Circuit Court for Baltimore City
Case No. 24-D-23-001730

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1980

September Term, 2024

BLANCHE PRYOR SMITH

v.

DEDRICK T. PRYOR, et al.

Arthur,
Shaw,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.
Dissenting Opinion by Raker, J.

Filed: July 18, 2025

*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 appeal stems from a child custody dispute between Appellant, Blanche Pryor-Smith ("Grandmother"), and Co-Appellee, Brooke Page ("Mother"), concerning the custody of Mother's biological son ("Child"), who is ten years old. Grandmother is Child's paternal grandmother and the mother of the Co-Appellee Dedrick T. Pryor ("Father"), Child's biological father.[1] At the conclusion of a child custody hearing in September 2024, the Circuit Court for Baltimore City ruled that Grandmother had not established *de facto* parenthood. The court awarded sole legal and physical custody of Child to Mother. The court granted Father limited access at Mother's discretion.

Grandmother timely appealed and presents three issues for our review,[2] which we have consolidated into one question:

> Did the circuit court err in finding that Mother did not consent to the formation of a parent-like relationship between Grandmother and Child, and thus, Grandmother lacked *de facto* parent status?

For the following reasons, we affirm the judgment of the circuit court.

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[1] Both Mother and Father did not file a brief in this Court. As the circuit court noted, Father "didn't participate meaningfully in the trial" and "chose not to testify."

[2] Grandmother phrased her questions presented as follows:

1. Did the Circuit Court err in finding that [Mother] did not consent to the formation of a parent-child like bond between [Grandmother] and [Child]?

2. Did the Circuit Court err in finding that [Grandmother] failed to meet her burden under the 4-pronged test established in Conover v. Conover to achieve de facto parent status of [Child]?

3. Did the Circuit Court err in failing to award a custody and visitation schedule entitling [Grandmother with] access to [Child]?

BACKGROUND

In May 2023, Grandmother, without counsel, filed a petition for custody, seeking primary physical and sole legal custody of Child. Grandmother asserted that Child had "been in [her] care since he was ten months old." That same month, Father consented to Grandmother's petition for custody, agreeing that Grandmother should have primary physical and sole legal custody of Child. Mother's attorney filed an answer and counter-complaint for custody, seeking primary physical and sole legal custody of Child. Grandmother obtained counsel and filed an amended complaint for custody in March 2024, claiming that she was Child's *de facto* parent under the test outlined in *Conover v. Conover*, 450 Md. 51 (2016).

On the first day of the custody hearing in September 2024, the court asked Mother's counsel if she was contesting Grandmother's *de facto* parent status. Mother's counsel responded: "No, I am not." Mother's counsel then asserted that Grandmother had acted as a *de facto* parent "for the last few years, but not with [Mother's] consent." The court sought clarification: "Hold on. Consent is an integral aspect of *Conover*. You can't get to *de facto* parent unless you've got consent." Mother's counsel responded, "That's right. And that's the part of it that we're contesting."

During Grandmother's case-in-chief, she and her husband, Alton Smith (Child's paternal step-grandfather, "Grandfather"), testified. Grandfather stated that Child had lived with them since he was ten months old. Child had been diagnosed with Attention-Deficit/Hyperactivity Disorder (commonly known as ADHD), and he was on a waitlist for an autism assessment at the time of the custody hearing. Grandfather described the

extensive parental duties that he and Grandmother performed for Child during the years preceding the custody hearing, including medical appointments, medication management, education support, extracurricular activities, and general caretaking. When asked about the parental duties he had assumed, Grandfather testified:

> Some of those parental duties that I had to assume was when [Child] wasn't feeling well, stay up with him all night or take him to the urgent care if it was that serious. When he may have had behavior issues at school, drop what I'm doing at my place of employment and -- and go do, like, a coaching intervention with [Child].
>
> All of the mental health appointments, all of the [Individualized Education Program] appointments, all of the cognitive behavioral appointments, all of the speech therapy appointments, all of the extracurricular sports activities, the shopping, the giving of the medication, the feeding, everything that it takes in order for a child to live, I've done, and my wife has done as well.

Grandmother testified about the circumstances that led to Child living with the Grandparents. Child began living with the Grandparents because of unsafe living conditions at Child's maternal grandmother's home, where Child resided with Mother until October 2015 (when Child was about ten months old). Grandmother testified about the unsafe living conditions at Child's maternal grandmother's home:

> [Child] started living with me due to the fact that I called [Child Protective Services ("CPS")] where he was currently living because he had rodents and things inside of his milk, he had bite marks on his body, and he would have soiled diapers. Also his clothing and his blankets would be soiled too. So I called and CPS apparently went to [his maternal grandmother's] house and deemed that the living conditions was [sic] not fit for a child.

Child, Mother, and Father then resided with the Grandparents. Mother and Father's daughter ("Daughter") was born in April 2018. In July 2018, Mother, Father, and Child

vacated the Grandparents' home. In December 2018, Father returned Child to the Grandparents' home because Father "needed help to take care of [Child]."

Grandmother testified that Mother drafted a document in December 2019, that Mother and the Grandparents signed, granting the Grandparents temporary guardianship of Child "until further notarized written notice." The Grandparents and Mother were present when the document was signed before a notary at the Grandparents' house. Grandmother told the court: "I had asked [Mother] for the guardianship for [Child] since he was in my care, and she said okay."

From 2018 to 2020, Mother had "limited" participation in Child's care. During that time, Mother babysat Child while Grandmother was at work. In August 2023, Father signed a notarized document granting Grandmother power of attorney for Child. Mother signed a notarized letter in October 2021, stating:

- "Since [Child] was approximately ten (10) months old, he has been in the care of [Grandmother] and [Grandfather]."
- "In 2015 I made the decision to grant temporary guardianship to [Grandmother] and [Grandfather]."
- "[Father] has not maintained gainful employment in over 10 years[,]" "has harmed [Mother] as well as [Child] both mentally and physically."
- "[Father] is a known affiliate of a street gang[.]"
- "[B]y [Child] continuing to live with his grandparents, he will be able to maintain the home he is used to" and "attend the same school and activities he has in the past."

- The Grandparents, Kennedy Krieger, and Child's primary care provider "are ensuring [Child] stays in the best health possible."

Grandmother testified that, in June 2023, Mother expressed an interest in having custody of Child. Two months later, Mother removed Child from Grandmother's care. Until that time, the Grandparents financially supported Child. Mother and Father provided no financial support.

During Mother's case, her husband, Timothy White, testified about their relationship and living arrangements. Mr. White and Mother met on a social media application while Mr. White was living in California. Two months later, in July 2021, Mother moved to California for a job as an Amazon warehouse associate. Mother and Daughter moved in with Mr. White at that time. Mr. White and Mother married in November 2023. In January 2024, Mr. White, Mother, and Daughter relocated to Salt Lake City, Utah, because Mother received a promotion at Amazon. Mother and Mr. White have a daughter ("M.") who was two and a half years old at the time of the 2024 custody hearing.

Mother testified about her history with Father. Mother was sixteen years old when she became pregnant, and her mother "had to tell [Father] to" attend Child's birth "because he did not want to go." Mother described Father's domestic violence against her:

> There was choking, there was hitting. You know, there was [sic] times where I didn't know if I was going to actually make it out of the home. So when I did get a chance to leave, I left. And it wasn't that I didn't want to be with my son. It was a fear for my life.

Mother testified that Father threatened her about what would happen if she took Child. Those threats occurred around 2016 to 2017. After Mother left Grandmother's home in

2016, Mother reunited with Father in mid-2017 and moved back into Grandmother's home with Father and Child. Mother then became pregnant with her second child, Daughter.

When Grandmother learned that Mother was pregnant, Grandmother became upset and told Mother that she could not continue living in Grandmother's home. Mother was eight months pregnant at that time. Mother testified about her working conditions at Target and caretaking responsibilities for Child while she was pregnant with Daughter:

> I was the only provider in the relationship with me and [Father]. So I had no choice but to work and I was exhausted, but I still came, you know, when I got into the home, I got there, you know, [Child] was there and I did everything possible that I could to take care of [Child] when he was in my care, you know.

After Mother gave birth to Daughter, Mother moved back into Grandmother's home in April 2018. Mother left Grandmother's home again in December 2019 when Father punched Mother and strangled her until she was unconscious.

Mother denied signing the 2019 notarized guardianship letter. She had no recollection of seeing or signing that document. She acknowledged, however, that she had signed the 2021 letter under duress because Grandmother threatened to sue her for custody of Child if Mother did not sign the document. Mother testified that she had no intention to permanently grant custody of Child to Grandmother.

After all evidence had been presented, the court ruled that Mother did not consent to the formation of a parent-like relationship between Grandmother and Child. As to the 2019 guardianship letter, the court stated that it "cannot reconcile any number of circumstances around the signing of this guardianship, including the fact that [Mother's] name is spelled incorrectly, and the address is wrong, and she disputes that she signed it

even though the signature appears to be hers." As for the 2021 guardianship letter, the court observed that Mother testified "that she believed that this was temporary[.]" In addition, Mother "signed it because she was told by [Grandmother] that [Father] kept taking [Child] out of school and [Grandmother] didn't know where [Child] was[,] [s]o an intervention was necessary, which necessitated the guardianship."

The court noted that Child initially came into Grandmother's care because of CPS, not by Mother's consent. Mother was sixteen years old when she gave birth to Child. Mother left Grandmother's home on three occasions between 2015 and 2019, twice because she was abused by Father, and once because Grandmother told her to leave. Mother moved to California to improve her life circumstances and "to mature into a self-supporting adult." Mother had Daughter with her, and according to Mr. White, Mother "intended to reunite with [Child] once she was able to care for him." The court stated that:

> [a] reasonable person in her circumstances, which were complex and evolving, and included a lack of maturity and understanding, which she has grown into over time . . . would not have thought they were consenting to the formation of a parent-like relationship as opposed to a grandparent serving for the child's care and support.

The court concluded that Grandmother was not a *de facto* parent and the court awarded sole legal and primary physical custody to Mother, finding that it was in Child's best interests. The court ruled that Father was entitled to communication and visitation with the Child at Mother's discretion.

STANDARD OF REVIEW

Because a merits hearing in a child custody dispute is an action tried without a jury, we "review the case on both the law and the evidence" and "will not set aside the judgment

of the trial court on the evidence unless clearly erroneous, [giving] due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). "When a trial court decides legal questions or makes legal conclusions based on its factual findings, we review these determinations without deference to the trial court." *Caldwell v. Sutton*, 256 Md. App. 230, 263 (2022) (quoting *E.N. v. T.R.,* 474 Md. 346, 370 (2021).

DISCUSSION

Grandmother argues that the trial court erred in finding that Mother did not consent to the formation of a parent-like relationship between Grandmother and Child. Specifically, Grandmother points to Mother's execution of guardianship documents in 2019 and 2021 that formalized her consent to a parent-like relationship, and Mother's conduct that demonstrated consent. Grandmother argues that Mother may not retroactively withdraw the consent that was previously given, and she relies, in part, on *Caldwell v. Sutton*, 256 Md. App. 230 (2022).

The Supreme Court of Maryland, in *Conover*, recognized *de facto* parenthood and, in doing so, adopted a test enunciated by the Wisconsin Supreme Court in *In re Custody of H.S.H.-K.,* 533 N.W.2d 419 (Wis. 1995). Under the *H.S.H.-K.* test, a third party seeking *de facto* parenthood status must prove:

> (1) that the biological or adoptive parent consented to, and fostered, the petitioner's formation and establishment of a parent-like relationship with the child;
>
> (2) that the petitioner and the child lived together in the same household;
>
> (3) that the petitioner assumed obligations of parenthood by taking significant responsibility for the child's care, education and

development, including contributing towards the child's support, without expectation of financial compensation; and

(4) that the petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship parental in nature.

Conover, 450 Md. at 74 (quoting *H.S.H.-K.*, 533 N.W.2d at 435–36). The Supreme Court explained, "these factors set forth a high bar for establishing de facto parent status, which cannot be achieved without knowing participation by the biological parent." *Id*.

Here, the circuit court found that there was "no question that" Grandmother satisfied factors two through four of the *Conover* test. As to the first factor, however, the court determined that Grandmother had failed to establish that Mother consented to Grandmother's formation of a parent-like relationship with Child. The court detailed the circumstances surrounding Mother's decisions to leave Child with Grandmother. The court stated that Mother was only sixteen years old when she gave birth to Child in November 2014. Child initially came into Grandmother's care not through Mother's voluntary consent, but through CPS intervention when Child was approximately ten months old because of unsafe living conditions at the maternal grandmother's home.

From December 2015 to December 2019, Mother vacated Grandmother's home on three occasions, "all involuntarily or under severe duress. Twice because of abuse at the hands of [Father] and once because she was kicked out by [Grandmother]." Significantly, the December 2019 departure followed a severe domestic violence incident when Father strangled Mother "until she was unconscious" and "[s]he feared for her life."

The court found that "[o]n each occasion" that Mother left Grandmother's home, "there was no expressed understanding with [Grandmother] on [Child's] case. [Mother] simply trusted that [Child] would be cared for. . . . On each occasion, [Mother] intended for [Child] to return to her care," and Mother "maintained contact with [Grandmother] who facilitated visits for [Mother] with [Child]." These factual findings, which were not clearly erroneous, supported the court's determination that there was no agreement or consent to establish a parent-like relationship distinct from a grandparent-grandchild relationship.

The court also made factual findings about Mother's move to California in July 2021. The court found that Mother moved "to improve her life circumstances" and "to mature into a self-supporting adult." The court noted that Mother "had [Daughter] with her, and as corroborated by [Mr. White], intended to reunite with [Child] once she was able to care for him." The court observed that Mother "recognized at the time that she was unable to care for [Child], unable to take him with her, but had a plan to improve her condition in life." After moving to California, Mother made two cross-country visits to see Child in September 2022 and April 2023. After the second visit, Mother "started acting upon her plan, conversing with [Grandmother] about [Child] coming to California," and then Grandmother filed her petition for custody.

The court's factual findings that Mother consistently intended reunification were fully supported by the record. Mr. White testified that he and Mother had discussed the "end goal" of living with Child. Mother clarified that she did not want to take Child from

Grandmother's home until Mother could provide a stable environment for him. The court found that Mother can now provide that environment for Child.

The court recognized that the first guardianship document, dated December 2019, misspelled Mother's name and address. Mother denied that she signed it, although she conceded that the signature looked like hers. The court determined that the document "wasn't of great significance." The second guardianship document, Mother agreed that she signed in October 2021. The court determined that Mother signed it but that she did so as a temporary solution. Mother testified: "[Grandmother] brought it to my attention that it was either she was going to go [to] court and go for custody or I was going to sign this paper in order to help her with [Child] because [Father] is taking [Child] out of school and all of that stuff." The trial court credited Mother's testimony that she believed that the guardianship was temporary and not a permanent relinquishment of parental authority.

Grandmother, in her brief, mischaracterizes Mother's attorney's statement about conceding *de facto* parent status before testimony began at the custody hearing. Mother's counsel immediately clarified that any purported *de facto* relationship occurred without Mother's consent, and the court properly recognized that "[c]onsent is an integral aspect of *Conover*."

Grandmother also cites *Caldwell v. Sutton* for support but it is not applicable. *Caldwell* involved a mother who murdered her child's father and then relied on her mother (the child's maternal grandmother) for childcare while incarcerated for eight years. 256 Md. App. at 240, 279–80. The mother took the child to the grandmother before turning herself in to the police and signed a form consenting to grandmother's sole legal and

physical custody of the child while she was incarcerated. *Id*. at 279. Under those circumstances, the mother consented to a parent-like relationship between the grandmother and child. *Id*. at 280. In a footnote, this Court cautioned that the conclusion in *Caldwell* was based on those unique facts, and

> in other circumstances where a parent leaves a child with a third party for short-term temporary care due to the need for help for some reason, such as an addiction problem, to accommodate work travel, or other situations, it is unlikely that a court would find *de facto* parent status.

Id. at 280 n.17. Indeed, "parents should be encouraged to get help when they need it for their children." *Id*.

Lastly, Grandmother claims that the circuit court improperly relied on guidance from an unreported opinion, *K.J. v. T.J.*, No. 1512, Sept. Term 2021, 2022 WL 2348791 (Md. App. June 29, 2022). We disagree. There, this Court observed that "parents should not be forced to harbor concern that allowing a child to spend substantial time . . . with a grandparent might convert a normal, healthy grandchild and grandparent relationship into a de facto parent relationship." *Id*. at *5. In the present case, in rendering its decision, the Court stated: "Similar to the court's caution in *K.J. vs. T.J.*, [a] parent's fear of established [sic] a de facto parent status, especially with a grandparent or other close relative, should not be a disincentive to doing what the parent thinks is best for the long term good for the child." In our view, the court was merely acknowledging the difficult circumstances of the case. The court did not cite or otherwise rely on the opinion.

CONCLUSION

Based on the record before us, we hold that the circuit court did not err in determining that Grandmother was not a *de facto* parent. Mother left Child in Grandmother's care because of safety concerns and other realities that Mother endured after giving birth, at age, sixteen.[3] We also hold that the court did not err in awarding sole legal and primary physical custody to Mother. The court properly found that Mother was a fit and proper person and that custody with her was in the child's best interest.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[3] Grandmother does not challenge Mother's fitness as a parent. Nor does she argue that exceptional circumstances warrant third-party custody. Having determined that the circuit court properly determined that Grandmother lacks *de facto* parent status, we need not address Grandmother's remaining argument regarding custody arrangements and visitation schedules, as she lacks standing to seek such relief.

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Raker, J. dissenting:

I would hold that the trial court erred in finding that Mother did not consent to the formation of a parent-like relationship between appellant Grandmother and minor child. I would hold that the circuit court erred in finding that appellant failed to meet her burden to establish a *de facto* parent status with child. I agree with the arguments set out in appellant's well-written brief filed in this Court, and note, no responsive brief has been filed on appellee's behalf. I would remand this matter to the circuit court for the court to consider what is in the best interest of this child, recognizing that Grandmother is a *de facto* parent with standing to petition for custody of the child.

Yes, Mother was a young woman, in fact, a child, when she gave birth to her daughter. And, yes, she had problems at the time. It may well be, at the end of the day, that Mother has matured and stabilized and that it is in the best interest of the child for Mother to have custody. But, the trial court, because the court found that Grandmother was not a *de facto* parent, did not apply the proper standard for determining custody of this child, treating Grandmother as a third-party, which in my view, she is not. I do not prejudge the evidence on this issue, *i.e.*, the child's best interest—that is for the trial judge.

While *Conover* expressly states the constitutional principle that parents have a "fundamental right to make decisions concerning the care, custody, and control of [one's] children under the Fourteenth Amendment's Due Process Clause," the facts here indicate that Mother did consent, both expressly and impliedly, to Grandmother creating a parent-like relationship with child. *Conover*, 450 Md. at 70.

A biological parent may consent to the creation of a parent-like relationship with a third-party, either by express or implied consent. *E.N. v. T.R.*, 474 Md. 346, 401-02 (2021). In *E.N. v. T.R.*, the Supreme Court of Maryland held as follows:

> "[W]e conclude that so long as the consent is knowing and voluntary and would be understood by a reasonable person as indicating consent to the formation of a parent-like relationship between a third party and a child, the first factor of the *de facto* parent test may be satisfied by a legal parent's express or implied consent. As we stated in *Conover*, 450 Md. at 74, 146 A.3d at 447, *de facto* parenthood requires the knowing participation of the legal parent. Requiring that the necessary consent be knowing and voluntary imposes no greater burden on either legal parent than already exists under the first factor of the *de facto* parent test. Rather, our holding clarifies that the consent of both legal parents is required and that such consent may be express or implied."

Id.

Implied consent, as recognized in Maryland, depends on "the circumstances of a particular case and, while such consent may be inferred by a party's conduct, implied consent must nonetheless be knowing and voluntary and must be shown by conduct that would be understood by a reasonable person as indicating consent." *Id.* at 402. As related to a specific determination of *de facto* parenthood, implied consent may be determined by "a legal parent's conduct" that may be "shown through action or inaction, so long as the action or inaction is knowing and voluntary and is reasonably understood to be intended as that parent's consent to and fostering of the third party's formation of a parent-like relationship with the child." *Id.* Specific to finding a *de facto* parent relationship as the result of inaction, the Court stated as follows:

> "The inaction required to establish implied consent would necessarily involve inaction in the face of information sufficient to inform a legal parent

> that the other parent had consented to and fostered the formation of a parent-like relationship between a known third party and the legal parent's child, with the legal parent failing to act in any way to object to the formation of such a relationship. In other words, implied consent by inaction would consist of the legal parent having sufficient information concerning the fostering of a parent-like relationship between a third party and the parent's child and the parent knowingly and voluntarily not objecting. As such, an inquiry into whether a legal parent impliedly consented to and fostered a potential *de facto* parent's formation of a parent-like relationship with a child is a fact-specific inquiry to be determined on a case-by-case basis."

Id. at 402-03.

Here, Mother left the minor child with Grandmother for more than what can reasonably be considered short-term temporary care. As noted in appellant's brief, the relationship Mother consented to was far more extensive than that of an ordinary child grandparent relationship. From the time child was born in 2014 until Mother removed child from Grandmother's care in August 2023, child lived with Grandmother and step-Grandfather, they provided for him in every way and cultivated a relationship with him, were responsible for his education, and were the source of financial support. For nine years, Grandmother (and step-grandfather) were the consistent parents, and in fact, the only consistent parents.

Although the majority argues that the trial court correctly asserts that

> "[a] reasonable person in [Mother's] circumstances, which were complex and evolving, and included a lack of maturity and understanding, which she has grown into overtime . . . would not have thought they were consenting to the formation of a parent-like relationship as opposed to a grandparent serving for the child's care and support,"

I disagree. Maj. op. at *7. This explanation does not comport with the actions Mother took to assign Grandmother guardianship and leave child in her care for years,

including when Mother left for California in 2021 and returned to visit only twice from 2021 to 2023. At least by 2021 (when Mother signed the second letter granting guardianship to Grandmother), Mother was over the age of 18 and capable of understanding the significance of the letter she signed. These facts at a minimum show an implied consent on the part of Mother to foster a parent-like relationship between Grandmother and child with the letter indicating an express desire for Grandmother to have a parent-like relationship with child.