Circuit Court for Howard County
Case No. C-13-FM-24-001269

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1056

September Term, 2025

MELANIE TORSELLA PARKER

v.

ROBERT FRANCIS PARKER, JR.

Graeff,
Tang,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: January 13, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

On June 13, 2025, the Circuit Court for Howard County granted Robert F. Parker Jr. ("Father"), appellee, a Judgment of Absolute Divorce from Melanie T. Parker ("Mother"), appellant. It awarded Father sole physical custody of their minor child, with visitation to Mother, and it ordered Mother to pay Father $1,727 per month in child support.

On appeal, Mother presents the following question for this Court's review, which we have rephrased slightly, as follows:

> Did the circuit court err in failing to notify the parties that it was contemplating an award of sole physical custody to Father until after the close of all evidence and argument?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Father and Mother were married on October 10, 2015, in Baltimore County, Maryland. They have one child together, S.P., who was six years old at the time of the hearing below.

The parties lived together until Mother left the family home with S.P. in 2024. At that point, Father's time with S.P. became limited. Father went from seeing S.P. every day to seeing S.P. three to four times a week.

On June 28, 2024, Father filed a complaint for absolute divorce, child custody, and other equitable relief. He sought joint legal and physical custody of S.P., with him "being her primary residential custodian." Father alleged that Mother refused to let him see S.P. out of her or her family's purview, and Mother excluded him from having decision-making authority.

On July 10, 2024, Mother filed a countercomplaint for absolute divorce. She sought sole legal and physical custody of S.P., with "reasonable visitation" to Father. Mother also requested child support from Father. Mother alleged that Father had substance abuse issues and was not fit or proper to care for S.P. Both parties stated that there was no reasonable expectation of reconciliation.

On November 22, 2024, the parties entered into a *pendente lite* consent order, which granted the parties joint legal custody and ordered the parties to participate in reunification therapy. The order did not discuss physical custody of S.P., but it stated that the parties' desire was "to work towards a 50/50 shared physical custody schedule." The parties agreed that Father would pay Mother $1,000 per month in child support.

On January 13, 2025, the parties submitted a joint pre-trial statement, noting that one of the issues to be tried by the court was legal and physical custody of S.P. On January 24, 2025, the parties submitted a joint statement concerning decision making authority and parenting time. The parties stated that they did not agree to issues relating to parental responsibility, decision-making authority, and parenting time. Father requested "joint legal custody and joint decision-making power," with the parties gradually working toward a 5-2-2-5 schedule. Father recommended that the parties use a parenting coordinator for two years post judgment to assist with compliance of any order of the court.

Mother proposed that the parties should have joint legal custody, with her having tie-breaking authority. Mother requested that Father have daily supervised access and begin a graduated schedule only upon "recommendation by the family reunification therapist."

On April 7, 2025, the court held a three-day hearing. The court heard from Mother and Father, S.P.'s paternal grandmother, a custody evaluator, and S.P.'s therapist.

Father testified that, in April 2024, Mother took S.P. with her on a work trip to New York. When they returned, S.P. needed a tonsillectomy and adenoidectomy. Mother told Father that she wanted to stay at her mother's and sister's apartment to avoid taking S.P. to pre-k until after the surgery. S.P. had some complications after the surgery, which took place on May 2, 2024. Mother then informed Father that she and S.P. would be staying at the apartment for the foreseeable future because S.P. needed constant monitoring. Mother did not care whether Father was angry.

Father asked Mother and S.P. to return to the family home on a few occasions, but he was turned down. Father remained in the family home, which was a three-bedroom townhouse. Mother told Father that he could not attend S.P.'s follow-up appointment with the doctor on June 18, 2024, because he was not watching S.P. and had no place at the appointment.

Shortly before filing for divorce, Father asked Mother if he and S.P. could travel to New Jersey to spend time with his family, but Mother declined. Father discovered that S.P. was on a vacation in Ocean City and attempted to coordinate for S.P. to return a day or two earlier than planned to go with him to New Jersey for a family event. Mother did not inform or consult Father before allowing S.P. to go to Ocean City. After Mother left the family home, Father continued to drop her off and pick her up from the train station before and after work.

On June 28, 2024, Father filed for divorce and served Mother at the apartment where she was staying with Cecilia Torsella (S.P.'s maternal grandmother) and Marella Torsella (S.P.'s maternal aunt). Father lied to Mother about his whereabouts to avoid picking her up from the train station after work. After serving Mother, Father thought that they would have a conversation about the pending divorce, but that did not occur.

Father requested to spend time one-on-one with S.P. multiple times. In August 2024, Mother informed S.P. that she would spend time alone with Father and S.P. became hysterical. Mother ended up joining Father and S.P. during the outing. Father testified that he felt like Mother was framing the situation as Father's fault, as if only he could change the conditions if he was willing to do something different. Father continued to request one-on-one time with S.P., but Mother continuously deferred to what S.P. wanted. Father's requests to attend activities alone with S.P. resulted in Mother joining. Some of Father's requests to spend time with S.P. alone or with his family would go unanswered. Father would request for playdates to take place at his apartment to give Mother the chance to step away. At the end of October 2024, Father requested to spend time with S.P. while his family was in town. Mother granted the request but was in attendance. At the beginning of November 2024, Father requested to spend time with S.P. on the playground, like they used to do. Mother agreed if S.P. was comfortable doing that. Father did get to take S.P. to the park, but not alone.

On October 7, 2024, Father completed an alcohol assessment as ordered by the court. Father testified that his last drink of alcohol was on June 30, 2024. The evaluator

found that Mother's accusations of alcohol abuse were "generalized statements with no specific names, dates, and situations." Father did not meet the criteria for a substance abuse disorder as there was no data to show the presence of a disorder.

At the end of October and early November 2024, Father reached out to Mother three times regarding S.P.'s health insurance, requesting to compare each party's coverage. Mother responded that she had already enrolled S.P. in her insurance plan for 2025, without discussing it with Father.

The parties mutually agreed not to use a reunification therapist because the proposed therapist did not work for their shared schedule or S.P.'s needs.[1] In late November and early December 2024, Father requested to take S.P. to New Jersey to celebrate Christmas Day with his family. Since reunification therapy had not occurred, the parties agreed that Mother would go to New Jersey with Father and S.P. to celebrate Christmas Day with Father's family. Father also asked to spend time alone with S.P. while his mother was in town, but he did not receive any time alone with S.P. and his mother. Father made multiple requests during the month of December to have one-on-one time with S.P., but the parties

[1] After S.P.'s hysterical reaction to seeing Father alone in August 2024, the parties agreed that S.P. would start therapy. The parties spoke with Mimi Ryan Sneed, a reunification therapist. While still discussing the details, Mother booked an appointment with Focus Solutions, LLC., without consulting Father. The therapist Mother originally booked through Focus Solutions recommended a different therapist, Marcie Lovell, because the original therapist did not have the qualifications to deal with S.P.'s case. The parties ultimately determined that Ms. Ryan Sneed was not an appropriate fit for their needs and could not agree on anyone else.

completed all his requested activities together. After moving out of the family home, Father moved into a two-bedroom apartment on the same street where Mother and S.P. lived.

On January 12, 2025, Mother told Father that S.P. did not want to have lunch with him or go to his apartment despite his request to spend time alone with S.P. The parties met with S.P.'s therapist to discuss how to help S.P. understand that time with Father was not optional, and the parties would spend less time together as a family. After the *pendente lite* consent order was filed, Father's access to S.P. was supposed to increase to seeing S.P. every other day and having Saturday afternoons with S.P. alone.[2] Father was supposed to call S.P. on the mornings he would not see her, but that stopped occurring because "[i]t was disrupting her morning routine of waiting in the school drop-off line."

Between January 2025 to April 2025, Father had taken S.P. to therapy and school twice. During those two interactions, there were no incidents or meltdowns and S.P. shared with Father details of her social life. Father frequently requested time with S.P., either alone or in Mother's presence. Mother frequently responded that it was dependent on what S.P. wanted and how S.P. felt. Father testified that:

> [T]he actual in-person times were lessened but they were supposed to then no longer be optional. Because if [S.P.] decided she didn't want to talk to me

[2] After meeting with S.P.'s therapist, the parties agreed to a flexible schedule, which included the following: On Mondays, Wednesdays and Fridays, Father was supposed to say goodbye to S.P. in person, with him eventually dropping her off at school alone. On Tuesdays and Thursdays, S.P was supposed to video call Father while in the school drop-off line and Father would go to Mother's residence for bedtime, with him eventually having one-on-one time with S.P. after school. On Saturdays, S.P. was supposed to spend the afternoon with Father after her dance class, with him eventually having one-on-one time with S.P. On Sundays, Father would go to Mother's residence for bedtime.

> or see me then … they didn't force her to do it. Which is understandable. But Saturday afternoons was supposed to be time with me.

In March 2025, there was an opportunity for Father to chaperone a field trip for S.P.'s school, so he let Mother know that he wanted to chaperone. Mother requested that Father remove himself from the chaperone list because S.P. did not want him to chaperone if they both could not be chaperones. Father removed himself from the chaperone list, but both parties ultimately signed up to be chaperones when there were not enough volunteers signed up. On this field trip, Father was able to spend some time with S.P. and her friends outside of Mother's presence.

The court custody evaluator, Brandi Jay, recommended that the parties attend parenting classes. Father informed Mother that he had signed up for a parenting class and asked her to join him, but Mother did not respond. Father attended two classes and requested the materials for the ones he could not attend.

Father believed that S.P. had been conditioned to think that time with him was optional. Father expressed concern that Mother's family, either consciously or unconsciously, was poisoning S.P. against him with concerns that were not observed when S.P. was alone with him. Father testified that, during a therapy session, S.P. told him that she did not want him to take her to therapy anymore. When S.P.'s therapist asked her why, S.P. said that her aunt had talked to her and told her to say that. Father testified that S.P.'s aunt would tell him he cannot do things with S.P. right in front of S.P., like go around a fence to get a ball while at the playground.

Father testified that he felt like his communication with Mother had steadily deteriorated. Mother did not use the shared family calendar to the same extent as he did, which left him with limited notice. Father did not know whether he and Mother could reach joint decisions together, but he acknowledged that they eventually did agree regarding S.P.'s therapy and how to tell S.P. about the divorce. After S.P. healed from her surgery in 2024, Father provided summer camp suggestions to Mother, but Mother said no and to stop asking. When it came to S.P.'s dance schedule, Father was not consulted before Mother signed S.P. up for the 2025 year.

Mother also signed S.P. up for Sunday school without discussing it with Father, who had an objection to that particular school. Prior to the marriage ending, the parties went to church occasionally, mainly for Christmas and Easter service. Mother began taking S.P. to church on Sundays when Sunday school was in session and on Saturdays when Sunday school was not. Father requested that Mother take S.P. to church always on Sunday rather than alternating between Saturday and Sunday, but he was told that S.P. prefers Saturday service.

On January 19, 2025, Father reached out to Mother about filing their 2024 taxes jointly, which the parties had preliminary agreed to. Father followed up in February and March. Without discussing it with Father, Mother filed her taxes separately and claimed S.P. as her dependent.

In the spring of 2023, S.P. participated in a kids' swimming program at Father's gym. She stopped in March 2024 before her surgery. In early 2025, Father brought up

resuming S.P.'s swim lessons, but Mother stated that her sister would teach S.P. Mother introduced the conversation to S.P. as "do you want to do something with a stranger or spend more time with [your aunt]".

Father testified that he felt like Mother thought he should follow orders rather than have a say on joint decisions. He and Mother began to clash on more things as time progressed. Father acknowledged that he played a role in the way S.P. felt toward him because he sometimes got angry, but then Mother would shut him out of parenting. S.P.'s attitude toward him changed dramatically when her grandmother, aunt, and Mother became her primary caregivers.

Father testified that he would consent to a parenting coordinator, co-parenting therapy, communication protocols, and mediation to help the parties. Father did not agree with Mother seeking sole legal custody because the pattern of her behavior showed no respect for him. Father believed his proposed 18 week schedule to achieve joint custody, or something similar, was in S.P.'s best interest.

Father stated that Mother protects S.P. and takes care of her, but Mother made choices that were not in S.P.'s best interest. At times, he was scared to leave Mother alone with S.P. because of Mother's rage issues. Mother had smacked S.P. in the face and knocked her head into the wall when S.P. was approximately two and three years old. During the last year, Mother's anger issues had lessened dramatically. Father, however, had limited observations of S.P. and Mother since the parties separated.

Although Mother was not actively doing anything to interfere with Father's relationship with S.P., she made it clear to S.P. through modeled behavior. He stated he "was able to be treated with disdain," and Mother and her family actively encouraged treating him that way.

Father expressed frustration that Mother would not respond or acknowledge his messages. He also was frustrated that Mother would bring up issues related to the divorce in front of S.P. The parties had not been very successful at setting aside time to check in with each other, as recommended by the parenting classes. Father requested for Mother to set aside a 15-minute window for weekly check-ins whenever was convenient for her, but she never responded to the request.

Father believed that being awarded 50-50 custody was in S.P.'s best interest, but how the parties got there should be up to the court. Father agreed with S.P.'s therapist that S.P. was not ready for overnight visitation in the following weeks. Father wanted to encourage S.P.'s spirit of adventure and willingness to explore. Father stated that S.P.'s world was small, and she should spend more time with other children and adults.

Mother testified that S.P.'s relationship with Father initially was playful, and Father was very loving. There was some tension because Father would get frustrated if S.P. would not listen or cooperate. In response, S.P. would get upset, and Mother sometimes would have to try de-escalating the situation.

Mother testified that she and S.P. began staying with her mother and sister a couple weeks before S.P.'s tonsillectomy and adenoidectomy because S.P. needed to be kept home

to avoid getting sick. Father agreed to this arrangement. After the surgery on May 2, 2024, Mother and S.P. returned to the family home for a couple of days. S.P.'s recovery took longer than expected, so Mother and S.P. went back to S.P.'s grandmother's and aunt's house so S.P. could rest more. Father was not happy with it, but he agreed to the arrangement and did not voice any objections. When Mother left the family home, she did not have the intention to abandon the marriage, nor was it meant to be a permanent move. Those plans changed when Mother was served with divorce papers.

From June to November 2024, Father was seeing S.P. on a daily basis, as he would say goodbye to S.P. before school and come over for story time at night. Father did not have unsupervised access to S.P. because S.P. stated that she was not comfortable with that, and she wanted Mother to be there with her and Father. Mother testified that she never discouraged S.P. from being alone with Father. To Mother's knowledge, no one in her family had discouraged S.P. from being alone with Father.

Mother testified that she made attempts to facilitate unsupervised access for Father. Before every outing with Father, Mother asked S.P. if she wanted to spend time with Father alone, and S.P. always wanted Mother to attend. One night, when S.P. did not want to go to sleep, per Father's instruction, Mother told S.P. that S.P. would be spending the next day with Father, and S.P. became upset. Mother stated that S.P. began grabbing onto her and became inconsolable to the point that Mother requested for Father to return. Father tried to calm S.P. down, but S.P. was still holding onto Mother, and ultimately Father told S.P. that Mother could join them.

Mother acknowledged that the schedule created with Father and S.P.'s therapist was meant to work towards one-on-one time between S.P. and Father. Although S.P. had been empowered to tell Father that she did not want to talk to him during FaceTime calls on the way to school, Mother told S.P. that S.P. had to honor her agreement with her therapist to attend sessions with Father one-on-one.

Mother did not believe that S.P. was ready to have overnights with Father. Mother believed that she should have physical custody of S.P. based on S.P.'s comfort level. Mother's concern about Father's graduated access schedule was that she wanted S.P. to feel safe and comfortable. If S.P. was not ready to take the next step, Mother wanted that to be taken into consideration and adjust the schedule to make sure S.P. was ready.

Mother disagreed with Father's testimony that S.P. had become less brave or more timid. Mother stated that:

> [S.P. is] very observant and she will take time to observe and reflect. If she doesn't feel like she's ready for something, she will articulate it, but generally, we try to encourage her for just about everything that's safe and within reason and if she says that she . . . if she is saying that she can't do something or she'll never be able to, we correct her and tell her, no, you can't do it right now, but you keep practicing and you'll eventually be able to do it, whatever, but no, I don't think that she has become more timid or afraid.

At S.P.'s field trip shortly before trial, S.P. was playing with other kids and did not spend the whole time attached to her parents. S.P. has friends her own age and had gone on play dates.

Mother testified that she and Father could make decisions together, noting that they had agreed about S.P. starting therapy. Mother acknowledged that both parties cared about

S.P. and wanted what was best for her. Mother believed that she should have the final say if the parties got into a dispute because she spent more time with S.P., S.P. was more honest with her, and Mother would take into account S.P.'s feelings. Mother did not believe that she had any issue communicating with Father about S.P. She believed that Father could communicate with her and that he was a fit and proper parent.

Mother testified that she never used corporal punishment on S.P., and she never slapped S.P. in the face. When S.P. was much younger, the parties would spank S.P. on the butt or hands. Mother also stated that she did not discuss the divorce in front of S.P. Mother testified that her mother and sister did not talk about Father in front of S.P. unless S.P. decided she wanted to discuss something.

Nancy Parker, Father's mother, testified that Father was a caring person who loves his daughter. S.P. seemed to be much shyer around Father than she used to be, and if Father told S.P. that she could do something, she would say that she had to ask Mother.

Prior to the parties' separation, Ms. Parker noticed that Mother objected to a lot of Father's actions and that the parties' relationship was deteriorating. During that time, Ms. Parker noticed that they were not able to do things together and the relationship between her and S.P. was not as comfortable. When Ms. Parker visited the parties, they would make a plan and then they would spend a lot of time waiting around.

After the parties separated, Ms. Parker saw that Father was trying to be a good parent and wanted S.P. to have a good time with their family. When Father and Mother brought

S.P. to Ms. Parker's home for Christmas, they were late. S.P. did not want to leave Mother's side, but eventually she did and had a good time.

Ms. Parker testified that Father was a fit and proper parent. Ms. Parker stated that Mother was a fit parent, but she made it difficult for Father to see S.P.

Brandi Jay conducted a custody evaluation in January 2025. She recommended joint legal custody, with a "gradual access schedule that would lead to shared physical custody in the future." Ms. Jay's recommendation provided for an 11 to 12-week schedule that would eventually lead to a 2-2-5 schedule.[3]

Ms. Jay provided this recommendation to allow S.P. to be comfortable with Father. S.P. initially reported being fearful of Father, so Ms. Jay recommended that Father attend an anger management class, which he completed. During the home assessment, S.P. seemed to be comfortable with Father, and she was sad when the visit with Father came to an end.[4] Ms. Jay "did not observe any signs showing that [S.P.] was fearful of [Father] or that there would be any concerns regarding his behavior in front of his child."

Ms. Jay testified that both parents were stable and able to meet S.P.'s needs because "both parties put [S.P.] first." They were both able to make appropriate decisions regarding S.P.'s well-being, and they both appeared to be appropriate caregivers for S.P.

[3] In the 2-2-5 schedule, S.P. would spend two days with Father, then two days with Mother, followed by five days with Father, then five days with Mother.

[4] Mother was present in the home during Father's home assessment, but Father and S.P. were upstairs and away from Mother during the assessment.

Marcie Lovell, S.P.'s therapist since October 2024, described S.P. as a happy child who was "very vocal about her feelings, especially for her age." S.P. tended to "wear[] her emotions on her face." Ms. Lovell described Father as a "good guy," who was articulate, loving, and affectionate towards S.P. Ms. Lovell described Mother as a "loving, affectionate, well-spoken, good person."

The concerns Mother had expressed to her related to how the separation impacted S.P. because S.P. was very attached to Mother. Ms. Lovell did not think that Mother's concerns about S.P.'s attachment were exclusively related to Father.

S.P. shared with Ms. Lovell that she had a fear of Father getting mad, but it had been a long time since she had seen him really mad. Ms. Lovell characterized S.P. as a people pleaser, and she was affected by body language. S.P. could tell when Father was upset or disappointed. S.P. would also get upset if Father lied. Ms. Lovell testified that "lying" could be based on how S.P. interpreted something, but if S.P. thought that something was not true, it worried her that Father was not sharing everything with her. Ms. Lovell worked with S.P. to help her understand that parents are not going to share everything unless S.P. needed to know it and it was age appropriate.

When Ms. Lovell first began working with S.P., S.P. did not want to spend time with Father, but that changed. S.P. would say that she wanted to spend time with Father during sessions, but then Mother would tell Ms. Lovell that S.P. changed her mind at home.

In January 2025, S.P. expressed frustration with the frequency of Father coming over to their residence for story time and before school. Ms. Lovell, Father, and Mother

created a schedule allowing for Father to spend more time alone with S.P. while spending less time at Mother's house. The plan never developed to the point where Father would spend time alone with S.P. because S.P. said she was not brave, strong, or old enough for it to happen. Ms. Lovell noted that S.P. would not talk like that in the middle of their session, but usually at the beginning. In Ms. Lovell's professional opinion, S.P. said things that a six-year-old child would not say but could have heard, and then S.P. repeated it.

During a session in February 2025, S.P. drew a picture of her and Father with a heart. Ms. Lovell asked S.P. if she would need anything to feel comfortable if she were to have a sleepover at Father's home. S.P. listed several items, including stuffies and pajamas. S.P. was supposed to have a sleepover at Father's one to two weeks after she drew the photo. After therapy, Mother messaged Ms. Lovell that S.P. had a panic attack and changed her mind about the sleepover. The sleepover did not occur, but the parties and Ms. Lovell discussed alternatives for Father to spend time alone with S.P. Everyone agreed that S.P. would go to Father's apartment after school and stay for dinner, but then S.P. decided she did not want to do it. At the beginning of the next session, S.P. told Ms. Lovell that she was not old enough, brave enough, or strong enough to do those things on her own without Mother being there. By the end of that session, S.P. was more open to spending time with Father. S.P. shared that she was worried about Father yelling at her, stating that he had previously gotten really angry, but she acknowledged that he had been reacting to something Mother said and not to her.

S.P. also shared that it bothered her when Father did something she did not want him to do like take her picture or give her a kiss. S.P. had been taught that she should be able to say no to anybody. Father must ask S.P. for permission to hug her every time, which Ms. Lovell testified was rare for a biological father to do based on her experience with children. Mother shared with Ms. Lovell that some of the affection between S.P. and Father made her uncomfortable and was not appropriate. This included S.P. sitting on Father's lap a certain way, Father putting his hand on S.P.'s bottom when picking her up, or S.P. putting her foot on Father's lap.

When Father took S.P. to therapy alone, S.P. shared with Ms. Lovell that she was worried it would lead to more time with Father. It worried her because Mother was S.P.'s person and S.P. was not ready. Ms. Lovell tried to explain to S.P. that Father would not hurt her, but S.P. said "that's not what she's been told." S.P. would not elaborate further on that statement. When Ms. Lovell asked S.P. about her fear of Father, S.P. recalled old memories from when the parties lived in New Jersey. Nothing that Father had recently done created the fear.

When S.P. arrived at Ms. Lovell's office, S.P.'s demeanor was good. She did not seem fearful as she and Father were holding hands. During one of the sessions, Father sat with S.P. and S.P. "put[] her arm around him, she [sat] on his lap, . . . [held] his hand . . . She look[ed] at him right in the eye . . . like she's comfortable."

During Ms. Lovell's last session with S.P., Ms. Lovell noticed that S.P. did not bring her therapy journal with her when Father took her to therapy. S.P. stated that she was afraid

that Father would look at it. During the same session, S.P. said she wanted to talk to Ms. Lovell alone, and Father stepped out of the room. S.P. stated that she did not want Father to come with her to her therapy appointments, only Mother. This had taken place after Father and S.P. had walked in and S.P. showed affection to Father. When Ms. Lovell asked S.P. why, she said she did not know why, but she did not want to, and it was not fun. In Ms. Lovell's opinion, S.P. was involved more than necessary in the child custody discussion and was exposed to information a six-year-old child should not be. After explaining to S.P. that Ms. Lovell was there to help her have a healthy relationship with Father, Ms. Lovell brought Father back into the room for S.P. to tell him how she felt. Father responded in a gentle manner.

S.P. informed Ms. Lovell that her aunt had said that Father was mean. Ms. Lovell felt that S.P.'s aunt shared information with S.P. that was not age appropriate and justified it by saying they do not keep secrets or lie. Ms. Lovell met with S.P.'s aunt and believed that she had strong feelings about Father, which S.P. witnessed while Father was in their home. Mother and her family talked about Father's parenting style, which they did not agree with but was not inappropriate for a parent, in front of S.P.

Ms. Lovell believed that the parties would benefit from family therapy, rather than reunification therapy, because they had never been separated. Family therapy would have been more appropriate to help Father and S.P. develop a healthier relationship. It was not Ms. Lovell's job to help with that because she was S.P.'s therapist, but she helped because there was no progress, and she believed that things would be harder if it continued. Ms.

Lovell believed it was in S.P.'s best interest for there to be instances of S.P. and Father alone so S.P. could see that Father was not angry all the time. Ms. Lovell did not think a 50/50 custody or equal access schedule would be appropriate right away, but a graduated schedule was most appropriate for S.P. Ms. Lovell did not think S.P. was ready for overnights with Father at the time of the hearing. The graduated access schedule should not be up to S.P., but rather, a clear plan.

When Ms. Lovell asked S.P. about taking swimming lessons, S.P. stated that she would probably be taught by her grandmother and aunt. When asked about summer camp, S.P. stated that she would rather spend time with her family. Ms. Lovell testified that S.P. was at the age where having some other activity so that S.P. was not just with family would be helpful.

Ms. Lovell did not think Mother was doing anything consciously to get in the way of Father's relationship with S.P. Mother told Ms. Lovell that S.P. suffered a panic attack when she was supposed to visit Father, but Ms. Lovell was not certain that Mother was telling the truth. Ms. Lovell reviewed the custody evaluator's graduated access schedule and testified that it was a lot for S.P. Ms. Lovell recommended that any schedule created should be provided to S.P. in increments so S.P. did not feel overwhelmed.

At the conclusion of the hearing, court noted that S.P. had been in therapy for five to six months and made no progress, which Ms. Lovell said was extremely unusual. The court found that S.P. was being fed inappropriate information from Mother's sister, and

possibly S.P.'s grandmother, and Mother's family was adding to S.P.'s problems, which was inappropriate.

The court stated:

> The issue that I have to wrestle with, because when I have a situation where one parent or one parent's family is getting involved and acting to what is not in this child's best interest, I routinely will change custody, remove that child from that environment because that child is being adversely affected. There should be no reason why a six-year-old child dictates when she is going to see a parent, plain and simple.
>
> I mean we have a situation where clearly, [Mother] . . . is actually the security crutch. In one hand, we're going through a divorce, but then on the other hand, we're going to do everything together. Oh, if you don't feel comfortable being with your father, I will be there. And everybody's living situation is different. But you sleep in the same bedroom with the child.
>
> It gets to the point where you're a child's friend, you are a child's companion, and not the child's parent. And that's what's happening here. This child has been empowered. The child has been emboldened. The child cannot say, "I'm not talking to you today, Dad." Not at six years old. You tell this child, "This is your time with your parent. You go with your parent." Plain and simple.
>
> But I also have the acknowledgement of Mr. Parker, in addition to the therapist, feeling, and Ms. Jay, feeling a graduated access schedule is appropriate for this young child.
>
> So that's the quandary that I am in. On one hand, I say, just give this child to [Father]. Give [Mother] the access that he is supposed to have. And after a couple of months or a couple of weeks, once this child sees he is not the boogieman that he is made out to be, because it's clear she's trying to appease, if not [Mother], the family members, then we can switch around and have more access.
>
> But as I said a moment ago, the experts, as well as [Father], does not feel that that should happen right now. But like I said, a six-year-old should not be dictating the terms of access with a parent, plain and simple. It's clear it is not in this child's best interest to continue in that situation. The question is, what am I going to do about it?

The court found that, although S.P. was happy and articulate, "for some reason, she cannot be alone with her father." It stated, however, that it was based on comments S.P. was exposed to by Mother's family.

The court stated that it was clear the parties had a problem. Although they could communicate, Mother did not respond and made unilateral decisions, such as sending S.P. to Sunday school without consulting Father.

Following its finding of facts, the court stated that it was going to spend a couple days deciding what an appropriate access should be "to decide what's in [S.P.'s] best interest." The court indicated that it was not persuaded that Mother wanted Father to have graduated access because if she wanted that, she would have done something months ago when she got the custody evaluator's recommendation rather than waiting for the court to decide.

On May 23, 2025, the court reconvened the parties to put its ruling on the record. The court initially set forth its findings based on the testimony. It noted that Ms. Jay, the custody evaluator, recommended joint legal custody and a gradual access schedule with S.P., who was six years old. Ms. Jay stated that Mother informed her that Father gets angry and S.P. is fearful because Father will yell at S.P., but Ms. Jay observed no signs that S.P. was fearful of Father when she observed them. Ms. Jay testified that both parties were appropriate caregivers, and she had no significant concerns with either.

Father described his relationship with S.P. as complicated, stating that he had not been able to be a "dad" since April 2024. The court found that Father had very little contact

with S.P. and had no unsupervised contact, except for therapeutic access, since May or June of 2024. Although Mother believed Father had an alcohol problem, Father testified that he was a social drinker, he did not have a problem with alcohol, and he had not had a drink since June 2024. Father tried to see S.P. approximately three to four times a week, but someone from Mother's family usually was there. Since January 2025, Father had seen S.P. alone only two times. Since moving in with Mother's family, Father noticed that S.P. had developed a defeatist attitude, stating that she was "not strong enough, not old enough, things along that line."

The parties communicated through Our Family Wizard. Father had requested one-on-one time with S.P. multiple times, but Mother denied it. The court discussed many instances in that regard. The parties' communication had been steadily deteriorating. Although they agreed to put S.P. in therapy, they could not agree about summer camp, day care, Sunday school, and swim lessons. The parties disagreed about their ability to come to joint decisions. Father claimed that Mother dictated how things would be while Mother believed that the parties could communicate. The court did not find any physical or mental conditions that affected either party's ability to care for S.P. The court highlighted that Father reached out to Mother in January to discuss tax filing, but Mother did not respond until March 7, 2025, at which time she advised that she had filed her own taxes and claimed S.P. as her dependent.

Father admitted that Mother was a fit and proper parent, although he questioned her actual parenting. Father felt that S.P. was being coached by Mother's sister to be afraid of

him, which Ms. Lovell corroborated. Father believed that Mother allowed S.P. to do whatever S.P. wanted, and S.P. was living in a small world being in Mother's environment.

The court then reviewed Mother's testimony. Mother denied ever hitting S.P. in the face, and based on the lack of additional testimony or evidence of inappropriate behavior, the court did not find that Mother ever disciplined S.P. in an inappropriate way. Mother confirmed that Father had not had unsupervised access with S.P., but she stated that S.P. did not feel comfortable alone with Father, even when Mother tried to encourage S.P. to spend time with Father. Mother requested sole physical custody of S.P.

The court discussed the testimony of S.P.'s therapist, Ms. Lovell, who met with both parties a number of times. Ms. Lovell described Father as a good person, loving, articulable, and cautious. She described Mother as "well spoken, loving, affectionate, [and] strong." Ms. Lovell highlighted that Mother was concerned about S.P.'s attachment to her. Mother's family, however, was exposing S.P. to information concerning custody and access that was clearly inappropriate. Ms. Lovell believed that activities without Mother's family would be beneficial for S.P.

In making its custody ruling, the court stated that it had to consider the factors in *Montgomery County v. Sanders*, 38 Md. App. 406, 420 (1977), and *Taylor v. Taylor*, 306 Md. 290, 307-312 (1986), which had to be considered in the best interest of S.P. The court then made findings on those factors. With respect to the capacity of the parents to communicate and reach joint decisions, the court noted that Mother believed that she and Father were able to communicate and reach shared decisions affecting the child's welfare,

but Father disagreed. He felt that Mother dictated how things would go without considering his opinion. The court found that "the parents may have the ability to communicate but they realistically do not." The court continued:

> That the willingness of the parents to share custody; the parents both say they are willing to share custody. However, I don't know if that is actually the case. That everyone who testified acknowledged that both the [Father] and [Mother] are fit parents.
>
> The relationship between the parent and each child; prior to April of 2024 the child had a great relationship with each parent. However, since moving in with [maternal grandmother] and [maternal aunt], the child's relationship with [Father] has changed. She has become more fearful of her father. She has been coached by the aunt and/or the grandmother to be afraid of [Father]. The child's therapist, as I said a moment ago, has noted that the sister passes information to [S.P.] about [Father] that is not appropriate for her age nor is in her best interest.
>
> [S.P.] is also being exposed to information concerning custody and access including the number of days to be with [Father] that are not appropriate for a six-year-old to be involved in. The child has been told or has overheard that [Father] may hurt her, which is why she feels the way she does and is now afraid to be alone with her father.
>
> [Mother] denies disparaging [Father] to [S.P.] but does in fact admit that if the child has a question she will answer it and have a discussion with [S.P.]. The child has been taught that if she does not want to see or talk to [Father] then she does not have to. This [c]ourt agrees with [Father]'s assertion that the child has been empowered by [Mother] as well as her family.
>
> As it relates to [Mother], the child has a close relationship with her and has become much more dependent on [Mother]. It is not a healthy relationship. This [c]ourt finds that the long-term contact with [Mother]'s family and the demonization of [Father] to this six-year-old child is not in the child's best interest.
>
> The preference of the child; [S.P.] is six years old and under Maryland Law she does not have what the Court would note as considered judgement. The Court assumes, however, based on everything that has occurred in this marital situation that the child prefers to be with her mother, grandmother and her aunt.

> Any potential disruption to the child's school or social life; they live in the same complex so there will be no disruption to the child's school or social life. As I indicated since the parents live in the same complex.
>
> The geographic proximity of the home; they are, as I said, within a quarter mile, a three-minute walk between their homes.
>
> The demands of parental employment; … [Father], is pretty much [an] adjunct professor at NYU. He is not full time employed any longer. He is looking for employment. Whereas [Mother] is employed in Washington DC, works about forty-five hours per week, about eleven hours per day. She gets home, according to her testimony, somewhere around six p.m.
>
> The child is six years old, a female child. The sincerity of the parties['] request; each parent is sincere about their desire to have and share custody.

The court then noted that the factors set forth in *Taylor* were similar, and it would not reiterate them. It stated, however, that the court's primary concern was what was in S.P.'s best interest. The court then explained:

> This six-year-old child has been empowered by the grandmother and the aunt that she does not have to be with or have a relationship if she doesn't want to with [Father]. That is not in her best interest.
>
> The [c]ourt is also considering the recommendation of this [c]ourt's Social Worker as well as the child's therapist which is what the [c]ourt has been balancing. They feel a gradual schedule is appropriate. However, the [c]ourt feels the more time that this child spends with the aunt and the grandmother is being detrimental to this child's best interest.
>
> Therefore, the [c]ourt is going to order as it relates to physical custody that beginning June 1st of 2025 [Father] shall be awarded sole physical custody of [S.P.], the parties' one minor child with [Mother] having reasonable and liberal access every other weekend Friday at 6:00pm to Sunday at 6:00pm and any other times the parties can agree.
>
> The child will continue to be engaged in therapy. That even though this [c]ourt is not allowed to relegate or delegate it's authority to a therapist or someone else, I am going to set a status hearing to check on the status of the child's therapy in September of 2025 to see how things are going. And also if the [c]ourt has to determine a holiday schedule, the [c]ourt will do so at that time.

> The [c]ourt feels since the [c]ourt is giving [Father] primary physical custody the parties are going to be awarded joint legal custody with [Father] having tie breaking authority if the parties cannot agree.

In its oral ruling, the court stated that it would set a status hearing for September 2025 to check on S.P.'s therapy to see how she was doing.[5] The court filed its written order on June 13, 2025, and the case was "closed."

On June 23, 2025, Mother filed a motion to alter or amend, arguing that the court abused its discretion in awarding Father primary physical custody because it ignored the recommendation of two experts and the parties. Mother alleged that the evidence before the court showed that a graduated access schedule was in S.P.'s best interest. On June 24, 2025, Mother filed a duplicate motion. On July 15, 2025, the court denied Mother's motion and the duplicate motion was deemed moot.

This appeal followed.

DISCUSSION

Mother contends that the court erred in failing "to notify the parties that it was considering an award of sole physical custody to Father until after trial had concluded," which prevented the presentation of evidence or argument on a distinct issue of child

[5] On May 19, 2025, prior to the court announcing its ruling, Father filed a motion to reopen evidence, stating that Mother did not allow him to have anything more than supervised access with S.P. despite the parties agreeing to work towards a 50/50 custodial arrangement. Father alleged that a material change in circumstances existed that warranted a *pendente lite* modification. He requested the court to grant him sole legal custody, to reopen evidence and set a half-day merits trial. During its ruling on the record, the court stated that it had not looked at or rule on the motion. Subsequently, the court denied Father's motion.

custody, violating the rights of both Mother and the minor child." Father disagrees, arguing that the court properly exercised its discretion in awarding custody based on the evidence presented.

In reviewing child custody determinations, we employ three interrelated standards of review. *Velasquez v. Fuentes*, 262 Md. App. 215, 227 (2024); *see also Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012). We review factual findings under the clearly erroneous standard, matters of law are reviewed *de novo*, the ultimate conclusion of the court based on sound legal principles and factual findings that are not clearly erroneous is reviewed for an abuse of discretion. *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022); *In re R.S.*, 470 Md. 380, 397 (2020).

Where there is no clear error, we will uphold the court's findings unless there is an abuse of discretion, meaning that "'no reasonable person would take the view adopted by the trial court,'" or the court acts "'without reference to any guiding rules or principles.'" *Santo v. Santo*, 448 Md. 620, 625–26 (2016) (cleaned up) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)); *Lamson v. Montgomery Cnty.*, 460 Md. 349, 360 (2018). Discretion is vested in the circuit court because it sees the witnesses, hears the testimony, and "is in far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor." *In re Yve S.*, 373 Md. 551, 586 (2003).

"Decisions as to child custody and visitation are governed by the best interests of the child." *Gordon v. Gordon*, 174 Md. App. 583, 636 (2007). In determining the best interests of the child in custody disputes, various factors are relevant. As this Court has explained:

> The criteria for judicial determination [of child custody] includes, but is not limited to, 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.

Id. at 637 (quoting *Montgomery Cnty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406, 420 (1977)). *Accord Karanikas v. Cartwright*, 209 Md. App. 571, 590 (2013) (court is responsible for utilizing factors to "weigh the advantages and disadvantages of the alternative environments"), *cert. dismissed as improvidently granted*, 436 Md. 73 (2013).

Additionally, when the court is considering whether to grant joint custody, the following factors are relevant:

> (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; (13) benefit to parents; and (14) other factors.

Taylor, 306 Md. at 304-311. *Accord Jose v. Jose*, 237 Md. App. 588, 600 (2018).[6]

Mother contends that the court's failure to notify the parties that it was considering an award of primary physical custody to Father deprived Mother of her due process rights and S.P.'s right to a full analysis of her best interests. We disagree.

As Father notes, a central issue at the hearing was the establishment of a custody arrangement that served S.P.'s best interest. "Parents have a natural right to the custody of their children, although this right shall not be enforced against the child's best interest." *Ghajari v. State*, 108 Md. App. 586, 593 (1996), *aff'd*, 346 Md. 101 (1997). When parents live apart, a court may award child custody to either parent or joint custody to both parents. Md. Code Ann., Family Law ("FL") § 5-203 (2019 Repl. Vol.). "Neither parent is presumed to have any right to custody that is superior to the right of the other parents." FL § 5-203(d)(2). "A court faced with a question of child custody upon the separation of the parents may continue the joint custody that has existed in the past, or award custody to one of the parents, or to a third person, depending upon what is in the best interest of the child." *Taylor*, 306 Md. at 301.

To be sure, as Mother asserts, the relief granted by the court, primary physical custody to Father, was different from the relief requested by the parties or recommended

[6] In 2025, the Maryland General Assembly enacted Family Law ("FL") § 9-201(a) (2025 Supp.), which lists sixteen factors for a court to consider when making a custody decision to ensure that the decision is in the child's best interest. This statute became effective October 1, 2025, 2025 Md. Laws Ch. 484, after the May 23, 2025 ruling in this case.

by the testifying experts.[7] As Mother acknowledges, however, a court "presiding over a custody matter *can* make an award of custody that deviates from the wishes of either party." This Court has made clear that a party's requested relief does not limit a court's authority to grant an award determined to be in the child's best interest. *Kerns v. Kerns*, 59 Md. App. 87, 94 (1984) ("The fact that the parties do not request joint custody is no limitation upon a court's authority to award it."). "The question of whether to award joint custody is not considered in a vacuum, but as a part of the overall consideration of a custody dispute." *Taylor*, 306 Md. at 303. "No agreement of the parties can bind the court to a disposition other than that which a weighing of all the factors involved shows to be in the child's best interest." *Santo*, 448 Md. at 629 (quoting *Eschbach v. Eschbach*, 436 N.E.2d 1260, 1263 (N.Y. 1982)).

Mother contends that, although the court can make an award that deviates from the wishes of the parties, the court needed to disclose to the parties that it was contemplating an award of sole custody so they "could address the issue head on." She contends that the failure to do so effectively deprived her of due process. Father disagrees, stating that "[t]he mere fact that Mother showed up at the merits trial prepared to put on evidence over multiple days related to custody of [S.P.] undermines Mother's own argument that her due process rights were violated." We agree.

[7] Mother sought primary physical and legal custody while working towards a shared access schedule. Father and the experts requested a graduated access schedule ultimately leading to joint physical custody.

Parents have a "protect[a]ble liberty interest in the care and custody of [their] children[.]" *Wagner v. Wagner*, 109 Md. App. 1, 25, *cert. denied*, 343 Md. 334 (1996). "At the core of due process is the right to notice and a meaningful opportunity to be heard." *In re Ryan W.*, 434 Md. 577, 609 (2013) (quoting *Roberts v. Total Health Care, Inc.*, 349 Md. 499, 509 (1998)). Due process does not "require procedures so comprehensive as to preclude any possibility of error," but only "*reasonable* procedural protections, appropriate to the fair determination of the particular issues presented in a given case." *Wagner*, 109 Md. App. at 24. Accordingly, we assess an "asserted denial of due process" based on "the totality of the facts in a given case." *Id.*

For a court to issue a child custody determination, "notice and an opportunity to be heard . . . shall be given to all persons entitled to notice under the laws of this State as in child custody proceedings between residents of this State, . . . and any person having physical custody of the child." FL § 9.5-205 (2019 Repl.). "It is clear that if a court is contemplating holding a hearing at which it will, or may, determine custody issues, a parent with custodial rights, or one who has the right to claim custody, must be notified that such an issue may be the subject of the hearing." *Van Schaik v. Van Schaik*, 90 Md. App. 725, 738 (1992).

In *Van Schaik*, 90 Md. App. 725, 738-39 (1992), this Court held that a father's due process rights were violated when his joint legal custody was terminated at a hearing scheduled to address visitation. In that case:

> Neither parent had asked for a change in custody or for a custody determination. Neither parent was represented by counsel and the record

> reflects that, until the court made its ruling on custody at the conclusion of the hearing, neither parent was aware that the hearing was in any way concerned with the matter of custody.

Id.

Here, by contrast, Mother appeared at the hearing represented by counsel, with notice that custody was at issue, and she presented evidence and argument regarding her position on custody. She was not denied due process.

Nor did the court deny S.P.'s rights. In a child custody case, a child has "an indefeasible right to have any custody determination concerning [the child] made, after a full evidentiary hearing, in [the child's] best interest." *Flynn v. May*, 157 Md. App. 389, 410 (2004).

Here, a review of the record shows that the court complied with its obligation to review the factors outlined in *Taylor* and *Sanders* and to consider the best interest of S.P. After detailing the evidence presented, the court found that it was in the best interest of S.P. for Father to have sole physical custody, with visitation for Mother.

The court was in the best position to assess the evidence and determine what disposition would best promote the welfare of S.P. *In re Yve S.*, 373 Md. at 586. On this record, we cannot conclude that the court abused its discretion in finding that it was in the best interest of S.P. for Father to have sole physical custody of S.P.

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