Circuit Court for Harford County
Case No. C-12-FM-23-000321

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 289

September Term, 2025

MATTHEW R. TALLEY, SR.

v.

BRENDA SIMMONS

Wells, C.J.,
Leahy,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: January 8, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant Matthew R. Talley, Sr. ("Father"), appealed timely an order entered by the Circuit Court for Harford County, which awarded retroactive child support to appellee Brenda Simmons ("Grandmother"), whom, the court found, cared for Father's minor child *in loco parentis* for approximately two years. For the reasons to be explained, we shall affirm the circuit court's grant of retroactive child support to Grandmother.

BACKGROUND

In February 2023, Grandmother filed an emergency complaint for custody of her daughter's seventeen-year-old child ("Son"), whom she said was in the joint legal custody of Father and her daughter, Father's ex-wife Jessica Talley ("Mother"), and in the physical custody of Father, pursuant to a 2014 consent order.[1],[2] Grandmother claimed that, following a physical altercation between Father and Son in October 2022, Father "threw [Son] out of his Dundalk home compelling the minor child to seek shelter" with Grandmother, who assumed then full-time care of Son in her home in Harford County.[3]

Father refused to sign the necessary documents to enroll Son in school in Harford County, necessitating the involvement of the Baltimore County Department of Social

[1] Mother was incarcerated off and on during Son's lifetime. The consent order granted Grandmother weekly visitation privileges with Son, although Grandmother said that Father denied her visitation.

[2] In fact, the consent order granted sole legal and primary physical custody of Son to Father.

[3] Grandmother obtained also a final protective order against Father from the Circuit Court for Baltimore County. The protective order stated that Father pushed and shoved Son to the ground.

Services. Upon his enrollment in Fallston High School in Harford County, Grandmother said, Son refused to return to Father's home in Baltimore County.[4]

Grandmother alleged that, consistent with Son's wishes and the exigent circumstances existing in Father's home, it was in Son's best interest that the court award legal and physical custody to her. In addition, because Father refused allegedly to provide any financial support for Son, Grandmother sought an award of child support, consistent with the child support guidelines, and attorneys' fees.

In his answer to Grandmother's complaint, Father explained that the October 2022 altercation occurred after Father became aware Son was skipping school and lying about it. When Father confronted him, Son "bucked at" Father as if he were going to hit him, so Father subdued Son in a bear hug, which caused Son to fall over a sofa and onto the floor. After they discussed the situation, Son asked Father if he could stay with Grandmother for a few days. To defuse the argument, Father agreed. Father asserted that he did not kick Son out of his home. Acknowledging that he objected to Son's transfer to Harford County schools, Father explained his reasoning—that Son's stay with Grandmother was intended to be temporary, and Father had set up already virtual learning for Son in Baltimore County.

Prior to the adjudication of Grandmother's complaint for custody, the Circuit Court for Harford County notified the parties, by letter dated 11 June 2024, that Son had reached the age of eighteen, and the court, therefore, no longer had jurisdiction to issue a custody

[4] Despite Grandmother's assertion that Son thrived while enrolled in Fallston High School, Son either dropped out of, or was asked to leave, ultimately that school before graduation. He later obtained his GED as a condition precedent for joining the United States Army.

order.[5] The court determined that the remaining issues in the matter—resolution of child support arrearages and attorneys' fees—would proceed to a hearing.

The court heard argument on Grandmother's claims on 10 February 2025. Therein, Grandmother testified that, after the October 2022 incident between Father and Son, she picked up Son from Father's Baltimore County residence and took him to her home in Harford County. At the time, Son was "in a terrible state of mind" and sought and obtained a final protective order against Father.

While Son was living continuously with her from then until he left home to join the Army, Father did not attempt to visit or contact him. Grandmother did not prevent Father from doing so. Father never sent Grandmother any funds for Son's care, which included his year-long therapy sessions, nor supported financially him in any way. Grandmother, acknowledging that she did not have custody of Son, nonetheless asked the court to award her retroactive child support to the date she filed her complaint and attorneys' fees.

[5] *See* Md. Code, § 1-201(b)(5) of the Family Law Article ("FL") ("An equity court has jurisdiction over . . . custody or guardianship of a child[.]"); Md. Code, § 1-401(a) of the General Provisions Article ("GP") ("The age of majority is 18 years[,]" and "an individual at least 18 years old is an adult for all purposes[.]").

Because the circuit court had no jurisdiction to consider custody, to the extent that Father raises issues related to Son's custody in his informal brief—including claims that Grandmother enrolled improperly Son in Harford County schools, "basically kidnapped [his] child without [his] consent[,]" and kept Son from his special needs sister who was in Father's custody—we do not consider them, as they were never before the circuit court. *See* Md. Rule 8-131 ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]").

Father testified that no court action, including the final protective order, deprived him of custody of Son. Son's time with Grandmother was intended to be nothing more than a temporary "cooldown period" after the altercation. Father said he did not grant Son permission to live with Grandmother for two years and tried everything in his power to get Son to return home to his custody. He stated that he did not visit Son at Grandmother's home because she would not permit him on her property. Father acknowledged that he had never sent Grandmother any money for Son's care and support, but said that, on the several occasions when he met with Son in person, he gave Son cash.

The circuit court, ruling that it had the authority to award Grandmother child support without a grant of custody because she had placed herself in a position of *in loco parentis* while taking care of Son, awarded Grandmother child support in the amount of $920 per month for the thirteen months Son lived with her before attaining the age of majority, for a total of $11,960, based on the credible evidence presented of both Grandmother's and Father's income.[6] The court did not find that an award of attorneys' fees to Grandmother was appropriate and denied Grandmother's claim.

Father filed a timely notice of appeal of the circuit court's order.

DISCUSSION

In his informal brief, Father claims that the circuit court's reasoning behind its award of child support to Grandmother, that she operated as a parent *in loco parentis* for Son, is unavailing because Father did not consent to Grandmother's maintenance of Son's

[6] Notice of recorded judgment in favor of Grandmother was entered in Harford County on 16 September 2025, and in Baltimore County on 22 September 2025.

care. Father continues that he fought continuously to regain his rightful custody, but Grandmother did not cooperate. In his view, Grandmother would not have required child support had she simply returned Son to Father's care, as he requested.

Standard of Review

As we explained in *Houser v. Houser*, 262 Md. App. 473, 490 (2024), *aff'd sub nom. Matter of Marriage of Houser*, 490 Md. 592 (2025):

> The trial court's decision as to the appropriate amount of child support involves the exercise of the court's discretion. A court can abuse its discretion when it makes a decision based on an incorrect legal premise or upon factual conclusions that are clearly erroneous. However, where the child support order involves an interpretation and application of Maryland statutory and case law, the Court must determine whether the trial court's conclusions are legally correct under a *de novo* standard of review.

(Cleaned up.) *See also Jackson v. Proctor*, 145 Md. App. 76, 90 (2002) (noting that "[w]e will not disturb the trial court's determination as to child support, absent legal error or abuse of discretion").

Analysis

The issue before us reduces to a determination of whether the circuit court awarded properly child support to Grandmother, a non-parent third-party, when she was not granted legal custody or guardianship of Son. We find no legal error or abuse of discretion in the court's ruling and conclude that the court's award of retroactive child support was appropriate under the circumstances. We explain.

Prior to this Court's decision in *O'Brien v. O'Brien*, 136 Md. App. 497 (2001), *rev'd on procedural grounds*, 367 Md. 547 (2002), there was "no case in Maryland discussing

whether and under what circumstances a third party who has physical custody of a child, but does not have legal custody and is not the child's legal guardian, has standing to seek and recover child support arrearages from the non-custodial parent." *Id*. at 505-06. In *O'Brien*, we considered the issue and found in favor of the third party.

Colleen O'Brien, the adult sister of Fiona O'Brien, the minor child, assumed physical custody of Fiona following the death of their mother, took responsibility for Fiona's day-to-day care, and paid for her basic living expenses. Their father made neither monetary contributions to Colleen for Fiona's support nor took steps to obtain physical custody of Fiona. Colleen asked her father to pay support for Fiona, but he refused. *Id*. at 501-02. Therefore, Colleen asked the circuit court to award her child support and arrearages from her father. *Id*. The circuit court, however, agreed with the father's argument that Colleen, a third-party non-custodian, did not have standing to recover child support arrearages. *Id*. at 503-04.

Colleen appealed. This Court reversed, determining that, even though Colleen was not a natural parent and had not been granted legal custody or guardianship of Fiona, "her in loco parentis status was sufficient to give her standing to sue [her father] for child support arrearages for Fiona" because "[t]o conclude otherwise would run contrary to the guiding principle in all Maryland child custody and support cases: the best interests of the child." *Id*. at 508. *See Pope v. State*, 284 Md. 309, 323 (1979) (explaining that one acts *in loco parentis* by intentionally "put[ting] himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the

formalities necessary to legal adoption[,]" and *in loco parentis* "embodies the two ideas of assuming the parental status and discharging the parental duties").

Limiting the ability of a third party who is functioning as a child's parent to obtain arrearages by requiring that he or she first obtain a custody or guardianship order, we continued, "would be detrimental to the child's interests."[7] *O'Brien*, 136 Md. App. at 508. We therefore held that,

> [t]o the extent that the circuit court concluded that Colleen had no legal basis to obtain arrearages, its decision was legally incorrect. To the extent that the court exercised its discretion to deny Colleen's petition for arrearages, we conclude that it did so arbitrarily and without a sound basis in fact.

Id. at 511.[8]

In *Prince George's County Office of Child Support Enforcement ex rel. Polly v. Brown*, 236 Md. App. 626 (2018), we concluded similarly that, when the grandmother provided care for her minor grandchildren following the death of their mother, the circuit

[7] We also noted that, as in this matter, by the time of the circuit court's ruling, it would have been impossible for Colleen to obtain either such order because Fiona reached the age of majority. *O'Brien*, 136 Md. App. at 508 n.4.

[8] We pointed out also that at least two other jurisdictions permitted third-party caregivers to seek and obtain child support from the child's parent. In *Saask v. Yandell*, 702 P.2d 1327 (Alaska 1985), the child continued to live with his stepfather after the stepfather and the mother divorced. Although the stepfather did not have legal custody or guardianship of the child, the Supreme Court of Alaska held that a person who supports and has physical custody of a child has standing to sue for child support arrearages under the Uniform Reciprocal Enforcement of Support Act ("URESA"). *Id*. at 1330. We cited also *McMullen v. Muir*, 517 N.E.2d 1381 (Ohio Ct. App. 1986), for its holding that a grandmother who, with the child's parent's consent, had *de facto* custody of the child had standing to sue the parent for financial support or reimbursement under URESA. *Id*. at 1385.

court erred in ruling that it could not award escrowed child support payments to the grandmother "because she had no legal authority over the children." *Id*. at 635. We explained that "a parent owes the obligation of financial support 'to the child, not to the other parent[,]'" *Id*. at 633 (quoting *Knott v. Knott*, 146 Md. App. 232, 247 (2002)), and that a non-custodial parent remains "'under a continuing obligation to provide for the support of his children until such time as the order [i]s modified.'" *Id.*at 634 (quoting *Newkirk v. Newkirk*, 73 Md. App. 588, 596-97 (1988)). We held, therefore, that the circuit court's failure to exercise its discretion in awarding child support to the grandmother under the circumstances of the matter constituted reversible error. *Id*. at 635.

We hold similarly here. The parents of a minor child are "jointly and severally responsible for the child's support, care, nurture, welfare, and education" in a legal sense. FL § 5-203(b)(1). A parent's obligation to support a minor child is also a "moral obligation," a concept that "is well-settled in Maryland." *Petrini v. Petrini*, 336 Md. 453, 459 (1994). "Because the obligation is to support the child, Maryland courts have long recognized that the right to child support is a right held by the minor child[.]" *Matter of Marriage of Houser*, 490 Md. 592, 607 (2025). The overarching standard remains the best interest of the child.

Although Father contends that he did not consent to Grandmother's custody of Son *in loco parentis* and would not have had to pay to support Son if Grandmother had returned simply Son to his care, his actions belie that argument. Father did not move the circuit court for a modification after an alleged custody violation by Grandmother. Although he testified, at the custody hearing, that he contacted the sheriff's office and Child Protective

Services "to get [his] son to come back home[,]" he presented no evidence of any attempt to remove Son from Grandmother's home by force of law. Regardless of whether Father approved of Son's living arrangement, he permitted Son to live with Grandmother for approximately two years. During that time, Father did not contribute monetarily to Son's care, while not disputing that Grandmother undertook that financial obligation. Son was entitled, legally and morally, to support by Father, which Father did not provide. We conclude, therefore, that the circuit court awarded properly child support arrearages to Grandmother as in the best interest of Son.

JUDGMENT OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.