

Circuit Court for Baltimore County
Case No. C-03-FM-21-002752

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 587

September Term, 2025

MIHOKO KAI, ET AL.

v.

JAMES M. OVERDUIN

Leahy,
Zic,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: October 20, 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).

Mihoko Kai (“Mother”) and James Overduin (“Father”) are the divorced parents to two minor children. Mother and Father’s 16-year-old child, L.K., and Mother (“appellants”), appear *pro se* and appeal the circuit court’s denial of L.K.’s motion to modify custody, asserting various errors committed by the court.¹ For the reasons we shall discuss, seeing no error or abuse of discretion, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

On August 7, 2023, the court entered an amended judgment of absolute divorce between Mother and Father, which granted the parties joint legal custody of their two children, and awarded Father primary physical custody and Mother child access every other weekend. The court thereafter entered several interim orders modifying custody, including a May 28, 2024 order granting Father sole legal custody of the children.

On September 26, 2024, Mother filed a motion to modify custody, seeking, among other things, full legal and physical custody of the children. After a hearing on November 13, 2024, the court entered an order denying Mother’s motion.

On December 7, 2024, L.K. turned 16. Just over three weeks later, L.K. filed a motion to modify custody seeking nearly identical relief to the relief requested in

¹ Father did not file an appellate brief.

Mother’s motion to modify custody, including that the court grant Mother full legal and physical custody.²

On April 16, 2025, the court held a hearing on L.K.’s motion. On May 15, 2025, the court issued an amended order denying L.K.’s motion, finding that there was no material change in circumstances to justify a child custody modification.

On May 20, 2025, appellants noted an appeal. Additional facts will be provided as necessary.

STANDARD OF REVIEW

“When an action has been tried without a jury, an appellate court will 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 [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.”

Id. Further, “[w]e review child custody determinations utilizing three interrelated standards of review.” *J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 246 (2021). Specifically:

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 sound legal principles and based upon factual findings that are not clearly erroneous,

² See Md. Code Ann., Family Law (“FL”) § 9-103(a) (1984, 2019 Repl. Vol.) (“A child who is 16 years old or older and who is subject to a custody order or decree may file a petition to change custody.”). L.K. also filed a motion to intervene, which was granted at the hearing on L.K.’s motion to modify.

the [court’s] decision should be disturbed only if there has been a clear abuse of discretion.

Id. (quotation marks and citation omitted). An abuse of discretion occurs when the challenged decision is “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *North v. North*, 102 Md. App. 1, 14 (1994).

DISCUSSION

Appellants challenge several orders entered by the court, including the order denying L.K.’s motion for modification of child custody entered in 2025, as well as several interim orders entered in 2024. However, the only ruling appealed and properly before us is the order denying L.K.’s motion for modification. *See* Md. Rule 8-202(a) (“Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.”).

Turning to that order, we note that “[o]ur courts engage in a two-step process when presented with a request to modify an existing custody order.” *Kadish v. Kadish*, 254 Md. App. 467, 503 (2022). The first step is to determine whether there has been a “material change in circumstances.” *Id.* (quoting *Green v. Green*, 188 Md. App. 661, 688 (2009)). “A material change of circumstances is a change in circumstances that affects the welfare of the child.” *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012) (citation omitted). It is “intended to preserve stability for the child and to prevent relitigation of the same issues.” *McMahon v. Piazze*, 162 Md. App. 588, 596 (2005). This is because “[t]he benefit to a child of a stable custody situation is substantial, and

must be carefully weighed against other perceived needs for change.” *Domingues v. Johnson*, 323 Md. 486, 500 (1991). If the court finds a material change in circumstances, the second step is for the court to “consider the best interests of the child as if the proceeding were one for original custody.” *Gillespie*, 206 Md. App. at 170 (quoting *McMahon*, 162 Md. App. at 594).

Here, however, the court found that there had not been a material change in circumstances. Instead, the court determined that L.K.’s motion was a “thinly veiled effort to relitigate [Mother’s] recent [m]otion to [m]odify [c]ustody.” The court pointed to several facts supporting its conclusion, including that L.K.’s motion to modify custody was filed “shortly after [Mother’s] [m]otion to [m]odify was denied[,]” that L.K.’s “arguments in support of her [m]otion are identical to those made by [Mother] in the past” and that L.K.’s “requests for relief are repeated verbatim from [Mother’s] [m]otion to [m]odify.” Each of these factual findings is supported by the record and unchallenged by appellants.

Appellants nonetheless maintain that the court erred for several reasons, including that it failed to “give proper weight” to L.K.’s testimony regarding her custody preferences and that it failed to consider a letter from L.K.’s therapist. The court, however, was permitted to “believe or disbelieve, accredit or disregard, any evidence introduced” at trial. *Edsall v. Huffaker*, 159 Md. App. 337, 342 (2004) (quoting *Great Coastal Exp., Inc. v. Schruefer*, 34 Md. App. 706, 725 (1977)). The record indicates that the court considered several pieces of evidence prior to issuing its ruling, including various exhibits offered by Mother as well as testimony from L.K., Mother, and Father.

It is not our job on appeal to decide “how much weight should have been given to each item of evidence[,]” including to L.K.’s testimony. *Edsall*, 159 Md. App. at 342.

Further, regarding the letter from L.K.’s therapist, Father’s counsel objected to the letter on the grounds that it was hearsay and that L.K. had not waived her patient-therapist privilege. The court agreed with both contentions, finding that the letter was “hearsay without an opportunity to cross-examine the doctor[,]” and further, that there had been “no effective waiver of L.K.’s privilege” and that “given her youth[,] she is not competent to waive it herself[.]” Although appellants take general issue with Father’s objection, such as that it “deprived the trial court of material insights into [L.K.]’s mental health[,]” they did not do so before the circuit court, and do not now challenge either of the court’s reasons for denying Mother’s request to enter the letter into evidence. Accordingly, we are unpersuaded that no reasonable person would take the view adopted by the trial court. *See Hajireen v. State*, 203 Md. App. 537, 552 (2012) (noting that “[a] ruling on the admissibility of evidence ordinarily is within the trial court’s discretion”).

Finally, we have noted that the material change in circumstances standard seeks not only to preserve stability, but to “prevent relitigation of the same issues.” *McMahon*, 162 Md. App. at 596. When the court asked L.K. what changes had occurred since the initial custody order, L.K. noted that her cello teacher had changed,³ that her brother had

³ L.K. is a gifted cellist, who, as the circuit court noted, has “unique, world[-]class musical talents.”

stomachaches or “allergy-like symptoms” more frequently, and that she and her brother were under more mental stress. These issues are substantially the same issues presented by Mother in her earlier-filed motion to modify custody. The court nonetheless carefully considered the “perceived needs for change” against the substantial benefit of a stable custody situation, and ultimately concluded that the evidence indicated no material change in circumstances. *Domingues*, 323 Md. at 500. We see no abuse of discretion under these facts.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY AFFIRMED; COSTS
TO BE PAID BY APPELLANTS.**