Circuit Court for Howard County
Case No. 13-C-10-85215

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 807

September Term, 2016

AMANDA MARKS

v.

DOUGLAS SCHENK

Eyler, Deborah S.,
Friedman,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Battaglia, J.

Filed: February 5, 2018

Amanda Marks, appellant, challenges an order, issued by Judge Mary M. Kramer, of the Circuit Court for Howard County, which granted sole legal and physical custody of her son, J., to her former husband, Douglas Schenk, appellee, and terminated Mr. Schenk's child support obligation. She raises the following questions for our review:

> I. Whether Ms. Marks's due process rights were violated by the Judge's failure to recuse herself from the proceedings despite her campaign staffer and donor serving as the Best Interest Attorney.
>
> II. Whether the trial court erred in concluding that multiple experts' post-traumatic stress disorder diagnosis of Child was in fact merely the result of the Child imitating his Mother, a conclusion that was devoid of scientific foundation and completely unsupported by the record.
>
> III. Whether the trial court erred in summarily wiping out Father's child support arrearage to Mother without doing a calculation of how much was paid during the period after January 13, 2016 versus the actual arrearage.

Finding neither error nor abuse of discretion below, we shall affirm.

BACKGROUND

Ms. Marks and Mr. Schenk married in December 2009, separated in July 2010, and divorced December 29, 2011. During their marriage, they had one child, J., who was born January 6, 2010. Under the terms of the initial 2011 divorce decree, Ms. Marks was awarded sole physical custody of J., both parties shared legal custody, and Mr. Schenk was to be allowed visitation and ordered to pay child support, effective November 1, 2011.

Ever since then, Ms. Marks had made numerous allegations that Mr. Schenk had abused J. and had assaulted her. None of those allegations had ever been substantiated.

As a result of those repeated allegations, protective orders were granted, and Mr. Schenk was denied visitation with their son repeatedly and over extended time periods. During the pendency of the allegations, J. also exhibited significant behavioral problems in school, including violent temper tantrums.

Ultimately, in September 2014, Mr. Schenk filed an emergency motion in the Circuit Court for Howard County, seeking modification of the custody and visitation order as well as other relief. In that motion, Mr. Schenk alleged that Ms. Marks had not acted in J.'s best interest by, among other things, filing "numerous frivolous complaints of criminal charges and protective orders against" him, denying "any visits" with J., and refusing to communicate with him about "how the minor child [was] doing." As evidence of the deleterious effect on J.'s welfare that occurred under Ms. Marks's watch, Mr. Schenk pointed out that J. was "not controllable," was "aggressive to others," and had been "expelled from his preschool for behavioral reasons." Accordingly, Mr. Schenk requested that the circuit court appoint a best interest attorney for J., hold Ms. Marks in contempt of court, grant him sole legal and physical custody of J., and order that Ms. Marks pay him child support, as calculated under the Maryland Child Support Guidelines.

The following January, the circuit court issued an order, finding Ms. Marks in "willful contempt" of court "for her failure to permit" Mr. Schenk "access to" J. for at least a five-month period and that she could purge herself of contempt "by immediately resuming access between" Mr. Schenk and his son, in accordance with the initial judgment of absolute divorce. For the next few months, Ms. Marks permitted regular

visits between J. and Mr. Schenk, but J. then began refusing to leave Ms. Marks's car when she dropped him off for visits. Around this same time, J.'s misbehavior escalated.

In May 2015, Mr. Schenk filed another emergency motion in the Circuit Court for Howard County, seeking the same relief he had requested the preceding September. In June 2015, Judge Kramer issued an order, appointing Ria Rochvarg as Child's Privilege Attorney for J.[1] The same day, Judge Kramer issued a separate order, pursuant to the parties' agreement, that they "shall immediately contact the Kennedy Krieger Institute . . . to arrange for psychological, behavioral, psychiatric (if warranted by the psychological evaluation) and educational assessment" of J. and that he "shall continue to see" Joyanna Silberg, Ph.D., his therapist. Five weeks later, Judge Kramer granted the parties' joint motion to appoint Ms. Rochvarg as J.'s Best Interest Attorney ("BIA").

In July 2015, Dr. Silberg requested that Mr. Schenk, as he put it, not visit J. "while she gained trust with him . . . just for a couple of weeks." Mr. Schenk agreed but then was denied visitation for more than five months.

Reagan Kinnear, Ph.D., a clinical psychologist from the Kennedy Krieger Institute, evaluated J. in August 2015 and determined that he suffered from "disruptive behavior disorder" but that she had seen no "evidence of abuse" or anything "that would

[1] Maryland Rule 9-205.1 authorizes a circuit court to appoint an attorney to act on a child's behalf "in actions involving child custody or child access." *Id.* § (a). "An order appointing an attorney for a child shall . . . specify whether the attorney is to serve as a Child's Best Interest Attorney, Child's Advocate Attorney, or Child's Privilege Attorney[.]" *Id.* § (c)(1)(A).

have suggested abuse." That same month, however, to the contrary, Dr. Silberg issued a report concluding that J. suffered from post-traumatic stress disorder ("PTSD").

Several months later, in late October 2015, by agreement of the parties, the circuit court ordered that the court social worker, Tammy Weiner, LCSW-C, conduct a custody evaluation of J. and submit a written report to the court by January 12, 2016.[2] That order mandated that the parties cooperate with Ms. Weiner "in the scheduling of appointments or home visits" and that Ms. Marks bring J. "to the court building for appointments."

Ms. Weiner scheduled an appointment with Ms. Marks, J., Mr. Schenk, and Ms. Rochvarg at the Howard County Courthouse on December 21, 2015. Ms. Weiner directed that Ms. Marks arrive, with J., at the front of the courthouse, in her vehicle. Ms. Marks did not appear at the pre-arranged location, but parked, instead, some distance away. When the BIA and the social worker eventually found Ms. Marks and J., the child fled. Ms. Marks did not pursue him but, instead, engaged in a telephone conversation with Dr. Silberg while recording the incident on her cell phone.

Howard County Deputy Sheriff, John Marsili, ran after the boy and "grabbed him," asking, "what's wrong?" In response, J. "started screaming" at the deputy, "I hate you," and punched him in the chest. As Deputy Marsili returned to Ms. Marks's vehicle with J., the child told his mother, incongruously, that he "wouldn't let them trick me."

Later that day, the BIA and Mr. Schenk filed a joint motion for an emergency hearing, alleging, among other things, that, as a result of Ms. Marks's machinations, J.'s

[2] That order was issued by a different judge, Judge Lenore R. Gelfman.

best interest had been ignored, that Dr. Silberg had breached applicable standards of care and should be replaced as J.'s therapist, and that an emergency change in custody was required. On the following day, Judge Kramer held a hearing on that motion, during which she ordered that Ms. Marks "immediately" resume delivering J. to Mr. Schenk in accordance with the court-ordered visitation schedule. Judge Kramer further ordered that Ms. Marks make J. available to Mr. Schenk for visitation at 11:00 a.m. the following day. Finally, Judge Kramer stayed the court social worker's custody evaluation and scheduled an evidentiary hearing, for January 12, 2016, on the issues raised in the joint motion.

Ms. Marks did not comply with the order to produce J. the next day but did deliver the child to Mr. Schenk in the evening. The ensuing visit lasted two days, until 7:30 p.m. Christmas Day. Throughout that visit, J. stayed either in Mr. Schenk's home with other family members, in church, or in the home of Mr. Schenk's brother and sister-in-law, Peter and Laurie Schenk.

A subsequent second visit that Judge Kramer ordered, for New Year's Day, 2016, was missed because J. had been "yelling and screaming" so violently that he was ultimately taken to Sheppard Pratt Hospital. During that hospitalization, Dr. Silberg filed a report, with Child Protective Services, alleging that Mr. Schenk had abused J. during the Christmas visit, an allegation that was ultimately not substantiated.

An evidentiary hearing was held on January 12, 2016. Upon the conclusion of that hearing, Magistrate Lara Weathersbee recommended that J.'s paternal uncle and aunt, Peter and Laurie Schenk, be given temporary legal and physical custody of the child. The following day, Judge Kramer issued an order adopting the Magistrate's

recommendation. J., while thereafter living with his uncle and aunt, displayed a marked improvement in behavior.

Several months later, a nine-day trial, lasting from March 2016 until May 16, 2016, was held on Mr. Schenk's motion to modify custody. During that trial, numerous witnesses testified for both parties, and reams of documentation were entered into the record. At the risk of some oversimplification, Ms. Marks's staunchest advocate was Dr. Silberg. Dr. Silberg testified that J. had been abused by Mr. Schenk and suffered from PTSD. The BIA, Ria Rochvarg, disagreed and recommended that Mr. Schenk be granted "sole legal and physical custody of" J. and that Ms. Marks "undergo a complete psychiatric evaluation."

Upon the conclusion of the trial, on May 16, 2016, Judge Kramer issued an order that, henceforth, Mr. Schenk would have "sole legal and physical custody of" J. and that Ms. Marks would be entitled to supervised visitation, which could only occur during therapy sessions with J.'s treating therapist,[3] once every two weeks. Judge Kramer further ruled that Mr. Schenk's child support obligation was "terminated effective January 13, 2016" and that any amounts paid after that date would be "considered arrearage payments," so that, as of May 1, 2016, Mr. Schenk "owes no child support arrearage in this case."

[3] The order did not specify who the child's treating therapist would be. Presumably, given that Mr. Schenk was awarded sole legal and physical custody of J., the treating therapist would be a therapist other than Dr. Silberg.

Eleven days after entry of the court's order, Ms. Marks, pro se, filed a "Motion For A New Trial And/Or To Alter Or Amend Judgment," in which she alleged, for the first time, that Judge Kramer had been biased against her because, purportedly, Judge Kramer had an undisclosed conflict of interest arising out of political and financial relationships with the Best Interest Attorney, Ria Rochvarg. Ms. Marks also noted an appeal from the court's May 16th order. Thereafter, Judge Kramer denied Ms. Marks's post-trial motion.

DISCUSSION

I.

Maryland Rule 8-131(c) governs our standard of review:

> **(c) Action Tried Without a Jury.** When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It 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.

Thus, we review the circuit court's factual findings for clear error, "giv[ing] due regard to the opportunity of the trial court to judge the credibility of the witnesses." *Id.* A "factual finding is clearly erroneous if there is no competent and material evidence in the record to support it." *Anderson v. Joseph*, 200 Md. App. 240, 249 (2011) (citations and quotations omitted). The clearly erroneous standard does not, however, "apply to a trial court's determinations of legal questions or conclusions of law based upon findings of fact," which we review without deference. *Elderkin v. Carroll*, 403 Md. 343, 353 (2008) (citation and quotation omitted).

As for the circuit court's discretionary rulings, we observe the following standard:

> [An abuse of discretion occurs] where 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.
>
> * * *
>
> The decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.

Sumpter v. Sumpter, 436 Md. 74, 85 (2013) (quoting *North v. North*, 102 Md. App. 1, 13-14 (1994) (en banc)) (internal citations omitted).

II.

A.

In her post-trial motion (which, as we noted earlier, was filed eleven days after the entry of judgment) and before us, Ms. Marks asserts that Judge Kramer should have recused herself from the proceedings below because of a purported conflict of interest grounded in her relationship with Ria Rochvarg. According to Ms. Marks, Ms. Rochvarg "personally solicited donations" for Judge Kramer's reelection campaign and "served as a point of contact for" that campaign's "largest" fundraising event; moreover, according to her pleadings, Ms. Marks alleges that Ria Rochvarg "personally donated over $500 to the campaign mere months before Mother's custody hearing, after she had already been appointed as BIA in the matter." "Yet," she alleges, "neither Judge Kramer nor BIA Rochvarg disclosed any of these facts to Mother."

Thus, Ms. Marks contends, there was, perhaps, a conflict of interest that required Judge Kramer to recuse herself from the proceedings below, or, in the alternative, there was at least an appearance of such a conflict, which, in any event, required recusal. Finally, given that alleged conflict (or the appearance of such a conflict), Ms. Marks claims that she was denied a fair trial and that, therefore, Judge Kramer erred in denying her post-trial motion for a new trial and/or to alter or amend the judgment. As relief for those alleged errors, Ms. Marks asks that we vacate the judgment, remand for further proceedings, order the appointment of a new best interest attorney, and further order re-assignment of the case to a different judge. For his part, Mr. Schenk notes that Ms. Marks filed her post-trial motion eleven days after entry of judgment but appears not to recognize the implications of that failure and then addresses non-preservation and the merits of her claims in the alternative.

We, however, do not reach any of the parties' arguments because we lack appellate jurisdiction to consider the allegations, albeit scurrilous. *See Johnson v. Johnson*, 423 Md. 602, 605-06 (2011) (observing that "an order of a circuit court must be appealable in order to confer jurisdiction upon an appellate court, and this jurisdictional issue, if noticed by an appellate court, will be addressed *sua sponte*"). Maryland Rule 8-202[4] governs timing requirements for notices of appeal. Section (c) of that Rule

[4] Maryland Rule 8-202 states in pertinent part:

> **(a) Generally.** 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.

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provides in pertinent part that "when a timely motion," that is, a motion filed within ten days after entry of judgment, "is filed pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be filed within 30 days after entry of (1) a notice withdrawing the motion or (2) an order denying a motion pursuant to Rule 2-533 or disposing of a motion pursuant to Rule 2-532 or 2-534."[5] Thus, "when [a motion for new trial or] a motion to

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> In this Rule, "judgment" includes a verdict or decision of a circuit court to which issues have been sent from an Orphans' Court.
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> * * *
>
> **(c) Civil Action—Post-Judgment Motions.** In a civil action, when a timely motion is filed pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be filed within 30 days after entry of (1) a notice withdrawing the motion or (2) an order denying a motion pursuant to Rule 2-533 or disposing of a motion pursuant to Rule 2-532 or 2-534. A notice of appeal filed before the withdrawal or disposition of any of these motions does not deprive the trial court of jurisdiction to dispose of the motion. If a notice of appeal is filed and thereafter a party files a timely motion pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be treated as filed on the same day as, but after, the entry of a notice withdrawing the motion or an order disposing of it.

[5] Maryland Rule 2-532 governs motions for judgment notwithstanding the verdict and, as it applies only to jury trials, is inapplicable here. Maryland Rule 2-533, which governs motions for new trial, and Maryland Rule 2-534, which governs motions to alter or amend a judgment, are relevant. Rule 2-533 states in pertinent part:

> **(a) Time for Filing.** Any party may file a motion for new trial within ten days after entry of judgment. A party whose verdict has been set aside on a motion for judgment notwithstanding the verdict or a party whose judgment has been amended on a motion to amend the judgment may file a

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alter or amend an otherwise final judgment is filed within ten days after the judgment's entry, the judgment loses its finality for purposes of appeal," *Unnamed Attorney v. Attorney Grievance Comm'n*, 303 Md. 473, 486 (1985), and a "notice of appeal filed before the withdrawal or disposition of any of these motions does not deprive the trial court of jurisdiction to dispose of the motion." Md. Rule 8-202(c). Consequently, "a notice of appeal filed within 30 days after the entry of the trial court's ruling on a timely motion filed under Rule 2-533 or 2-534, . . . confers on this Court the authority to review the ruling on such post trial motion, as well as the earlier judgment." *Brethren Mut. Ins. Co. v. Suchoza*, 212 Md. App. 43, 68 n.11, *cert. denied*, 434 Md. 312 (2013).

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> motion for new trial within ten days after entry of the judgment notwithstanding the verdict or the amended judgment. A motion for new trial filed after the announcement or signing by the trial court of a judgment or the return of a verdict but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

Rule 2-534 states:

> In an action decided by the court, on motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial. A motion to alter or amend a judgment filed after the announcement or signing by the trial court of a judgment but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

In contrast, a post-trial motion "filed more than ten days after a judgment but within thirty days of the judgment, under Rule 2-535(a),[6] would . . . have no effect upon the running of the thirty-day appeal period."[7] *Unnamed Attorney*, 303 Md. at 486; *see Pickett v. Noba, Inc.*, 122 Md. App. 566, 570 (1998) (observing that, "[i]f parties file a motion for new trial or a motion to alter or amend more than ten days after judgment, the time for filing an appeal will not be stayed"). And, furthermore, a single notice of appeal filed during the pendency of such a motion permits appellate review only of the underlying judgment and not the trial court's ensuing ruling on the post-trial motion. As we explained in *Brethren*, "a [separate] notice of appeal must be filed within 30 days after the entry of the trial court's ruling" on the post-trial motion "for this Court to have jurisdiction to review such ruling." *Id.* at 68.

[6] Maryland Rule 2-535 states in pertinent part:

> **(a) Generally.** On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534. A motion filed after the announcement or signing by the trial court of a judgment or the return of a verdict but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

[7] If a motion invoking a court's revisory power over its judgment, under Rule 2-535(a), is filed within ten days after entry of judgment, it is treated as a motion under Rule 2-534. *Miller v. Mathias*, 428 Md. 419, 442 n.15 (2012). But that is not the case here.

Judge Kramer's order, granting Mr. Schenk sole legal and physical custody of J. and terminating his child support obligation, effective January 13, 2016, was entered May 16, 2016. On May 27, 2016, Ms. Marks filed a pro se motion, captioned "Plaintiff's Motion For A New Trial And/Or To Alter Or Amend Judgment," in which she first raised allegations of Judge Kramer's purported conflict of interest and its concomitant requirement for recusal. Then, on June 13, 2016, Ms. Marks filed a notice of appeal. Finally, on June 15, 2016, Judge Kramer's order, denying Ms. Marks's post-trial motion, was entered. Ms. Marks did not note an appeal from the June 15th order.

Ms. Marks's post-trial motion was filed more than ten days but less than thirty days after entry of judgment. Thus, that motion, however captioned, is governed by Maryland Rule 2-535(a) ("Revisory Power"), not Rules 2-533 ("Motion For New Trial") or 2-534 ("Motion To Alter Or Amend A Judgment--Court Decision"). *See Miller v. Mathias*, 428 Md. 419, 441-42 & n.15 (2012) (construing a motion, purporting to invoke Rule 2-534, as a motion under Rule 2-535(a) because it was filed more than ten days after entry of judgment).[8]

The only notice of appeal filed in this case was filed after entry of the May 16th order but two days prior to Judge Kramer's denial of Ms. Marks's motion under Rule 2-535(a). Therefore, that timely notice of appeal confers appellate jurisdiction over the May 16th ruling, but not the June 15th ruling denying Ms. Marks's post-trial motion.

[8] Thursday, May 26, 2016, the tenth day after entry of judgment, was not a holiday, and therefore, the ten-day period within which to file a post-trial motion under either Rule 2-533 or 2-534 was not tolled. *See* Md. Rule 1-203(a).

Brethren, 212 Md. App. at 68. Because Ms. Marks did not note a separate appeal from the denial of her post-trial motion, her spurious allegations of Judge Kramer's purported conflict of interest, first raised in that motion, are not before us.[9]

B.

Ms. Marks further complains that Judge Kramer made a clearly erroneous finding, unsupported by the record, that Dr. Silberg's diagnosis of J. as suffering from PTSD was incorrect and that, in so doing, Judge Kramer violated Maryland Rule 5-702, which governs expert testimony. That purportedly "erroneous, unsupported finding," Ms. Marks further asserts, "was critical in Judge Kramer's ruling against" her. This complaint is completely without merit.

In asserting this claim, Ms. Marks ignores two fundamental legal precepts. The first is that, "[i]n its assessment of the credibility of witnesses, the Circuit Court was entitled to accept—or reject—*all*, *part*, or *none* of the testimony of any witness, whether that testimony was or was not contradicted or corroborated by any other evidence."

[9] Because we lack appellate jurisdiction over Judge Kramer's June 15th order, denying Ms. Marks's post-trial motion, we cannot pass upon the merits of that ruling. We note, however, that there is no basis whatsoever for this reckless attack against the integrity of both Judge Kramer and the Best Interest Attorney, Ria Rochvarg. The document Ms. Marks cites, concerning Ms. Rochvarg's involvement in Judge Kramer's reelection campaign, does not at all indicate, as Ms. Marks's counsel insinuates, that Ms. Rochvarg served as campaign chair for Judge Kramer's campaign, nor was the amount of Ms. Rochvarg's campaign contribution the basis for a recusal. As for Ms. Marks's claims of Judge Kramer's purported bias in favor of Ms. Rochvarg, it appears that Ms. Marks, both in her post-trial motion and her appellate brief, is raising little more than bald allegations of impropriety against Judge Kramer and Ms. Rochvarg that serve no purpose other than to salve a wounded soul.

Omayaka v. Omayaka, 417 Md. 643, 659 (2011). Expert witness testimony is included as well. *See Walker v. Grow*, 170 Md. App. 255, 275 (observing that "[e]ven if a witness is qualified as an expert, the fact finder need not accept the expert's opinion" and that the "weight to be given the expert's testimony is a question for the fact finder"), *cert. denied*, 396 Md. 13 (2006). *Accord Levitas v. Christian*, 454 Md. 233, 247 (2017) (citing *Walker*).

The second legal precept, which Ms. Marks ignores, applies to the scope of a trial court's discretion in determining custody, which is the ultimate question in dispute here.[10] The Court of Appeals has articulated the deference an appellate court owes to such a determination:

> [I]t is within the sound discretion of the [judge] to award custody according to the exigencies of each case, and as our decisions indicate, a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion. Such broad discretion is vested in the [judge] because only [s]he sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; [s]he is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor.

In re Yve S., 373 Md. 551, 585-86 (2003) (quoting *Davis v. Davis*, 280 Md. 119 (1977) (internal citations omitted)).

In the instant case, Judge Kramer carefully considered the testimony of the witnesses, stating:

[10] We review a trial court's custody determination for abuse of discretion, guided by the best interest of the child. *Santo v. Santo*, 448 Md. 620, 625-26 (2016).

> When a court is faced with conflicting stories, the first place that the court looks is to the witnesses who are truly neutral who have nothing to gain from the outcome and who have acted in an unbiased capacity.

Then, after reciting the correct legal standard governing the fact finder's assessment of witness credibility, Judge Kramer set forth in detail her assessments of the witnesses' credibility,[11] including her appraisal of incredulity with respect to Dr. Silberg:

> And then there were a number of witnesses that were clearly biased and that I did not find credible and the primary witness that fits that category is Dr. Joyanna Silberg. The court appointed Dr. Silberg to provide therapy to [J.] and there were two main reasons. [J.] was acting [out] at school and he was refusing to get out of the car for visitation with his father. I don't know if that was ever communicated to Dr. Silberg or not, but that certainly isn't the direction the therapy took.
>
> During the course of the therapy she re-initiat[ed] visitation between [J.] and [F]ather and it seemed to be going well. [J.'s] behavior escalated. Dr. Silberg asked the parties to voluntarily discontinue [the father's visitation] and both the

[11] The witnesses whose testimony Judge Kramer credited included: Ms. Elizabeth Benitz, the visitation supervisor, who stated that, in the judge's words, "there were times that [M]other would talk about adult topics" and "break the rules of supervised visitation"; Reagan Kinnear, Ph.D., a clinical psychologist from the Kennedy Krieger Institute, who, the judge observed, made "no finding of PTSD"; Doris Meredith, a social worker from the Howard County Department of Social Services, who concluded that the allegations of child abuse that Ms. Marks had leveled against Mr. Schenk, which purportedly took place over the Christmas break prior to trial, were, in the judge's words, "ruled out"; and Douglas W. Heinrichs, M.D., a psychiatrist who performed a court-ordered evaluation of the parties, whose report to the court suggested, among other things, that, as the judge put it, Ms. Marks's "emotional behavior and distortion of other people's motives could trigger some of [J.'s] episodic anger and emotional dysregulation." Moreover, Dr. Heinrichs hypothesized that, in the judge's words, his "theory would have some support if there had been a marked settling of [J.'s] behavior since living with his aunt and uncle," a hypothesis which was, in fact, supported by other testimony precisely to that effect.

> parties agreed to that. And I think Mr. Schenk was told that was so she could establish trust with [J.] She never re-initiated the visits. I don't think Dr. Silberg had any authority whatsoever to discontinue court ordered visitation.
>
> So where the court was trying to get a gauge on what was really going on between [J.] and Mr. Schenk, there were no visits going on at all from July until December 23rd and I was quite dismayed to learn that.
>
> Dr. Silberg diagnosed [J.] with PTSD, preschool type, and came to the opinion that it was due to physical and sexual abuse of [J.] by [F]ather. In her testimony, Dr. [Silberg] made it clear to the court that she was absolutely convinced that this was the correct diagnosis.
>
> She was unpersuaded by the fact that [J.'s] behavioral difficulties, acting out, disclosures of abuse, meltdowns, needs for psychiatric intervention, et cetera, had all but disappeared since [J.] was placed with his aunt and uncle. Dr. Silberg's steadfast refusal to accept alternative explanations for [J.'s] issue[s] caused the court considerable concern.
>
> Dr. Silberg defended her position stating no one could have coached the child to exhibit the signs of PTSD as well as [J.] did. She failed to take into account or perhaps was not aware that [M]other, [J.'s] primary caregiver, herself has been diagnosed with PTSD, has apparently suffered from that since she was a teenager. I think it's [axiomatic] that preschool children imitate their parents, so it is [altogether] possible that [J.] was able to show the signs of PTSD as clearly as he did because he had been seeing both signs in his mother.

Then, bearing most directly on Ms. Marks's claim that Judge Kramer purportedly erred in discounting Dr. Silberg's diagnosis of J. as suffering from PTSD, Judge Kramer recounted evidence, tending to show that J. had imitated his mother's PTSD symptoms:

> A number of witnesses, including Ms. Benitz, the visitation supervisor, testified about witnessing [M]other having emotional outbursts or meltdown[s] in the past. And the visitation supervisor, in fact, observed one such meltdown

> in front of the minor child, which was corroborated by Peter Schenk.
>
> One of the characteristics of [J.'s] meltdown described by both Dr. Silberg and [M]other was that [J.'s] voice changed during the meltdowns. The court witnessed Mother's voice changed during her testimony. I think it was on April 19th when she was expectantly called as an adverse witness by Father's counsel. Instead of the soft voice that she's used in the past and in her later testimony, Mother's voice had a biting sarcastic tone. Mother demonstrated a hostile demeanor. Peter Schenk described the same tone of voice when [J.] was transitioned at the police station and Mother said, [J.], look it's Ria [the BIA].
>
> The court finds [J.] having lived primarily with a parent who suffers from PTSD has been exposed to the symptoms of that disease like any preschool child has learned from watching his primary parent. He did not need to be coached in those symptoms.

Judge Kramer repeated her earlier credibility determination:

> The court finds Dr. Silberg's testimony was not credible. She appears to have compromised her professional boundaries. She came to court on a number of occasions for motion hearings and at other times she appeared and testified without compensation. She gave advice to [M]other [that was] personal [and] had no relevance to [J.'s] treatment.

Further bolstering her assessment of Dr. Silberg's credibility, Judge Kramer then elaborated on a specific example of Dr. Silberg's untruthfulness in her report to the court:

> There were statements in her report that were untrue and clearly biased toward Mother. The most glaring example is a passage in which Dr. Silberg indicated that she was on the phone with Mother during the court social worker's ill-fated attempt to conduct observation of [J.] with [F]ather for a custody evaluation. Dr. Silberg indicated she could overhear [M]other who was, quote, very appropriate in her talking to [J.] in encouraging him to please go to the appointment. End quote.

> This is clearly not what happened. I saw the video. I think other counsel would agree. That is not what happened. There was no encouraging whatsoever. The court observed that Dr. Silberg did poorly on cross-examination and seemed to be married to her opinion as to the cause of [J.'s] PTSD and . . . unwilling to examine alternative therapies.
>
> She seemed to believe Mother's account of what was going on without question. She believed [J.'s] incredible tales that were clearly created in the mind of [a] preschool child, such as the dog unlocking the closet door or [F]ather tying a long string to the door so he could leave [J.] alone in the house while he was walking the [dog]. . . .

Ultimately, Judge Kramer concluded that Ms. Marks's "conduct and statements have been detrimental to" J. and "have caused a great deal of his distress and acting out[,] [a]s evidenced by the fact that those behaviors diminish[ed] or disappeared shortly after [J.] was removed from her care." Moreover, Judge Kramer found that, "if Mother [were] allowed unsupervised access to [J.] she would again engage in conduct detrimental to [J.'s] mental health" and that "Mother has failed to act in [J.'s] best interest [by] putting her own interest ahead of his." Accordingly, Judge Kramer awarded sole legal and physical custody of J. to Mr. Schenk, with supervised visitation for Ms. Marks.

On this record, Ms. Marks has utterly failed to demonstrate either a plainly erroneous fact finding or, concomitantly, an abuse of discretion. Judge Kramer's findings were clearly supported by the record, *Anderson*, *supra*, 200 Md. App. at 249, her ultimate decision to award sole legal and physical custody of J. to Mr. Schenk was certainly not "well removed from any center mark imagined by the reviewing court" or "beyond the fringe of what that court deems minimally acceptable," *Sumpter*, *supra*, 436 Md. at 85, and there is no ground for reversal.

C.

Finally, Ms. Marks contends, without citation of either the record extract or legal authority,[12] that "no party requested that Father's child support obligation be extinguished" and that Judge Kramer erred in "summarily" doing so "without doing a calculation of how much was paid during the period after January 13, 2016, versus the actual arrearage." Although we could decline to address this contention for lack of compliance with Rules 8-504(a)(4) and (6),[13] we shall exercise our discretion to address it briefly.

Mr. Schenk points out in his brief that, on February 5, 2016, he filed a supplement to his then-pending motion to modify custody, requesting, among other things, that the court re-calculate both parties' child support obligations, given the change in circumstances that had occurred a few weeks earlier, when temporary custody of J. was awarded to his paternal uncle and aunt. In that supplement, Mr. Schenk pointed out that Ms. Marks was still receiving child support payments despite no longer being entitled to

[12] The only citation of the record extract is a two-sentence quote of Judge Kramer's ruling. Ms. Marks cites no factual support for her argument.

[13] Maryland Rule 8-504(a)(4) mandates that an appellate brief contain a "clear concise statement of the facts material to a determination of the questions presented," including "[r]eference . . . to the pages of the record extract supporting the assertions." Rule 8-504(a)(6) mandates that an appellate brief contain "[a]rgument in support of the party's position on each issue[.]" Those provisions have been construed as permitting an appellate court to decline to address an argument lacking in factual or legal citation. *See*, *e.g.*, *ACandS, Inc. v. Asner*, 344 Md. 155, 190-92 (1996) (declining to consider evidence not cited in the record extract); *Honeycutt v. Honeycutt*, 150 Md. App. 604, 618 (declining to address appellant's argument where it "failed to adequately brief" it), *cert. denied*, 376 Md. 544 (2003).

receive those payments. Moreover, Ms. Marks admitted that she was still receiving those payments while she no longer had physical custody of J., and Mr. Schenk testified that he had "overpaid" and that he was "currently paying child support" to both Ms. Marks and his brother. He further testified that any arrearage had been attributable to the fact that the original 2011 divorce decree had ordered that child support payments begin November 1, 2011, approximately two months prior to the date the divorce was finalized, which led him inadvertently to begin making payments two months later than obligated.

We conclude that Judge Kramer addressed and properly disposed of Mr. Schenk's modification motion that was pending before the court. Furthermore, there was substantial evidence in the record to sustain her ruling, terminating Mr. Schenk's child support obligation effective January 13, 2016, ordering that any payments made after that date were arrearage payments, and that Mr. Schenk owed no arrearage effective May 1, 2016.

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