Circuit Court for Prince George's County
Case Nos. CAD 17-11309; CAD 17-09890

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 931 and 1161

September Term, 2018

ANDREW N. UCHEOMUMU

v.

ESTHER PETER ET AL.

Kehoe,
Friedman,
Salmon, James P.,
(Senior Judge, Specially Assigned)
JJ.

Opinion by Kehoe, J.

Filed: May 11, 2020

Andrew N. Ucheomumu, appellant, was not originally a party to either of the cases from which he appeals. They involve the same parties and similar issues. Appellant moved to consolidate the appeals, which was granted by an order dated February 15, 2019. Appellant is self-represented. Neither Mr. nor Ms. Peter has filed a brief.

Appeal number 1161 of the 2018 Term arises out of a domestic violence proceeding that began in the Circuit Court for Prince George's County on May 9, 2017, when Esther Peter ("Ms. Peter") filed a petition for a protective order against her husband, Marcellinus Peter ("Mr. Peter"), on her own behalf and on behalf of her four minor children. Appellant is the father of one of those children, K., who was born in 2016.

Mr. Peter consented to a protective order with regard to Ms. Peter, but not as to the children. After a trial on the merits, the court entered a protective order against Mr. Peter with respect to Ms. Peter and the four children. Ten months later, before the expiration of the protective order, Ms. Peter filed a motion requesting the court to rescind the protective order. Appellant filed a motion to intervene as the father of K., a request for an emergency change of temporary custody, and a request for other "appropriate" relief.

The court held a hearing on the motion to rescind the protective order on April 20, 2018.[1] The record reflects that Mr. and Ms. Peter attended the hearing. On the day of the hearing, the court granted the motion and rescinded the final protective order.

[1] No transcript of the April 20, 2018 hearing is included in the record.

In a separate order dated April 20, 2018, the court found, among other things, that appellant's motion to intervene, request for emergency change of temporary custody, and other appropriate relief was moot because the final protective order had been rescinded.

Also on April 20, 2018, Ms. Peter filed an unopposed motion to shield[2] the case. In a written order dated June 20, 2018, the court granted the motion. On June 29, 2018, appellant, on his own behalf and on behalf of K., filed a motion to intervene in the case and a motion to reconsider the order shielding the record. On July 30, 2018, appellant filed a notice of appeal. Thereafter, in an order dated August 13, 2018, the court denied appellant's motion to intervene and motion to reconsider.

Appeal number 931 of the 2018 Term arises out of a complaint for limited divorce filed in the Circuit Court for Prince George's County by Ms. Peter against Mr. Peter, and a counter-complaint for absolute divorce filed by Mr. Peter. At some point after the

[2] As used in § 4-512 of the Family Law Article, the term "shield" means to remove information from public inspection in accordance with that subtitle. Section 4-512(a) (4) of the Family Law Article defines "[s]hielding" as follows:

> (i) with respect to a record kept in a courthouse, removing the record to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and
>
> (ii) with respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, completely removing all information concerning the proceeding from the public website, including the names of the parties, case numbers, and any reference to the proceeding or any reference to the removal of the proceeding from the public website.

For purposes of this opinion, the terms "shield" and "seal" shall have the same meaning and may be used interchangeably.

complaint and counter-complaint were filed, Mr. and Ms. Peter reconciled. Thereafter, they filed a joint motion to shield the record of their divorce proceeding. Appellant, who intervened in the divorce case as an "identified party" under Maryland Rule 16-912(a)(1), opposed the motion to shield. Ultimately, by order dated July 6, 2018, the court granted the Peters' motion and ordered that the entire case record be shielded. That same day, appellant filed a notice of appeal from the court's order to shield the record.

Appellant presents the following questions for our consideration which we have reworded slightly:

1. Did the circuit court orders sealing the records in the divorce and domestic violence cases fail, on their face, to comply with the law?

2. Did the circuit court err in not realizing that the appellees did not meet their burden of showing special and compelling reasons to seal court records that are presumed to be open to the public?

3. Did the circuit court err in not realizing that a domestic violence record is not eligible to be shielded after a trial on the merits?

For the reasons set forth below, we shall remand both cases to the circuit court for further findings.

Background

A. The Domestic Violence Proceeding

On May 9, 2017, Ms. Peter filed in the Circuit Court for Prince George's County a petition for protection from domestic violence, child abuse, and vulnerable adult abuse, on

behalf of herself and her four minor children. In the petition, Ms. Peter alleged that Mr. Peter had demonstrated various abusive behaviors. The court granted a temporary protective order and set a hearing date for a final protective order.

At a hearing on May 24, 2017, the court found that Ms. Peter was a person eligible for relief, that Mr. Peter consented to stay away from Ms. Peter, and that Mr. Peter had consented to the entry of the final protective order as to her, without admitting the allegations in the petition or a judicial finding of abuse. Mr. Peter did not consent to entry of a final protective order with respect to the minor children and a trial was held on the merits. The court found, by a preponderance of the evidence, that there was a factual basis for entry of a protective order. The court entered a protective order against Mr. Peter with respect to the children and Ms. Peter.

On April 3, 2018, Ms. Peter filed a motion to rescind the protective order. The motion did not contain any specific reference to the part of the protective order pertaining to the minor children, but in support of her request, Ms. Peter stated that she and Mr. Peter had "agreed to resolve our differences and live together to rebuild our family in peace and love." Several days later, appellant filed a motion to intervene in the case, a request to change temporary custody of K. from Ms. Peter to him, and a request for various types of additional relief.

The docket entries reflect that a hearing was held on April 20, 2018, after which the court granted Ms. Peter's motion to rescind the protective order. Also on April 20, 2018, Ms. Peter filed a motion to shield the record in the case. She requested that the court shield

"[e]verything included" in the case and argued that shielding was necessary because of "[t]hird party intervention. I need to protect my children from further exposure and harassments."

The docket entries for April 26, 2018 show that the court dismissed various petitions for contempt that had been filed by appellant on the ground that the final protective order had been rescinded. The court also determined that appellant's motion to intervene, for a change in temporary custody of K., and for other relief was moot because the final protective order had been rescinded.

In an order dated June 20, 2018 and entered on the docket on June 29, 2018, the court granted Ms. Peter's motion to shield the record in the domestic violence case. Appellant went to the courthouse on June 29, 2018 to review the case file for the domestic violence case and was told that the case file had been shielded. That same day, appellant, on his own behalf and on behalf of K., filed a motion to intervene in the domestic violence case and requested that the court reconsider and deny the motion to shield the record. Appellant asserted that he was an "identified" party because he was the father of K., who was a minor child named in the final protective order. Appellant argued that K. had an "interest that must be protected and the sealing" of the record in the domestic violence case was not in his best interest. Appellant also argued that the circuit court's order shielding the case file violated § 4-512(b) (1) and (2) of the Family Law Article because the petition for protective order had not been dismissed, denied, or entered by consent of Mr. Peter, but rather, as to the children, was entered after a trial on the merits. In addition, appellant asserted that

protective orders had been entered against Mr. Peter on prior occasions so shielding the record violated § 4-512(d) (3) (i) and (ii).

On July 30, 2018, appellant filed a notice of appeal that provided, in relevant part:

> NOW COMES the Interested Party, in proper person, and files this Notice of Appeal for the lower court's Order dated June 20, 2018 and docketed on June 29, 2018 that sealed the Record of this DV case that was tried. Appellant further appeals the lower court's refusal to rule on a [ripe] motion to intervene, motions for reconsideration and motion in opposition to sealing this case.

On August 14, 2018, the circuit court entered an order denying appellant's motion to intervene, motion to reconsider the sealing of the case, and opposition to the motion to seal the records of the case.

B. The Divorce Proceeding

On May 2, 2017, Ms. Peter filed in the Circuit Court for Prince George's County a complaint for limited divorce. Mr. Peter filed an answer and a counter-complaint for absolute divorce. He also filed an unopposed request for a paternity test with respect to K. Initially, the court denied that request. On November 21, 2017, Mr. Peter renewed his request for paternity testing and stated that appellant had acknowledged that he was K.'s father and had established a personal relationship, strong bond, and family unit with K. In addition, appellant provided financial support for K. Mr. Peter also advised the court that K. had been told appellant was his father and had established an emotional, physical, and psychological attachment to appellant. On December 21, 2017, the court granted Mr. Peter's request for a paternity test. That test revealed that Mr. Peter was not K.'s biological

father. After a hearing on February 20, 2018, Ms. Peter withdrew her complaint for limited divorce against Mr. Peter and he withdrew his complaint for absolute divorce.

On February 22, 2018, appellant filed an action in the Circuit Court for Prince George's County against Ms. Peter. In this action, appellant sought custody of K. as well as other relief. In his complaint, appellant referenced the Peters' divorce case, the prior domestic violence cases against Mr. Peter, and the protective order that was then still in effect against Mr. Peter. The court ordered paternity testing through which it was established that there was a 99.99% chance that appellant was K.'s father.

On March 15, 2018, Mr. and Ms. Peter filed a joint motion to shield the record in their divorce case. The Peters argued that during the course of their divorce proceedings, the court ordered genetic testing of one of their minor children, the result of which was in the case file, that they had since reconciled their marriage and did not wish the details of their divorce proceeding to be made public, and that they suspected that appellant intended to use the record "to smear" their names "and "expose their personal business to the community." They further asserted that they believed that "immediate, substantial and irreparable harm" would result to them and their children if the records were not shielded. They explained that they feared "the contents of this action places them in a bad light and will negatively impact their reputation in the community."

Appellant was not served with a copy of the Peters' motion to shield the record in the divorce case. On or about March 23, 2018, when appellant went to the courthouse to obtain a copy of the motion to shield the divorce action, he was advised that the record had been

shielded pending a ruling by the court.[3] On March 26, 2018, appellant filed, on his own behalf and on behalf of K., an opposition to the Peters' motion to shield the record. He argued, among other things, that under Maryland Rule 16-912(a)(2)(A) and (B), he was an identified person who should have been served with a copy of the joint motion to shield the record in the Peters' divorce case, that there was no exceptional circumstance or risk of immediate, substantial, or irreparable harm to warrant the shielding of the record in the divorce case, and that records in the divorce case were essential to his custody action in case number CAP18-03166. Appellant also argued that the right of access to the public trials in Maryland courts is embedded in the First Amendment to the United States Constitution,[4] that the presumption of openness may be overcome only by showing an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest, and that shielding the record in the Peters' divorce case was contrary to public policy.

[3] Maryland Rule 16-912(b) provides:

> (b) Shielding Upon Motion. This section does not apply to a petition filed pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3. Upon the filing of a motion to seal or otherwise limit inspection of a case record pursuant to subsection (a) of this Rule, the custodian shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue.

[4] The public's right of access to courts and court documents has also been held to be protected under Articles 19 and 40 of the Maryland Declaration of Rights. As Ucheomumu has not grounded his argument in this appeal on either of these provisions, we will not address them further.

A hearing on appellant's opposition to the motion to shield the record was held over the course of two days. On or about June 14, 2018, appellant, on his own behalf and on behalf of K., filed a supplemental opposition to the Peters' joint motion to shield the record. He challenged the Peters' assertion that the contents of the divorce action placed them in a bad light and would negatively impact their reputation in the community. He also argued that divorce cases involving members of the ethnic community to which the Peters belong should not be treated differently from any other divorce cases and pointed to the fact that the records from Mr. Peter's prior divorce from another woman had not been shielded.

On July 6, 2018, at the conclusion of the hearing on the joint motion to shield the record, the circuit court granted the motion and ordered that the complete case record be shielded and shall not be opened except by further order of the court. That same day, appellant, on his own behalf and as an identified person in the case, filed a timely notice of appeal from the circuit court's decision to shield the record. The court's order shielding the record was entered on the docket on August 7, 2018.

Analysis

Appellant presents three questions for our consideration. The first two relate to whether the circuit court orders shielding the records complied with the law and whether the parties seeking to shield the records met their burden of proving special and compelling reasons to overcome the presumption of open and public records. Those questions are relevant to both the divorce and domestic violence cases. The third question relates only to the domestic violence action and asks whether a record can be sealed in a domestic violence

action that has been tried on the merits. For clarity, we shall first examine the applicable standard of review and the law relating to motions to shield court records and then separately address the merits of the underlying cases.

1. The Standard of Review

In considering an appeal from a case tried without a jury, an "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." Md. Rule 8-131(c). Under the clearly erroneous standard, "'we must consider the evidence in the light most favorable to the prevailing party and decide not whether the trial judge's conclusions of fact were correct, but only whether they were supported by a preponderance of the evidence.'" *City of Bowie v. Mie Properties, Inc.*, 398 Md. 657, 676-77 (2007) (quoting *Colandrea v. Wilde Lake Community Ass'n*, 361 Md. 371, 394 (2000)). With respect to legal conclusions, however, we "'must determine whether the lower court's conclusions are legally correct[.]'" *White v. Pines Community Improvement Ass'n, Inc.*, 403 Md. 13, 31 (2008) (quoting *YIVO Institute for Jewish Research v. Zaleski*, 386 Md. 654, 662 (2005)).

2. Motions to Shield a Court Record

Historically, judicial proceedings have been presumptively open to the public, both in terms of access to the court and to court records. *Doe v. Shady Grove Adventist Hospital*, 89 Md. App. 351, 359 (1991). It is well established in criminal law that the right to public access to trials and to records is inherent in the First Amendment to the United States

Constitution[5] and in Articles 19 and 40 of the Maryland Declaration of Rights.[6] *Id.* We have expressly held that "the policy reasons enunciated by the Supreme Court in support of public access to criminal proceedings apply with equal force to civil proceedings." *Id. See also State v. Cottman Transmission Sys., Inc*., 75 Md. App. 647, 656 (1988) (holding same). The right of public access is not absolute, however, and "may be limited 'when an important countervailing interest is shown.'" *Shady Grove Adventist Hospital*, 89 Md. App. at 360 (quoting *Cottman*, 75 Md. App. at 656). And in *Cottman*, we noted that because "'the right of public access is firmly embedded in the First Amendment, 'it must be shown that the denial is necessitated by a compelling governmental interest, and is narrowly tailored to serve that interest.'" 75 Md. App. at 657 (quoting *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607 (1982)).

Access to judicial records in Maryland is governed, in part, by Title 16, Chapter 9 of the Maryland Rules. Rule 16-903(a) makes clear that the purpose of the rules in Chapter 9

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[5] The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to assemble, and to petition the Government for a redress of grievances.

U.S. Const. Amend. 1.

[6] Article 40 of the Maryland Declaration of Rights provides:

> That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

Md. Decl. Rts., Art. 40.

is "to provide public access to judicial records while protecting the legitimate security and privacy rights of litigants and others who are the subject of those records." Md. Rule 16-903(a). Rule 16-903(b) provides:

> (b) Presumption of Openness. Judicial records are presumed to be open to the public for inspection. Except as otherwise provided by the Rules in this Chapter or other applicable law, the custodian of a judicial record shall permit an individual appearing in person in the office of the custodian during normal business hours to inspect the record.

The presumption of openness applies to exhibits pertaining to a motion or marked for identification. Rule 16-903(d) states:

> (d) Exhibit Pertaining to Motion or Marked for Identification. Unless a judicial proceeding is not open to the public or the court expressly orders otherwise and except for identifying information shielded pursuant to law, a case record that consists of an exhibit (1) submitted in support of or in opposition to a motion that has been ruled upon by the court or (2) marked for identification at trial or offered in evidence, and if offered, whether or not admitted, is subject to inspection, notwithstanding that the record otherwise would not have been subject to inspection under the Rules in this Chapter.

Motions to shield are addressed in Maryland Rule 16-912, which governs court orders denying or permitting inspection of case records. Rule 16-912 has a number of moving parts and, for ease of reference, we set forth the portions of the rule that are relevant to appellant's arguments in this case:

> (a) Motion. (1) A party to an action in which a case record is filed, including a person who has been permitted to intervene as a party, and a person who is the subject of or is specifically identified in a case record may file a motion:
>
> (A) to seal or otherwise limit inspection of a case record filed in that action that is not otherwise shielded from inspection under the Rules in this chapter of Title 20 or other applicable law; or

(B) To permit inspection of a case record filed in that action that is not otherwise subject to inspection under the Rules in this Chapter or Title 20 or other applicable laws.

(2) Except as provided in subsection (a) (3) of this Rule, the motion shall be filed with the court in which the case record is filed and shall be served on:

(A) all parties to the action in which the case record is filed; and

(B) each identifiable person who is the subject of the case record.

* * *

(c) Temporary Order Precluding or Limiting Inspection. (1) The court shall consider a motion filed under this Rule on an expedited basis.

* * *

(d) Final Order. (1) After an opportunity for a full adversary hearing, the court shall enter a final order:

(A) precluding or limiting inspection of a case record that is not otherwise shielded from inspection under the Rules in this Chapter;

(B) permitting inspection, under such conditions and limitations as the court finds necessary, of a case record that is not otherwise subject to inspection under the Rules in this Chapter; or

(C) denying the motion.

(2) A final order shall include findings regarding the interest sought to be protected by the order.

(3) A final order that precludes or limits inspection of a case record shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order.

* * *

(5) In determining whether to permit or deny inspection, the court shall consider:

(A) if the motion seeks to preclude or limit inspection of a case record that is otherwise subject to inspection under the Rules in this Chapter, whether a special and compelling reason exists to preclude or limit inspection of the particular case record;

(B) if the motion seeks to permit inspection of a case record that is otherwise not subject to inspection under the Rules in this Chapter, whether a special and compelling reason exists to permit inspection; and

> (C) if the motion seeks to permit inspection of a case record that has been previously sealed by court order under subsection (d) (1) (A) of this Rule and the movant was not a party to the case when the order was entered, whether the order satisfies the standards set forth in subsections (d) (2), (3), and (5) (A) of this Rule.
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> (6) Unless the time is extended by the court on motion of a party and for good cause, the court shall enter a final order within 30 days after a hearing was held or waived.
>
> (e) Filing of Order. A copy of any temporary or final order shall be filed in the action in which the case record in question was filed and, except as otherwise provided by law, shall be subject to public inspection.
>
> (f) Non-exclusive Remedy. This Rule does not preclude a court from exercising its authority at any time to enter an appropriate order that seals or limits inspection of a case record or that makes a case record subject to inspection. . . .

Requests to shield court records in domestic violence cases are specifically addressed in Md. Code (2019 Repl. Vol.), § 4-512 of the Family Law Article ("F.L."). Requests to shield court records are limited to those circumstances when a petition for protection from domestic violence was denied or dismissed at an interim, temporary, or final protective order stage of a proceeding or when the respondent consented to the entry of a protective order. F.L. § 4-512(b) (1) and (2). There are also limitations on when a request for shielding can be made. For example, F.L. § 4-512(c) provides:

> A request for shielding under this section may not be filed within 3 years after the denial or dismissal of the petition or the consent to the entry of the protective order, unless the requesting party files with the request a general waiver and release of all the party's tort claims related to the proceeding under this subtitle.

Section 4-512(e) sets forth specific procedures for cases in which a respondent consented to the entry of a protective order. In such cases, either the petitioner or the

respondent may file a written request for shielding at any time after the protective order has expired. F.L. § 4-512(e) (1) (i). Upon the filing of a motion to shield, the court shall schedule a hearing on the request and give notice of the hearing to the other party and the other party's counsel of record. F.L. § 4-512(e) (1) (ii) and (iii). After the hearing, the court may order the shielding of all court records relating to the proceeding if it finds that: (1) in cases where the respondent requested the shielding, that the petitioner consents to the shielding; (2) that the respondent did not violate the protective order during its term; (3) that a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent; (4) that the respondent has not been found guilty of a crime arising from abuse against the petitioner, and, (5) at the time of the hearing, there is neither an interim or temporary peace order or protective order issued against the respondent nor a criminal charge against the respondent arising from alleged abuse against an individual. F.L. § 4-512(e)(1)(iv)(1)–(5). In determining whether court records should be shielded, "the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community." F.L. § 4-512(e)(1)(v).

3. The Domestic Violence Case

Appellant contends that the circuit court erred in shielding the record in the domestic violence case. He claims that he has standing to oppose Ms. Peter's request to have the record shielded because he was an identified party in the case record, as the biological father of K., who was one of the subjects of the protective order. In addition, he asserts that he has standing as a member of the public, who has a right to access public proceedings in Maryland courts. With regard to the circuit court's decision to shield the entire domestic violence case record, appellant argues that the court did not comply with Md. Rule 16-912(d)(2) and (3) because it failed to set forth findings regarding the interest sought to be protected by the order and because the order to shield the records was not as narrow as practicable to effectuate the interest sought to be protected. Appellant also maintains that the court failed to find special or compelling reasons to justify shielding the record and that there were none.

In addition, appellant argues that procedural requirements for shielding were not met in this case. Specifically, he maintains that there were prior protective orders against Mr. Peter, that the petition to shield was filed within three years of the date Mr. Peter's consent was entered, and that Ms. Peter did not file a general waiver and release of her tort claims pursuant to F.L. § 4-512(c). For the reasons set forth below, we shall remand the case to the circuit court for further findings.

Timeliness of the Notice of Appeal

As a preliminary matter, we consider the timeliness of appellant's notice of appeal. The circuit court's decision to shield the case record was entered on the docket on June 29, 2018. That same day, appellant filed a motion to reconsider the shielding of the record and to intervene. Appellant's motion to reconsider, filed within 10 days of the date the order shielding the case was entered, was, in effect, a motion to alter or amend the judgment pursuant to Md. Rule 2-534. Appellant filed a timely notice of appeal from the decision to shield the case, but it was filed before the court denied his motion to reconsider and to intervene. Maryland Rule 8-202(c) provides:

> 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 motion 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.

As appellant filed a timely post-judgment motion, his notice of appeal is effective and treated as filed on the same day, but after, the court denied his motion to reconsider and to intervene. *See e.g.*, *Edgewood Mgmt. Corp. v. Jackson*, 212 Md. App. 177, 198 n.7 (2013) (citing *Edsall v. Anne Arundel County*, 332 Md. 502, 508 (1993)).

The Shielding Order

We turn now to the issues presented for our consideration with respect to the domestic violence case. The order shielding the record provided:

> Upon consideration of Plaintiff's unopposed Motion to Seal and a review of the file herein, it is this 20th day of June, 2018, by the Circuit Court for Prince George's County, Maryland,
>
> ORDERED, that Plaintiff's unopposed Motion to Seal is hereby GRANTED.

Pursuant to Rule 16-912(d)(2) the court was required to include in the final order findings regarding the interest sought to be protected by the shielding order. Rule 16-912(d)(3) required the final order to "be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order." There is nothing in the record before us from which we can determine the interest sought to be protected by the order or the basis for the court's decision to shield the entire case file. Nor are we able to discern from the record whether the court engaged in the required balancing test. In determining whether court records should be shielded, F.L. § 4-512(e)(1)(v) requires that "the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community."

Further, this case is unusual in that it involves two different bases for the entry of the final protective order. As to Ms. Peter, individually, the protective order was granted based on the fact that Mr. Peter consented to the entry of the order. As to the minor children, however, the final order was entered after a trial. The circuit court did not address this

distinction. Moreover, neither F.L. § 4-512 nor Md. Rule 16-912 contain provisions allowing for the shielding of a case record after entry of a final protective order following a trial. The court did not provide the legal basis for its order shielding the entire record. For these reasons, we shall remand this case to the circuit court for further findings.

4. The Shielding Order in the Divorce Case

Appellant contends that, pursuant to Md. Rule 16-912(a), he was an identifiable party in the Peters' divorce case. He argues that the circuit court failed to make findings of the interest sought to be protected by the final order shielding the record, as required by Md. Rule 16-912(d) (2). In addition, he asserts that the order shielding the case record was not as narrow as practicable in scope and duration to effectuate the interest sought to be protected, as required by Md. Rule 16-912(d)(3).

In their joint motion to shield the record in the divorce case, the Peters argued that because they had reconciled, the did not "wish for the details of this proceeding to be made public." They "suspect[ed]" that appellant intended to use the record in the case "to smear [their] names and expose their personal business to the community." They also asserted that they "fear[ed] that the contents of this action places them in a bad light and will negatively impact their reputation in the community."

At the hearing on the Peters' motion, Ms. Peter testified that appellant posted copies of records from the divorce case, including the DNA test results relating to K. and photographs, on social media. Ms. Peter explained that her "family has gotten back

together," that she did not "see any reason why our business should be out there," and that she did not want her children "being taunted at school."

At the conclusion of the hearing, the court found that appellant "basically intervened in this case as an identifiable person. He was mentioned in CAD17-11308, which is why the Court is allowing [him] to make arguments." The court granted the motion to seal the record in the divorce case stating:

> The Court has heard testimony that information regarding the marriage and the children, specifically a DNA result being placed on social media that involves one of the minor children that was named in this complaint, and quite honestly, the compelling and/or special reason to preclude it is the best interest of the child. This information is being put out on the internet, on social media, on WhatsApp in reference to this child's parentage. DNA results really should not be anywhere on social media.
>
> In addition, the Court does find that the compelling reason is that these individuals who have decided – these two peoples [sic] who are the parties of this case – not you – these are the parties of the case – have decided to get back together. And I don't know the basis or the relationship – only things that I've heard in this courtroom – but I do find that in the best interest of the children to protect them from having this information put out on the internet, I'm going to shield this record.

Following the hearing, the court issued a written final order, dated July 6, 2018, that provided:

> ORDERED, that pursuant to Md. Rule 16-912, the Joint Motion to Seal Records be and is hereby GRANTED; and it is further
>
> ORDERED, that the complete case record contained herein be and is hereby SEALED and shall not be opened except by further order of this court.

The final order did not set forth the court's findings regarding the interest sought to be protected by the order to seal the case. The court made clear at the hearing that at least one

basis for its order was to prevent appellant from putting DNA test results pertaining to K.'s parentage on the internet, social media, and WhatsApp. Rule 16-912(d) (3) requires that a final order precluding inspection of a case record "shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order." If the sole basis for the court's order was, in fact, to restrict dissemination of the DNA test results, those items alone could have been sealed. But as the final order did not set forth the court's findings with regard to the interest sought to be protected, we cannot determine if the decision to seal the entire case record, as opposed to specific documents, was erroneous.

5. Proceedings on Remand

For these reasons, we will vacate the judgments and remand these cases to the circuit court so that the court can make the findings required by the relevant provisions of the Maryland rules. Depending upon the findings, it may be necessary for the circuit court to modify the terms of the shielding orders.

We direct that the current shielding orders are to remain in effect *pendente lite.*

APPEAL NO. 931, SEPTEMBER TERM 2018:

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS VACATED AND THE CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLEES TO PAY COSTS.

APPEAL NO. 1161, SEPTEMBER TERM 2018:

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS VACATED AND THE CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLEE TO PAY COSTS.