

Circuit Court for Prince George's County
Case No.: C-16-FM-24-000411

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1973

September Term, 2025

DERRICK BYNUM

v.

KIMBERLY CHATMAN

Graeff,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: June 12, 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 Maryland Rule 1-104(a)(2)(B).

Appellant, Derrick Bynum (“Father”), appeals from an order of the Circuit Court for Prince George’s County denying and dismissing his petition for modification of custody. Father and appellee, Kimberly Chatman (“Mother”), are the parents of D.B., born on April 24, 2020. Mother filed a petition for custody on January 17, 2024, after she reported that Father had touched D.B. inappropriately. The Prince George’s County Department of Social Services (“DSS”) investigated Mother’s report and made a finding of “indicated” child sexual abuse by Father. On May 6, 2024, the parties entered a Consent Order that gave Mother sole legal and physical custody of D.B., and denied Father any access to D.B. until the child’s therapist determined that access would be provided to Father. Father appealed DSS’s finding to the Office of Administrative Hearings (“OAH”). On August 5, 2025, the Administrative Law Judge (“ALJ”) concluded, among other things, that there was not credible evidence for DSS’s finding of “indicated” child sexual abuse and ordered that the finding be modified to “ruled out.”

Father filed Defendant’s Petition for Modification of Custody and Other Relief (the or Father’s “Petition”) on August 29, 2025. On September 25, 2025, Mother filed a motion to dismiss the Petition. Without holding any hearing, the circuit court denied and dismissed the Petition by order dated November 3, 2025.

In his informal brief Father presents three issues:

1. Whether the Circuit Court committed legal error by denying [Father’s Petition] without considering undisputed, material post-order changes in circumstances reflected in the record.

2. Whether the Circuit Court abused its discretion by continuing to rely on prior restrictions without reassessing their relevance after circumstances materially changed.
3. Whether the Circuit Court failed to conduct a legally sufficient, current best-interests analysis as required under Maryland law.

For the following reasons, we reverse the judgment of the circuit court and remand the case for further proceedings.

BACKGROUND

On December 23, 2023, D.B. reported to Mother that Father had touched her inappropriately. Mother obtained an interim protective order from the district court on December 29, 2023. On January 17, 2024, Mother filed a Complaint for Child Custody, Support Pendente Lite and Other Appropriate Relief in the circuit court. The district court granted a final protective order on February 29, 2024. On March 18, 2024, DSS made a finding of “indicated” child sexual abuse by Father. Mother and Father entered into a Consent Order in the custody case on May 6, 2024. The Consent Order, among other things, awarded Mother sole legal and physical custody of D.B. and denied any access to Father until D.B.’s therapist determined that access would be provided to Father and the terms thereof. The Consent Order also dismissed the district court’s protective order against Father.

On May 21, 2024, Father requested a contested case hearing regarding DSS’s finding of “indicated” child sexual abuse. The hearing took place on April 9, 2025 and June 23, 2025. In a written decision dated August 5, 2025, the ALJ concluded:

CONCLUSIONS OF LAW

Based upon the above Findings of Fact and Discussion, I conclude as a matter of law that the local department has not established by a preponderance of the evidence that the finding of indicated child sexual abuse is supported by credible evidence and is consistent with the law. Fam. Law § 5-701(w); COMAR 07.02.26.14B(2).

I further conclude as a matter of law that the finding should be modified to ruled out child sexual abuse and that this finding is supported by credible evidence and is consistent with the law. Fam. Law § 5-701(w); COMAR 07.02.26.14B(2).

I further conclude as a matter of law that the local department has not established by a preponderance of the evidence that the Appellant is an individual responsible for indicated child sexual abuse. COMAR 07.02.26.14B(2).

I further conclude as a matter of law that the local department shall expunge the findings and identification of the Appellant as a person responsible for child sexual abuse from the related reports of suspected abuse, assessments, and investigative findings within the time prescribed by law. *See* Md. Code Ann., Fam. Law § 5-714(e) (2019); COMAR 07.02.07.10B; *see also* Md. Code Ann., Fam. Law § 5-707(b) (2019); COMAR 07.02.26.14D.

ORDER

The Prince George’s County Department of Social Services shall expunge the finding of child sexual abuse and its identification of the Appellant as a person responsible for child sexual abuse from its related reports of suspected child abuse, assessments and investigative findings within the time prescribed by law.

On August 29, 2025, Father filed the Petition, in which he alleged that OAH’s finding of “ruled out” child sexual abuse and the expungement of DSS’s previous finding of “indicated” child sexual abuse were material changes in circumstances warranting modification of the Consent Order. Mother filed a motion to dismiss on September 25, 2025, arguing that Father had not asserted that a material change in circumstances had

occurred or that a modification of custody was in D.B.’s best interest. Mother’s motion also claimed that OAH’s finding did not change or alter the earlier finding of child sexual abuse by the district court. Father filed an opposition to Mother’s motion to dismiss on October 9, 2025. On November 3, 2025, the trial court granted Mother’s motion without a hearing, evidentiary or otherwise. The trial court’s order in its entirety is as follows:

ORDER OF COURT

(Defendant’s Petition to Modify Custody)

On April 25, 2024, Kimberly Chatman (“Plaintiff”) and Derrick Bynum (“Defendant”) entered into a Consent Order wherein Plaintiff was awarded sole legal and sole physical custody of the minor child: [D. B.] (this is not all inclusive of the Consent Order). On October 22, 2024, Defendant filed Defendant’s Amended Petition for Modification of Custody and Other Relief (“Defendant’s Amended Petition for Modification”); the court denied Defendant’s Amended Petition for Modification of Custody and Other Relief on December 29, 2024.

On August 29, 2025, Defendant filed a Petition for Modification of Custody. On September 25, 2025, Plaintiff filed a Motion to Dismiss Defendant’s Petition for Modification of Custody. On September 8, 2025, Defendant filed Defendant’s Motion for Custody Evaluation, which was denied by this court on September 12, 2025, and docketed on September 19, 2025. On October 9, 2025, Defendant filed Defendant’s Opposition to Plaintiff’s Motion to Dismiss Defendant’s Petition for Modification of Custody.

Upon consideration of Plaintiff’s Motion to Dismiss Defendant’s Petition for Modification of Custody, a review of the record and in the best interests of the minor child, [D.B.], it is, therefore, this 11/03/2025 in the Circuit Court for Prince George’s County, Maryland,

ORDERED, that Defendant’s Petition for Modification of Custody is and shall hereby be **DENIED WITHOUT PREJUDICE**; and it is further

ORDERED, that Plaintiff’s Motion to Dismiss Defendant’s Petition for Modification of Custody is and shall hereby be **GRANTED**.

This timely appeal followed.

STANDARD OF REVIEW

We review a grant of a motion to dismiss *de novo*. *Gomez v. Jackson Hewitt, Inc.*, 427 Md. 128, 142 (2012). “The grant of a motion to dismiss is proper if the complaint does not disclose, on its face, a legally sufficient cause of action.” *McMahon v. Piazzese*, 162 Md. App. 588, 597 (2005) (citation omitted).

DISCUSSION

A. Issue I. Failure to Consider Post-Order Change in Circumstances

Father’s argument on his first issue states, in its entirety, that “[t]he Circuit Court failed to meaningfully address undisputed post-order developments, constituting reversible error.”¹ We interpret Father’s argument to mean that the circuit court erred by dismissing his Petition when he properly pleaded a claim for modification of custody. We agree.

B. Analysis

At the onset, it is important to note that there was no evidentiary hearing on Father’s Petition. Thus the trial court could not make any factual findings on whether there had been a material change in circumstances or what custody arrangement was in D.B.’s best interests.

Mother’s motion to dismiss Father’s Petition raised only a procedural issue, namely,

¹ Father, *pro se*, filed an informal brief pursuant to this Court’s Administrative Order authorized under Md. Rule 8-502(a)(9). Although we acknowledge the deficiencies in Father’s brief, this Court prefers to reach a decision on the merits. *See Rollins v. Capital Plaza Assoc., L.P.*, 181 Md. App. 188, 202-03 (2008).

whether Father pleaded in the Petition a legally sufficient claim for modification of custody. *See McMahon*, 162 Md. App. at 597. To properly plead a claim for modification of custody, Father had to set forth facts supporting a finding of (1) a material change in circumstances affecting the child’s welfare since the entry of the prior custody order, and (2) a modification of custody that is in the child’s best interests. *Wagner v. Wagner*, 109 Md. App. 1, 28 (1996).

Upon our own review of Father’s Petition, this Court concludes that Father pleaded a legally sufficient claim for modification of custody. *See Baker, Watts & Co. v. Miles & Stockbridge*, 95 Md. App. 145, 186 (1993) (stating that in reviewing a disposition by a motion to dismiss, an appellate court must assume the truth of all relevant and material facts that are well-pleaded and of all inferences that can be reasonably drawn from the pleadings). We shall explain.

I. Allegations of a material change in circumstances

In the Petition, Father alleged:

17. The entire basis of the Consent Order’s limitation on Defendant’s access to the Minor Child and to any information regarding the Minor Child were the false allegations that the Defendant sexually abused the Minor Child. Plaintiff’s allegations of this originated in December 2023 and Defendant has since not seen his daughter.

* * *

24. On August 5, 2025, OAH entered an order (“OAH Order”) expunging the findings of child sexual abuse and the identification of Defendant “as a person responsible for child sexual abuse from its related reports of suspected child abuse, assessments, and investigative findings.”

* * *

42. Since the entry of the Consent Order, there have been the following material changes in circumstances warranting a modification, but not limited to:

- a. An overturned and expunged determination by Child Protective Services (CPS) finding Defendant responsible for child sexual abuse[.]

* * *

[44]. Furthermore, since the entry of the Consent Order, any perceived danger as outlined by the original CPS finding of abuse, has now been legally and factually disproven.

According to the Petition, the basis of the Consent Order was DSS’s finding against Father for “indicated” child sexual abuse. After the entry of the Consent Order, the OAH decision “ruled out” and expunged DSS’s finding against Father. Taking Father’s allegations as true, the OAH decision provides sufficient facts to support a finding of a material change in circumstances justifying a modification of the Consent Order. Therefore, Father sufficiently pleaded that there had been a material change in circumstances since the entry of the Consent Order.²

II. Allegations regarding the best interests of D.B.

The Consent Order denied Father *any* contact with his daughter, even barring Father the ability to send D.B. a birthday or holiday card. In the Petition, Father alleged that he has not had any contact with D.B. for nearly two years. Father further alleged:

31. The Minor Child’s relationship with the Defendant has been irrevocably impacted since December 2023, and now requires extensive and gradual reunification therapy between the Minor Child and the Defendant.

² Father also alleged alienation of affection, but we need not decide whether or not that allegation was sufficiently pleaded.

32. Defendant is readily willing and able to engage in reunification therapy with the Minor Child.

* * *

[43]. Defendant has proven to be a dependable, consistent, and involved father to the Minor Child before Plaintiff took measures to obstruct the relationship between Defendant and the Minor Child.

[44]. Furthermore, since the entry of the Consent Order, any perceived danger as outlined by the original CPS finding of abuse, has now been legally and factually disproven.

[45]. Thus, the current Consent Order is no longer in the Minor Child's best interest.

[46]. In fact, the current Consent Order impedes any ability for Defendant [to] start repairing his damaged relationship with the Minor Child.

According to Father, the Consent Order is no longer in D.B.'s best interest because it completely cut off all contact between D.B. and Father for the last two years based on false child sexual abuse claims.³ The Petition alleged that the Consent Order has damaged Father and D.B.'s relationship and that it is no longer in D.B.'s best interest to be separated from Father. Taking Father's allegations as true, Father sufficiently pleaded facts to support a finding that the Consent Order is no longer in the best interest of D.B and a modification of custody is warranted.

Therefore, this Court concludes that the trial court erred in dismissing Father's Petition. Father is entitled to an evidentiary hearing on the Petition. We express no opinion

³ The OAH's finding of "ruled out" means the "sexual abuse did not occur." Md. Code, Fam. Law § 5-701(w).

on the trial court’s decision resulting from such hearing.⁴

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY REVERSED. CASE
REMANDED FOR FURTHER
PROCEEDINGS. COSTS TO BE PAID
BY APPELLEE.**

⁴ Based on this Court’s ruling, there is no need to address the other issues raised by Father.