children's interest in stability and continuity in the custodial relationship" and "the extent to which the parents currently are sharing custody." (*LaMusga*, *supra*, 32 Cal.4th at p. 1101. Mother explains that because the parties enjoyed equal custody, these *LaMusga* factors were inapplicable. The *LaMusga* factors apply when a *custodial* parent proposes to change the residence of the child. (*Id*. at p. 1101.) However, when, as here, the parents share *joint physical custody*, the court " 'must determine de novo what arrangement for primary custody is in the best interest of the minor children.' " (*Id*. at p. 1089, fn. 3.)

Mother's argument is unavailing. As reflected in the statement of decision, the trial court was well aware of the proper standard in the case at bench, stating "the Court will make a de-novo determination based on the child's best interests." The trial court went on to cite the best interest factors enumerated in section 3011, stating it had "wide discretion to choose a parenting

plan and resolve the move-away issue in a manner that advances the best interests of the child, considering such factors as the child's health, safety and welfare; any history of abuse by a parent; and the nature and amount of contact with both parents."

Because the status quo of shared custody would be disrupted by mother's relocation, it was self-evident that stability and continuity of the custodial arrangement could not be maintained, irrespective of which way the trial court ruled on the move-away request. Although the statement of decision referred to the child's interest in "stability and continuity in the custodial arrangement," the trial court clearly was trying to fashion a custody arrangement that maximized continuity for the minor and minimized the disruption in his life, and therefore it reasonably concluded that awarding primary physical custody to the nonmoving parent would best advance the minor's overall interest in stability and continuity.

We further note the trial court specifically found this was *not* a close case, stating "that regardless of which legal standard it applies, the case is not close enough for the precise legal standard to affect the outcome." The gist of the trial court's ruling was that it "ha[d] significant issues with [mother] in this matter and how she has handled multiple situations as they affect [the minor]." The court found, "Clearly, she was not looking into [the minor's] best interest but [was] more concerned with her own." Thus, the trial court's decision to award primary physical custody to father was grounded not in *LaMusga*, but rather, in the trial court's determination that mother repeatedly had failed to make sound parenting choices, so that the minor's best interest would be served by awarding primary physical custody to father.

6. *Mother's remaining contentions; no showing of prejudicial error.*

As discussed below, although mother raises a number of other issues with the trial court's ruling, she has not met her burden to show prejudicial error. As the appellant, mother is required not only " 'to show error, but to show *injury* from the error.' " (*In re Marriage of Behrens* (1982) 137 Cal.App.3d 562, 575; see generally, Cal. Civ. Prac. Family Law Litigation (2018) § 17:56 [harmless error rule].)

First, Mother contends the trial court applied an incorrect legal standard in examining whether the reason for the move was "child-centered." We agree this was an inappropriate consideration. However, the trial court's observation that the move was not child-centered was clearly harmless because the trial court actually found *in favor* of mother on the issue of her motivation for the move. As indicated, the trial court found that mother had "legitimate reasons for the move," and that the move was not motivated by her desire to frustrate father's contact with the minor.

Mother also contends the trial court erred in giving weight to the fact that she had already purchased a house in New Mexico. In this regard, the trial court stated it was "unsure if this [was] poor legal advice or another instance of unrestrained activity on the part of Mother." Mother's property purchase in New Mexico was an irrelevancy because a trial court, when presented with a move-away request, " 'must treat the plan [to move away] as a serious one and must decide the custody issues based upon that premise.' " (*Mark T.*, *supra*, 194 Cal.App.4th at p. 1126, italics omitted.) The trial court was well aware of this principle, as it stated, "[u]nless the Court finds that the decision

to relocate is in bad faith, the Court is required to treat the plan as a serious one and must decide the custody issues based upon that premise."

Because the trial court was mindful that it had to take seriously mother's relocation plan, its reference to the fact that mother had already purchased property in New Mexico, while gratuitous, did not affect the outcome. Also, as indicated, the trial court expressly found this was not a close case, and it is clear to this court that the trial court would have reached the identical conclusion irrespective of whether mother had already purchased a house in New Mexico.

For the same reason, the trial court's rationale that mother is "better suited to undertake all the costs for visitation" did not impact the court's ultimate decision regarding physical custody.[5] Mother is correct that "comparative income or economic advantage is not a permissible basis for a custody award." (*Burchard v. Garay* (1986) 42 Cal.3d 531, 539.) However, it is clear that the trial court's decision rested not on economics, but on what it referred to euphemistically as mother's lack of "a moderation speed with respect to [the minor]." To reiterate, the trial court articulated its concerns with respect to mother's conduct, stating it had "significant issues with the Mother in this matter and how she has handled multiple situations as they affect [the minor]. Clearly, she was not looking into [the minor's] best interest but [was] more concerned with her own."

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[5] Although mother states the trial court imposed travel costs on her, apparently alluding to the provision in the judgment requiring her to pay the minor's airfare from and to father's home airport, mother does not assert any error in that regard.

Viewing the above arguments by mother in light of the entire record (Cal. Const. art. VI, § 13; *Grail Semiconductor, Inc. v. Mitsubishi Electric & Electronics USA, Inc.* (2014) 225 Cal.App.4th 786, 799 [reviewing court must consider the full record rather than the particular ruling complained of in isolation]), we conclude mother has not met her burden as the appellant to demonstrate prejudicial error.

DISPOSITION

The judgment is affirmed. Respondent father shall recover his costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

LAVIN, J.

KALRA, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.