Circuit Court for Prince George's County
Case No: CAD22-28128

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 306

September Term, 2024

CANDICE DEASE

v.

DERICK HOUSER

Nazarian,
Beachley,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, Deborah S., J.

Filed: February 28, 2025

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

This appeal arises out of a child custody dispute. Candice Dease ("Mother"), the appellant, and Derick Houser ("Father"), the appellee, are the parents of one child, whom we shall refer to as A.B., born in January 2022.[1] Mother and Father have never been married to each other. Mother lives in Camp Springs, Prince George's County, Maryland. Father has two other children from a prior relationship. He lives with those children, his wife, M.M., and his mother-in-law, in Ashburn, Virginia.[2]

On September 14, 2022, Father filed a petition for custody. In that and later amended petitions, he sought sole legal and physical custody of A.B., with reasonable access and visitation to Mother. Father also requested attorney's fees and costs. Mother filed a countercomplaint seeking primary physical custody, sole legal custody, and child support.

A merits hearing on Father's petition and Mother's counterclaim was held on September 14, 2023. On September 25, 2023, the court entered a custody and child support order based on an equal division of physical custody. On the same date, Mother filed a motion to stay, which was denied, and a motion for reconsideration. On December 7, 2023, the court held a hearing on the motion for reconsideration and two petitions for contempt filed by Father. Mother was found in contempt and the hearing was continued to January 4, 2024. Thereafter, the court granted in part and denied in part Mother's motion for reconsideration and determined that Mother had purged the contempt. On January 26, 2024, it entered a new custody and child support order. Four days later, Mother filed a

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[1] Mother is proceeding on appeal in proper person. Father did not file a Brief.

[2] M.M. is not the mother of Father's other children.

motion for new trial, which the court denied on March 15, 2024. This timely appeal followed.

QUESTIONS PRESENTED

Mother presents the following four questions for our consideration, which we have rephrased slightly:

> I. Did the trial court violate Mother's due process rights by displaying judicial bias, preventing full cross-examination and the presentation of critical evidence, and making coercive remarks pressuring her to settle, all of which deprived her of a fair and impartial custody hearing?
>
> II. Did the trial court err in determining the best interest of the child in the ruling on custody and child support order?
>
> III. Did the trial court abuse its discretion by denying Mother's motion to reconsider in part despite relevant evidence, failing to correct the clerical errors that improperly awarded Father additional overnight visits contrary to the court's transcript, and disregarding the child's best interest by abruptly changing the child's established routine after pressuring Mother into an immediate decision compromising the fairness of the proceedings?
>
> IV. Did the trial court abuse its discretion in denying Mother's motion for new trial by failing to properly address significant procedural errors and potential judicial bias, which deprived Mother of the right to a fair custody trial?

For the reasons set forth below, we shall vacate the circuit court's order with respect to child support and attorney's fees but affirm the order in all other respects.

FACTS AND PROCEEDINGS

Sadly, this custody dispute has a drawn-out history. To place the issues in context, we shall set forth the procedural and factual background in some detail. As noted, a merits hearing on Father's petition for custody and Mother's counterclaim was held on September

14, 2023. Father appeared with counsel and Mother proceeded in proper person. At the time of the hearing, a *pendente lite* order was in place.

In opening statement, Father's attorney asserted that Mother had denied Father access to A.B. since October 2022, in violation of the *pendente lite* order. Mother responded that she was trying to "create a consistent and stable environment" for A.B. She acknowledged that she did not abide by the *pendente lite* order, explaining that it did not allow for a "transition period" "from like smaller visits to overnight visits[.]" In addition, Father had not "been involved in [A.B.'s] life for almost a year[,]" he had not "developed a bond" with the child, and Mother had filed a motion to reconsider the *pendente lite* order. Mother maintained that when she learned that her motion to reconsider the *pendente lite* order had been denied, she told Father that she "would start with the first half of the order" and would not "go straight to overnights because that made no sense."

The court questioned Mother about when she would want Father to see A.B.:

> [Mother]: I actually – we tried to come to a settlement and I actually said two days out of the week. We could try to do two days out of the week. You know, first few visits it would be supervised. After that –
>
> THE COURT: Supervised? Why does he need to be supervised?
>
> [Mother]: The reason why I said initially supervised is because my son does not know him. In order –
>
> THE COURT: Well, he doesn't know him because of what you did.
>
> [Mother]: I didn't do anything.
>
> THE COURT: You stopped him from seeing him.
>
> [Mother]: I didn't stop him from seeing him. He stopped coming –

THE COURT: Ma'am, you just told me that yourself. You just finished –

[Mother]: I didn't say that I stopped coming –

THE COURT: – saying that.

[Mother]: I did not say that I stopped him from seeing him.

THE COURT: My mouth is moving.

[Mother]: I'm sorry.

THE COURT: You just said that yourself. I'm very concerned. I don't know if you want to have this trial –

[Mother]: I do.

THE COURT: – but this is – okay. Very well.

Father's Direct Examination

Father testified that his relationship with Mother began in 2021 and ended around March or April 2022. He works Mondays through Fridays as a site supervisor for Allied Universal, where he performs security and personnel management functions. He has "control" over his shifts, can change his hours at any time, and his "schedule is definitely flexible." He testified that he wanted an alternating weekly schedule with A.B. He also sought sole legal custody because it had been "an ongoing kind of power struggle" with Mother, who had been uncooperative and unwilling to come to an agreement on what was best for A.B. In addition, Mother had a "history of disobeying the court" and "not being able to compromise" and "set aside" past feelings or transgressions. In support of his claim for attorney's fees, Father produced an invoice and testified that he owed a total of $20,584.94 and had already paid $7,679.33 toward that amount.

Father testified that before he filed his petition for custody, there was no "solid" custody arrangement between the parties. From the time A.B. was born, Mother "was very hesitant" about Father's "getting him" because "she didn't know the activities and whereabouts and things of my family and COVID was kind of very prevalent . . . so he never came over to my established residence when he was born." Mother began to allow visits after Father moved into his own apartment in July 2022. Initially, A.B. would be with Father once or twice a week for six to a maximum of eight hours. Father had asked for overnight visits but Mother had said "she feels as though [A.B.'s] too young to be spending the night over my house." Father testified that his access with A.B. ended "shortly after I filed paperwork for custody" in September 2022. The last time Father had seen A.B. was in October 2022, at his own father's funeral.

According to Father, Mother was "inquisitive" when it came to A.B.'s being with people she did not know. Father wanted to foster relationships between his family members and A.B. but Mother "was kind of imposing and wanting to set the lead as far as him meeting my family[.]" On one occasion, against Father's wishes, Mother took A.B. to a function held by Father's family. Father had planned to take his wife and children to the event, but did not do so because he "didn't want any drama to happen[.]"

Father testified that Mother did not want his wife, M.M., whom he married on May 26, 2023, to be around A.B. Mother had become "upset" when he told her he was "getting back in a relationship" with M.M. and that he was leaving one of his jobs so he could spend more time "with the kids." Father read from the following text message Mother had sent him:

> 50/50 would mean he would be exposed to that on a regular basis, and that would not be in his best interest, especially when he doesn't have to be. And [M.M.] is manipulative and malevolent in her actions. She knew what she was doing, that little bit of happiness you had without her was too much for her, and she wiggled her self [sic] back in like a parasite. I do not approve of her ways, and she can not [sic] be within 10 feet of my son until I see otherwise.
>
> But anyway, I'm ok with some other options when it comes to joint custody that we can certainly discuss. Not sure if you'll approve, but I think it's doable. And you will always be able to visit [A.B.] anytime. And if you want him to come around with just you and your daughters so you can get that time with all your kids alone, I'm ok with that 100%.

Father testified that Mother had not complied with the *pendente lite* order, which gave him short visits that would increase over time, gradually working up to overnight visits. (A.B. has a bedroom in Father's house in Virginia.) On a number of occasions, Father attempted to set up visits, but Mother refused. He described his communications with Mother as "[s]trained and uncooperative." He testified that, after the *pendente lite* hearing, Mother refused his requests for visits because she did not yet have "an official order." From the time of A.B.'s birth in January 2022, Father had not spent a single overnight, holiday, or birthday with him. Father expressed his feeling that it was not in A.B.'s best interest to be away from him for so long or to be away from other "parts of his family." Father had not received constant updates on what A.B. was doing, did not have access to his medical records, and did not know the address "to where he's being watched." Father testified that he had asked to go to A.B.'s medical appointments but was not given an address or other information. He claimed that Mother told him in text messages that A.B.'s medical information was "restricted" and "even if I did want to go to a doctor's

visit, I could not access his information." Father believed that A.B. had health insurance coverage through Medicare or Medicaid.

Mother's Cross-Examination of Father

Mother cross-examined Father. At one point, she asked him about the parties' failure to agree on a custody arrangement for A.B. After some questioning, the judge interjected and the following occurred:

> THE COURT: So I'm going to ask again, are you sure we can't work this out?
>
> [Mother]: I don't think – I don't know if we can or not, honestly speaking. I think I've been trying to, but –
>
> [Father's Counsel]: Your Honor, we also offered a two-two-three schedule.
>
> [Mother]: And that's never going –
>
> [Father's Counsel]: And –
>
> [Mother]: That's not true.
>
> THE COURT: What –
>
> [Father's Counsel]: That is – we offered to do a two-two-three. So, you know, Monday, Tuesday, Wednesday and that was turned down as well.
>
> [Mother]: That's not true. She never offered that. And secondly, again, my main thing has always been a transition because he's been – he hasn't been involved for a whole year and yet he keeps saying that it's my fault, but he actually has chosen not to be around.
>
> * * *
>
> THE COURT: – I have listened to his testimony and I don't believe that to be true. What I'm saying to you now is that this seems like something that can be worked out rather than go through this arguing thing because if I end up making a decision, you probably aren't going to like it whereas I can sit

here and work something out with the three of you and get a schedule going. He needs to be here with his father sometime. You have to agree with that.

[Mother]: I do agree with that –

THE COURT: Okay. Then we need –

[Mother]: – but I also –

THE COURT: – to get something going.

[Mother]: I also feel like – I also feel like my concerns –

THE COURT: What are your concerns?

[Mother]: – in regards to – well, he stated that he actually does not use any type of illegal substances, but he does.

[Father's Counsel]: Objection.

THE COURT: Okay. But you –

[Mother]: But he does and during that same day –

THE COURT: Ma'am, you don't know that because you don't live with him.

[Mother]: I have it in a text message.

THE COURT: He told you in a text message –

[Mother]: Yes.

THE COURT: – "I'm doing drugs?"

[Mother]: He –

THE COURT: "I'm doing illicit drugs?"

[Mother]: – said he did an edible, yes.

THE COURT: A what?

[Mother]: An edible.

THE COURT: That's not even illegal anymore.

[Mother]: It's not illegal now, but it was –

THE COURT: Okay. But it's not anymore.

[Mother]: – and then that same day his daughter fell down the steps, so that's a lot of –

[Father's Counsel]: Your Honor, objection.

THE COURT: Okay. But kids fall.

[Mother]: That's true –

THE COURT: Okay.

[Mother]: – but still, I know that it's still like a lot of –

THE COURT: Sit down.

[Mother]: – concern for me.

THE COURT: We're going to work this out. I'm not – I don't think this is necessary. Go sit down.

At that point, the judge excused Father from the witness stand. His attorney advised the court that Father had offered "to do a step up" but Mother wanted "to step up until [A.B.'s] three[.]" Mother then stated, "I would like to testify." She continued, "I don't want to try to work things out. I would like to testify if I'm able to do so because that's what we're here for." The following colloquy then occurred:

THE COURT: Okay. But you're not – I'm telling you, this is not – who is this person supporting you?

[Mother]: This is my mom.

THE COURT: Okay. Do you understand what I'm saying to her?

> UNIDENTIFIED SPEAKER: As far as what you –
>
> THE COURT: That she's not going to like my answer if she insists on not doing anything. So if you want to do that, go ahead.
>
> [Mother]: I do want to testify.
>
> THE COURT: Okay. I'm trying to –
>
> [Mother]: I want to.
>
> THE COURT: – warn you –
>
> [Mother]: I know.
>
> THE COURT: – but you don't need any more testimony and you don't need –
>
> [Father's Counsel]: Okay.
>
> THE COURT: – any more witnesses.
>
> [Father's Counsel]: Okay. Thank you, Your Honor.
>
> THE COURT: You need to convince me why this man just should not be a part of his child's life.
>
> [Mother]: But I didn't say that.
>
> THE COURT: Okay. But so what I'm telling you is let's figure out a time now and you're saying, "No, no, no. I have to testify." So go on. All right. Swear her[] in, please.

Mother's Testimony

Mother testified that she is "the primary parent for our son and I have been . . . doing an amazing job and I have also had [Father] involved in our son's life." She lives in a three-bedroom home, works full time as a medical billing coding specialist, and is pursuing a bachelor's degree.

Mother acknowledged that she and Father do not agree on things. She denied that Father ever had visits with A.B. two to three times per week for six to eight hours. She claimed that Father only had A.B. by himself on three occasions for about four hours. She denied that Father ever watched A.B. "every day, Monday through Friday while I went to work[.]" According to Mother, after A.B. was born, Father was "very inconsistent" in visiting A.B. He would say he was coming over but then would not show up. Mother "set boundaries" by asking Father to tell her exactly what days he was coming because "he wanted complete flexibility." Mother stated that Father's

> schedule didn't really allow for certain things. So I'm like, I'm trying to be reasonable with you and flexible with you, but if you're telling me you can't give me any type of consistency for our son at all, we need to do this a different way.

Later, Mother testified:

> [Father] was being – he was inconsistent, but he was at least trying to come and see our son maybe like once, twice out of the month. He would say he was coming about six to seven times, but he would only come like once or twice out of the month.

Mother testified that her main job was "being a mother and making sure that [A.B.'s] developmental milestones are completely uninterrupted by any type of inconsistencies." She claimed that Father had "been offered to spend Thanksgiving" with A.B., but Father declined because it was not enough time. She testified that Father "started not to come around" when he got back together with M.M. After then, he started to have an issue with going to Mother's house. Nevertheless, she "pushed" for Father "to have those visits with [A.B.] by himself."

The judge asked Mother, "what do you think would be the ideal situation for your son regarding access with his father?" Mother responded that the first two or three visits should be supervised because A.B. does not know his father. After that, there would need to be a transitional period in which Father would be with the child for "a few hours" and then the hours would be extended. Mother thought the transitional period should last for three to four months so as not to be "a developmental shock" to A.B. Mother stated that "the end goal was not 50/50, week on/week off." She suggested that, because the parties live an hour apart, A.B. should spend the weekdays with her and Fridays, Saturdays and Sundays with Father. When questioned by the court, Mother said she would be okay with Father's picking up A.B. at school on Thursday and then bringing him back to Mother's house on Sundays.

Mother requested sole legal custody. The judge responded:

> I'm going to tell you both, I – it's a rare thing. Somebody has to be a bad parent for me to say one of you has sole physical – sole legal custody. It doesn't make sense. You created him. That's who you picked and that's who you picked and now you all have to do this thing jointly for the next 17 years. So neither one of you all is going to get that, so go ahead.
>
> * * *
>
> – I've heard everything. I don't think either one of you is a bad parent. I think that you are a little bit too clingy and won't let it go and it's time to let him be with his father more often and I actually agree with you that now that it's been so long that you can't just go, "Whoop, go over there and stay." So I understand that, but your timeline is a little bit off. That's all.

After Mother's direct testimony, Father's lawyer began to cross-examine her. After asking a few questions, the judge told counsel to sit down and said, "[t]his is just not necessary." The court then proceeded to announce its ruling.

The Court's Ruling

The court found that both parties are fit and that there was no evidence about character or reputation that would preclude either of them from having custody of A.B. The court stated that "[t]he willingness of the parents to share custody is a little bit iffy, but I think that we'll be able to work that out once the Court makes an order." As for each parent's ability to maintain the child's relationship with the other parent, siblings, relatives, and any other people who may psychologically affect the child's best interest, the court found that Mother "has a different [sic] time with that." The court found that Father has two other children living in his household and that Mother has none, and that the preference of the child was "not applicable." As for the capacity of the parents to communicate and share decisions affecting the child's welfare, the court said, "I think once the court has an order for you, I think you'll be able to do that."

The court determined that each parent has the ability to maintain a stable and appropriate home for the child and recognized that the one hour distance between the parties' homes is "a little bit difficult." In announcing its ruling, the court asked Mother for her income and Mother said she earns $52,000 a year. Counsel for Father advised the court that Mother had not produced any documentation to show her income, but the judge responded, "[s]he said it was 52,000. I know she didn't like [sic] to me. Fifty-two thousand. Okay." After some discussion between the judge, counsel, and Mother, the court determined that Mother's monthly income is $4,333. The court found that Father's monthly income is $4,680.

The judge recognized that Father "now has a job where he has more flexibility[.]" With respect to the relationship between the child and each parent, the court found that Mother has a relationship with the child but Father has been separated from his one-year-old child for eleven months, "so he hasn't seen the child at all." The court also found there was no impact on state or federal assistance. The court found that both parents have the ability to meet the child's needs regarding education, socialization, culture and religion, and mental and physical health; and the ability to consider and act on the needs of the child as opposed to their own needs and desires. The court also found that both parents have the ability to protect the child from the adverse effects of any conflicts between the parties.

With respect to the history and efforts of one parent to alienate or interfere with the child's relationship with the other parent, the court found that Mother "has done that consistently for 11 months." The court found that A.B. had not been exposed to any domestic violence. As for parental responsibilities, the court found that they could not be observed as to Father because Mother had "refused to permit him that opportunity." The court also found that each party had the ability to co-parent the child without disruption to his social and school life and noted that there was no "school life" for A.B. given that he was one year old.

After making those findings, the court awarded joint legal custody without tie-breaking authority. As for physical custody, the court decided to "move slowly to get [A.B.] back with his father but not at a snail's pace." The court set forth a detailed schedule stating the dates and times for visits with Father and a holiday and summer schedule.

Father asked to have A.B. added to his health insurance and the court granted that request, although Father did not know the cost of a family plan. Mother advised the court that she had "the option" to be on "Wellpoint," which she described as "an insurance kind of like through the state[.]" The cost for that coverage was $73 a month for both Mother and A.B. The judge suggested that Father's health insurance coverage was "probably better," but Mother said that with "state insurance" there would not be any co-pays and "[e]verything is covered[.]" The judge responded, "[a]ll right" and then immediately questioned counsel about whether the number of overnight visits had been calculated. The court decided that Mother should pay Father for the cost of gas for a one way trip to drop off or pick up the child. Later, the court determined that, for the first month, Mother would drop off and pick up A.B. at a specified restaurant at Tyson's Corner. As for taxes, Father was to claim the child as a dependent in even years and Mother in odd years.

Child Support and Attorney's Fees

The court determined that Father would be responsible for child support in the amount of $453 per month, to be paid through "Child Support." As for Father's request for attorney's fees, the judge ruled as follows:

> Okay. And so attorney's fees, I would have to – I don't think that she has the ability to pay which is one of the factors that she would be able to pay him the attorney's fees, but I do think that there needs to be some kind of –
>
> * * *
>
> I'm going to give him a credit of $1,000 – of $1,400, I'm sorry, on the attorney's fees. So that gives you time – that's what I'm going to do. Three months' credit. So that gives you time to sign up for child support so it'll start coming out of his pay.

*   *   *

> So three months he's not paying child support. That gives you time and that's for the penalty on the attorney's fees. That gives you time to go down and set it up.

September 25, 2023 Hearing

On September 25, 2023, the court entered a written child custody and support order. On the same day, the court held a hearing at which Mother advised the court that there were provisions in the written order that were inconsistent with the court's oral ruling. As alleged by Mother, the errors included the following:

> 1. the time for Father's Sunday visits was changed from 10 a.m. to 7 p.m. to 10 a.m. to 2 p.m.,
>
> 2. the time for the visit on October 13th was changed from starting on Saturday at 10 a.m. to starting on Friday at 10 a.m.,
>
> 3. the court's written order provided that Father would include A.B. on his health insurance coverage even though at the hearing the court said "fine" after Mother stated that her insurance cost $73 and had no co-pays or co-insurance, and
>
> 4. the court's written order provided that from December 26 to 29th, the child would be with the parent who did not have him for Christmas.

Mother could not recall the details of the visitation schedule following the Christmas holiday but advised the court that she had ordered a transcript of the hearing. Counsel for Father advised the court that Mother was not allowing the visitation that had been ordered. Mother explained:

> The first – the first, like she said on Saturday [A.B.] was supposed to go to a birthday party. He wasn't able to; he actually was diagnosed with RSV. I actually reached out to [Father] and let him know. I actually gave him a doctor's note that said he couldn't be around any household with children until he didn't have a fever for 24 hours. It had in a doctor's note. I actually have a doctor's note right here. So that's what happened with the first visit.

> The second visit there was – how do I explain it? That second visit he brought his wife and a whole discombobulation happened, and I took my son back home, because it was just – it got out of portion [sic]. He blocked my car and wouldn't let me leave. It was just – it was too much, so I took my son home.

Counsel for Father stated that Mother had an issue with Father's wife and did not want her around the child. Mother responded that she did not "have a problem at all with [Father's] wife being around my child[,]" but she also questioned why Father would bring his wife to the exchange and stated that she did not trust or like M.M. Father's counsel and Mother engaged in an extensive exchange on the record. The judge then interjected and stated on the record:

> Okay. I'm back. I don't – this is not The Jerry Springer Show, so I'm not going to sit through that. I done left, gone to the bathroom and came back, and you all still going.
>
> The judge continued:
>
> [Mother], I gave you a specific order. I did not tell you that you get to make changes to the order and tell them who can come and who cannot. You are literally wanting me to find you in contempt, and I will. So he needs to get on that schedule, and this needs to happen. It's none of your business who is with him when he's with his father, short of somebody is hurting him, and that's the end of that.

Father advised the court about problems he had encountered with Mother's not telling him immediately that A.B. was in the hospital. He also said that he waited almost three hours in a parking lot for Mother to drop off A.B. but she never answered his calls or communicated about the child's whereabouts. The judge then addressed Mother as follows:

> THE COURT: I don't know why this is so difficult. I don't understand this. If you had a child in the hospital, I don't know why their father wouldn't

> need to know that immediately. And immediately does not mean two days later; it means immediately.
>
> [Mother]: Listen, he wants to –
>
> THE COURT: My mouth is still moving, and I'm done. I am done with this. You need to get on that schedule, and it's what the order says until you bring me the transcript that says something different. We're following the order that I just signed and that's that.
>
> And if you don't follow it, you will be held in contempt and be subject to incarceration.
>
> Is everybody clear? All right. Thank you. Parties are excused.

December 7, 2023 Hearing

On December 7, 2023, the court held a hearing on two petitions for contempt filed by Father and a motion for reconsideration of the September 25, 2023 order filed by Mother. One contempt petition pertained to Father's claim that he was denied access to A.B. pursuant to the *pendente lite* order and the other, filed on October 25, 2023, pertained to Father's claim that, with the exception of one visit that took place on October 1, 2023, he was denied access to A.B. under the court's September 25, 2023 custody order. Both parties were represented by counsel, but Mother's attorney advised the court that he had been retained two days prior, and his appearance was limited to the contempt petitions and "the motion to modify argument." The court and the parties agreed to proceed first on the two petitions for contempt and thereafter on Mother's motion for reconsideration.

Father testified that he did not have visitation with A.B. on any of the dates set forth in the *pendente lite* order. Mother stipulated to that fact. Father asserted that he had asked Mother between two and five days in advance about visits with A.B. and that she then

waited until the last day before or the day of the scheduled visit to tell him that the child was not coming. After the September 25, 2023 order was entered, Father had one visit with A.B. on October 1, 2023. On other dates when visits had been ordered to occur, Father appeared at the agreed pick-up location, but Mother never appeared with the child. Father described the various reasons Mother had given for denying the visits, stating:

> There have been instances where she has said that the order is not correct, and that she was given instruction not to – to wait until she got the transcript. Then she said the transcript is incorrect. So therefore she's not following it. And then also there have been several times where she just says, [A.B.] is not coming. And then also outside of [A.B.] is not coming, I finally got a text message basically stating that his behavior is different and he is not coming with me, basically, after the visit on October 1st.

Father testified that he had asked Mother for information about who watches A.B. when she does not and for A.B.'s medical and "shot" records but she did not provide any of that information. According to Father, Mother tried to get him to deviate from the court order. She claimed that A.B.'s demeanor had changed after his visit with Father, that "the order is unreasonable," and that "basically it's not within [A.B.'s] best interest for him to basically spend overnight visits as fast as he has, and a child should not split 50/50 in different households." Father testified that his attorney's fees for the period November 5 through 29 were $11,618.96. The court took judicial notice that the rate for paralegals at Father's lawyer's firm was $175 per hour, and the rate for attorneys was $400 per hour. The court found those rates to be "reasonable."

Mother testified that she did not abide by the first six visits provided in the magistrate's report and recommendation that was later adopted by the court. She claimed that she had used a service in the courthouse for self-represented individuals and was told

that the magistrate's recommendation was "not an official order until it's signed." With that information, she filed a motion to reconsider. She believed that filing the motion relieved her of any obligation to follow the visitation schedule. When she received the signed *pendente lite* order, an overnight visit was set to occur on September 9th, but it did not take place. Mother explained:

> Well, I did – [Father] did reach out to me to get the visit and I did say, well, since he didn't do that overnight visit, would it be okay for us to do the short visit? Like, I'm okay with doing the short visit, but he hasn't had any overnights yet and my son does have – I don't want to say adjustment issues, but he does have adjustment issues.
>
> So I did ask [Father] if we could just start from the beginning of the order, and he said no. He wanted to start from where we were. And from that point, I just didn't want him to be – again, you know, just traumatized spending the night with someone. He hasn't been able to spend the night with anyone since he was born. He's only spent the night with me, so I just didn't want to just – . . . uproot him.

At the hearing on September 25, 2023, Mother raised the issue of certain discrepancies between the court's ruling on the record and the written order. Notwithstanding that the judge told her to follow the written order until she obtained the transcript, Mother testified that a visit scheduled for September 27th did not occur because A.B. was

> still recovering from being sick, and I think that I agreed to 7:00 a.m. for my son because I was trying to make it easier for [Father]. I know he said that at that time worked much easier for him. But like I said, it really did change his routine. So that's what I was, you know, trying to keep, like, his routine the same.

Mother testified that once she received the transcript and confirmed there were discrepancies, she tried "to figure out what [she] was supposed to do" because she did not

want A.B. to have too many changes in his routine because he has "adjustment issues." When asked to explain why visits did not take place, Mother stated:

> Yes. So it did not take place after that because I did notice a little bit of change in [A.B.'s] behavior. And like I said, I know that those upcoming visits were about to be those overnights that were not in the ruling. So I just did not know what I was supposed to do at that point. . . . And I wanted to make sure that, you know, like I said, his routine wasn't interrupted[.]

Mother asked that A.B. "not be uprooted from his routine right now" and that the parties "[j]ust start from the beginning, just so [A.B.] could get those smaller visits in there, because I do not want him to – this to affect him." The parties calculated that Father had missed twelve overnight visits and nineteen day visits with A.B. Mother's counsel acknowledged that Mother had "frustrate[d] the visitation schedule to a large degree," but asked the court to spread out additional visits with Father "over the next few months." The court responded:

> Here's the problem. First of all, I'm not starting over. I'm not doing that because she's going to do something else. I don't believe her. I don't believe she didn't understand because she stood in this courtroom and we had long – I remember her so well. I asked her if she wanted an attorney. You know, you should have an attorney. She said no, she was going to represent herself.
>
> * * *
>
> And I had already made her pay some attorney fees for not doing what she was supposed to do, and she didn't care. And I know she doesn't care, because to this day, she still saying – . . . "my son." And the problem is . . . it's not her son. It's their son, and the son has a right to a father and he has a right to his sisters and this is outrageous to me.
>
> And I wish, honestly, that I could just lock her up. I really wish, but I know that contempt, they say you can't do that with contempt in family cases, but I would, because I think she's playing games with me.

Mother interjected saying the judge's statements were "not true" and that she was "absolutely not" playing games. The judge told Mother, "[s]top talking" and this exchange followed:

> THE COURT: I don't think I can give him nineteen days in a row because he is going to miss his mother. I don't think she's a bad mother. I don't think that. But she is being selfish, thinking about herself and not the child. That's what's happening, and it can't happen again.
>
> I'm going to be very clear about this. I don't want any misunderstandings. He's going to pick up that child today, and the child is going to stay with him until Saturday. That's it. And then he's going to continue picking up that child on the weekends.
>
> What time can you pick him up on the weekends?
>
> [Father]: I can probably – I started a new job, so I can probably get him about 5:00 or 6 o'clock.
>
> THE COURT: In the evening?
>
> [Father]: Yes, ma'am. Six o'clock in the evening.
>
> THE COURT: On Friday?
>
> [Father]: Yes.
>
> THE COURT: All right. So now we're back to Friday until Sunday at 10 o'clock, and that's it. And if he misses one day, I'm going to find that she's actually being abusive to this child by not permitted [sic] him to have contact with his father and that's going to be the end of the conversation. She can go visit him supervised at a center. I am done.

The court ruled that Father would have A.B. for the Christmas holiday and that make-up visitation would be added to Father's summer visits so that he would have the child for one week and then Mother would have the child for four days until the missed days were made up. The court set a new hearing to consider Mother's motion for

reconsideration of the September 25, 2023 order, specifically to correct any errors that might have occurred with respect to dates and times. At the conclusion of the hearing, the judge stated:

> If the record is not clear, I found her in contempt. . . . And she can avoid jail time by purging, and we figured out a schedule for her to purge, which is what we just did.

The court also awarded attorney's fees to Father for the petition for contempt. The judge asked Father's counsel to "figure out which part [of the attorney's fees] is for the contempt[,]" and said, "[a]nd then he can get credit on his child support."

January 4, 2024 Hearing on Mother's Motion to Reconsider

At the hearing on Mother's motion to reconsider the court's September 25, 2023 order, Mother appeared in proper person and Father was represented by counsel. At the start of the hearing, the judge asked Father's counsel if Mother had "purged" and done "what she was supposed to do[.]" Counsel replied that Mother had followed the court's order and there had been no problems with visitation since the last court hearing.

As a preliminary matter, Mother asked the court to reconsider its ruling on child support. She argued that, prior to the custody and child support order, Father had paid child support inconsistently, and, if the court had considered that, perhaps it would not have ordered her to pay a portion of Father's attorney's fees. The court denied Mother's request on the ground that Mother had failed to produce financial documentation in discovery.

In her motion to reconsider, Mother argued that there were discrepancies between the court's ruling on the record during the September 14, 2023 hearing and the written order entered on September 25, 2023. The court reviewed the written order line by line. It

agreed to make a number of changes, including that Thanksgiving visits would end at 7 p.m. on the Friday after the holiday; that visits on each parent's birthday would end the following day at 8 a.m.; that if visits for A.B.'s siblings' birthdays fall on a Saturday, the parties will exchange Saturday visits; that weekend visits would be from 10 a.m. Friday to 4 p.m. on Sunday; and that certain notice would be provided before travel. The parties and the court agreed to eliminate Father's Wednesday visits and extend his time with A.B. on Sundays from 4 p.m. to 8 p.m. The court also clarified that the parent picking up the child would be required to drive to the other parent's home. In addition, the court ruled that the non-custodial party could call A.B. at 11 a.m. on Saturdays.

At that point, Mother expressed concern about the schedule and suggested that she have A.B. Monday through Friday with Father picking him up and having him from Friday to Sunday. Mother stated that the proposed schedule would not work because the child's "routine that he has is set with me, it's not set with his father." The judge responded:

> But it would be. It would be if he's that, because it doesn't really matter what the routine is, kids adjust very quickly. So if you're saying you prefer that you get Friday to Monday.

Mother expressed her opposition to that schedule, repeatedly saying that that plan "does not make sense" because Father works Mondays through Fridays, and she is able to keep up with the child's routine because she works from home. Eventually, the judge stated:

> Okay. So we're back to where I started. That's perfectly fine. He'll be with his father Monday through Friday on this one less schedule change and with you Friday to Monday and the rest of the holiday stuff with [sic] stay.

Mother protested and after some conversation with the judge, the following colloquy occurred:

> THE COURT: Okay. So I'm just going to do that, Monday through Friday with dad. Let her know what time he wakes up and what time he goes to bed. And he will be with you Friday to Monday. And this resolves the problem.
>
> [Mother]: I think –
>
> THE COURT: I'm not spending another 40 minutes –
>
> [Mother]: I think that –
>
> [Father's Counsel]: That's beginning June 2nd, right?
>
> * * *
>
> THE COURT: Yeah, beginning June 2nd. All right.
>
> [Mother]: I – Your Honor – Your Honor –
>
> THE COURT: I'm not going to go through this again. We've been talking about the same schedule for 30 minutes.
>
> [Mother]: Your Honor – Your Honor, if it's going to be like that, then we could just do the four day/four day. And we can just do that and the reason I say that is because my main reason for asking for that is so that when he actually starts school he wouldn't have to readjust because I would –
>
> THE COURT: Okay. And I'm saying fine, so he will be with this side of the family Monday through Friday, we've got to change the times, and with you Friday to Monday. And if Monday is a holiday, with you Friday to Tuesday.
>
> [Mother]: I don't think that that – I don't think a change like that should happen. I really don't think that that is beneficial –
>
> THE COURT: Why? It's not beneficial? It's the same schedule you just told me to give him.
>
> [Mother]: Right, but that was based on the fact that this had been his routine, this had been his routine –

THE COURT: That's not been over six months now, we're at new routines. That's not the routine he was in before. We have new routines.

So you're going to have to make a decision in the next two minutes. He's either going to do it – the schedule you said but opposite of what you said, or we're keeping the four day/four day, and we'll see you when he comes to school. Those are the choices and you've got two minutes to decide. I'm not going to spend this time explaining to you that what you offered was perfectly fine when it was with you, but suddenly it's not perfectly fine when it's that side of the family. He's got two families, that's the bottom line.

[Mother]: That's perfectly fine.

THE COURT: Okay.

[Mother]: We'll just keep it the four day/four day. That's what I would decide.

THE COURT: Okay. I thought that might work. Okay. So can you get me the new order, ma'am?

[Father's Counsel]: Yes, Your Honor.

* * *

THE COURT: Okay. Anything else?

[Mother]: No. I just really – I really wanted like the for – I don't know, I just – it's like we took like the – we were required to take like a parenting course and talked about what would be the best schedule for like a toddler. It just doesn't seem like it's being child focused, it seems like it's more –

THE COURT: Okay. Okay.

[Mother]: – I understand what you're saying – but it feels like there's no child focus at all.

THE COURT: You're right. Okay. I'm – okay, this is the final. We're going to go with what you said, since you feel it's not child focused. Monday through Friday with dad, Friday through Monday with mom. That's it.

[Mother]: No, no, Your Honor –

> THE COURT: That's it –
>
> [Mother]: – Your Honor –
>
> THE COURT: – stop talking –
>
> [Mother]: – please –
>
> THE COURT: – I am done.
>
> [Mother]: – please –
>
> THE COURT: No, ma'am.
>
> [Mother]: – please –
>
> THE COURT: I'm done.
>
> [Mother]: Please.
>
> THE COURT: Monday through Friday with dad starting June and Friday to Monday with mom, if Monday is a holiday, mom gets Monday and it's Friday to Tuesday. All right.

Thereafter, the judge advised the parties that in light of the change in the schedule, they would need to recalculate child support starting in June.

On January 26, 2024, the court entered a written order reflecting, among other things, its decision that, beginning on June 1, 2024, Father would have A.B. Monday through Friday, and Mother would have him from Friday through Monday. The order also provided that Father would pay child support in the amount of $453 per month beginning on October 1, 2023, and that beginning on June 1, 2024, he would pay child support in the amount of $262 per month via a wage withholding order. The order provided that Father would receive a credit of $1,400 toward his attorney's fees from Mother, "which shall

translate in that same amount less toward Child Support payments in total. As such, [Father] shall not begin his Child Support payments for three (3) months[.]"

Mother's Motion for New Trial

Four days after the January 26, 2024 order was entered, Mother filed a motion for new trial and to alter or amend the order. She argued that the court had violated her right to fairness in the proceedings; that the court had erred in failing to admit an exhibit she had offered; that the court had repeatedly insisted that she "settle" the case as the court's decision would not be in her favor; that the court's decision was made before Mother gave any testimony; that the court had denied her an opportunity to cross-examine witnesses listed on Father's witness list; that the court had erred in determining that she had alienated A.B. from Father; that the court had erred in refusing to review evidence that one of Father's daughters had fallen while Father was under the influence of a substance that was illegal at the time; that the court had erred in failing to award child support arears; that the court's "hasty" decision on January 4, 2024 could impact A.B.'s "development and further impose unnecessary adjustment for the minor child"; and that some clerical errors remained in the court's order of January 26, 2024. After a hearing on March 15, 2024, the circuit court denied Mother's motion for new trial and to alter or amend.

STANDARD OF REVIEW

In an action tried to the court, we "review the case on both the law and the evidence." Md. Rule 8-131(c). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." *Id.* In reviewing a child custody case, "Maryland

appellate courts apply three different but interrelated standards of review[.]" *In re Adoption of Cadence B.*, 417 Md. 146, 155 (2010). The Maryland Supreme Court has described these standards as follows:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of Rule 8-131(c) applies. Second, if it appears that the court erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the court founded upon some legal principles and based upon factual findings that are not clearly erroneous, the court's decision should be disturbed only if there has been a clear abuse of discretion.

In re Adoption/Guardianship of C.E., 464 Md. 26, 47 (2019) (cleaned up) (quoting *In re Adoption/Guardianship of Ta'Niya C.*, 417 Md. 90, 100 (2010)).

We review a trial court's custody determination for abuse of discretion. *Santo v. Santo*, 448 Md. 620, 625-26 (2016). In *Santo*, the Court explained:

> This standard of review accounts for the trial court's unique "opportunity to observe the demeanor and the credibility of the parties and the witnesses." [*Petrini v. Petrini*, 336 Md. 453, 570 (1994).]
>
> Though a deferential standard, abuse of discretion may arise when "'no reasonable person would take the view adopted by the [trial] court' or when the court acts 'without reference to any guiding rules or principles.'" *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (internal citations omitted). Such an abuse may also occur when the court's ruling is "'clearly against the logic and effect of facts and inferences before the court' or when the ruling is 'violative of fact and logic.'" *Id.* (internal citations omitted). Put simply, we will not reverse the trial court unless its decision is "'well removed from any center mark imagined by the reviewing court.'" *Id.* at 313 (citation omitted).
>
> The light that guides the trial court in its determination, and in our review, is "the best interest of the child standard," which "is always determinative in child custody disputes." *Ross v. Hoffman*, 280 Md. 172, 178 (1977).

Id.

As with custody determinations, visitation orders generally are "'within the sound discretion of the trial court, not to be disturbed unless there has been a clear abuse of discretion.'" *Brandenburg v. LaBarre*, 193 Md. App. 178, 186 (2010) (quoting *Barrett v. Ayres*, 186 Md. App. 1, 10 (2009)).

DISCUSSION

I.

Mother contends the circuit court violated her due process rights by displaying judicial bias, preventing full cross-examination and the presentation of critical evidence, and making coercive remarks pressuring her to settle, all of which deprived her of a fair and impartial custody hearing. These contentions are not properly before us. Ordinarily, we will not decide an issue "unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a). A party must object in the trial court to preserve issues of judicial bias for appellate review. Md. Rule 8-131(a); *Joseph v. State*, 190 Md. App. 275, 289 (2010); *Acquah v. State*, 113 Md. App. 29, 60 (1996).[3]

With respect to Mother's assertions that the trial judge "demonstrated bias and coercion," "presented confirmation bias," "create[ed] a[n] impartial atmosphere," and made remarks that were "coercive, and to some extent threatening," the record makes clear that Mother did not ask the trial judge to recuse herself. A timely motion for recusal is one

[3] These rules apply to Mother even though for much of this case she has been proceeding in proper person. The rules of procedure in Maryland apply to all parties, whether they are represented by counsel or not. *Tretick v. Layman*, 95 Md. App. 62, 68 (1993). "No different standards apply when parties appear *pro se*." *Id.* at 86.

that is made "as soon as the basis for it becomes known and relevant" and not "one that represents the possible withholding of a recusal motion as a weapon to use only in the event of some unfavorable ruling." *Conwell L. LLC v. Tung*, 221 Md. App. 481, 516 (2015) (internal quotation marks and citations omitted). For that reason, "'a litigant who fails to make a motion to recuse before a presiding judge in circuit court . . . waiv[es] the objection on appeal.'" *Id.* at 516-17 (quoting *Halici v. City of Gaithersburg*, 180 Md. App. 238, 255 n.6 (2008)); *see also Braxton v. Faber*, 91 Md. App. 391, 407 (1992) (stating that "it is incumbent upon counsel [during trial] to state with clarity the specific objection to the [allegedly biased] conduct . . . and make known the relief sought" when challenging a trial court for bias).

The same holds true with respect to Mother's assertion that the trial judge did not allow a full and fair presentation of the case, limited Mother's ability to cross-examine witnesses, and ended cross-examination of Mother by Father's counsel. Trial judges "have wide latitude to establish reasonable limits on cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant." *Pantazes v. State*, 376 Md. 661, 680 (2003). To preserve an objection to a limitation on cross-examination, a party must proffer what the witness's testimony would have been. *See, e.g., Grandison v. State*, 341 Md. 175, 207 (1995) ("Control over the extent and scope of cross-examination rests within the discretion of the trial judge, and his [or her] ruling will not be overturned absent an abuse of discretion."). To the extent that Mother maintains she was prevented from presenting a witness, she failed to proffer the identity of the witness and the witness's

anticipated testimony. At the hearing on her motion for new trial, Mother suggested that she was not permitted to cross-examine witnesses who had been identified by Father. Those witnesses were not called by Father and Mother acknowledged that she had not subpoenaed them for trial. As to Mother's other claims, she failed to raise them in the trial court. As a result, these issues have been waived and are not properly before us. Md. Rule 8-131(a).

Finally, Mother argues that she had evidence in the form of a text message to show that, on one occasion, Father was under the influence of an edible substance and was impaired when one of his daughters fell down some stairs. She takes issue with the trial judge's statement that the substance allegedly taken by Father was no longer illegal. At no point, however, did Mother actually produce a copy of the text message, mark it as an exhibit, and attempt to have it admitted in evidence. Accordingly, the issue has been waived. Md. Rule 8-131(a).

II.

Mother contends the trial court erred in its ruling on custody and child support because it made an erroneous best interest of the child decision. In support, she argues, among other things, that the court should have based its custody determination "on what was in the best interest of the child at that time, and not what occurred over a year ago" and that the custody decision should have focused on stability. Mother also challenges the trial court's award of child support and its decision to give Father a credit against his child support obligation to cover attorney's fees. In addition, she argues that the trial court's award of attorney's fees to Father was made without good cause and was an abuse of discretion.

Custody Determination

Custody and visitation decisions are governed by the best interest of the child standard. *Gordon v. Gordon*, 174 Md. App. 583, 636 (2007). In assessing the child's best interest, the court is to consider the relevant guiding factors set forth in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1978), and *Taylor v. Taylor*, 306 Md. 290 (1986). Although "[t]he best interest standard is an amorphous notion, varying with each individual case," a fact finder should "evaluate the child's life chances in each of the homes competing for custody and then to predict with whom the child will be better off in the future." *Sanders*, 38 Md. App. at 419. Courts "are not limited to a list of factors in applying the best interest standard in each individual case," *Azizova v. Suleymanov*, 243 Md. App. 340, 345 (2019), but cases beginning with *Sanders* and *Taylor* have provided a checklist of more than twenty non-exhaustive factors, many with significant overlap, that a court must consider when making custody determinations. Those factors include: (1) the fitness of the parents; (2) the character and reputation of the parties; (3) the desires and prior agreements of the parents; (4) the potential of maintaining natural family relations; (5) the child's preferences; (6) material opportunities affecting the future life of the child; (7) the child's age, health and sex; (8) where the parents live and the opportunity for visitation; (9) the length of the child's separation from the parents; (10) either parent's voluntary abandonment or surrender; (11) the parents' capacity to communicate and reach shared decisions affecting the child's welfare; (12) the parents' willingness to share custody; (13) the established relationship between the child and each parent; (14) potential disruption to the child's social and school life; (15) the demands of each parent's

employment; (16) the age and number of the children; (17) the sincerity of each parent's request for custody; (18) the financial status of the parents; (19) the impact the custody decision may have on any party's state or federal assistance; (20) the benefit to the parents in maintaining the parental relationship with the child; and (21) any other consideration the court determines is relevant to the best interest of the child. *See Jose v. Jose*, 237 Md. App. 588, 599-600 (2018) (citing *Taylor*, 306 Md. at 304-311, and *Sanders*, 38 Md. App. at 420).

Although the trial court must consider the relevant factors, it is not required to articulate on the record its analysis of each factor. *Long v. Long*, 141 Md. App. 341, 351 (2001); *see also Prahinski v. Prahinski*, 75 Md. App. 113, 136 n.6 (1988) ("[A] trial court is not required to articulate each step in its thought process[.]"). The "mere lack of an explicit discussion of each of the factors on the record by the trial court does not necessarily mean that the trial court erred[.]" *Long*, 141 Md. App. at 351. In addition, when considering the *Sanders*-*Taylor* factors, "no one factor serves as a prerequisite to a custody award." *Santo*, 448 Md. at 629. The trial court "should examine the totality of the situation in the alternative environments and avoid focusing on any single factor" to the exclusion of all others. *Best v. Best*, 93 Md. App. 644, 656 (1992).

Contrary to Mother's assertion, the court did not impose a time limitation or constraint in considering the child's best interest. Moreover, the court was not required to give special weight to stability over other relevant required considerations. As explained in our discussion of the court's decision-making at the September 14, 2023 hearing, the court in fact gave consideration to the required factors and articulated its findings with

regard to custody on the record. It is not our function to retry the case or reweigh the evidence. *Kremen v. Md. Auto. Ins. Fund*, 363 Md. 663, 682 (2001).

Several of Mother's arguments are not properly before us. As stated previously, ordinarily we will not decide any issue "unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a). Mother maintains that the trial court's decision was based on incomplete evidence but fails to direct our attention to any specific item of evidence that was excluded. As noted, Mother's documentation pertaining to her claim that Father allegedly used an edible form of marijuana was not presented at trial. Mother also points to the court's decision to cut short her cross-examination of Father and the court's statement that Mother did not need any further testimony or witnesses. The record does not show that Mother lodged an objection to these rulings or that she proffered any evidence that she was unable to present or witnesses that she wished to call. On the record before us, we cannot conclude that the trial court abused its discretion in its assessment of A.B.'s best interests or in its ultimate custody determination.

Child Support and Attorney's Fees

As set forth above, the trial court awarded Father $1,400 toward his attorney's fees. It ordered that the fees would apply as a credit against Father's child support obligation, which was set to begin on October 1, 2023, so that for three months, the payments he would be making for child support would not go to support but to attorney's fees. Mother contends the trial court's decision to award attorney's fees was "without good cause," and the court abused its discretion in ordering the credit against Father's child support obligation. We agree.

In two motions to compel discovery, Father sought attorney's fees under Rule 1-341(b).[4] In considering that request, the court stated that it did not think Mother had "the ability to pay";[5] nevertheless, it proceeded to order her to pay Father $1,400 in attorney's fees.[6] The court ordered that these fees would be paid by giving Father a credit toward them on his child support obligation. This was an abuse of discretion.

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[4] Rule 1-341 provides, in part, that:

> In any civil action, if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification, the court, on motion by an adverse party, may require the offending party or the attorney advising the conduct or both of them to pay the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys' fees, incurred by the adverse party in opposing it.

The Rule contains specific requirements regarding a verified statement in support of a request for attorney's fees.

[5] At the hearing on September 14, 2023, counsel for Father advised the court that it had not received anything in discovery to show Mother's income. Mother provided the judge with some unidentified documents that were neither marked nor admitted in evidence. From those documents and Mother's verbal statements, the court concluded that Mother was paid $25 per hour for a forty-hour work week, or $52,000 per year, which made her monthly income $4,333.32.

[6] The circuit court did not make any of the required findings for an award of fees under Rule 1-341. Before awarding sanctions under Rule 1-341, the circuit court "must make two separate findings that are subject to scrutiny under two related standards of appellate review." *Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. 254, 267 (1991). The court must first "make an evidentiary finding of 'bad faith' or 'lack of substantial justification.'" *Talley v. Talley*, 317 Md. 428, 436 (1989) (quotation marks omitted) (quoting *Legal Aid v. Bishop's Garth*, 75 Md. App. 214, 220 (1988)). The court must make "an explicit finding that a claim or defense was 'in bad faith or without substantial justification[,]'" and the record must reflect "the basis for those findings." *Zdravkovich v. Bell Atl.-Tricon Leasing Corp.*, 323 Md. 200, 210 (1991) (quoting Md. Rule 1-341). That is, the circuit court must set forth "'some brief exposition of the facts upon which the
(continued…)

A child's parents are his '"natural guardians"' and owe the child a '"legal, statutory obligation of support."' *Walker v. Grow*, 170 Md. App. 255, 265 (2006) (quoting *Lacy v. Arvin*, 140 Md. App. 412, 422 (2001)). "A parent owes this obligation . . . to the child regardless of whether the child was the product of a marriage." *Id.* (cleaned up). Maryland courts have conventionally imposed an obligation on parents to provide for their children, while conferring "perfect right[s]" to children to receive such support and maintenance. *Middleton v. Middleton*, 329 Md. 627, 632 (1993) (cleaned up) (quoting *Carroll Cnty. Dep't of Soc. Servs. v. Edelmann*, 320 Md. 150, 170 (1990)). This policy is codified in Maryland's child support guidelines, Maryland Code, Family Law Article ("FL") §§ 12-201 through 12-204.[7] The guidelines are designed to ensure that, when parents live apart,

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finding is based and an articulation of the particular finding involved[.]'" *Id.* (quoting *Talley*, 317 Md. at 436). We review that determination under a clearly erroneous standard. *Toliver v. Waicker*, 210 Md. App. 52, 71 (2013). Second, "if a court finds a claim was pursued in bad faith or without substantial justification, it then has to determine whether to award sanctions." *Garcia v. Foulger Pratt Dev., Inc.*, 155 Md. App. 634, 677 (2003). We review that determination for an abuse of discretion. *Id.*

[7] With certain exceptions that do not appear to apply here, in a proceeding to establish child support, the court must use the child support guidelines and adhere to the schedule set forth in FL § 12-204(e). *See* FL § 12-202(a)(1). "Income statements of the parents shall be verified with documentation of both current and past actual income" pursuant to FL § 12-203(b)(1). The trial court must first determine the adjusted actual income of each parent and the expenses incurred on behalf of the child for work-related childcare, extraordinary medical expenses, school, and transportation between the homes of the parents. FL § 12-204(g)-(i). The court also must note, among other things, the cost of providing health insurance for the child. FL § 12-204(h)(1) ("Any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible shall be added to the basic child support obligation and shall be divided by the parents in proportion to their adjusted actual incomes."). After all of the required findings of fact are made, the court must use the guidelines to calculate the parents' child support obligations.

their child "receive[s] the same proportion of parental income, and thereby enjoy[s] the standard of living, [that] he or she would have experienced had the child's parents remained together." *Voishan v. Palma*, 327 Md. 318, 322 (1992).

A circuit court does not have the authority to "select, at its complete discretion, which of its orders should be deemed child support." *Goldberg v. Miller*, 371 Md. 591, 603 (2002). It is bound by the "Legislature's plan for calculating the amount and character of a child support award." *Id.* at 603-04. By way of the child support guidelines, trial courts are directed through "specific descriptive and numeric criteria" in order to determine a parent's child support obligations. *Voishan*, 327 Md. at 322 (quotation marks and citation omitted). For that reason, we shall remand to the circuit court the issues of attorney's fees, child support, and child support arrears arising from the three months A.B. was deprived of child support.

We note that the court ordered that Father shall provide medical and dental coverage for A.B. At the hearing below, no evidence was presented to show the cost or any other details about either parent's medical or dental insurance benefits. Mother spoke about the possibility of purchasing coverage from Wellpoint, but gave the cost of coverage for both her and the child. On remand, in determining child support, the court shall consider the medical and dental insurance coverages available for A.B. The court may also consider the cost of transportation between the parties' homes. FL § 12-204(i)(2).

Mother also contends that the circuit court erred by denying her request for child support retroactive to January 30, 2023, the day she filed her counterclaim for custody. In support, she cites FL § 12-101(a)(1), which provides that "[u]nless the court finds from the

evidence that the amount of the award will produce an inequitable result, for an initial pleading that requests child support pendente lite, the court shall award child support for a period from the filing of the pleading that requests child support." Subsection (a)(3) provides that "[f]or any other pleading that requests child support, the court ***may*** award child support for a period from the filing of the pleading that requests child support." FL § 12-101(a)(3) (emphasis added). In her counterclaim, Mother checked a box stating that Father was not making regular child support payments. She included a handwritten note stating that, in October 2022, Father started helping but she was not sure he would be consistent with that. In her counterclaim, Mother requested custody and child support, but did not request *pendente lite* child support. Nor did the court's *pendente lite* order address child support. The court was permitted, but was not required, to award child support from the date of Mother's counterclaim. The record does not disclose that the trial court abused its discretion in deciding not to award Mother child support from the date she filed her counterclaim.

Lastly, Mother challenges the trial court's decision that the parties alternate claiming A.B. as a dependent on their tax returns. She maintains that the decision should be "made by the parents, as it is determined by the [Internal Revenue Service] based on custodianship," and therefore the issue is "outside the judge['s] jurisdiction." We disagree. We review a circuit court's allocation of tax dependency exemptions for abuse of discretion. *See Reichert v. Hornbeck*, 210 Md. App. 282, 348 (2013). In *Reichert*, we held that "when both parents share joint physical custody of the child on an essentially 50/50 basis," the tax exemption must be allocated "to the parent with the highest adjusted gross

income[.]" *Id.* at 346. We distinguished such a situation from "instances where the parents share joint custody but one parent still attains primary physical custody and care of the child for more than one-half of the calendar year[.]" *Id.* at 345. In those cases, a court still has the discretion to allocate the tax exemption. *Id.* In the case at hand, the circuit court's ruling did not reflect the analysis required by *Reichert* and did not address whether a waiver under 26 U.S.C. § 152(e)(1)(B) and (2) would be required. We note that, when a trial court's order requires one parent to execute a waiver of their right to claim the child as a dependent, it must do so explicitly. *Wassif v. Wassif*, 77 Md. App. 750, 761 (1989). As allocation of a tax dependency exemption is part of the child support calculus, on remand, the circuit court, in considering child support, may revisit the allocation issue.

III.

Mother contends the trial court abused its discretion by denying her motion to reconsider in part despite relevant evidence; failing to correct the clerical errors that improperly awarded Father additional overnight visits contrary to the court's transcript; and disregarding the child's best interest by abruptly changing the child's established routine after pressuring Mother into an immediate decision compromising the fairness of the proceeding. The standard for review of the denial of a motion for reconsideration is abuse of discretion. *U.S. Life Ins. Co. v. Wilson*, 198 Md. App. 452, 464 (2011) (citing *Wilson-X v. Dep't of Hum. Res. ex rel. Patrick*, 403 Md. 667, 674-75 (2008)).

The hearing on January 4, 2024 was scheduled to address Mother's motion to reconsider the court's September 25, 2023 custody and child support order. In her motion, Mother pointed out what she described as "clerical errors" in that order, by which she meant

that the order differed from the court's oral ruling from the bench. One alleged error was the court's oral statement that Father's visits would begin on Saturdays whereas the written order provided for his visits to begin on Friday. The court rejected Mother's argument on the ground that the court's original intent was that the visits begin on Friday, and therefore the court's oral statement was a mistake. Given that the oral statement was a misstatement of what the court actually intended to award, the court did not abuse its discretion by denying the motion for reconsideration.

Mother avers that the court did not recite the best interest of the child standard in making its ultimate custody decision. However, as we already have stated, the judge considered the factors in *Sanders* and *Taylor* and took them into account in deciding custody. Mother maintains that the proceedings on January 4, 2024 were unfair and that the trial judge made statements that were "inappropriate," "unethical," "abrupt," and indicated her frustration. Again, as already stated, Mother did not ask for the judge to recuse herself or otherwise raise her concerns at the hearing and, as a result, they are not properly before us. Md. Rule 8-131(a). We note, moreover, that, although at times the court sounded abrupt, that was only after it had afforded Mother a long period of time to argue what custody/visitation schedule was in A.B.'s best interest, and Mother had repeatedly changed her position.

Mother also takes issue with the custody schedule adopted by the court and set forth in the January 26, 2024 order. Again, we note that our function is not to retry the case or reweigh the evidence. *Kremen*, 363 Md. at 682. The record reveals that the trial judge considered the parties' preferences as to a custody schedule, and as noted, Mother changed

her mind over the course of the hearing. At first, Mother sought a schedule by which A.B. would be exchanged between his parents every four days. She later sought a schedule of Monday through Friday with one parent and Friday through Monday with the other parent, saying that would satisfy her concerns about routine and stability; she then amended that preference by saying stability only would be achieved if she were the parent with custody of A.B. from Monday through Friday. Our review of the record shows that the court clearly considered the parties' wishes and the best interest of A.B. and did not abuse its discretion in adopting a custody schedule by which A.B. would be with Father from Monday to Friday and with Mother from Friday to Monday.

Lastly, Mother points out that the court did not enter a written order finding her in contempt. While that is true, we note that as a general rule, we do "not entertain moot controversies." *Bradford v. State*, 199 Md. App. 175, 190 (2011). Mother acknowledged that she violated the *pendente lite* order and had frustrated the process. After finding Mother to be in contempt for the very conduct Mother acknowledged intentionally engaging in, the circuit court set forth a visitation schedule that covered the time leading to the next hearing and ruled that Mother could purge the contempt by following that schedule. Mother abided by that schedule, and at the January 4, 2024 hearing, the court found that she had purged the contempt. As Mother was found to have purged the contempt, there is no longer a controversy nor is there an effective remedy that we can grant with respect to the circuit court's failure to enter an order. *Id.* ("A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant." (quotation marks and citation omitted)).

IV.

Mother's final contention is that the trial court abused its discretion by denying her motion for new trial. She argues that the court "fail[ed] to properly address significant procedural errors and potential judicial bias," thus depriving her of the right to a fair custody trial.

"The decision whether to grant a motion for a new trial is within the sound discretion of the trial court." *Exxon Mobil Corp. v. Albright*, 433 Md. 303, 349 (2013) (quotation marks and citations omitted). Thus, we review the denial of such a motion for abuse of discretion. *Univ. of Md. Med. Sys. Corp. v. Gholston*, 203 Md. App. 321, 329 (2012). An abuse of discretion occurs where '"no reasonable person would take the view adopted by the [circuit] court"' or the circuit court '"acts without reference to any guiding rules or principles."' *Das v. Das*, 133 Md. App. 1, 15-16 (2000) (cleaned up) (quoting *North v. North*, 102 Md. App. 1, 13-14 (1994)).

In support of her contention, Mother argues that the trial judge was not fair and impartial; was biased; "unjustly limited [her] ability to challenge important evidence due to the court's lack of patience"; and made a custody determination that was not in A.B.'s best interest. As explained above, Mother did not file a motion to recuse or otherwise raise the issue of the judge's partiality, unfairness, or bias below. Nor did she object to the judge's decisions pertaining to cross-examination, identify any witnesses that she wished to call at the hearing, or proffer their testimony. As a result, those issues are not properly before us. Md. Rule 8-131(a). In addition, we have already determined that the trial judge properly considered the *Taylor* and *Sanders* factors, articulated her findings with regard to

custody on the record, and properly considered the best interests of A.B. There is nothing in the record before us to show that the trial court abused its discretion in denying Mother's motion for new trial.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY VACATED AS TO AWARD OF CHILD SUPPORT AND ATTORNEY'S FEES ONLY AND OTHERWISE AFFIRMED; CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION; COSTS TO BE PAID ONE-HALF BY THE APPELLANT AND ONE-HALF BY THE APPELLEE.