Circuit Court for Washington County
Case No: C-21-FM-20-000803

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 949

September Term, 2025

TASHA MUNSON

v.

KAYLA MUNSON

Reed,
Kehoe, S.,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: January 15, 2026

*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 comes to us from a judgment by the Circuit Court for Washington County modifying a child custody order. Tasha Munson, also known as Tasha Smith ("Smith"),[1] appellant, and Kayla Munson ("Munson"), appellee, were married on 20 January 2017. They share a child, K.M. ("the child"), born on 27 March 2020. The parties separated in August 2020. A judgment of absolute divorce in favor of Munson and a separate child custody order were entered on 18 November 2021. On 28 July 2022, Munson filed a petition for modification of custody.[2] On 24 April 2024, the court entered a consent order modifying child custody. Less than three months later, both parties filed petitions to modify custody. Munson withdrew ultimately her petition to modify custody and filed a counter-petition for modification of custody. On 22 August 2024, Munson filed a petition for contempt. After a hearing on 17 September 2024, the court entered a *pendente lite* custody order.

A hearing on the merits of the petitions for modification and the petition for contempt was held on 25 March and 4 April 2025. On 9 May 2025, the circuit court announced its decision from the bench. The court found that a material change in circumstances occurred and entered an order modifying custody. Smith filed a motion for reconsideration, which was denied. This timely appeal followed.

[1] For present purposes, we shall refer to appellant as Smith and to appellee as Munson.

[2] Smith filed a motion to dismiss and a motion to transfer the case to North Carolina, both of which were denied. She filed also a renewed motion to dismiss, which the court treated as a motion to revise and denied.

ISSUES PRESENTED

Smith presents the following issues for our consideration:

> I. Whether the trial court erred, as a matter of law, and violated Smith's constitutional right to travel by modifying custody based on her Coast Guard relocation; and,
>
> II. Whether the trial court abused its discretion by disregarding its own factual findings, speculating about Munson's living arrangements, and awarding custody contrary to the child's stability and best interests.

For the reasons set forth below, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Initial Custody Award

At all times pertinent to this appeal, Smith served in the United States Coast Guard, where she worked as an aviation maintenance technician. In 2020, Smith was ordered to relocate from her duty station in Maryland to a new duty station in North Carolina. According to Munson, the couple planned to go to North Carolina and move back later to Maryland so that the child could be closer to family, as "[a]ll of our family is up here." Munson and the child moved to North Carolina with Smith in August 2020, but shortly after arriving there, the parties separated and divorced eventually.

In conjunction with the judgment of absolute divorce entered on 18 November 2021, the circuit court entered a custody order pursuant to which the parties were awarded joint legal custody and shared physical custody of the child. The child spent two weeks with one parent, followed by two weeks with the other parent. Smith was granted tie-breaking

authority on matters regarding the child's health care and other subjects. The order set forth a detailed holiday schedule.

Consent Custody Order

Subsequently, the parties negotiated a consent custody agreement. Munson agreed to the modified custody arrangement because she lived a reasonable driving distance from Elizabeth City, North Carolina, planned to drive there often, and thought she would have more access to the child because many of the provisions in the agreement allowed her to be involved in his life. She planned to see the child on his first day of school and visit him on long weekends and holidays. She planned also to attend extracurricular activities and drive the child to Maryland to see family members. In addition to being more involved in the child's life, Munson thought that she and Smith would work on their relationship, that Smith might move back to Maryland, and that they could parent on a fifty-fifty basis.

On 24 April 2024, the court entered a consent order modifying custody. Pursuant to that order, the parties were awarded again joint legal custody and shared physical custody "as detailed in the original Custody Order[.]" Smith was granted tie-breaking authority, but the parties were required to attend "at least one session of mediation and make a good-faith effort to resolve [any] disagreement" about major decisions prior to Smith exercising tie-breaking authority. The parties were ordered to "jointly engage the services of a family therapist and [to] participate in family counseling, once per quarter." All communications between the parties were to "be done via AppClose." The order included provisions regarding communications with the child, including that telephone and Facetime calls with

the non-custodial parent were to occur between 7 and 8 p.m. every Monday, Wednesday, Thursday, and Sunday.

The parties agreed that when the child started kindergarten, Smith would have primary physical custody and Munson would have physical custody on a schedule that was detailed in the order and included, but was not limited to, one weekend per month, all long weekends due to federal holidays and days off of school, and summer vacation with the exception of Smith's two consecutive weeks of vacation. If either party changed her residence, she would provide the other party "at least ninety (90) days advance and prior written notice via [AppClose] . . . of her intention to relocate the child's residence." The order provided further that,

> [i]f said relocation materially impacts either party's access with the child, then in such event, the parties shall attempt to agree upon a modification of the physical custody and visitation arrangements if necessary. In the absence of a modification agreement, each party shall have the right and opportunity to have the issue of custody and visitation resolved by the Court[.]

Petition and Counter-Petition to Modify the Consent Custody Order

Less than three months after the court entered the consent custody order, Smith filed a petition to modify custody. She averred that she had received orders from the Coast Guard "to permanently change duty station" from North Carolina to Alabama on 18 August 2024. Smith sought sole legal and primary physical custody of the child. She requested that each party have the child on a six-week repeating schedule until the Sunday before the child entered kindergarten, which was anticipated to occur in August 2025, at which time she would be granted primary custody.

Munson opposed Smith's petition and filed a counter-petition for modification in which she asserted that, as a result of Smith's transfer from North Carolina to Alabama, which she alleged was a material change in circumstances, the travel time between the parties' homes increased to fourteen hours and the parties were "unable to reach an agreement as to how the two-week rotation would be facilitated due to the distance." Munson alleged also, among other things, that Smith refused to cooperate in selecting a family therapist, continued to disregard her "input or opinions on issues pertaining to the child's care and wellbeing[,]" and continued "to dictate the child's medical care" and exclude her participation in it. According to Munson, Smith's transfer to Alabama would "further alienate" the child from her and his life in Maryland. Further, the changes to custody anticipated when the child started kindergarten were no longer in the child's best interest and joint legal and shared physical custody were no longer appropriate and were detrimental to the child's health and future educational path. Munson requested sole legal and primary physical custody of the child and that Smith be awarded visitation on a schedule to be determined by the court.

On 22 August 2024, Munson filed a petition for contempt asserting that Smith had absconded with the child, prevented the child from contacting Munson, and refused to respond to Munson's inquiries. A *pendente lite* hearing was held on 17 September 2024. Thereafter, the court entered a written order awarding shared physical custody and setting forth a detailed *pendente lite* access schedule.

Merits Hearing

A hearing on the merits of the petition and counter-petition for modification of custody and the petition for contempt was held on 25 March and 4 April 2025. The parties did not dispute that there had been a material change in circumstances resulting from Smith's relocation to Alabama.

A. Smith's Testimony

Smith testified that, while in the Coast Guard, she rotated duty stations every four years, unless she was granted an extension. Prior to being assigned a duty station, Smith had an opportunity to provide the Coast Guard with a list of preferred locations known as a "dream list." She could ask to stay at her current duty station or request another location. In May 2024, after the parties had negotiated the consent custody order that was entered by the court on 24 April 2024, Smith received an order from the Coast Guard to relocate to Alabama. Before receiving that order, Smith requested, via her dream list, three locations in Elizabeth City, North Carolina and, as her fourth choice, Mobile, Alabama. According to Smith, there were no locations in Maryland, Virginia, Pennsylvania, or New Jersey for the type of work she performed.

On direct examination, Smith testified that she did not speak to Munson about her dream list because she had not decided at that time if she was going to stay in the Coast Guard. On cross-examination, Smith was questioned as follows:

> Q. . . . And you agree that throughout . . . those proceedings [negotiating the consent custody order entered on 24 April 2024] at no point did you communicate to Ms. Munson or to any of us that you: one, may not be in

> North Carolina; two, you were considering not staying in; or three, that you could potentially, might be coming out?
>
> [Smith]: The –
>
> Q. Yes or no, did you communicate any of that? Did you communicate with Ms. Munson that hey, I'm trying to decide whether to stay or not?
>
> A. No, no.
>
> Q. Did you communicate with Ms. Munson, hey, I'm going to sign a contract to extend my two year?
>
> A. That did not happen in that timeframe. That happened right after A School. I took my 2024 end of enlistment and I added two years to it to make it 2026.
>
> Q. Okay.
>
> A. So, I was active duty until 2026 no matter what and [Munson] was aware that I rotate every four years. I was trying to stay in Elizabeth City, so that is why the communication didn't happen. Until I knew that I was going to not be in Elizabeth City, that's when I communicated to [Munson]. I had never intended to not be in the Coast Guard, but these are all decisions that go into signing a contract. So, when I signed that contract that's when I was given other orders to go to Alabama.

Smith signed the transfer order on 9 May 2024 and notified Munson about the transfer on 26 May 2024, but did not tell her when she would be moving to Alabama. Two days after giving Munson notice, Smith suggested that they continue to share parenting time until August when, pursuant to the terms of the April 2024 consent custody order, Smith was to have primary custody because the child was to start kindergarten. Munson did not agree and requested primary custody beginning immediately, a proposal rejected by Smith. The parties did not engage in mediation. They continued to exchange the child every two weeks until 4 August 2024. On that date, Munson transferred the child to Smith.

The Coast Guard gave Smith a travel period of 18 August to 1 September 2024 so that no personal leave had to be used to effectuate her relocation to Alabama. Smith and her family used that period of time to take a family vacation and move to Alabama. Smith did not inform Munson that she was moving from North Carolina to Alabama on 18 August 2024, did not provide Munson with her new address in Alabama, and did not provide telephone access between Munson and the child during the time her family was on vacation. On 18 August, which was the day to transfer the child back to Munson, Smith sent her a message stating that she was moving, that the "current custodial rotation which involves alternating every two weeks between North Carolina and Maryland is no longer appropriate given the significant distance between our location and Maryland[,]" and that she would be keeping the child with her in Alabama until the court issued a new custody order. Smith testified that she did not give Munson her address in Alabama because she "wasn't sure what she might do[,]" but she testified also that she told Munson if she would "come up with a reasonable equal parenting schedule" she would arrange a meeting place and provide her new address.

Munson pleaded with Smith to see the child, but Smith refused to provide her new address until a hearing in the circuit court on 17 September 2024. Smith did not bring the child to that hearing. Pursuant to a court order issued after the hearing, the parties began a custody arrangement of two months in one party's care and then two months in the other party's care. The first time Munson saw the child was 1 October 2024.

At the time of the merits hearing, Smith and her husband, whom she married on 17 March 2022, lived in Alabama with their two children, one of whom was three years old and the other who was a year and a half old. They lived in a four-bedroom home with a backyard. Smith's husband was a stay-at-home father. Smith provided health and dental insurance coverage for the child through the Coast Guard. The health and dental plan, known as Tricare Prime, provided primary care within one hundred miles of Smith's duty station. According to Smith, if Munson was awarded primary custody of the child, he would be covered under Tricare Prime for emergency visits. Smith argued that the child should remain primarily with her and begin school in Alabama consistent with the consent custody order.

Smith testified that Munson had not treated her with respect and deflected her questions about the child. She claimed that Munson was not supportive of the child's relationship with Smith's other two children, her husband, or with Smith's father. Munson was opposed to the child calling Smith's husband "dad" and Smith did not think that Munson would facilitate the child's access to Smith's father. Smith believed the child was better off in her primary care. She testified that she knew how his insurance worked, scheduled his medical appointments, routinely took him to appointments with his pediatrician, and could give him a stable schedule with fewer hours at daycare because her husband was a stay-at-home father. Smith claimed Munson neglected the child's medical care. Specifically, she pointed to Munson's initial refusal to agree to surgery to address the child's thirteen cavities, her request for a second opinion, and her reluctance to allow the

child to be sedated. Smith pointed also to the child's twelve ear infections. She testified that, although it was recommended that the child have tubes inserted in his ears, Munson wanted to discuss that recommendation and, during the resulting delay, the child contracted additional ear infections. According to Smith, the child required weekly physical therapy for a brachial plexus injury to his right arm that occurred at birth, but Munson made no attempt to set up the therapy. Smith set up the physical therapy, but advised Munson that she could not participate in it via video call when the child was in Smith's care because that would constitute a HIPAA violation due to other children being in the therapy room. Smith set up the therapy so that the child could participate remotely via Zoom when he was in Munson's care.

Smith continued that she tried to prepare home-cooked meals, with minimal fried foods and sugar, for her family. In videos, Smith observed that Munson allowed "lots of candy and just access to sugar, ice cream, brownies, pizza." Smith had "never seen [the child] eating food other than junk food on any call." When asked if she discussed the food issue with Munson, Smith responded that she "had brought up once about a lollipop and then I just decided that that's not my style of parenting, but I can't control her style of parenting." Smith stated that, after daycare or soccer practice, between 7 and 8:30 in the evening, Munson brought the child to her place of employment, which was a retail establishment where fireworks were sold. Smith claimed that Munson sent the child back to her with a moldy cup containing liquid that had been in the cup two weeks earlier when he was transferred to Munson's care. Smith did not know how many bedrooms were in the

mobile home where Munson resided and that the rented mobile home was under contract of sale.

Smith acknowledged that she and Munson were not able to communicate with regard to major decisions about the child's well-being. She did not want to be required to go to mediation before exercising tie-breaking authority. She claimed that Munson failed to adhere to the court's *pendente lite* order requiring the child to be exchanged at specific airports. Smith stated that Munson did not provide her with information about the child's activities such as soccer and his birthday party and was unwilling to discuss religion or the child's attendance at church. Smith believed that the child's Catholic daycare in Maryland included the practice "prayers with him."

B. Amanda Schreiver's Testimony

Amanda Schreiver testified on behalf of Munson. She had been friends with Munson for thirty-two years and met Smith eleven years ago. The child refers to Schreiver as Aunt Amanda. Schreiver observed the child with Munson, went on outings with them to Hershey Park for Halloween and Christmas, and observed Munson prepare meals, snacks, and drinks. She described the relationship between Munson and the child as "loving." She described Munson as capable of fostering a relationship between the child and Smith and as a fit and proper parent. She stated that Munson would not harm the child and is not a violent person, is not an alcoholic or an excessive drinker, and that she wants what is best for the child. Schreiver described Munson's home as a "very clean" two-bedroom, two-bathroom mobile home "out in the country." Smith's attorney stipulated "to all of this."

C. Munson's Testimony

At the time of the hearing, Munson resided in her rented mobile home for more than two years. She worked full time as a manager at Phantom Fireworks. She worked two eight-hour shifts and two twelve-hour shifts per week. Typically, she worked 8 or 8:30 a.m. to 4:30 or 5 p.m. or 9 a.m. to 9 p.m. Munson made her own work schedule, so she was able to have up to six days off at a time. Her aunt watched the child when she worked late. Munson was seeking another residence because the home she rented was in the process of being sold and the closing was set then for 29 May 2025. She intended to move to a two-bedroom, one-bathroom apartment with an open floor plan located on the "[o]ther side of Hancock[,]" about ten miles from her current residence. The apartment was being painted and remodeled. She anticipated signing the lease in May. On cross-examination, she stated that she could have the lease for her new apartment "tomorrow." She planned to give Smith notice of her move when the painting was completed, and she had the "actual address and the lease."

Munson did not have health insurance for the child, but had dental and vision coverage for him through her employer. If she had custody, she could obtain health insurance coverage for the child through her employer. According to Munson, Smith liked to keep the Tricare medical insurance coverage with her. Munson had not secured health care providers for the child in Maryland because she did not have access to Tricare as she was not a spouse and Smith told her there were no health insurance cards. After Smith

moved to Alabama, she chose the child's medical providers without obtaining input from Munson. Smith did not inform Munson of the child's physical therapist until October 2024.

Munson also attended college as a full-time student. When the child was in her care, he attended the Good Shepherd preschool at the Methodist Church in Hancock on Mondays, Thursdays, and Fridays. Munson received a grant from the Department of Education to pay the child's tuition at the preschool. Munson had many family members in the area and one of her aunts watched the child as needed. According to Munson, the child did well in school, had friends, played four seasons of soccer, and played t-ball. For three seasons, Munson served as the coach for the child's soccer team.

Munson acknowledged that she and Smith have "always had rough communications both ways." According to Munson, Smith said she was going to reenlist and try to stay in North Carolina. She never said or gave the impression that she would be moving from North Carolina. Munson understood that there was always a chance Smith could be transferred out of North Carolina, but she thought she would be there longer "because the way she talked she was going to try to stay, or she would talk about getting out." If Munson had known that Smith was going to move, she never would have consented to the modified custody arrangement. The first time Smith told Munson she had been transferred to Alabama was on 26 May 2024, about a month after the consent custody order was entered.

Munson testified that it was "unrealistic" to hop on a plane, pay for a hotel, and spend thousands of dollars a month to see her son. She proposed that Smith keep the child for the remainder of the summer, except for Munson's week of vacation, and then the child

would return to live in Maryland where he was established in school and sports. Smith proposed that they rotate custody every six to eight weeks, but Munson did not agree because it would have been difficult for the child to adjust, and he would have lost his spot at his preschool.

On 17 August 2024, as Munson was traveling to pick up the child and was about halfway through Virginia, she received a text from Smith saying that she had relocated to Alabama and would not be returning the child. Munson denied being aggressive at the time with Smith, but she wanted to know where the child was. She requested Smith's address so she could get him.

According to Munson, Smith ignored her suggestions, and they had "a one-sided coparenting relationship" in which she was "constantly disrespected" and not seen as the child's parent. Smith, who was the child's biological parent, pointed out "a number of times that [the child's] blood relations are more important than any of [Munson's] family." Munson did not have a relationship with the two children Smith had with her husband because Smith told her "it's inappropriate." Nevertheless, if the children were in front of her, Munson said hello. Munson hoped that she and Smith could get along, talk to each other, and be friendly in front of their child.

Every time Munson offered to get the child medical insurance coverage through her employer, Smith threatened to exercise her tie-breaker authority and take her to court. Munson believed that she and Smith needed family counseling because they did not communicate well and she felt that she was "not equally heard[,]" had "no input[,]" and

that Smith ignored anything she said that was contrary to Smith's opinion. As an example, Munson asked for family counseling and the court-ordered video calls with respect to the child's medical appointments, but she never received them. In addition, Munson claimed that when she and Smith exchanged the child, Smith ignored her and would not acknowledge her. On one occasion, Munson invited Smith to have lunch with her and the child and Smith walked away. Munson stated that such behavior was common. The child had not seen his two mothers exchange words or smile at each other. On another occasion, Smith said she would bring the child to his t-ball practice but did not, stating that he was visiting with relatives from her side of the family. Smith accused Munson of not addressing the child's car sickness. Munson testified that, although the child rarely gets car sick when with her, she kept grape-flavored Dramamine in her car. On one occasion, when he vomited in the car, Munson got out, obtained clean clothing from luggage that was in the car, and after the child was cleaned and changed, they went on to have breakfast. Smith, however, was not satisfied with how Munson addressed the situation.

Munson acknowledged that she took the child to her place of employment. She said that her workplace was one-half mile conveniently from where the child played soccer. After she picked up the child from preschool, they would go to her office and change clothes. After soccer practice, they would return to the office where they would eat dinner and watch a movie. Munson explained that she worked in a retail store and that no chemicals or fireworks were manufactured there.

Munson stated that information she received from doctors was "completely different" from what she was told by Smith. For example, when the child returned to Munson's care in October 2024, Smith arranged for him to have virtual physical therapy appointments once a week on Tuesday mornings. Although Smith told Munson that she was not allowed to participate in the therapy sessions because it was a HIPAA violation, Munson reached out to the provider where she was told there was no issue with her participating in the sessions. As a result, Munson did not begin attending the child's therapy until his eighteenth session Munson pointed out also that the child's medical records indicated that he was working on his therapy with his "mom and his dad." Munson acknowledged that, on one occasion, the child did his virtual physical therapy session in the lobby of a building where the grandmother was attending an eye doctor appointment. Munson had brought her grandmother to the eye doctor and did not want the child to miss his physical therapy appointment. Munson explained the situation to the physical therapist, who had no objection. Munson acknowledged that the child was not engaged in that particular therapy session because he was looking forward to getting pancakes afterward.

Munson explained that she did not try to prevent the child's dental surgery. She wanted merely a second opinion because some of the teeth at issue were baby teeth, and she wanted to know if there were alternative modes of sedation. Munson addressed also Smith's accusation that she gave the child a moldy cup. Munson said the cup was sent by Smith with the child and that she had washed it. Smith accused Munson of being neglectful and the issue was discussed between the parties over a five-day period. Eventually, Munson

refused to answer any additional questions about the cup. Munson expressed concern that Smith was trying to create distance between her and the child, and that Smith might take him and move again so she would not see him anymore.

The Court's Ruling

At the close of the evidence, the court held the case *sub curia*. The court issued its ruling from the bench on 9 May 2025. After finding that there had been a material change in circumstances, the court proceeded to "analyze the best interest factors as set forth in Maryland's case law." Preliminarily, the court addressed Smith's assertion that the parties agreed already that the child would reside primarily with her once he began attending kindergarten. The court stated:

> The Court also notes as an introductory comment that Ms. Smith made the argument that because the parties had already reached an agreement that [the child] would primarily reside with her once he reached school attendance age that therefore the Court shouldn't consider a change in custody. The Court would note that that consent provision of the current custodial arrangement was entered prior to either party having knowledge of the change in duty station assignment and the change in geographic residence. Therefore, the Court does not believe it [is] appropriate or supported by law to indicate that once a material change in circumstances has been shown that the Court is precluded from considering the best interest of the child as to custodial placement between the parties.

The court proceeded to consider the factors set forth in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406, 420 (1978), and *Taylor v. Taylor*, 306 Md. 290, 304-11 (1986) (referred to hereafter collectively as the *Sanders-Taylor* factors). We will address the court's findings in more detail, *infra*.

After considering all the *Sanders-Taylor* factors, the court awarded the parties shared legal custody and granted primary physical custody and tie-breaking authority to Munson. With respect to visitation by Smith, the court ruled:

> The Court also believes it appropriate weighing all of the factors that primary physical custody of [the child] would be awarded to Ms. Munson and that extensive visitation including extensive visitation in the summertime be awarded to Ms. Smith. The Court will give the parties the opportunity to provide a proposed visitation arrangement by close of business next Friday concerning this matter. If the parties cannot reach an agreement the Court will generally follow the visitation arrangement that was set forth in the prior order switching Ms. Munson for Ms. Smith in that order regarding holiday arrangements. The Court would expect Ms. Smith to have extended visitation during the summer when [the child] is out of school including for the majority of the summer.

As for the petition for contempt, the court found that Smith was in contempt by denying Munson visitation access to the child and failing to provide full and complete information about where the child was living. The court determined, however, that Smith's compliance with the *pendente lite* order purged her contempt.

Smith filed a motion for reconsideration, arguing that the court "transferred primary custody during a dispute about visitation conditions, without providing adequate facts or justification for its decision[.]" In the motion, she argued, *inter alia*, that the court "arbitrarily made a custody determination unnecessarily and beyond what was required" and that "it was an abuse of discretion to determine custody rather than visitation logistics."

We shall include additional facts as necessary in our discussion of the questions presented.

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.* Indeed, "[t]he trial judge who sees the witnesses and the parties, and hears the testimony is in a far better position than the appellate court, which has only a transcript before it, to weigh the evidence and determine what disposition will best promote the welfare of the child." *Gizzo v. Gerstman*, 245 Md. App. 168, 201 (2020) (cleaned up).

Further, when reviewing a circuit court's child custody determinations, we utilize three interrelated standards of review. *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). First, we apply the '"clearly erroneous'" standard of review to the court's factual findings. *Id.* (quoting *Yve S.*, 373 Md. at 586). Second, where the court's custody determination "involves an interpretation and application of statutory and case law," we decide "whether the circuit court's conclusions are 'legally correct' under a *de novo* standard of review." *Barrett v. Ayres*, 186 Md. App. 1, 10 (2009) (quoting *Walter v. Gunter*, 367 Md. 386, 391-92 (2002)). Finally, if we determine that the circuit court's "ultimate conclusion" was "founded upon sound legal principles and based upon factual findings that are not clearly erroneous," we do not disturb that conclusion absent a "clear abuse of discretion." *Kadish*, 254 Md. App. at 502 (cleaned up). 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 the court deems minimally acceptable." *North v. North*, 102 Md. App. 1, 14 (1994). *See also B.O. v. S.O.*, 252 Md. App. 486, 502 (2021) (stating that an abuse of discretion "should only be found in the extraordinary, exceptional, or most egregious case" (cleaned up)). We will not reverse a circuit court's decision just because we might have ruled differently. *North*, 102 Md. App. at 14.

DISCUSSION

I.

Smith contends that the circuit court erred, as a matter of law, and violated her constitutional right to travel by modifying custody based on her Coast Guard relocation. She asserts that the circuit court "neither applied nor discussed" *Braun v. Headley*, 131 Md. App. 588 (2000), or *Domingues v. Johnson*, 323 Md. 486 (1991), two cases that she asserts address the interaction between a parent's fundamental constitutional right to interstate travel and the best interests of the child standard. Smith argues also that the court "ignored *Domingues'* directive to give 'critical importance' to the pre-relocation parent-child relationship, giving no weight to the parties' April 2024 consent order designating [Smith] as primary physical custodian with tie-breaking authority." Further, the court failed to address Munson's "acknowledged familiarity with the Coast Guard's relocation process." According to Smith, "[b]y failing to correctly apply *Braun* and *Domingues* to undisputed facts that overwhelmingly favored protecting [Smith's] interstate relocation while preserving the child's relationship with both parents, the court infringed [on Smith's]

constitutional right to travel." These claims, however, are not properly before us for our consideration.

Ordinarily, we will not decide an issue (other than jurisdiction) "unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a). Smith did not raise her constitutional right to travel as a defense against a change in custody. Our review of the transcripts makes clear that Smith did not raise the issue at the merits hearing. Nor did she raise the issue in her motion to reconsider. As the issue was neither raised in nor decided by the circuit court, it was not preserved properly for our consideration, and we shall not address it.

Even if the issue had been preserved properly, reversal would not be required. For the reasons discussed *infra*, we conclude that the circuit court considered carefully all the evidence before it, including Smith's relocation, with a view towards determining the best interests of the child.

II.

Smith argues next that the circuit court's custody determination was a clear abuse of discretion because the court disregarded its own factual findings, speculated about Munson's living arrangements, and awarded custody contrary to the child's stability and best interests. Smith maintains that the circuit court's decision to modify custody "was not grounded in the evidence[,]" "disregarded [her] credibility," disregarded the existing consent order in which Munson agreed to Smith having primary custody when the child began kindergarten, disregarded "the superior stability of her home[,] speculated about

[Munson's] circumstances[,]" and "minimized concrete evidence of parental neglect." Further, she asserts that the court failed to identify deficiencies in her parenting and acted in contradiction of its own findings, including that she gave timely notice of her relocation to Alabama, "acted in good faith to remain in North Carolina 'to facilitate visitation,'" and "had not engaged in parental alienation."

Specifically regarding Munson's home, Smith contends that the circuit court "conceded" that her "home environment was superior" to Munson's, who "rented a mobile home that was 'put up for sale[,]'" "speculated" that Munson would find another residence, and "dismissed photographs of the existing mobile home as 'no longer relevant,' even though no evidence described the supposed new [residence]."

Lastly, Smith argues that "[t]reating minor, reciprocal communication issues as a basis for reversing an established custodial order reflects a misapplication of the 'best interests' standard." She maintains that the court "downplayed" and gave "no meaningful consideration" to Munson's reluctance to pay for the child's sedation during dental surgery and her "history of sending [the child] home with a moldy sippy straw." According to Smith, although the court found "mutual shortcomings" on the part of each party, it failed to provide any reason why Smith's shortcomings "should carry greater weight – particularly in light of her consistent credibility, compliance, and initiative to preserve shared custody." We are not persuaded by Smith.

Modification of Custody Determinations

The decision "whether to grant a [custody] modification rests with the sound discretion of the trial court[.]" *Leineweber v. Leineweber*, 220 Md. App. 50, 61 (2014) (cleaned up). When, as here, parents seek modification of a custody order, the circuit court engages in a two-step process in deciding the motion. The court must consider: "(1) whether there has been a material change in circumstances, and (2) what custody arrangement is in the best interests of the [child]." *Santo v. Santo*, 448 Md. 620, 639 (2016). A material change in circumstances requires some evidence that a change has occurred since the prior custody determination that "affects the welfare of the child." *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012). Here, the parties agreed, and the court found, that a material change in circumstances existed. No challenge to that finding is before us.

After a court finds that there has been a material change in circumstances, it considers the best interests of the child as if it were an original custody proceeding. *Id.* at 171-72; *see also Wagner v. Wagner*, 109 Md. App. 1, 28 (1996) ("If a material change of circumstance is found to exist, then the court, in resolving the custody issue, considers the best interest of the child as if it were an original custody proceeding."). Whenever a court exercises jurisdiction over a child's custody, the child's best interests are of transcendent importance and must be the paramount consideration that guides the court's analysis. *See A.A. v. Ab.D.*, 246 Md. App. 418, 441-42 (2020). In *Kadish*, 254 Md. App. at 504, we delineated the two sets of factors that the court should consider in assessing the child's best interests:

> In analyzing the best interests of the child, we are guided by the factors articulated in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406, 420 (197[8]), and, with particular relevance to the consideration of joint custody, *Taylor v. Taylor*, 306 Md. 290, 304-11 (1986). In *Sanders*, this Court listed ten non-exclusive factors: (1) fitness of the parents; (2) character and reputation of the parties; (3) desire of the natural parents and agreements between the parties; (4) potentiality of maintaining natural family relations; (5) preference of the child; (6) material opportunities affecting the future life of the child; (7) age, health, and sex of the child; (8) residences of parents and opportunity for visitation; (9) length of separation from the natural parents; and (10) prior voluntary abandonment or surrender. 38 Md. App. at 420.
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> In *Taylor*, the [Supreme Court of Maryland] enumerated thirteen specific, non-exclusive factors, including some that overlap with the *Sanders* factors: (1) capacity of the parents to communicate and to reach shared decisions affecting the child's welfare; (2) willingness of parents to share custody; (3) fitness of parents; (4) relationship established between the child and each parent; (5) preference of the child; (6) potential disruption of child's social and school life; (7) geographic proximity of parental homes; (8) demands of parental employment; (9) age and number of children; (10) sincerity of parents' request; (11) financial status of the parents; (12) impact on state or federal assistance; and (13) benefit to parents. 306 Md. at 304-11.

Maryland's Supreme Court held that the *Sanders*-*Taylor* factors are "not intended to be all inclusive, and a trial judge should consider all other circumstances that reasonably relate to the issue." *Taylor*, 306 Md. at 311. We recognize that it is advisable to leave "'the delicate weighing process necessary in child custody cases'" to the circuit court, so long as there are sufficient facts in the record to support the court's custody decision. *McCarty v. McCarty*, 147 Md. App. 268, 273 (2002) (quoting *Davis v. Davis*, 280 Md. 119, 132 (1977)). We also recognize that "[c]ourts are not limited by any particular list of factors but are instead vested with wide discretion in making decisions concerning the best

interests of children." *Kadish*, 254 Md. App. at 504 (citing *Azizova v. Suleymanov*, 243 Md. App. 340, 345 (2019)).[3]

Trial Court's Consideration of the Sanders-Taylor Factors

The circuit court considered clearly and thoroughly the *Sanders-Taylor* factors. The court found that the child was five years old and "generally healthy[,]" and that both parents had established strong relationships with him "that should be encouraged." Both parties were found to be "fit and proper to have custody" of the child. In addressing the parties' fitness, the court stated specifically that it did not place great weight upon the issue of the dirty sippy cup or view it as an indication of Munson's lack of fitness. The court rejected also the allegation that there was some type of "unfitness" with respect to Munson's "household." The court found the residences of both parties "to be appropriate" and that "both parties have maintained stable residences and appropriate residences for the child and would do so regardless of what the Court orders as a custodial arrangement." As for the character and reputation of the parties, the court found that both were employed, and there was no "type of particular character defect or engagement [in] illicit activities that would make either of them unfit to have custody of [the child] or visitation access."

In addressing the desire of the natural parents and agreements between the parties, the court found both parties' requests to have custody sincere and noted that there had been "great efforts in this case to provide as much access as possible . . . to each of the parties

[3] Although not applicable in the case at hand, we note that § 9-201 of the Family Law ("FL") Article of the Maryland Annotated Code, effective 1 October 2025, sets forth factors that the circuit court may consider in determining custody and visitation.

with [the child], even given the geographic distance between the parties' residence[s]." The court took note of the extensive litigation and the prior consent custody order that was "upset" when Smith received a change in her duty assignment and the distance between the parties' residences "greatly increased[.]" The court addressed the willingness of the parties to share custody, stating that there were indications "this [cuts] both ways."

The court noted that the parties possessed the capacity to communicate and share decision-making affecting the child's welfare, but that there were times "when tensions and hostility prevent that[.]" The court found credible Smith's testimony that she received her order to change duty stations on 9 May 2024, and that she informed Munson of the transfer on 26 May 2024, but that she failed to give Munson her new address. In addressing the "communication difficulties between the parties[,]" the court stated:

> While there … were extensive texts [sic] messages exchanged th[rough] the app, App Close [sic], some of those indicate that the parties can cooperate and keep each other informed regarding what's going on with [the child]. There are other times indicating where the parties are either non-responsive to one another[,] do not necessarily answer questions in case of Ms. Smith and when that occurs Ms. Munson becomes angry and agitated and generally leads to a decline and [sic] the quality of the parties' communication.

The court further stated:

> Obviously, there are times when the parents' communications has [sic] been appropriate and the[y] have attempted to keep each other informed as to what is happening with [the child] and have attempted to provide access including through video chats within [sic]. There has also been testimony before the Court of conflicts of intents to cut the other party out from either receiving information from care providers for [the child] including doctors or dentist and there have been times when video chat visitation has been denied and there have been instances where Ms. Smith failed to provide for extended period[s] of time information to Ms. Munson regarding her new residence once she did relocate to Alabama. She indicated that she was scared that Ms.

> Munson would show up and cause a scene, perhaps abscond [with] the child. But the fact remains that she did not disclose to Ms. Munson her new residence where [the child] was living and there was a period of time when she moved, relocated her residence, did not tell Ms. Munson where that was and did not tell her where the child was.

The court found that there were times Smith had "either not disclosed information that should have been disclosed or ha[d] taken steps to make it difficult for Ms. Munson to acquire information concerning [the child]." The court found also that Smith "was not necessarily cooperative" in allowing Munson access to the child's medical and dental records, "a source of contention between the parties." As a result of that, there was an order for family therapy. The court found that Munson "credibly testified that family therapy was necessary" and that Smith "did not keep that family therapy."

With respect to the potential of maintaining natural family relations, the court found that the child had a good relationship with his siblings, that Munson had taken steps to encourage a relationship with Smith and the child's extended family members including aunts, uncles, and cousins, and that Smith expressed concern that Munson would deny and thwart visitation with Smith's parents. The court took note also of Munson's concern that Smith's change of duty assignment was "the first step in an attempt to" alienate the child from her and that the next duty assignment would be much further away where there would not be an opportunity for her to see the child. The court found Munson sincere in her desire to encourage and maintain a relationship with Smith and to maintain the child's relationship with his extended family of both parents who were located generally in Maryland and Pennsylvania. The court took note that the child had two younger siblings in Smith's

household, that he "gets along well" with them, and that no other children lived in Munson's household. The court determined that Smith was "not receptive" to Munson's "cordial outreaches" and that she had "exhibited some dis[d]ain for the fact that she has to deal with [a] shared custodial arrangement[.]" The court did not consider the child's preference due to his young age.

In addressing the geographic proximity of the parents' residences and opportunities for the child to spend time with each parent, the court stated:

> Obviously, that's what's giving rise to the matter being before the Court today. The parties were making it work with liberal visitation time when there was reasonable time between the parties. They have since attempted to address the issues with shared physical custody. Once the change of duty assignment had been effectuated there had been extended visitation between the parties with the parties exchanging [the child] at BWI airport and Pensacola Airport. That schedule is no longer feasible because [the child] is, has attained the school age, will be going to kindergarten and obviously is going to have to be in one place so he can attend school.

The court determined that both parties worked and were self-supporting. Both had "insurance resources that would be appropriate to provide for the care and custody of the child." As for the demands of parental employment, the court found that both parties were employed full-time, that Smith's husband was a stay-at-home father ("there is some built in childcare there"), and that Munson provided childcare through pre-school arrangements and through her aunt. The court did not find the length of separation from the natural parents or the impact on State or Federal assistance to be persuasive factors, and determined that there had not been a prior voluntary abandonment or surrender of the child. With respect to the potential disruption of the child's social and school life, the court found that

the child had "essentially been living between both residences up until this point" and that "this would be a much greater factor had he already been enrolled in and attending school." The court noted that the child would soon be going to school in the fall.

Analysis

Considering these findings, we cannot say that the circuit court abused its discretion in granting primary physical custody to Munson. There is nothing in the record before us to show that the court disregarded its factual findings. The court's custody determination was grounded in the evidence. We reject Smith's assertion that the court disregarded the consent order. The court considered properly the *Sanders-Taylor* factors and the best interests of the child as if it were an original custody proceeding. Also contrary to Smith's assertions, the court did not minimize "concrete evidence of parental neglect." The court considered the evidence presented about the child's sippy cup, did not place great weight upon that incident, and did not view it as an indication of Munson's lack of fitness. *Terranova v. Bd. of Trs. of Fire & Police Emps. Ret. Sys. of Balt. City*, 81 Md. App. 1, 13 (1989) ("The weighing of the evidence and the assessment of witness credibility is for the finder of fact, not the reviewing court.").

As for Munson's residence, at the time of the hearing, she resided in a two-bedroom mobile home. The court rejected Smith's suggestion that Munson's household was somehow unfit and determined that both parties had maintained stable and appropriate homes for the child. That finding was supported by evidence. We find no support for Smith's assertion that the court "conceded" that her "home environment was superior" to

Munson's. Nor did the court speculate that Munson could find another residence. Munson testified that, at some point after the hearing, she would be moving to an apartment because her current residence was being sold. The court was free to credit her testimony, which it did.

There is no indication in the record that the court disregarded Smith's credibility. Moreover, Smith's suggestion that the court was required to view the parties' communication issues as "minor" and "reciprocal" is without merit. Although the court found some communication shortcomings by both parties, it took specific note of Smith's failure to provide Munson with the address in Alabama where the child was living and instances when Smith "either [had] not disclosed information that should have been disclosed or ha[d] taken steps to make it difficult for Ms. Munson to acquire information concerning [the child]."

As for Smith's contentions that the court "downplayed" and gave "no meaningful consideration" to Munson's reluctance to have the child undergo sedation for dental issues, that the court failed to provide reasons why her shortcomings should carry greater weight in light of her "consistent credibility, compliance, and initiative to preserve shared custody[,]" and that the court failed to identify deficiencies in her parenting, we note that appellate review is not an appropriate forum for a party to relitigate its case or to argue the weight of the evidence. *See Kremen v. Md. Auto. Ins. Fund*, 363 Md. 663, 682 (2001) ("Our function is not to retry the case or reweigh the evidence[.]"). As we have noted, "[t]he weighing of the evidence and the assessment of witness credibility is for the finder of fact,

not the reviewing court." *Terranova*, 81 Md. App. at 13. The trial court was not required to adopt Smith's interpretation of the facts or her desired outcome.

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