

Case Law from Eckert to 2022 / Relocation Cases by District

| Case Name | Citation | Year | App. Dist. | Tr. Court Rvrsd. | Pre or Post Mod? | History / Quality (3) | Failed to Exercise (3) | Educational Opportunities (4) | Extended Family (5) | Enhancement to General Quality of Life (6), etc. | Indirect Benefits Considered (6) | Wishes of Child / Maturity (8) | Where Relocation Sought (Miles) (7, 9, 10) | Parenting Time Rdctn. (7, 9, 10) | Deference to Trial Court's Decision | Comment |
|--|--------------------------|------|------------|------------------|--|--|--|--|--|---|---|--|---|---|---|--|
| Allowed Supreme Ct. | | | | | | | | | | | | | | | | |
| Collingbourne | 204 Ill. 2d 498 | 2003 | | Affirmed* | Post | | Re 9 yr-old, M exercised but F missed btw. 15-20 Sats. b/c of work. Testimony F stopped practice. | Testimony that academic opportunities in MA superior than to Hampshire, IL ✓ | F: Extended Family F in IL | M: married man employed out of state. "Creation of a new family unit ... social environment of a 'traditional family setting' may be considered. ¶ 529. | Yes, but. | De facto split custody. 16 (F) and 10 (M) as primary. In camera conducted of 10-yr old slightly against move. | MA | 0%, 8 to 10 wks. summer plus | Yes. 522, Strong and compelling. 524 | Key Supreme Court decision affirming consideration of indirect benefits. 8 to 10 weeks in summer plus extended visitation proposed at other times. New H's business prevented him from relocating |
| Fatkin | 2019 IL 123602 | 2019 | | Affirmed* | | | M Regularly exercises | - | Father as primary. His parents / GPs in VA. No extended family in IL, ¶ 33. | | | 13. In camera. "Extremely articulate" mature child expressed reasoned and independent preference in favor. | VA | not so clearly against manifest weight of evid that manifest injustice occurred | Strong and compelling presumption | Deference given to trial court's fulsome decision. Reliable testimony by son that mother had been discussing relocation to another state (TN)--where man she was dating lived--creating double standard. |
| * Re Trial Ct's Decision | | | | | | | | | | | | | | | | |
| Apt. Ct. First. | | | | | | | | | | | | | | | | |
| Zamarripa-Gesundheit | 175 Ill.App.3d 184 | 1988 | 1 | Reversed | Post | | | Upon move, would receive comparable Jewish education (important to both parents) | - | Spouse's job transfer | Yes | 11-yr. old dtr intrvwd in camera. Antiquated language re pref and custodian's discretion, yet immature child, p. 188 | WA | Yes but % not clear. | - | One of earlier indirect benefits case based on job xfer of the new husband. Strong trickle down case not consistent with Collingbourne and current factors |
| IRMO Roppo* | 225 Ill.App.3d 721 | 1991 | 1 | Reversed * | Post. Shortly after div. | | | No testimony about the quality specifically of the schools, 725 | Both families grew up / attended schools in Vesper, WI, 730. F's Brother and step-children in IL, 732 | Extended family on both sides Husband's job in WI critical factors | Yes | 3 yr-old. | WI (4.5 hrs.) | 0%, Could supplement with months at summer breaks | - | Unusual reversal. Reversed directed finding only in the F's favor at close of M's case in chief re the relocation issue. Case remanded and proceed as if motion for directed verdict denied. |
| Miroballi | 225 Ill.App.3d 1094 | 1991 | 1 | Reversed* | Post-2 yrs. after div. | | Yes. Not consistently exercised visitation, 1095 | Evidence re better schools in Farmington Hills, MI vs. Tinley Pk, 1096 | Although children would no longer live in the same city with their father, would live close enough to spend time with him / maintain ties with extended family. 1109 | Spouse out of state: Mother able to live in "traditional family setting" not having to work outside the home. | Yes. Strong statement re 1st Dist, 4th Div.'s position | 7th and 3rd grade (apx. 12 and 8.) | MI: Finding Flights Detroit to Chicago \$45. | Apt ct. found workable schedule could be reached if removal allowed | | *Trial Court's directed verdict denying removal reversed. A dated decision quoting from Zamarripa, "On balance, we do not think that the interests of the custodial mother should be subordinated to those of the noncustodial father." No remand. |
| Bhati and Singh | 397 Ill. App. 3d 53 | 2009 | 1 | Reversed | Post-2 or 3 yrs. after div. | | Evidence mixed. | | | Spouse physician out of state. Removal allow stay-at-home mother. | Yes | Age 6-7. | NC | Would Diminish | | Airfare would be free. Impact on visitation factor against removal. Note dissent more consistent with current statute and Collingbourne re not against manifest weight. |
| IRMO D.T.W. | 2011 IL App (1st) 111225 | 2011 | 1 | | Initial. | | | | | | | 8 and 3. | FL | | | Parental alienation key factor in case involving professional basketball star D. Wade. |
| Second. | | | | | | | | | | | | | | | | |
| Gratz | 193 Ill.App.3d 142 | 1989 | 2 | Reversed | Post / Modification of Custody | | Not an issue. | | | Proven health benefits | Not the emphasis of decision no substantial | 9 | Arizona | None | | Modification of custody case interplay. |
| Repond | 349 Ill.App.3d 910 | 2004 | 2 | Reversed | Post | | F failed to exercise half his visitation in past several years. Sons could not live with F according to him. | All in Switzerland | Greater family support system in FL vs. little extended family support in IL | Mother: Job as physicist in Switzerland. Was able to find nothing comparable here. | | 17, 15, 10. Wishes via court appointed mental health professional. Wishes mixed but eldest preferred | Switzerland | | | Justice Hutchinson (w/ McClaren and Grometer): Father exercised only 50% of allotted parenting time, had fmlly in Switzerland and travelled Europe several times each year. |
| Main | 361 Ill. App. 3d 983 | 2005 | 2 | Affirm | Post | Little evidence of quality of relationship | Mixed evidence but some that F had not fully exercised his rights to visitation | Some evidence of better schools. | Greater family support system in FL vs. little extended family support in IL | Upon move would be living with M's mother with whom they lived earlier. Good job offer in FL. | Yes | - | FL (but parties had already lived 4.5 hrs away in IL) | | | Move to Florida allowed despite 4.5 hour move within Illinois even after removal battle in initial divorce lost (seeking removal to Florida) |
| Kavchak | 2018 IL App (2d) 170853 | 2018 | 2 | Affirm | "Relocation is another topic for another day" w/ initial div. Issue addressed shortly after. | | Clearly quite strong, 48 | Comparable with Mother paying for private school in N.C. with 100% college attendees | Evenly divided. 50. While family in IL, W's Mother (FL) planned to move to NC (not from IL). Her mother planned to move to N.C. | Lack of significant increase in salary not determinative (small increase). Dream job offer that would pay for her Ph.D. | Tr. Ct. considered ind. benes. Her Mother would pay for house other than mortgage, etc. | Kindergarten | NC | | Para 65. Reference to P.D. and quoting, "always strong and compelling..." | Case talks to the importance of days/overnight counting accurately re substantial impairment. Father could prolong his work schedule for longer periods |
| * Reversal of Directed Finding against Removal | | | | | | | | | | | | | | | | |

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| Third. | | | | | | | | | | ===== | | | | | | |
| Taylor I | 202 Ill.App.3d 740 | 1990 | 3 | Reversed | Modification / Relocation Case. Relocation should have gone first | | | Testimony of improved ed. opportunities in new locale. ✓ | in Illinois | New Spouse entered Navy, extended tour VA. | Yes | 6-7. Allowance of hearsay when child 3 yrs. old rvrsd. | VA | | | Also addresses F's petition for modification being predicated on M's petition for removal. One of 7 cases cited by Collingbourne re general quality of life for custodial parent and child. |
| Good | 208 Ill.App.3d 775 | 1991 | 3 | Reversed | Post: Cross-Petitions to Modify | | | Home and school environment in MI at least as good as in IL. ✓ | | Custodian F job transfer | Yes | Five and Seven. | MI (8 hrs.) | | | Father / custodian had obtained temporary removal and case held that necessity equals in effect best interests of the child. Also addresses cross-petitions and burden of proof |
| Carlson | 216 Ill.App.3d 1077 | 1991 | 3 | Reversed | Post | | Dissent quoted from Eckert. "When a parent has assiduously exercised..." See comment | | Both sets GPs live in quad cities | Spouse out of state. Reference to "traditional family setting." 1082. | Yes | 9, 6. | IA (75, 1.5 hrs.) | Substantial | | Ftrth visitation varied from almost daily contact to some weekends |
| Ballegeer | 236 Ill.App.3d 941 | 1992 | 3 | Reversed | Post | | Never missed a weekend. | | In IL. Significant factor in trial ct's decision. | Custodian's M37 career opportunity where mother's ER closed local branch and offered position at corp. HQ. | Yes | 7. In chambers interview preferring to live with Father at his farm. | CO | | | Likely different result now, affirming trial court's decision. Reflected permissive attitude of 3rd district regarding removal but superior job opportunities critical factor. Mother moved prior to decision. |
| Pfeiffer | 237 Ill.App.3d 510 | 1992 | 3 | Affirmed | Post | | | | Strong statement re this factor standing alone not sufficient. p. 514. Cites Taylor | Spouse's job transfer | Yes | 6 with in camera interview not going to child's preference | DC | | Strong and Compelling | |
| Pribble (Wagenblast) | 239 Ill. App. 3d 761 | 1993 | 3 | Reversed | Post | | | | In St. Louis, IL area. "We realize that the children will move away from ... other relatives who have played a major role." | Spouse out of State Physician | Yes | 8, 6, 3.5, 8 and six-year old interviewed by court with 8 yr-old being against removal. | IA | | | Currently, trial court's decision would have been affirmed. |
| Taylor (Marsha and James) | 251 Ill.App.3d 58 | 1993 | 3 | Affirmed | | F Every weekend. | Diligent. | Detailed testimony re better opportunities | | Spouse's job transfer / his increased salary. | Yes | 10 | TX | | | Reasons for seeking move were not frivolous, unpersuasive or inadequate. Reflected 3rd District's permissive attitude pre-Collingbourne where M could stay at home. Cited permissive Zamarippa case. |
| Young | 263 Ill.App.3d 901 | 1994 | 3 | Reversed | | | | Same | Farther from F but closer to M's. Original TX divorce where both parites moved here. | Custodian job transfer. Trial court failed to engage in Eckert analysis. | Yes | - | LA | | | Odd language, abuse of discretion to deny where removal would allow custodial parent to terminate reliance on state aid, establish self-sufficiency and advance her career. Texas law seemed to allow M to control location of residence? |
| Dorfman | 2011 IL App (3d) 110099 | 2011 | 3 | Affirmed | Post | Father initially supervised visitation w/ 3 EOPs plus violations | | | | | | 8 and 9 | GA | N/A | Strong and Compelling | Mother sought removal as father was getting out of prison. Electronic communication considered in this unusual case. |
| Coulter | 2012 IL App (3d) 100973 | 2012 | 3 | Affirmed | | | | | | Career Advancement | Yes | - | Overseas | Substantial | RMF: presumption re tr. ct's ruling compelling... | M: Foreign Service Officer Job with State Department. M offered F all summer for parenting time plus. |
| Kincaid | 2012 IL App (3d) 110511, ¶ 20, 38... | 2012 | 3 | Affirmed | | F saw children only 49 days / yr | Father failed to take advantage of midweek and summer visitation, 44 | "at least equal and in some categories better..." ✓ | In new state (50 family members of M). | Career Advancement | Yes | 13, 15. In chambers interview, p. 18. 13 yr old enthusiastic and 15 yr old neutral to in favor. | TX | | Strong and Compelling | Extended family support network. Father's primary motives to get better financial settlement rather than children in light of failure to take advantage of his allocated time. |

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| Fourth. | | | | | | | | | | ===== | | | | | | |
| Deckard | 246 Ill.App.3d 427 | 1993 | 4 | | | | | | Yes | Spouse found out of state job | Yes | 10, 15. No in camera request either parent. Apt. ct commented on interview as permissive even if brought | GA | Increase in overnights (108 to 112). | | |
| Branham | 248 Ill.App.3d 898 | 1993 | 4 | | | | Not exercised his four wks summer visitation | | | Spouse out of state | Yes | Son. Age not stated. | WI (230) | | | |
| Herkert | 245 Ill.App.3d 1068 | 1993 | 4 | | | Children estranged from their father, 1070. | | | | Spouse found out of state job | Yes | 13 and 11. In camera testimony both. | NY | | | |
| Eaton | 269 Ill.App.3d 507 | 1995 | 4 | Reversed | Post | F had taken all of his time except in summer. He started taking this time once relocation petition filed. | | Children lived mjrty of lives in FL. Extended family in Quincy, IL, but F's parents own condo in FL, etc. | | Spouse out of state - lawyer | Yes | 7, 10, 12. In Chambers interview all 3 children against removal. | FL | Drastically reduce extended family's time. | | Highly mobile family / Mother's cooperation a factor in her favor. Case places greater weight on right to remarry, something emphasized by Fourth District line of cases prior to Collingbourne. |
| Ludwinski | 312 Ill. App. 3d 495 | 2000 | 4 | Reversed | Post | Non-custodian with history of emotionally manipulating the boys | "Overscrupulously adhered to every doc and title of court's visitation orders." | Morman Faith plays role in the decision. 498, 499. | New Spouse (new W) extended family in UT. | Custodian F Remarried and He had Job Offer with expectations of increased income. 499-500. Need not exhaust career opportunites in IL | Yes | 11, 9. Evidence re preference not to move. "Yet problems lie in relying on the boys' wishes." Incentive parental manipulation. Psychologists for boys testified | UT | Significant. | | Non-custodial mother's credibility and history of emotionally manipulating boys key factors |
| Shaddle | IRMO Shaddle, 317 Ill. App. 3d 428 | 2000 | 4 | Reversed | Post: Second Bite case | | | | | Spouse out of state job w/ superficial efforts only to seek IL employment. Yet testimony \$50k less income IL | Yes | 9 | FL | | | 1st Removal request denied. After mother, who was an excelent parent, moved w/out child, appellate court reversed. Negative evidence re new husband and relationship with his son. Cites Ludwinski |
| Parr | 345 Ill.App. 3d 371 | 2003 | 4 | Reversed | | Close relationship | | | | Custodian's career opportunity | Yes | 14, 9. GAL in favor of removal. No strong preference against the move. | CO | | | Wife good job offer in Colorado. Trial court reasoned M had to meet each "Eckert" factor, while apt ct reasoned tr ct should have balance each. |
| Banister | 2013 IL App (4th) 120916 | 2013 | 4 | Reversed | Post. Leapfrog case | | | | | Spouse had out of state job - army | Yes | 9. In camera interview at request of F but neutral. | KY, Then ME: 320 mi. versus 1420 | See ¶51 | | Case affirms previous <i>Lange</i> decisions of same district re jurisdiction that the court has authority to address a subsequent petition to remove (after the first one was granted). But contrary to later <i>Tavares</i> decision. |
| Tedrick | 2015 IL App (4th) 140773 | 2015 | 4 | Reversed | | | | Evidence of better schools in Columbia, S.C. ✓ | M: Parents and sisters in S.C. vs. Aunts and uncles in central IL but no immediate family. ¶20 | Indirect Benefits. Stressful Illinois job. | Yes | 7 | Lexington, SC | | | Emphasis on previous "precarious and punishing" nature of former wife's job in Illinois. Had to work 60 to 70 hours a week including nights and weekends. New job 37.5 hours a wk. |
| Fifth. | | | | | | | | | | ===== | | | | | | |
| Shelton | 217 Ill.App.3d 26 | 1991 | 5 | | Post-5 years. | | Apx. 50% vstn in f's parents house, etc. | | | Spouse found out of state job | Yes | 13, 11. No interview | FL | | Manifest wt. | Reliance on Zamarippa. |
| Prible | 239 Ill.App.3d 761 | 1993 | 5 | Reversed | | | | | | Spouse out of state. Mother would not work outside home in new state. | Yes | 8, 6, 4. | IA (404, 7 hrs.) | | | |
| Guthrie | 392 Ill. App. 3d 169 | 2009 | 5 | - | Initial. Parties ages 21 and 20 | | | | Mother's family in Phoenix. Father's family not on speaking terms with Mother. | Yes given unique factors of short term marriage and Father luring mother back to IL, etc. | Yes | 11 months. | AZ (initially lived there in short mrg). | | Manifest wt cited and Eckert: "Always strong and compelling" | Marriage of short duration; parties met and initially lived in AZ. Father: dismal employment record. |
| Smith (Apt Ct.) | 2013 IL App (5th) 130349 | 2013 | 5 | Reversed | Initial. | | | | M: Extended family but in Cincinatti, OH area (two hours). Her parents moving to live nearby M | | - | 3 | OH | | | Alternative custody orders impacted decision. |
| Williams v. Williams | 2018 IL App (5th) 170228 | 2018 (Dec.) | | Affirmed | | GAL waited until F's relationship improved | Father failed to take opportunities for parenting time | | None in IL | This factor not focus but new husband in N.C. | | 13, 8. GAL: children overall neutral, p. 80 | NC | | "Always strong and compelling" also citing to Kavcheck | Father not supportive of ex's need for help with children. Better support network for the mother. |

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| Not Allowed Supreme Ct. | | | | | | | | | | | | | | | | |
| Eckert | 119 Ill. 2d 316 | 1988 | | Affirmed* | | | "When a parent has assiduously exercised his or her visitation rights, a court should be loath to interfere with it by permitting removal of the children for frivolous or unpersuasive or inadequate reason." Inverse language. 327 | | Much of son's extended family lived in IL, ¶ 329 | Sets standard re "enhancing the general quality of life of both the custodial parent and the children." New position of mother would pay little if anything more. 328, 329. Claim of enhanced salary was dubious. | | 7. Child told judge in chambers that he was not allowed to phone his F and did not understand why | AZ | A reasonable visitation schedule is one that will preserve and foster the child's relationship with the noncustodial parent. | "Strong and compelling" | 5 Non-Exclusive Factors: "When removal to a <i>distant</i> jurisdiction will substantially impair the noncustodial parent's involvement with the child, the trial court should examine the potential harm to the child which may result from the move." 328. Guided by public policy to secure maximum involvement of both parents re the well-being of the children. |
| Smith (Sup Ct) | 172 Ill. 2d 312 | 1996 | * | Affirmed* | Close Relationship with F | Testimony that F had pattern of derogatory remarks about M and involving child with adult matters (\$ issues btw parents) | | Although comparable, essentially the same. | | New Spouse Job | | 11. In camera. Also, 5 yr old child | NJ | Finding visitation would be extremely difficult because of the time travelling. | "Strong and compelling." | Overall enhancement of children's lives (here lack of showing) focus of Court's decision. Quoted Eckert re removal to a distant jurisdiction will substantially impair non-custodial parent's involvement w/ the children, there may be harm to the children. |
| | | | | | | * Re Trial Ct's Decision | | | | | | | | | | |
| First - Not Allowed | | | | | | | | | | | | | | | | |
| Stone | 201 Ill. App. 3d 238 | 1990 | 1 | | Exemplary parent w/ excellent relationship | N/A | | - | Most in Chicago area. | No new Spouse or Job Transfer, but engaged to police officer previously worked in Chicago. | No | 12, 9. | CO | | | 9-yr old child had severe brain damage |
| Christenson | 247 Ill. App. 3d 51 | 1993 | 1 | | | | | | | No New Spouse or Job Transfer | | Daughter testified wishes to see F every day. Her age not stated. | SC | 49.22% or 63 days per year | | |
| Gibbs | 268 Ill. App. 3d 962 | 1994 | 1 | | | Consistently exercised | | | | New Spouse / No Job Transfer | | 5 | FL | Substantial | | Trial ct found M violated court orders in moving to FL and not providing F all of visitation he ws entitled to. |
| Demaret | 2012 IL App (1st) 111916 | 2012 | 1 | Affirmed | | | Evidence re comparable or better school for eldest daughter but not for other children, 46 | | | Pay Increase for Financially Successful Mother. Explored new job at Marsh, NY. Annual minimal salary \$475k. Had earned \$263k. | Yes | 4 children: 14, 13, 12, 10. | NJ. Evidence apx. Same time flying versus current time in IL | Longer wkends compensation for missed midweek difficult to put into practice, 54 | | No economic necessity for mother who had earned \$200k to \$300k. Rejected indirect benefits theory as applied. |
| Kimberly R. | 2021 IL App (1st) 201405 | 2021 | 1 | Affirmed | Pre: Factor 2 re Favored Father re Difficulties Mom Created with Vstn | Limitations with F's relationship fault of both parents. | Mother made vstn more difficult | Neutral considering burdens on mother. | Favored father where F's entire extended family in IL and M's Father in IL but willing to move to TN. M extended family IL | Routine especially important with child with autism as negative for factor 6. | Yes | 6 | TN | Both parents history of being unable to cooperate and this would not improve with move.. Factor 9 favored Father | "Always strong and compelling" Citing to Fatkin | Burden of production and persuasion, citing Levites. Factor 9 "possible arrangements" favored F where completed steps to be "reintroduced" with visitation originally supervised. Parties failed to present workable parenting plan beyond mother could drive child back for visitation.M taking no concrete steps considered in catch-all factor. |
| Second - Not Allowed | | | | | | | | | | | | | | | | |
| Kutinac | 182 Ill. App. 3d 377 | 1987 | 2 | Reversed. | | | | | | No New Spouse or Job Transfer | No | 9, 10 | FL | | | |
| Jaster | 222 Ill. App. 3d 122 | 1991 | 2 | Affirmed | Initial. | | Not a factor: Since separation F had constant involvement, 126, 128 | | Most in DuPage/Cook Co., but some of M's extended family in GA. | No New Spouse or Job Transfer | No | 12, 9, 7 | GA | "proposed visitation schedule was cost-prohibitive, unrealistic, and unworkable" | Yes. "The evidence also supports the conclusion before us..." p. 128 | F was an "exemplary parent." Mother moved to Georgia during pendency of divorce case and ordered to return. |
| Berk | 215 Ill. App. 3d 459 | 1991 | 2 | Affirmed | | | F "religiously" exercised. | | Most in IL including on M's side. | Higher. std. of living insufficient | No | In Camera interview w/ 14 yr old child. Preference to leave but because bored with IL. 12 yr-old son: "funner." Both non-mature reasons. | Canada (1,300) | Reduction by 20% is substantial, 467 | Yes. | Substantial reduction. Wishes of child(ren) not controlling where not strong or anything more than a change of scenery. 467. Self-help line of cases, "This State's courts ... will not be intimidated or threatened by "irrevocable" actions of parents. Karen has made her choice to move to Humboldt. She must now live with the consequences of that decision." |
| Tysl v. Levine (Parentage) | 278 Ill.App.3d 431 | 1996 | 2 | Reversed | Post. Original Jt. Legal Custody in '90. Relocation sought '94. | | Testimony F "always exercised." p. 435, 436, 438 "virtual co-parents." | At best neutral re schools in new state. p. 436, 439 | No relatives in GA / Extended family in IL, p. 439. Distinguishes Pfeiffer as to not "standing alone." | Spouse Had Employment. "Boils down to her desire to live with her new husband in Georgia... Such evidence is insufficient to carry [her] burden. P. 442 | No? | 9. Apt. ct reversed in part b/d no ruling re motion for in camera interview / ord for psy eval. | GA | | Yes. | Father had 150 nights visitation per year with children. Note that removal statute applied b/c of petition for removal, "we will seek guidance from cases decided under Section 609..." |
| Stahl | 348 Ill. App. 3d 602 | 2004 | 2 | | | | | Perhaps better. | M had family but 4 hours north in WI. | Remarriage. Trial court did not find that the children's lives would be enhanced directly or indirectly. | Not per se. | 9, 7. | WI (Cedarburg, 20 mi. n. of Milwaukee). Two hours time. | | Yes. | Justice Bowman dissents |

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| Johnson and Pisowicz | 352 Ill. App. 3d 605 | 2004 | 2 | Affirm | | Strong bond btw F / children | Exercises most if not all of his visitation rights... | | F's extended family in IL vs. sister in Phoenix, 612. | Required job transfer of H or face severance package | | In camera. Children 14/12 did not want to move to AZ. | AZ | "Dramatically": One evening ea. wk plus one every other | | Extended family in IL. Significant involvement of F. Paraphrase: Removal to AZ would require F to visit "very differently, much less frequently, and in bigger blocks of time." Generous schedule proposed only days before trial. |
| Matchen | 372 Ill. App. 3d 937 | 2007 | 2 | Affirm | | | | | More IL ties | New Spouse but possible to move. | | 14 and 12. In camera against. | 3 hrs to WI | | | Distance: McHenry County to Wisc. Dells. In camera testimony of children against move. Children strong ties to area. |
| Parentage of P.D. | 2017 IL App (2d) 170355 | 2017 | 2 | Affirm | | Post. 4 years following joint custody award with M as residential custodian | | | All in IL | Spouse required to relocate. Rejected consideration of trickle-down effects. | No | Age 4.5. Developmental level considered, 44, | NJ | Quality of current parenting time would not be met. | "grant great deference..." | One year earlier, sought removal to CA. |
| Levites | 2021 IL App (2d) 200552 (Slip Op. not yet released for publication as of March 8, 2021) | 2021 | 2 | Affirm | | Initial Denial "without prejudice." Respondent-appellant mother later appealed from final judgment denying relocation. | "Petitioner consistently exercised his parenting time." | "The court appeared to have viewed this factor as neutral" | "This factor does favor relocation" | | Attempted to backdoor via catch-all | N/A tender years. | CA | Allowing relocation may effectively terminate Father's relationship w/ child. "If someone comes up with a better plan." | Supreme Court in <i>Fatkin</i> explained deferential standard of review / "always strong and compelling." | Burden of proof being placed on respondent-appellant mother was not error. Trial court affirmed based on manifest weight. Slip Op. decision not yet released for publication as of submission of this manuscript on March 8, 2021. |
| Third - Not Allowed. | | | | | | | | | | | | | | | | |
| Creedon | 245 Ill.App. 3d 531 | 1993 | 3 | Affirmed | | | Not a factor. To the extent that parenting time reflects closer than customary rltshp btw. non-residential parent and child, may be considered | Comparable. | In IL with mother's family 6.5 hours from TX | No New Spouse or Job Transfer | | 14, 12. In camera conducted but trial court properly declined to directly ask children where they preferred to live, p. 534 | TX | | | 15 days between entry of divorce judgment and filing removal petition. P. 537. Excellent discussion of complaints about the unpredictability of decisions. |
| Elliott | 279 Ill.App.3d 1061 | 1996 | 3 | Affirmed | | Involved father | | | | Fiancé had Practice in Ohio | No | Dtr. In camera interview against. 8, 6. | OH | | | Children entire life in IL; Father close relationship; Child's Preference against |
| Hansel | 366 Ill. App. 3d 752 | 2006 | 3 | Affirmed | | Exercised all his time incl. extracurricular, school and sporting events. | | No evidence that schools or extracurricular activities better in NC | Extended family in Illinois | Fiancé self employed in N.C. | Trial court finding that the move would not enhance the child's general quality of life | 9 years old. | NC | | | Father's diligence, extended family factor and 604.5 testimony against removal. |
| Shinall v. Carter (parentage) | 2012 IL App (3d) 110302 | 2012 | 3 | Reversed re Removal | | Initial Determination with close call as to custody award to mother. | | | | New Husband lived in CO. | | 3. At Ava's young age, the proposed schedule would deprive Ava of a stable home environment. 49. | CO | Drastic: 182 to 91 | Burden on parent seeking removal. | General quality of life improvement not shown. Important factor: 3 year old child. |
| Prusak | 2020 IL App (3d) 190688 | 2020 | 3 | Affirm | | | F diligently exercised his parenting time. ¶ 16. | Even if comparable, Chicago area certainly provides greater diversity / cultural opportunities | While M. had family support in Evansville area, that type of support existed in Naperville area, ¶ 16, 39. | Majority of Factors Favored F., and M's Self-Help in Moving without Authority Worked Against Her | No mention. | Preferences of children (15/11) communicated via GAL. ¶ 17. 15 yr-old wishes mixed while 11 yr old not significant weight b/c of age. | Indiana (Naperville to Evansville, IN) 5.5 hrs. | Deference given to trial court's original decision (before its own reconsideration) | | Trial court originally found that the children would be burdened by the travel time. |
| Fourth - Not Allowed. | | | | | | | | | | | | | | | | |
| Davis | 229 Ill.App.3d 653 | 1992 | 4 | Reversed | | | No evidence failed to exercise or does not enjoy close relationship. Quote from Eckert: Where parent diligently exercised ... | | In Illinois w/ only surviving paternal grandparent here. | S out of St. Job / No increased income. | | 14, 13, 6. In camera of all three. Split custody with F two older boys and M of dtr. Dtr did not want to move. | GA | 35% | | Effect on surviving paternal grandparent's time considered. While not relied upon, custodian at one point had denied visitation. Compare Deckard. |
| Clark | 246 Ill.App.3d 479 | 1993 | 4 | | | F close relationship with dtr. | Same quote from Eckert. Here exercised visitation beyond terms of Judgment, 483 | No evidence. | Child close relationship with extended family in IL, 483 | New Spouse / No Job Transfer | | 8 | TN (463) | Seems clear time would be substantially curtailed | | Even if plan presented that preserved # days, cannot ignore interval btw visits would be drastically changed |
| Lange | 307 Ill. App. 3d 303 | 1999 | 4 | Post: Leapfrog Case. | | | F assiduously exercised his rights. | | In Illinois. | No evidence increased income | Insufficient evidence | Ages 7 / 5 | First, IN; Next, TX | Referred to removal to distant location. Total no. would actually increase | | Children had close relationship w. father and family members close in distance. Divorce judgment allowed removal to Indiana. Cited Clark re interval btw visits. |

Relocation Cases: The Numbers

Survey of All Cases

| | <u>Ultimately Allowed</u> | <u>Rev.</u> | <u>Ultimately Not Allowed</u> | <u>Rev.</u> | <u>Total</u> | <u>% Not Alwd.</u> |
|-------------------|---------------------------|-------------|-------------------------------|-------------|--------------|--------------------|
| First | 4 | 3 | 5 | 0 | 9 | 56% |
| Second | 5 | 2 | 9 | 2 | 14 | 64% |
| Third | 11 | 6 | 5 | 1 | 16 | 31% |
| Fourth | 9 | 6 | 3 | 1 | 12 | 25% |
| <u>Fifth</u> | <u>5</u> | <u>3</u> | <u>4</u> | <u>2</u> | <u>9</u> | <u>44%</u> |
| Total | 34 | 20 | 26 | 6 | | |
| | Overall | 59% | | 23% | | |
| Total Both | 60 | | 43% | | | |

Post-Relocation Act

| | | | | | | |
|--------------|----------|--|----------|----------|--|--|
| Sup. Ct. | 1 | | | | | |
| 1st | | | 1 | | | |
| 2nd | 1 | | 1 | | | |
| 3rd | | | 1 | | | |
| <u>5th</u> | <u>1</u> | | | | | |
| Total | 3 | | 3 | 6 | | |

Note: It is debatable re whether to include Roppo as it was a reversal and remand of directed finding against relocation.

Pre-Collingbourne Cases Only

| | <u>Allowed</u> | <u>Rev.</u> | <u>Not Allowed</u> | <u>Rev.</u> | <u>Total</u> | <u>% Not Alwd.</u> |
|-------------------|----------------|-------------|--------------------|-------------|--------------|--------------------|
| First* | 2 | 2 | 3 | 0 | 5 | 60% |
| Second | 2 | 1 | 4 | 2 | 6 | 67% |
| Third | 9 | 7 | 2 | 0 | 11 | 18% |
| Fourth | 6 | 3 | 3 | 1 | 9 | 33% |
| <u>Fifth</u> | <u>2</u> | <u>1</u> | <u>3</u> | <u>2</u> | <u>5</u> | <u>60%</u> |
| Total | 21 | 14 | 15 | 5 | | |
| | Overall | 67% | | 33% | | |
| Total Both | 36 | | 42% | | | |

Post-Collingbourne Cases

| | <u>Allowed</u> | <u>Rev.</u> | <u>Not Allowed</u> | <u>Rev.</u> | <u>Total</u> | <u>% Not Alwd.</u> |
|-------------------|----------------|-------------|--------------------|-------------|--------------|--------------------|
| First | 2 | 1 | 2 | 0 | 4 | 50% |
| Second | 3 | 1 | 5 | 0 | 8 | 63% |
| Third | 3 | 0 | 3 | 1 | 6 | 50% |
| Fourth | 3 | 3 | 0 | 0 | 3 | 0% |
| <u>Fifth</u> | <u>3</u> | <u>2</u> | <u>1</u> | <u>0</u> | <u>4</u> | <u>25%</u> |
| Total | 14 | 7 | 11 | 1 | 25 | 44% |
| | | 50% | | 9% | | |
| Total Both | 25 | | 44% | | | |

Outliers

Dorfman, 3rd Dist. 2011