

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

IN RE N.J.V. :  
A Minor Child : No. 107753  
[Appeal by L.R.H., Mother] :

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT: AFFIRMED AND REMANDED  
RELEASED AND JOURNALIZED: June 6, 2019**

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Civil Appeal from the Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case No. PR 15714282

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***Appearances:***

Hans C. Kuenzi Co., L.P.A., and Hans C. Kuenzi, *for  
appellant.*

Adam R. Waller; Kurt Law Office, L.L.C., and Pamela D.  
Kurt, *for appellee.*

**EILEEN T. GALLAGHER, P.J.:**

{¶ 1} Defendant-appellant, L.R.H. (“Mother”) appeals a juvenile court order allocating parental rights and responsibilities between herself and R.V. (“Father”). She claims the following four errors:

1. The trial court erred in awarding the parties shared parenting and designating Father as residential parent for school enrollment purposes.
2. The trial court erred in adopting as its order a shared parenting plan filed by Father on June 13, 2018 without making findings of fact and conclusions of law as to its reasons for the approval of the plan.
3. The trial court erred in adopting as its order a shared parenting plan filed by Father which was contrary to the best interest of the minor child.
4. In its adoption of a shared parenting plan filed by Father, the trial court erred in omitting from its order page 10 of its standard parenting time schedule to which reference was made in said plan.

{¶ 2} We find no merit to the appeal and affirm the trial court's judgment.

However, we remand the case to the trial court for a nunc pro tunc journal entry to correct a clerical error.

### **I. Facts and Procedural History**

{¶ 3} Mother and Father are the parents of N.J.V., a minor child, who was born on September 10, 2012. The parties had a brief relationship and separated approximately one month after N.J.V. was born. They shared parenting without court intervention until N.J.V. was three years old, when Mother informed Father that she was thinking of moving to Columbus, Ohio. Consequently, in October 2015, Father filed a complaint seeking a court order allocating parental rights and responsibilities. Father later filed a motion for shared parenting and submitted a proposed shared parenting plan on June 24, 2016. The matter proceeded to trial on June 19, 2017, and January 24, 2018.

**{¶ 4}** Father testified that he maintained a relationship with N.J.V. after the parties separated and saw him almost daily. The parties arranged Father's visitation time around their respective work schedules. Because Father completed his workday by midafternoon and Mother worked in the evenings, Father regularly cared for N.J.V. in the evenings until Mother moved to Columbus in March 2016. Father, however, did not have overnight visits with N.J.V. until he was approximately one year old.<sup>1</sup>

**{¶ 5}** Mother testified that she moved to Columbus for better employment opportunities. Mother is now married to T.K., and had a daughter, B.K., who was born in January 2017. T.K. has an eight-year-old son from a prior relationship, who stays with Mother and T.K. every Wednesday and every other weekend. Since B.K.'s birth, Mother stayed home with the children and began pursuing a degree in social work from Ohio University in January 2018.

**{¶ 6}** At the time of trial, Father was engaged to J.L., who had a six-year-old daughter from a prior relationship. Father testified that N.J.V. is comfortable in their home and gets along well with J.L.'s daughter, J.R.L. (Tr. 10-11.)

**{¶ 7}** Father initially filed an emergency motion for custody when Mother informed him she was moving to Columbus. He later withdrew the motions because the parties reached an agreement that afforded Father parenting time in Cleveland every Thursday and every other weekend. The parties nevertheless had several

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<sup>1</sup> Father testified that he did not have overnight visits until N.J.V. was one year old. Mother testified that Father did not have overnight visits until N.J.V. was three years old.

disagreements regarding N.J.V.'s care and education, and Father felt that Mother attempted to prevent Father from parenting N.J.V.

{¶ 8} N.J.V. developed a tic, which Father wanted evaluated by a neurologist. Mother dismissed his concern, stating that the child's pediatrician told her it was a temporary reaction to a virus. N.J.V. was also underweight, and Father was concerned about his eating habits. Father testified that Mother denied there was a weight problem and delayed treatment. (Tr. 150.) Mother eventually agreed that N.J.V. needs special attention to ensure he eats enough food, but the parties disagreed on the types of food he should be eating.

{¶ 9} Father testified that Mother tried to exclude him from N.J.V.'s doctor's appointments. And Father, who was concerned for N.J.V.'s welfare, sometimes consulted with physicians and questioned Mother's actions. For example, when Father questioned Mother about the fact that she seemed to be neglecting N.J.V.'s severe allergies, she replied that she was unable to make a doctor's appointment. (Tr. 126.) Father scheduled an appointment with a doctor in Cleveland, but Mother cancelled it. Father testified that when he confronted Mother about the cancellation, she claimed that "[a]ll of a sudden she was able to get him in right away \* \* \*." (Tr. 71-72.)

{¶ 10} N.J.V. also had dental decay on a front tooth that required a procedure. Mother initially scheduled the procedure in Columbus during Father's parenting time. (Tr. 62-63, 117.) Father agreed to stay in a hotel in Columbus in order to take N.J.V. to the appointment. (Tr. 62-63.) Mother, however, rescheduled

the appointment to an earlier date that fell within her parenting time. The guardian ad litem (“GAL”) testified that Mother initially scheduled the procedure in Columbus during Father’s time in order to interfere with Father’s parenting time and subsequently rescheduled it after Father indicated he would come to Columbus to take N.J.V. to the appointment. (Tr. 118-120.)

{¶ 11} Father also attempted to exclude Mother from at least one medical intervention. Father took N.J.V. to a pediatrician in Cleveland where he was tested for strep throat. The rapid test indicated a negative result but the doctor’s office called the following Wednesday to inform Father that the throat culture was positive. Rather than have the doctor call the prescription into a pharmacy near Mother’s house, Father waited until the next day when he had custody of N.J.V. to fill the prescription and start administering it. Father admitted at trial that he should have told Mother of the diagnosis and started the antibiotics 24 hours earlier. (Tr. 47-49.)

{¶ 12} The GAL testified that “it’s Mom’s intention in some aspects of [N.J.V.’s] life to cut Dad out.” (Tr. 112.) The GAL explained: “I believe that Mom wants Dad to have some parenting time with [N.J.V.]; however, I believe that she does not want Dad to make any decisions regarding N.J.V.” (Tr. 146.) Mother admitted to the GAL that she did not want Father to take N.J.V. to any doctor’s appointments. (Tr. 146.)

{¶ 13} The GAL further testified she believes Mother intentionally removed N.J.V. from the court’s jurisdiction when she moved to Columbus. Shortly after the

complaint was filed, the case was set for a pretrial on March 10, 2016. Mother requested a continuance, claiming she needed additional time to retain counsel. She then moved to Columbus on March 18, 2016, and did not file a motion to relocate with the court. The GAL explained to Mother that when she moved to Columbus after Father filed his complaint, she removed the child from the jurisdiction. According to the GAL, Mother responded: "I know. That's why I did it." (GAL report at 4.) Mother denied any memory of this conversation.

{¶ 14} The GAL testified that both parents love N.J.V. and are capable of properly caring for him. However, she recommended that Father be designated the residential parent for school purposes because "Father is the one most likely to abide by Court orders \* \* \* and is most likely to not exclude Mom from the child's life." (Tr. 93.) The GAL further opined that "Mother is resistant to shared parenting." (Tr. 95.)

{¶ 15} Following trial, the parties submitted written closing arguments and proposed findings of fact and conclusions of law. Father also filed an updated shared parenting plan dated June 13, 2018. Mother, who was requesting sole custody, did not submit a shared parenting plan. The trial court issued a judgment awarding shared parenting based on Father's proposed plan, which designated him the residential parent for school purposes. This appeal followed.

## **II. Law and Analysis**

### **A. Manifest Weight of the Evidence**

**{¶ 16}** In the first assignment of error, Mother argues the trial court's judgment ordering shared parenting and designating Father the residential parent for school enrollment purposes is against the manifest weight of the evidence.

**{¶ 17}** In allocating parental rights and responsibilities for the care of a minor child, the juvenile court must consider the best interest of the child. R.C. 3109.04(B)(1). R.C. 3109.04(F)(1) contains a nonexclusive list of factors the trial court must consider in determining what is in the best interest of the child. Those factors include (1) the wishes of the children's parents; (2) the wishes of the children, if the court interviews the children; (3) the children's interaction and interrelationship with their parents, siblings, and anyone else who may significantly affect their best interest; (4) the children's adjustment to home, school, and community; (5) the mental and physical health of all persons involved; (6) the parent more likely to honor and facilitate court-approved parenting time rights; (7) whether either parent has failed to make child support payments; (8) whether either parent or any household member previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; (9) whether one of the parents has continuously and willfully denied the other's right to parenting time; and (10) whether either parent has established a residence, or is planning to establish a residence, outside Ohio. R.C. 3109.04(F)(1)(a)-(j). The court must also consider any other relevant factors. R.C. 3109.04(F)(1).

**{¶ 18}** When a party requests shared parenting, R.C. 3109.04(F)(2) requires the court to specifically decide whether shared parenting is in the child’s best interest. R.C. 3109.04(F)(2) requires the court to consider (1) the ability of the parents to cooperate and make decisions jointly; (2) the ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent; (3) any history of, or potential for, child abuse, spouse abuse, or other domestic violence; (4) the geographic proximity of the parents to each other, as the proximity relates to the practical considerations of shared parenting; and (5) the recommendation of the guardian ad litem of the child, if the child has a guardian ad litem.

**{¶ 19}** Although a trial court is required to consider the factors set forth in R.C. 3109.04(F), it retains broad discretion in making a best-interest determination. *In re E.O.T.*, 8th Dist. Cuyahoga No. 107328, 2019-Ohio-352, ¶ 39. We, therefore, will not disturb the trial court’s judgment absent an abuse of discretion. *Id.*; *In re J.W.*, 8th Dist. Cuyahoga No. 105337, 2017-Ohio-8486, ¶ 19 (“[A] trial court’s judgment regarding the allocation of parental rights and responsibilities will not be disturbed absent an abuse of discretion.”).

**{¶ 20}** Further, an appellate court reviews the juvenile court’s factual findings under a manifest weight of the evidence standard. *Wallace v. Wallace*, 195 Ohio App.3d 314, 2011-Ohio-4487, 959 N.E.2d 1075, ¶ 10 (9th Dist.). When reviewing the manifest weight of the evidence, the appellate court “weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and



determines whether in resolving conflicts in the evidence, the [finder of fact] clearly lost its way \* \* \*.” *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 20, quoting *Tewarson v. Simon*, 141 Ohio App.3d 103, 115, 750 N.E.2d 176 (9th Dist.2001).

{¶ 21} Although the court discussed each of the factors set forth in R.C. 3109.04(F)(1) in its judgment entry, Mother contends the trial court failed to afford proper weight to the evidence relative to the factors listed in R.C. 3109.04(F)(1)(a), (e) and (f). Mother also argues the trial court erroneously considered the parties’ different “parenting styles” even though “parenting styles” are not a factor set forth for consideration by the statute.

{¶ 22} As previously stated, R.C. 3109.04(F)(1)(a) requires the court to consider the wishes of the child’s parents regarding the child’s care. In this regard, the court explained that “when each parent seeks custody of the child, it requires the court to attempt to determine the parenting styles.” (Judgment Entry at 5.) The court noted that Mother claims her home is “more structured” than Father’s home and that Father’s home is “more lax.” But the discussion did not end there. In discussing the parties’ parenting styles, the court observed that “Mother has stated that she does not believe that Father should have any input in the selection of a doctor for the child absent an emergency.” (Judgment Entry at 5.)

{¶ 23} The court also observed that Father stops N.J.V. from playing when Mother calls him so he can give Mother his full attention and that “Father claims he does not receive the same courtesy.” (Judgment Entry at 5.) Although the court

does not define the term “parenting styles,” the court was apparently referring to each parties’ ability to cooperate and respect the other parent’s right to shared parenting.

{¶ 24} Mother argues the court erred in finding that Father would better serve N.J.V.’s best interest because Father violated the court order that limited his authority to making only emergency medical decisions. In support of this argument, Mother cites the fact that Father established care with a pediatrician in Cleveland. Yet, there is no evidence that Father routinely took N.J.V. to the pediatrician for regular check-ups. Rather Father took the child to the pediatrician because he has allergies and a problem with wheezing. (Tr. 126-127.) Father also wanted a second opinion regarding N.J.V.’s tic, which he believed was not being taken seriously. Mother contends the court should have found that Father’s consultations with doctors in Cleveland demonstrated a refusal to respect Mother’s exclusive authority to make medical decisions. However, Father’s actions displayed an appropriate level of concern for his child’s health and safety. Moreover, there is no evidence that Father otherwise attempted to usurp Mother’s right to make medical decisions.

{¶ 25} Mother next contends the trial court failed to properly evaluate evidence regarding the mental and physical health of the parties as required by R.C. 3109.04(F)(1)(e). Since neither parent has any mental nor physical impairments, the court’s decision focused on each party’s ability to care for N.J.V.’s health issues. (Judgment Entry at 7.)

**{¶ 26}** The court observed that Mother initially scheduled the dental procedure in Columbus during Father's parenting time. (Tr. 62-63, 117.) Mother, however, rescheduled the appointment when Father indicated he would stay in a hotel nearby in order to take N.J.V. to the appointment. (Tr. 62-63.) The GAL testified that Mother initially scheduled the procedure to interfere with Father's parenting time and subsequently rescheduled it when Father indicated he would take N.J.V. to the appointment so that she could take the child to the appointment instead of Father. (Tr. 118-120.)

**{¶ 27}** The court also commented that Father failed to have a prescription for N.J.V.'s strep throat called into a pharmacy in Columbus because he wanted to administer it to the child himself when N.J.V. was in his custody the next day. And, the court acknowledged a dispute about whether N.J.V.'s low weight was a cause for concern. Mother testified at trial that she was not concerned about his weight because he had gained weight and was now on the growth charts. (Tr. 285.) Mother nevertheless argues on appeal that Father's refusal to follow the advice of N.J.V.'s pediatrician in Columbus to give the child PediaSure demonstrates his refusal to respect Mother's exclusive authority to make medical decisions. Instead of giving N.J.V. PediaSure, Father gave him whole milk, as directed by the pediatrician in Cleveland.

**{¶ 28}** Despite Mother's argument to the contrary, we cannot say that Father gave the child whole milk instead of PediaSure solely for the purpose of defiance when whole milk was recommended by a pediatrician, and Father was obviously

concerned about the child's health. And although Father should have had the prescription to treat N.J.V.'s strep throat called into a Columbus pharmacy, Father readily admitted his mistake and indicated there would be fewer conflicts if each parent focused on N.J.V.'s needs instead of his or her own desires. Mother's decision to reschedule N.J.V.'s dental appointment after Father indicated he would be available to take him lends support for the GAL's opinion that Mother wanted to exclude Father from N.J.V.'s medical care.

{¶ 29} Mother further argues that in considering R.C. 3109.04(F)(1)(f), the trial court erred in finding that Father was more likely to facilitate shared parenting time. She contends the evidence showed that Mother "encouraged the sharing of love, affection and contact between the child and Father." (Appellant's brief at 14.) She further argues that despite the GAL's opinion that Mother attempted to exclude Father from certain aspects of N.J.V.'s life, Mother's actions demonstrate she is more likely to facilitate shared parenting than Father.

{¶ 30} In evaluating this factor, the court stated, in relevant part:

Neither parent failed to honor court ordered visitation. The court, when looking at this criteria, it attempted to determine which parent is going to make it easier for the other parent to visit. Mother throughout has been very controlling and limiting of Father's contact with son. It was some time before Father obtained regular companionship with son even when they were all living in the Cleveland area. It was much longer until he was allowed overnight companionship with the child again while living in the Cleveland area.

(Judgment Entry at 8.) Indeed, Father testified that Mother did not allow him to have weekend visits with N.J.V. until he was a year old. (Tr. 13.) When N.J.V. was

three years old, Mother moved the child to the Columbus area, which made visitation more difficult. Father further testified that his attempts to reach a settlement agreement with Mother on shared parenting did not go well. According to Father, “she just pretty much talked like she was going to have custody and she was going to make the decisions.” (Tr. 17.) As previously stated, Mother rescheduled N.J.V.’s dental procedure so that she could take him to the appointment instead of Father.

{¶ 31} The GAL testified she believes Mother “is resistant to making decisions with dad” and “does not want dad to make any decisions regarding [N.J.V.]” (Tr. 96, 146.) Thus, the GAL concluded that “father is the one most likely to abide by Court orders, and I think he is the one most likely to not exclude mom from the child’s life.” (Tr. 93.) Although Mother testified that she was willing to share parenting, she requested sole custody of N.J.V., which indicates a reluctance to share parenting. By contrast, Father testified that he wants to make parenting decisions with Mother and requested shared parenting, which indicates a willingness to share parenting. (Tr. 22.) Therefore, the trial court’s finding that Father is more likely to comply with a shared parenting order is supported by the manifest weight of the evidence.

{¶ 32} Finally, Mother argues that in considering whether shared parenting is in N.J.V.’s best interest under R.C. 3109.04(F)(2)(a), the trial court erred in finding that the parties were able to cooperate with shared parenting. She believes that shared parenting is not in the child’s best interest because the parties are unable

to cooperate with shared parenting as evidenced by their numerous disagreements regarding N.J.V.'s health care.

{¶ 33} Although there was evidence of conflict between the parties, there was also competent, credible evidence that the parties could collaborate in shared parenting. The parties agreed on a companionship schedule without court intervention after the child was born. Even after Mother moved to Columbus, the parties were able to agree on a visitation schedule. Perhaps because of that past experience, Father testified that he believed that he and Mother would work well together in a shared parenting arrangement. (Tr. 19.) When asked if there were any obstacles to shared parenting, Father responded: "I don't think there's any obstacles. I think we can get it taken care of as long as we think about N.J.V. only." (Tr. 19.)

{¶ 34} Maternal grandmother also testified she believes the parties will be able to cooperate well in shared parenting after the court proceedings have concluded. (Tr. 309.) She agreed that the parties worked well together before the complaint was filed and that their previous cooperation demonstrates that they "have the capacity to do it." (Tr. 309.) She explained the recent conflict was probably due to the "stress and frustration" of litigation. (Tr. 309.) Moreover, Mother herself admitted that the parties were capable of cooperation:

Q: Has [Father] ever kept you from your son or in any way refused visitation to you?

A: No.

Q: And it's fair to say that there have been discrepancies on times, correct?

A: Um-hmm.

Q: And you've been able to work through those for the most part, correct?

A: Um-hmm.

Q: But there's give and take that maybe one of you does or does not want to do, correct?

A: Um-hmm.

Q: But in the end, it's worked out since, is that fair to say?

A: Um-hmm.

Q: And since the last time we've been in Court things have been fairly smooth as far as pick-up, drop-off, and times, is that fair to say?

A: Yeah.

Q: If the court were to order that you have to co-parent, so we're not saying what do you want. If the Court were order that you co-parent, would you be able to?

A: Um-hmm, yes.

(Tr. 198-199.) Therefore, the trial court's finding that the parties were able to work together in raising N.J.V. is not against the manifest weight of the evidence.

{¶ 35} Mother nevertheless argues the trial court erred in relying on the GAL's opinion that the parties were capable of shared parenting because the GAL was biased against Mother. However, as stated above, Father, Mother, and Grandmother all testified that the parties would be able to work together. Therefore, even without the GAL's testimony or report, there was competent, credible evidence that the parties have the ability to share parenting in a way that serves the child's best interest.

{¶ 36} Having determined that the trial court's factual findings are not against the manifest weight of the evidence, we overrule the first assignment of error.

## **B. Findings of Fact and Conclusions of Law**

**{¶ 37}** In the second assignment of error, Mother argues the trial court erred in adopting Father's shared parenting plan dated June 13, 2018, without making findings of fact and conclusions of law as to its reasons for the approval. Mother contends we should reverse the trial court's judgment pursuant to *In re Spence*, 11th Dist. Portage No. 2007-P-0070, 2008-Ohio-2127, and *Dietrich v. Dietrich*, 8th Dist. Cuyahoga No. 88168, 2007-Ohio-2495.

**{¶ 38}** R.C. 3109.04(D)(1) governs the court's obligations with respect to shared parenting plans filed by one or more parties. As relevant here, R.C. 3109.04(D)(1)(a)(iii) applies to cases in which both parents make a request for parenting, but only one party files a proposed parenting plan. The judgments in *Dietrich* and *In re Spence* were reversed because the trial court failed to make findings of fact and conclusions of law as required by R.C. 3109.04(D)(1)(a)(ii), which applies when both parties file competing shared parenting plans. Nevertheless, R.C. 3109.04(D)(1)(a)(iii) provides, in relevant part:

If the court approves a plan under this division, either as originally filed or with submitted changes, or if the court rejects the portion of the pleadings or denies the motion or motions requesting shared parenting under this division and proceeds as if the request or requests or the motion or motions had not been made, the court shall enter in the record of the case findings of fact and conclusions of law as to the reasons for the approval or the rejection or denial. Division (D)(1)(b) of this section applies in relation to the approval or disapproval of a plan under this division.

**{¶ 39}** Despite Mother's argument to the contrary, the court made findings of fact and conclusions of law explaining why it adopted Father's proposed shared



parenting plan in its judgment entry. On pages 16 and 17 of the court's judgment entry, the court explained:

This court has considered the shared parenting plan that Father attached to his various pleadings and finds that proposed shared parenting plan to be in the best interest of [N.J.V.] and orders that Shared Parenting Plan in effect immediately. Although Mother has not approved this plan, and has further indicated she does not approve of any shared parenting plan, this court uses as its authority to approve the shared plan submitted by Father, the provisions of Ohio Revised Code §3109.04(D)(1)(a)(iii).

{¶ 40} Thereafter, the court incorporated the best interest of the child analysis outlined in the previous 16 pages of the judgment entry as required by R.C. 3109.04(F)(1)(a-j), 3109.04(F)(2)(a-e) and 3119.23(A-P). Therefore, the trial court complied with the requirements of R.C. 3109.04(D)(1)(a)(iii) and made findings of fact and conclusions of law when it adopted Father's shared parenting plan. It expressly found that the shared parenting plan set forth in Father's shared parenting plan was in N.J.V.'s best interest.

{¶ 41} The second assignment of error is overruled.

### **C. Father as Residential Parent**

{¶ 42} In the third assignment of error, Mother argues the trial court erred in concluding that designating Father as the residential parent for school enrollment purposes was in N.J.V.'s best interest. She contends the child has spent the majority of his life in Mother's care and that moving him to the primary care of Father will destabilize him. She further argues the trial court erroneously failed to make a

finding that the advantages of placing the child with Father outweighed the harm caused by the change.

{¶ 43} As an unmarried mother, Mother was automatically designated the residential parent pursuant to R.C. 3109.042, which states, in relevant part, that “[a]n unmarried female who gives birth to a child is the sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian.” The statute further provides that when a court of competent jurisdiction designates someone as the residential parent and legal custodian, the court “shall treat the mother and father as standing upon an equality when making the designation.” Therefore, the court was not required to give Mother any special treatment simply because she had previously been the residential parent.

{¶ 44} The designation of residential parent depends on the best interest of the child. R.C. 3109.04(F). In the first assignment of error, we found the court’s findings were supported by competent, credible evidence and were not against the manifest weight of the evidence. The trial court found that Father was more likely to facilitate court approved shared parenting and would better serve N.J.V.’s mental and physical health. R.C. 3109.04(F)(1)(e) and (f). Although both parents desired custody of N.J.V., the Father’s preference for shared parenting served N.J.V.’s best interest more than Mother’s desire for sole custody. R.C. 3109.04(F)(1)(a).

{¶ 45} The trial court also made a specific finding that shared parenting was in the child’s best interest under R.C. 3109.04(F)(2). The record shows that both

parents are capable of cooperating in the shared parenting of N.J.V. and that both parents are able to encourage the sharing of love, affection, and contact between the child and the other parent. R.C. 3109.04(F)(2)(a) and (b). There is no evidence of abuse, and the guardian ad litem recommended shared parenting. R.C. 3109.04(F)(2)(c) and (e). Finally, the court found that although Mother lives in the Columbus area and Father lives in the Cleveland area, the geographic proximity of the parents is not a hindrance to a shared parenting plan. It is inconvenient, but does not prevent visitation. Because these factors are supported by the manifest weight of the evidence, we cannot say the trial court erred in designating Father the residential parent for school enrollment purposes.

{¶ 46} The third assignment of error is overruled.

#### **D. Parenting Time Schedule**

{¶ 47} In the fourth assignment of error, Mother argues the trial court's judgment should be reversed because the court omitted page 10 of the standard parenting time schedule that was attached to its judgment entry. We agree it was error to omit page 10 from the standard parenting time schedule. However, the error was obviously clerical in nature and may be rectified by way of a nunc pro tunc entry.

{¶ 48} Civil Rule 60(A) authorizes the correction of clerical errors arising from an oversight or omission. The rule states that "clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the

motion of any party and after such notice, if any, as the court orders.” The Ohio Supreme Court has held that Civil Rule 60(A), “permits a trial court, in its discretion, to correct clerical mistakes which are apparent on the record, but does not authorize a trial court to make substantive changes in judgments.” *State ex rel. Litty v. Leskovyansky*, 77 Ohio St.3d 97, 671 N.E.2d 236 (1996). Under Civil Rule 60(A), a clerical mistake refers to a mistake or omission that is mechanical in nature and does not involve a legal decision or judgment. *Id.*

{¶ 49} The omission of page 10 from the standard parenting time schedule is a mechanical mistake, obvious from the record. The addition of the missing page to the order will not change the substance of the court’s order because the court’s judgment entry refers to it and it is readily accessible on the court’s website. Therefore, the fourth assignment of error is sustained to the extent the missing page is an error.

{¶ 50} The trial court’s judgment is affirmed, but the case is remanded to the trial court for the addition of page 10 of the standard shared parenting time schedule to the court’s judgment entry.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue of this court directing the common pleas court, juvenile division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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**EILEEN T. GALLAGHER, PRESIDING JUDGE**

**MICHELLE J. SHEEHAN, J., and  
RAYMOND C. HEADEN, J., CONCUR**