

Circuit Court for Montgomery County  
Case No. C-15-FM-23-812109

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 0913

September Term, 2024

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MICHAEL WALLACE

v.

NICOLE BROWN

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Arthur,  
Friedman,  
Reed,

JJ.

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Opinion by Reed, J.

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Filed: April 3, 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 case concerns a dispute between divorced parties – Appellant, Michael Wallace, and Appellee, Nicole Brown.<sup>1</sup> One minor child resulted from the marriage. The Circuit Court for Montgomery County granted Appellee a Final Protective Order against Appellant. The Final Protective Order temporarily governed child custody and Appellant’s access to the minor child. Appellant challenges granting the Final Protective Order itself, as well as the temporary custody and visitation arrangement the order established.

In bringing his appeal, Appellant presents four questions for our review which we rephrase as two questions:<sup>2</sup>

- I. Did the Circuit Court err by granting the Final Protective Order without sufficient evidence?
- II. Did the Circuit Court err by modifying the Final Protective Order to grant Appellee sole legal and physical custody of the minor child, and to significantly reduce Appellant’s access to the minor child?

We hold that Appellant has already tried and failed to appeal the Final Protective Order, so we decline to review his first question. We further hold that the contested custody and visitation arrangement under the Final Protective Order is no longer in effect, so the second question is moot.

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<sup>1</sup> Appellee has not filed or participated in this appeal.

<sup>2</sup> Appellant’s brief presents us the following four questions: 1) Did the Circuit Court err in awarding sole custody to [A]ppellee based on unsubstantiated allegations of a minor diaper rash and the [A]ppellant’s feeding practices?; 2) Did the Circuit Court fail to consider the best interests of the child and improperly deny the [A]ppellant’s motions and evidence?; 3) Did the Circuit Court err in failing to dismiss the Appellee’s Protection Order after finding that [A]ppellee’s claims were disproven by evidence?; 4) Did the Circuit Court fail to consider credibility in a non-biased manner when evaluating the parties’ testimony and evidence?

## BACKGROUND

This case began on December 20, 2023, when Appellee filed a petition for a protective order from Appellant in the District Court for Montgomery County.<sup>3</sup> The case was transferred to the Circuit Court for Montgomery County, which granted a Final Protective Order against Appellant on January 3, 2024. The Final Protective Order was ultimately modified on February 1, 2024, and awarded custody of the minor child to Appellee.<sup>4</sup> The modified Final Protective Order also established the following child access schedule for Appellant:

In primary consideration to the welfare of the minor child(ren), visitation with [T.W.] is awarded to [Appellant]...[Appellant] shall have access to the minor child on the following days: Mondays from 10:00am until 5:30pm; Wednesdays from 10:00am until Thursdays at 10:00am; Fridays from 10:00am until Saturdays at 10:00am; and every other Sunday from 10:00am until Mondays at 5:30pm.

Appellant initiated an appeal of the Final Protective Order on February 8, 2024, which was dismissed for failing to file a brief as required by Md. Rule 8-502(a)(1).<sup>5</sup>

This custody and visitation arrangement lasted until Appellee filed an Ex Parte Emergency Motion for Custody on May 28, 2024. The circuit court granted Appellee's motion later that day and awarded Appellee sole physical and legal custody of the minor child. At a subsequent hearing on May 31, 2024, Appellee's sole physical and legal

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<sup>3</sup> Case No.: D-06-FM-23-829525.

<sup>4</sup> The protective order does not distinguish between physical and legal custody, simply awarding "custody" to Appellee. We therefore assume the trial judge intended to award Appellee *both* physical and legal custody of the minor child.

<sup>5</sup> Case No.: ACM-REG-2356-2023.

custody was confirmed, and Appellant’s access to the minor child was reduced to supervised visitations on Saturdays. On June 3, 2024, the Final Protective Order was modified to reflect this new custody arrangement. This appeal followed.

In addition to the Final Protective Order that is the subject of this appeal, Appellee unsuccessfully filed two more petitions for protective orders. First, on January 17, 2024, Appellee filed a new petition for a protective order from Appellant before she ultimately requested it be dismissed.<sup>6</sup> On May 31, 2024, Appellee filed another petition for a protective order, but the Final Protective Order was denied by the Circuit Court.<sup>7</sup>

As the parties litigated the petitions for protective orders, Appellee also filed for divorce from Appellant on February 2, 2024.<sup>8</sup> A Judgment of Absolute Divorce was entered on December 11, 2024, which awarded the parties shared legal and physical custody of the minor child. The Judgment of Absolute Divorce ordered that Appellant “shall have access with the minor child every Sunday at 1:00 p.m. through Wednesday at 7:00 p.m....,” and established procedures for holiday visitation.

#### STANDARD OF REVIEW

We review custody and visitation decisions for an abuse of discretion. *Davis v. Davis*, 280 Md. 119, 126-27 (1977). When reviewing a Final Protective Order, “we accept the facts as found by the hearing court unless it is shown that its findings are clearly

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<sup>6</sup> Case No.: C-15-FM-24-807022.

<sup>7</sup> Case No.: C-15-FM-24-808950.

<sup>8</sup> Case No.: C-15-FM-24-000721.

erroneous,” but as “to the ultimate conclusion, however, we must make our own independent appraisal by reviewing the law and applying it to the facts of the case.” *Piper v. Layman*, 125 Md. App. 745, 755 (internal citations omitted) (cleaned up).

## **DISCUSSION**

### **Appellant’s Contentions**

#### **1. Granting the Final Protective Order**

Appellant argues that the Final Protective Order should have been dismissed at the May 31, 2024, hearing. Appellant alleges that the Final Protective was continued based on “evidence disproving the Appellee’s claims of false imprisonment, specifically video evidence showing the appellant’s actions did not meet the criteria alleged.”

#### **2. The Custody Award and Limiting Appellant’s Child Access**

Appellant alleges that the trial court granted Appellee sole custody and reduced his visitation time based on evidence which was not “substantiated or demonstrated to cause harm.” Specifically, Appellant believes that “allegations of feeding the child corn and a minor diaper rash” were insufficient to justify the change in custody and access. Appellant believes evidence he presented “including medical opinions affirming the safety of feeding practices and the routine nature of diaper rashes,” were not weighed appropriately. Appellant argues that awarding Appellee sole custody and reducing his visitation time was not in the best interests of the minor child.

### **Analysis**

#### **1. Granting the Final Protective Order**

Appellant asks us to overturn the Final Protective Order issued on January 3, 2024. He argues that there was not a sufficient factual basis for the order. But as we discussed before, Appellant already appealed the Final Protective Order on February 8, 2024. This appeal was ultimately dismissed because Appellant failed to file a brief as required by Md. Rule 8-502(a)(1). Appellant had the opportunity to challenge the factual sufficiency of the Final Protective Order but failed to do so. We therefore decline to consider his appeal now.

## 2. The Custody Award and Limiting Appellant's Child Access

Appellant next takes issue with the custody arrangement which began after the Final Protective Order was modified on June 3, 2024. Under this arrangement, Appellee had sole legal and physical custody, while Appellant's visitation with the minor child was limited to supervised visitations on Saturdays.

However, this arrangement no longer governs the parties' parenting time. As we discussed, the parties' Final Judgment of Divorce was filed on December 11, 2024. It established a different parenting schedule and awarded the parties joint legal and physical custody of the minor child.

Because custody over the minor child is now controlled by the Final Judgment of Divorce, any alleged problems with the prior arrangement have become irrelevant. Accordingly, we dismiss Appellant's complaints as moot.

## CONCLUSION

Accordingly, we affirm the rulings of the trial court.

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