

Circuit Court for Harford County
Case No. C-12-FM-21-000472

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1252

September Term, 2023

Ruth Maria Karin Tunney

v.

Shane Hastings Tunney

Arthur,
Shaw,
McDonald, Robert N.
(Senior Judge, Specially Assigned)
JJ.

Opinion by Shaw, J.

Filed: May 16, 2024

*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 arises from a custody dispute in the Circuit Court for Harford County. On April 20, 2023, following a merits hearing, the court ordered the parties to install Life360, a tracking application, on their phones whenever the minor child is in the care and custody of either party. Appellant, Ruth Tunney filed a Motion to Alter or Amend the court's decision and Appellee Shane Tunney filed a response. The motion was denied by the court. Appellant noted this timely appeal and raises one issue.

1. Did the court below err by requiring the parties to install location tracking software on their cell phones?

BACKGROUND

Appellant Ruth Tunney, and Appellee Shane Tunney, were married in 2018. On March 9, 2021, their son D.T. was born, and later that month, Ms. Tunney filed a Complaint for Custody and Appropriate Relief in the Circuit Court for Harford County. Following a series of motions and hearings, on April 20, 2023, the court issued its opinion from the bench. As a part of its decision, the court ordered that each party install the Life360 application on their phone so that each parent would know the whereabouts of the other parent while the child was in their care and custody. The court also gave the parties the option of reaching another agreement, and stated, “[i]f you can’t reach an agreement, I’m going to order it.” The parties did not, thereafter, respond and the court issued its Order on June 5, 2023.

On June 15, 2023, Ms. Tunney filed a Motion to Alter or Amend the court's decision requiring the parties to install and maintain Life360 on their phones. In her motion, Ms. Tunney claimed that neither party requested location tracking services, and that Life360

“sells the location information it gathers.” Of particular concern to Ms. Tunney “[a]s a single mother,” was that “this is a significant invasion of privacy. The app would be able to track... details about her lifestyle that have nothing to do with the minor child.” Appellee filed a response that raised no arguments regarding the Life360 application. On June 24, 2023, the court denied the motion.

STANDARD OF REVIEW

Appellate review of a court’s ruling on a Maryland Rule 2-534 motion to alter or amend the judgment is typically limited in scope and “the relevance of an asserted legal error, of substantive law, procedural requirements, or fact-finding unsupported by substantial evidence, lies in whether there has been an abuse of discretion.” *Rose v. Rose*, 236 Md. App. 117, 129 (2018) (quoting *Schlotzhauer v. Morton*, 224 Md. App. 72, 84 (2015)).

An abuse of discretion occurs where “no reasonable person would take the view adopted by the [trial] court.” *Santo v. Santo*, 484 Md. 620, 625–26 (2016) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)). An abuse occurs when the court’s ruling is “clearly against the logic and effect of facts and inferences before the court’ or when the ruling is ‘violative of fact and logic.’” *Adoption/Guardianship No. 3598*, 347 Md. at 312. A trial court’s determination will not be reversed unless it is “well removed from any center mark imagined by the reviewing court.” *Id.* at 313 (citation omitted).

DISCUSSION

Ms. Tunney argues that the court abused its discretion in requiring both parties to install Life360, a tracking application, on their phones, because neither party “agree[d] to it, nor did they request it.” She contends that the court provided “no information in the record about what this app would do” and the app is an invasion of privacy. Appellee contends that the court did not abuse its discretion. Appellee argues that the court’s decision was based on concerns about Ms. Tunney relocating to Sweden with the child, her family ties in Sweden, and her decision to relocate with the child from Maryland to Florida without the knowledge or consent of Appellee. Lastly, Appellee argues that the Life360 application will “enhance co-parenting.”

Under Maryland Rule 2-534:

[a court], in an action filed within ten days, may open the judgment to receive additional evidence, [] may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment or may enter a new judgment.

We note that a judge is not required to grant such a motion and as stated, we review a court’s denial of a motion to alter or amend a judgment for an abuse of discretion.

To be sure, the test with respect to custody determinations begins and ends with what is in the best interest of the child. *Azizova v. Suleymanov*, 243 Md. App. 340, 347 (2019) (citing *Boswell v. Boswell*, 352 Md. 204, 236 (1998)). We, thus, examine whether the court abused its discretion in deciding to require the parties to install Life360 in that light. One of the findings made by the court was that Ms. Tunney removed the child from Maryland and relocated to Florida without the knowledge or consent of Appellee. There was also testimony that Ms. Tunney wanted to return to Sweden to live with the child and

in fact, a child psychologist testified that she was a flight risk given her dual citizenship. As a result, there were legitimate concerns brought to the court's attention about the future whereabouts of the child. The court, in making its determination that the child would remain with Ms. Tunney in Florida, sought to ensure no further relocations without court involvement and that Appellee would remain a part of the child's life. The court stated:

Well, unless the parties are going to agree otherwise, I believe they should be in a group like that, Life360, where they know where each other are. There is going to be a lot of exchanges and times when they have to find each other. Mr. Wright, unless your client, I'll let you talk to your client offline about that. Again, this is being done for [D.T.]. [D.T.] is always going to be in the care and custody of one or the other parties. So, we need to turn the heat off in this case so to speak and one of the ways to do that is information. ***So, I'm going to allow the parties to take the Court's ruling and see if they can reach another agreement. If you can't reach an agreement, I'm going to order it.***

(Emphasis added).

Based on the entirety of the record before us, we conclude that the court did not abuse its discretion in requiring the parties to utilize the Life 360 application. The court's order addressed security concerns regarding the child's whereabouts, it was limited in scope and clearly addressed the child's best interests. Ms. Tunney's arguments, in part, focus on the use of Life360 when the child is not with her, however, the court's order does not require use of the application when the child is not in her care.

Trial courts have broad discretion in "*how they fashion relief in custody matters.*" *Santo v. Santo*, 448 Md. 620, 636–67 (2016) (emphasis in original); *see Taylor v. Taylor*, 306 Md. 290, 301–02 (1986) ("We find no indication in either statute of a legislative intent to limit the broad and inherent power of an equity court to deal fully and completely with matters of child custody."). A trial court's power is broad in order to accomplish the

paramount purpose of securing the welfare and promoting the best interest of the child. “A trial court, acting under the State’s *parens patriae* authority, is in the unique position to marshal the applicable facts, assess the situation, and determine the correct means of fulfilling a child’s best interests.” *Baldwin v. Baynard*, 215 Md. App. 82, 108 (2012) (quoting *In re Mark M.*, 365 Md. 687, 705–06 (2001)).

We hold that the requirement that the parties install the Life360 application was an appropriate use of the court’s authority. Recent advances in technology now provide courts with new and innovative tools to promote the exchange of information between parents in child custody and access cases. These tools are often used to assuage concerns about the child’s well-being and whereabouts. They also provide additional opportunities for visitation and important connections between children and their parents. While they may entail some minimal privacy issues, those are far outweighed by the value in maintaining consistent and long-lasting connections between parents and their children. In essence, such tools promote the child’s best interest.

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