

Circuit Court for Howard County
Case No. C-13-FM-23-001588

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 362

September Term, 2025

BRITTANY HOLLAND

v.

MARK ROBINSON

Graeff,
Nazarian,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: October 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Britany Holland (“Mother”) challenges an order of civil contempt entered against her by the Circuit Court for Howard County for denying Mark Robinson (“Father”) visitation of their minor child, S, in violation of a valid consent custody order. We vacate the order because the sanction and purge provision served to modify visitation without first finding whether modification was in S’s best interest and remand.

I. BACKGROUND

Near the end of January 2024, the circuit court issued an Order for Custody and Access relating to S and his parents. The court awarded Mother sole physical and legal custody and awarded Father parenting time. The Custody Order also defined communication methods and protocols. On September 4, 2024, the circuit court entered a Consent Order for Custody (“the consent order”) that created a three-phase custody and visitation plan for the parents:

- a. By agreement of the parties, Plaintiff, Mark Robinson, shall have parenting time with [S], . . . pursuant to the following graduated access schedule:
- b. Phase I: Commencing on Saturday, August 31, 2024, Plaintiff shall have parenting time with the child every weekend on both Saturday and Sunday, from 11:00 a.m. to 5:00 p.m. This schedule shall remain in place for four weeks;
- c. Phase II: Plaintiff shall have parenting time with the child every weekend, from Saturday at 11:00 a.m. to Sunday at 6:00 p.m. This schedule shall remain in place for four weeks;
- d. Phase III: Plaintiff shall have parenting time with the child every weekend, from Saturday at 11:00 a.m. to Monday at 8:15 a.m. The parties shall continue to follow this schedule going forward.

The consent order also modified some of the communication protocols.

Mother dropped S off for visitation with his father as scheduled on October 5, 2024 and contends that S was uninjured when he left her presence. Sometime over that weekend, when the parties were in Phase II of the consent order schedule, S sustained a bloody nose, a bleeding fingernail, scratches to his chest and neck, and bruises on various parts of his body.

The parties cannot agree on when the injuries occurred, and the contempt proceedings did not result in definitive findings. Both parties agreed in their contempt filings that S was injured by October 6, 2024, when Father returned the child to Mother on schedule. The parties dispute the source of the injuries as well. Father claims that S told him that Mother scratched his chest “on accident.” Mother has not accused Father of injuring S—she denies injuring the child while still seeking an explanation from Father. After the incident, the Child Protective Services (“CPS”) unit of the Howard County Department of Social Services got involved and interviewed all three. The CPS report, which was admitted in evidence during the contempt hearing before a magistrate, states that S claims he woke up at Father’s house with the injuries and doesn’t remember getting them. S did not testify at the contempt hearing. The parties and the magistrate all accept that S was injured sometime over that weekend, and everyone agrees about the extent of the injuries, but that’s as far as the agreement goes.

Father sought a protective order against Mother on October 7 for “statutory abuse of a child (physical).” When the next weekend rolled around, Mother held S back from the

ordered parenting time with Father out of fear for his safety. She did not seek modification of the consent order at that time.

Right after, Father pressed criminal charges against Mother and filed a petition for contempt. The criminal charges were dropped eventually. Father also requested an emergency hearing to modify custody or visitation that the magistrate denied.

In the meantime, Mother filed her own non-emergency petition to modify visitation. She attempted to effectuate service multiple times and in multiple ways but didn't succeed. Mother's petition raised the factual allegations regarding S's injuries and her fear for S's safety, but those issues have not yet been addressed in a modification hearing.

The parties appeared for a contempt hearing before the magistrate on March 11, 2025. Both parties submitted photos, screenshots of communications, copies of documents, and gave live testimony. The magistrate issued a written report on March 24, 2025 and found that CPS reported there was insufficient evidence to indicate S was in immediate danger in either household. The magistrate concluded that "[t]he facts are clear that Mother has violated the Order" by withholding S from visitation. The magistrate's report said that Mother's concerns for S's safety were "legitimate and reasonable[.]" Even so, "such legitimate concerns do not warrant Mother to thwart an otherwise legitimate Court Order signed by a Judge of [the circuit court]." The magistrate determined ultimately that Father met his burden of proof and found Mother in constructive civil contempt.

The magistrate recommended a sanction in the form of a civil fine of \$1,500 to be paid to Father by September 23, 2025. It attached to that recommended sanction a two-part

purge provision: Mother could avoid the fine by both returning to Phase II of the consent order and awarding Father twenty-two days of “makeup time independent of the [Consent] Order” within twelve months of the contempt finding. The court then set a purge hearing for September 23. Neither party appears to have filed exceptions. The circuit court entered a Contempt Order adopting the magistrate’s recommendations on April 11, 2025. Mother noted a timely appeal.

II. DISCUSSION

The issue presented on appeal is whether the circuit court found Mother in contempt for defying the visitation schedule properly and whether the fine and purge provisions were appropriate.¹ Appellate courts “will not disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed.” *Kowalczyk v. Bresler*, 231 Md. App. 203, 209 (2016). A court abuses its discretion when “no reasonable person would take the view adopted by the [circuit] 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) (cleaned up). “In reviewing factual findings on which a contempt order is based, it is not our task to re-weigh the credibility of witnesses, resolve conflicts in evidence, or second-guess reasonable inferences drawn by the court, sitting as

¹ In her informal brief, Mother identifies three issues, which we consolidate and rephrase:

1. “Dismissive to the Safety of [S]”
2. “Important details overlooked”
3. “Concerns”

factfinder.” *Md. Dep’t of Health v. Myers*, 260 Md. App. 565, 618 (2024) (cleaned up), *cert. denied sub nom., Sanders v. Md. Dep’t of Health*, 487 Md. 267 (2024).

That said, a circuit court can also “abuse[] its discretion when its decision encompasses an error of law[.]” *Breona C. v. Rodney D.*, 253 Md. App. 67, 73 (2021). We review issues of law *de novo*, as if for the first time: “where the order involves an interpretation and application of statutory and case law, we must determine whether the circuit court’s conclusions are ‘legally correct’ under a *de novo* standard of review.” *Kowalczyk*, 231 Md. App. at 209.

A. The Circuit Court Held Mother In Contempt Properly, But Erred By Modifying Visitation In The Contempt Order Without Analyzing the Best Interests of S.

1. The court held mother in contempt properly.

“[C]ivil contempt is intended to preserve and enforce the rights of private parties to an action and to compel obedience to orders entered primarily for their benefit. Civil contempt proceedings are therefore remedial and coercive in nature.” *Bryant v. Howard Cnty. Dep’t of Soc. Servs.*, 387 Md. 30, 46 (2005). Constructive civil contempt is not punishment, but a tool to enforce compliance with a court’s orders. In considering whether a party is in contempt, the court considers four issues:

First, the order that the person defied needs to be “definite, certain and specific in its terms” so that the person knew they were defying the order. *Droney v. Droney*, 102 Md. App. 672, 684 (1995). It would not be fair to force people to follow orders that are too vague to understand.

Second, the person must have defied the order willfully. *Dodson v. Dodson*, 380

Md. 438, 452 (2004). Accidental defiance is not really defiance at all, *id.*, and mere delay in obeying an order is not enough by itself to trigger contempt. *Breona C.*, 253 Md. App. at 76. If the defiant party complies by the time the contempt hearing comes around, they cannot be in civil contempt. *Id.* On the other hand, defying an order on purpose with knowledge of its requirements is enough to be willful. *See Dodson*, 380 at 452-453.

Third, the person had to have the ability to follow the original order when they defied it. *See Dodson*, 380 Md. at 449 (“[A] present inability to comply with the prior court order, or with the purging provision if it is different from the prior order, is a defense in a civil contempt action and precludes the imposition of a penalty.”). It would not be fair to force people to obey an order they physically couldn’t. However, merely having a “good excuse” to defy the order will not let the defiant person off the hook.

Finally, because civil contempt is meant to bring parties into compliance rather than to punish past disobedience, any sanction in a civil contempt order must have a purge provision. *Breona C.*, 253 Md. App. at 75. The court must give the person a way to bring themselves into compliance—without a viable purge provision, the order serves as punishment, a role reserved for criminal contempt (which requires procedural safeguards that civil contempt doesn’t). *See, e.g., Stevens v. Tokuda*, 216 Md. App. 155, 169 (2014).

We see no error in the conclusion that Mother was in constructive civil contempt of the Consent Order. Neither party disputes that Mother defied the court-ordered visitation schedule. As the magistrate noted, “there is little dispute as to the facts of the case,” at least as to the elements of contempt. Both parties agree that Mother had not delivered S for

visitation with Father since October 6, 2024. The order was clear and definite in its terms. It established a three-phase plan that increased S’s visitation with Father over time. Mother refused to obey this plan and did so willfully. She could have delivered S for visitation but didn’t. She had reasons for proceeding as she did, but the court disagreed that those reasons justified withholding S from visitation with Father. She knew what the order required and purposefully did not act in accordance with those requirements. This is enough to establish civil contempt. On this record, the elements of civil contempt were met and the court did not err in finding Mother in constructive civil contempt.²

We recognize Mother’s concerns about S’s safety, which she raised at the contempt hearing and presses as well on appeal. We agree with the magistrate, though, that those concerns are addressed more properly through a petition to modify visitation rather than by withholding visitation. It appears from the record that Mother filed a modification petition on October 11, 2024, but was unable to effectuate service. Nothing in this opinion precludes Mother (or Father) from addressing safety concerns in a renewed or future petition to modify custody or visitation, as the magistrate noted in their report. For the purposes of this narrow appeal of contempt, however, these concerns for S’s safety are not a legal defense, pressing as they may be.

² As initially crafted, the contempt order gave a sanction of a \$1,500 fine, with a two-part purge provision. Therefore, the order facially met element four by giving a sanction with a purge provision. However, the purge provision crafted by the court was flawed and must be reversed, as discussed in detail below.

2. *The court erred by modifying visitation in the order's purge provisions.*

Section 105 of Title 9 of the Family Law Article authorizes courts to assign make-up visitation time or alter existing orders in response to “[u]njustifiable denial or interference with visitation granted by order[.]” Md. Code (1999, 2019 Repl. Vol.), § 9-105 of the Family Law Article (“FL”). That section gives the courts the power to “order that visitation be rescheduled,” or even to “modify the custody or visitation order to require additional terms or conditions designed to ensure future compliance with the order.” *Id.* But this power must be used “in a manner consistent with the best interests of the child.” *Id.* It is not appropriate to modify custody in a contempt proceeding without deciding whether doing so would serve the best interests of the child. *See Sayed A. v. Susan A.*, 265 Md. App. 40, 81 (2025). Furthermore, FL § 9-105 does not “make whole the [parental] party” denied visitation, but instead requires that courts examine whether the harm *to the child* from denied visits could be “erased or . . . ameliorated by ordering make-up time [or modification.]” *Alexander v. Alexander*, 252 Md. App. 1, 14–19 (2021). Put another way, parents are not “owed” visitation time under FL § 9-105—a court can order make-up time if it is in the best interest of the child to do so. So FL § 9-105 requires a new analysis of whether make-up time is specifically and currently in the best interests of the child. *Id.* The analysis can be performed in the context of a contempt petition or in a separate modification motion, but in any event must precede modification. *Id.*

In this case, there was no consideration of whether make-up days were specifically and currently in S’s best interests. But when the magistrate recommended, and the court

later ordered, Mother and Father to rewind to Phase II of the original plan, that directive modified the Consent Order. By the time the Contempt Order issued, the plan was supposed to be on Phase III. Resetting the clock on the phases modified the original order.

Although the record reflects a substantial and reasoned analysis of whether Mother should be found in contempt, no part of either the magistrate's report or the Contempt Order reveals an independent analysis of S's best interests. We recognize that we don't have the transcript of the contempt hearing, but it's unlikely in the context of this proceeding—where the magistrate took all of the evidence and testimony, indicated on the docket that the issues were taken *sub curia*, then issued the required written report and recommendation thirteen days later—that we are missing any rulings or analysis as a result.

For these reasons, we vacate the contempt order and remand. In light of the circuit court's affirmable finding that Mother acted in contempt of the consent order, we leave to the court to determine whether to craft a sanction designed to achieve compliance with a viable purge provision are appropriate in light of intervening events.

**CONTEMPT ORDER OF THE CIRCUIT
COURT FOR HOWARD COUNTY IS
VACATED. COSTS TO BE SPLIT
EVENLY.**