Circuit Court for Baltimore City
Case No. 24-D-18-003927

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 965
September Term, 2022

Nos. 1920, 2015, and 2367
September Term, 2024

REIKO ASANO

v.

MOLEFI ASANTE

Wells, C.J.,
Graeff,
Berger,

JJ.

Opinion by Wells, C.J.

Filed: July 17, 2025

*This is an unreported opinion. It 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 involves four consolidated appeals filed by appellant Reiko Asano ("Mother") challenging the Circuit Court for Baltimore City's decisions pertaining to disputes with appellee Molefi Asante ("Father") over the custody of their two minor twin daughters ("Children"). These appeals follow this Court's affirmance of the circuit court's order that adopted a magistrate's proposed order and "Report and Recommendation." *Asano v. Asante* (*Asano I*), No. 486, 2022 WL 17547044 (2022), *cert. denied*, 483 Md. 271 (2023). The circuit court's order resulted in Father obtaining primary physical custody and sole legal custody of the Children. In her four consolidated appeals, Mother challenges several of the circuit court's decisions denying Mother's motions and requests for reconsideration.

Mother submits five questions for our review.[1] For reasons explained in the Motion to Dismiss section of this opinion, we do not consider Mother's "Question 2" as presented

[1] Mother's verbatim questions are:

> Question 1: Whether the court's denials of Mother's motions to recuse and reassign the case based on the appearance of bias and conflicted roles of the magistrate and later judge, including as a de facto witness and advocate during the litigation, deprived Mother of Due Process and her rights under Maryland law to an independent judicial review?
>
> Question 2: Whether the court's denial of Mother's exceptions to the magistrate's recommendations to revoke Mother's custody for reporting suspected child abuse and participating in investigations arising from her children's disclosures and signs of abuse violated Due Process and Maryland law governing protection of children?
>
> Question 3: Whether the court erred by refusing to consider evidence of Father's abuse of the children and Mother?

in her verbatim questions. Accordingly, we consolidate and rephrase Mother's four remaining questions into three:

> 1. Did Judge Tipton abuse her discretion by not recusing herself after becoming a judge on the circuit court?
>
> 2. Did the circuit court err by excluding Mother's evidence of abuse during review hearings or by determining Mother required supervised visitation in the Order Regarding Visitation and Parenting Time?
>
> 3. Did the circuit court abuse its discretion by denying Mother's motions for reconsideration?

For the reasons set forth below, we conclude the circuit court did not err in any of its decisions. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The basic facts and issues underlying this case are discussed in detail in *Asano I*, but we provide background necessary for this appeal.

Mother and Father were in a relationship from 2015 to 2018 but never married. The Children were born in 2016. *Asano I* at *2. After their relationship ended, Mother filed for sole legal and physical custody in December 2018. *Id.* at *1. In a temporary consent order, Mother was granted primary custody of the Children with visitation rights for Father. *Id.* at *3.

> Question 4: Whether the court's findings that Mother's "rigid, inflexible thinking" require third-party supervision of her good parenting were clearly erroneous?
>
> Question 5: Whether the court erred by denying Mother's motions to reconsider, modify, or stay its rulings that abrogated Mother's parental rights?

The parties then engaged in several years of contentious litigation over the Children's custody, filing numerous motions and engaging in discovery. *Id.* at *3–4. In December 2020, Father filed a petition to modify custody, seeking sole physical and primary legal custody of the Children. *Id.* at *4. On March 4, 2021, the circuit court appointed a Best Interest and Privilege Attorney, Erika F. Daneman Slater ("BIPA"), to represent the Children. *Id.* In November 2021, four days of trial were held on Father's December 2020 petition to modify custody before then-Magistrate Hope Tipton of the Circuit Court for Baltimore City.[2, 3] *Id.*

On April 5, 2022, then-Magistrate Tipton issued a 124-page Report and Recommendation ("magistrate's recommendations") with a proposed order. *Id.* In her report the magistrate found no reasonable grounds to believe Father abused the Children. *Id.* at *3. The proposed order granted Father's motion for custody. *Id.* The magistrate also recommended immediate implementation of her proposed order pursuant to then-Maryland

[2] In *Asano I*, we indicated the trial was only two days, taking place on November 15 and 16, 2022. *Asano I* at *4. This appears to be an error as the April 7 Order and the parties indicate the hearings were four days long, from November 15 to 18.

[3] Throughout the litigation leading up to the trial, Mother made numerous allegations to various social services, medical professionals, and local and federal police agencies that Father was physically and sexually abusive toward the Children. *Asano I* at *2–3. This led to several investigations by Child Protective Services ("CPS"), medical examinations of the Children, forensic interviews, and professional therapy for the Children. *Id.* The magistrate heard evidence on the abuse allegations at the November 2021 trial, which included evidence from Mother as well as the Children's therapist, teacher, and two caretaker/nannies—all of whom gave testimony contrary to Mother's allegations. *Id.* at *2–4.

Rule 9-208(h)(2).[4] *Id.* at *11. A remote hearing on immediate implementation was held on April 7, 2022. *Id.* at *4. Following the hearing, the circuit court entered an "Immediate Order Regarding Modification of Custody and Visitation and Attorney's Fees" on April 7, 2022 (the "April 7 Order"),[5] granting Father primary physical custody and sole legal custody of the Children based on the magistrate's recommendations. *Id.* The April 7 Order stated: "Father may travel to and from North Carolina with [Children] without any restriction as to the frequency of monthly trips, provided that he gives Mother one-week notice before each trip and it does not cause [Children] to miss school . . . ." Further, the April 7 Order stated Mother "shall have no visitation with [Children] until she submits to a custody and visitation evaluation with a psychological assessment . . . ."[6] On April 18,

[4] Rule 9-208(h)(2) was amended and recodified as Rule 9-208(i)(2) as of January 1, 2024. This did not change the substance of the rule pertinent to this appeal. The current Rule 9-208(i)(2) states in relevant part:

> If a magistrate finds that extraordinary circumstances exist and recommends that an order be entered immediately, the court shall review the file, any exhibits, and the magistrate's findings and recommendations and shall afford the parties an opportunity for oral argument. After the opportunity for oral argument has been provided, the court may accept, reject, or modify the magistrate's recommendations and issue an immediate order. An order entered under this subsection remains subject to a later determination by the court on exceptions.

[5] This was referred to as the "Immediate Order" in the circuit court orders and *Asano I*.

[6] The April 7 Order initially denied any visitation to Mother before she received a psychological assessment. Eventually, Mother underwent a court-ordered psychological assessment. After this assessment, a November 10, 2022, consent order granted Mother telephone and videoconferencing access to the Children for set periods of time each day of the week.

2022, Mother filed exceptions to Magistrate Tipton's Report and Recommendation. After a hearing, Judge DiPietro denied Mother's exceptions in an order dated September 9, 2022, and filed September 29, 2022.

Mother appealed the April 7 Order to this Court, arguing: (1) the circuit court erroneously modified the parties' custody order as there was no material change in circumstances; (2) no extraordinary circumstances existed to warrant entry of an immediate order; and (3) Mother was denied due process because the April 7 hearing to consider the magistrate's findings and implement the April 7 Order occurred only 48 hours after the magistrate released her Report and Recommendation and before considering Mother's exceptions. *Id.* at *1. This Court disagreed with Mother and affirmed the circuit court in *Asano I*.[7] *Id.* at *4.

While *Asano I* was pending and after it was decided, Mother filed four additional appeals to this Court which we now consider.

July 27, 2022, Appeal–No. 965, September Term, 2022

On June 17, 2022, Mother filed a "Complaint to Modify Custody, Visitation and Child Support"[8] and "Motion for Preliminary and Permanent Injunction" in the circuit

[7] Mother filed a petition for writ of certiorari to the Supreme Court of Maryland, which was denied on March 27, 2023. *Asano v. Asante*, 483 Md. 271 (2023).

[8] The Modification Complaint alleged Father's move to North Carolina was a material change in circumstances requiring modification of the Children's custody. Neither of the parties' principal briefs provides argument based on the Modification Complaint.

court, requesting the court to enjoin Father from relocating the Children to North Carolina before a review hearing scheduled for October 17, 2022, to determine Mother's parenting time. On July 14, 2022, the circuit court denied Mother's request for injunction. On July 27, 2022—before appealing the April 7 Order, which was the basis of our *Asano I* decision—Mother filed an interlocutory appeal of the circuit court's denial of her request for injunction.[9] On October 25, 2022, Mother filed another notice of appeal, specifically appealing the September 29, 2022, denial of Mother's exceptions to the magistrate's recommendations.[10]

September 2, 2024, Appeal–No. 1920, September Term, 2024

Hope Tipton presided as Magistrate over most of the hearings in this case. On February 17, 2023, Mother filed a Motion for Recusal of Magistrate Tipton from the case, which the circuit court denied on March 13, 2023. On March 18, 2024, then-Magistrate Tipton was elevated to the Circuit Court for Baltimore City. On April 22, 2024, Mother filed a "Motion for Referral of Custody and Visitation Modification Matters to Another Magistrate, and Request for Hearing," which asked the circuit court to "assign another

Proceedings and motions related to the Modification Complaint are still pending before the circuit court.

[9] In *Asano I*, we noted Mother withdrew her argument that Father's move to North Carolina violated her due process rights, and we dismissed her argument as moot. *Asano I* at *1 n.1.

[10] The October 2022 appeal also specifically appealed the April 7 Order and Injunction. The April 7 Order was already the subject of *Asano I*, and the Injunction was already noted in the July 2022 notice of appeal. The July and October 2022 appeals were both filed in this Court under Case Number 965.

magistrate to matters arising from" Mother and Father's custody disputes and sought an order that "prohibits any assignment of this litigation to Judge Tipton." On July 2, 2024, Judge Tipton denied Mother's motion.

On April 8, 2024, the Children's BIPA filed a Petition for Attorney's Fees and Expenses by Counsel for Children. The Petition outlined the expenses owed to the BIPA by the parties, stated Father paid all his expenses owed while Mother did not, and requested Mother's expenses be reduced to a judgment. On May 3, 2024, the circuit court ordered judgment against Mother in favor of the BIPA in the amount of $31,112.82, and the notice of recorded judgment was entered on May 10, 2024. On May 20, 2024, Mother filed a motion to reconsider the judgment.

On July 1, 2024, Mother filed a "Motion to Remove Children's Counsel, Reorder Custody Evaluation of Defendant Father, and for Other Appropriate *Pendente Lite* Relief, and Plaintiff's Request for Hearing," which requested removal of the BIPA, re-evaluation of Father's custody, and other *pendente lite* relief ("Motion to Remove Children's Counsel and Other Relief").

On August 21, 2024, the circuit court issued two orders: one denying Mother's motion to reconsider the judgment for BIPA's fees in an "Order Regarding Judgment for Best Interest Attorney's Fees and Expenses" ("Order Regarding BIPA's Judgment"), and the other denying Mother's Motion to Remove Children's Counsel and Other Relief. On September 2, 2024, Mother appealed the Order Regarding BIPA's Judgment and the denial of Mother's Motion to Remove Children's Counsel and Other Relief.

During the same time period, the circuit court held multiple days of review hearings in March 2023, June 2023, October 2023, and July 2024, to determine Mother's fitness for visitation and parenting time with the Children pursuant to the April 7 Order (the "Review Hearings"). After the Review Hearings, on August 14, 2024, the circuit court issued an "Order Regarding Visitation and Parenting Time," which found the parties' custody arrangement would be largely controlled by the April 7 Order and provided specific details as to Mother's visitation, supervised custody, and holiday time with the Children. Although Mother's September 2, 2024, appeal to this Court did not specifically appeal the Order Regarding Visitation and Parenting Time, the September 2024 appeal still preserved our review of the merits of that order. *See Green v. Brooks*, 125 Md. App. 349, 363 (1999) ("[T]hat appellant's notice of appeal mentioned only the court's order of February 6, 1998, which denied the motion to revise, does not bar us from considering the order of August 1997. It is clear that the language used in appellant's notice of appeal does not determine what we may review.").

December 9, 2024, Appeal–No. 2015, September Term, 2024

Mother filed a motion to reconsider the Order Regarding Visitation and Parenting Time on September 16, 2024. The motion to reconsider was denied on December 2, 2024, and docketed on December 3, 2024. On December 9, 2024, Mother filed a general notice of appeal to this Court.

January 29, 2025, Appeal—No. 2367, September Term, 2024

Mother filed a "Motion to Immediately Stay and/or Modify the Order Regarding Visitation and Parenting Time, and Request for Hearing" on November 26, 2024 ("Motion to Stay"). The circuit court denied the Motion to Stay on January 8, 2025, and the denial was docketed on January 14, 2025. On January 29, 2025, Mother filed a general notice of appeal to this Court.

We address each of the appeals in turn, below. We will add additional facts as necessary.

MOTION TO DISMISS

An appellee's brief may contain a motion to dismiss if it is based on Rule 8-602(b)(1), (b)(2), (c)(1), (c)(7), or (c)(8). Md. Rule 8-603(c). Rule 8-602(c)(8) allows a court to dismiss an appeal if "the case has become moot." "[A] case is moot if no controversy exists between the parties or 'when the court can no longer fashion an effective remedy.'" *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 351–52 (2019) (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006)).

Additionally, this Court may dismiss an appeal under Rule 8-602 on its own initiative. Rule 8-602(a). Rule 8-602(b)(1) states this Court must dismiss an appeal if it "is not allowed by these Rules or other law." Rule 8-602(c) also outlines situations where we may dismiss appeals on a discretionary basis. Rule 8-602(c)(6) states a court may dismiss an appeal if "the style, contents, size, format, legibility, or method of reproduction of a brief, appendix, or record extract does not comply with Rule[] . . . 8-504[.]" In turn, Rule

8-504, among other things, requires a brief to include "a concise statement of the applicable standard of review for each issue" and "[a]rgument in support of the party's position on each issue." 8-504(a)(5)(6).

In his brief to this Court, Father included a motion to dismiss, requesting us to dismiss Mother's appeals in Case Numbers 965 and 1920 because the issues are moot or because Mother failed to make an argument in support of her contentions. We agree with Father as it relates to Case Number 965, and in addition, this Court dismisses Mother's arguments pertaining to Case Number 2367. However, we do not grant Father's motion to dismiss Case Number 1920.

Case Number 965

Father argues Mother's appeal of the denial of her request for injunction in Case Number 965 should be dismissed as moot because he provided Mother proper notice of his move to North Carolina in accordance with the April 7 Order, that order granted him sole legal and physical custody of the Children, and he has been living with the Children in North Carolina for several years. Because the relief sought in the request for injunction was to stop him from moving to North Carolina, Father contends the issue is moot because he already relocated to North Carolina and the Children have not suffered adverse consequences from the move. Additionally, Father argues the denial of the April 7 Order and Mother's exceptions was addressed in *Asano I*, and her argument in this appeal is barred by law of the case doctrine.

In Mother's reply brief, she states her appeal of the denial of her request for injunction is not moot because Mother objected to Father's relocation to North Carolina, "and their dispute remains an existing controversy." In regard to her appeal of the denial of her exceptions to the magistrate's recommendations, Mother argues the law of the case doctrine does not bar her arguments because *Asano I* decided different legal arguments related to the magistrate's recommendations than those she raises here.

We agree with Father and dismiss Case Number 965. Mother fails to make any argument in her brief related to her request for injunction. *See* Rule 8-504(a)(6) (requiring a brief to include "[a]rgument in support of the party's position on each issue"). Mother makes one reference to the request for injunction in her background section. Likewise, the request for an immediate order is referenced in the background and Mother mentions it as part of a 2024 motion to reconsider, which had nothing to do with the request for an immediate order. No argument was made regarding the merits of the motion for injunction or the April 7 Order, and Judge Tipton was still a magistrate during these proceedings, so Mother's contentions related to her recusal have no bearing on those decisions.

Next, we hold Mother's appeal of the denial of her exceptions to the magistrate's recommendations is moot. Mother argued in *Asano I* that her fundamental due process was denied when the "trial court failed to timely consider Mother's Exceptions to the Magistrate's Report and Recommendation as required by Maryland Rule 9-208(h)(2)." *Asano I* at *1 n.2. We rejected this claim, concluding the magistrate complied with Rule 9-208(h)(2). *Id.* at *13. But our decision addressed whether Mother's due process was

violated by the circuit court's adoption of the magistrate's report and recommendations before she could file exceptions, not the actual denial of her exceptions, which did not occur until after she noted her appeal in *Asano I*. However, we affirmed the circuit court's entry of the April 7 Order in *Asano I*, and the Supreme Court of Maryland denied certiorari. As a result, the April 7 Order became a final order that will not be revised except for a finding of fraud, mistake, or irregularity, none of which Mother alleges here. *See* Md. Rule 2-535(b) ("On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity."). Moreover, in *Asano I* we already ruled rejected Mother's contentions related to the April 7 Order, which ratified the magistrate's recommendations. Our holding in *Asano I*, rejecting Mother's contentions, is now the law of the case. *Kline v. Kline*, 93 Md. App. 696, 700 (1992) ("[A] ruling by an appellate court upon a question becomes the law of the case and is binding on the courts and litigants in further proceedings in the same manner. Neither the questions that were decided nor questions that could have been raised and decided on appeal can be relitigated." (citations omitted)). Accordingly, we cannot provide Mother relief by reviewing the denial of her exceptions, and the issue is moot.

Additionally, Mother failed to state an argument related to the denial of her exceptions. Mother devotes her second question to the denial of her exceptions, but it is not clear from her brief how she is alleging the circuit court erred. As far as we can tell, Mother argues the circuit court erred by finding "Mother's 'paranoid and irrational thinking' require[d] policing." Mother cites this statement as being made by Judge Tipton

during a Review Hearing in August 2024. But, as far as we can tell, the Review Hearings had nothing to do with Mother's exceptions to the magistrate's recommendations. Mother additionally cites case law for the proposition that parents are required to report sexual abuse and implies she was penalized for reporting alleged abuse of Father, which "impact[ed] the 'perhaps oldest' [d]ue [p]rocess liberty interest."[11] But neither party in this case disputes that parents should report sexual abuse of their children, and Mother does not reference any specific findings by the circuit court in either the April 7 Order adopting the Report and Recommendation or the exceptions hearing suggesting she was penalized for reporting alleged abuse. Because "[a]rguments not presented in a brief or not presented with particularity will not be considered on appeal[,]" we dismiss Mother's appeal under Case Number 965. *Anne Arundel Cnty. v. Harwood Civic Ass'n, Inc.*, 442 Md. 595, 614 (2015) (quoting *Klauenberg v. State*, 355 Md. 528, 552 (1999)).

Case Number 1920

Father argues Mother's arguments under Case Number 1920, which appealed the BIPA's fees and denial of her Motion to Remove Children's Counsel and Other Relief, should be dismissed as moot or waived for failing to make an argument. Father argues BIPA's duties concluded when the April 7 Order became final, so the issue of her removal is moot. Because a final order is already in place, Father also asserts the request for an

[11] Based on Mother's citation to *Troxel v. Granville*, we assume Mother is referring to "the interest of parents in the care, custody, and control of their children." 530 U.S. 57, 65 (2000).

evaluation of Father is moot. Finally, Father asserts that a *pendente lite* order is also moot because it only has short-term effect.

Mother states her arguments about the BIPA's fees are not moot because the question of whether Judge Tipton had authority to enter an order regarding payment to the BIPA has not been resolved. In Mother's view, Judge Tipton lacked such authority because she should have recused herself. Further, Mother argues the BIPA has continued to represent the Children in proceedings after the institution of the April 7 Order.

We decline to grant Father's motion to dismiss Mother's appeals in Case Number 1920, but we recognize that several of her contentions in this particular appeal are moot. Mother's argument in her Motion to Remove Children's Counsel and Other Relief was entirely dedicated to her attempt to remove the BIPA based on allegedly improper conduct. Mother then used that argument as a springboard to request the circuit court reverse practically every decision the circuit court made up to that point. Mother essentially wanted the court to institute a *pendente lite* custody order that was favorable to her, which was in place before the April 7 Order. As stated, the April 7 Order is a final order affirmed by this Court. The April 7 Order does not require Father to undergo a custody evaluation, and Mother's requested *pendente lite* relief cannot be provided because the April 7 Order is final. *See Krebs v. Krebs*, 183 Md. App. 102, 109–10 (2008) (finding moot a mother's contention that *pendente lite* relief given to father was improper because the court held a subsequent plenary hearing on the merits).

The only viable contention in this particular appeal appears to be her accusations about the BIPA's conduct during the Review Hearings. But in her briefs to this Court, Mother does not make any arguments regarding the BIPA's conduct and instead focuses on Judge Tipton's failure to recuse herself, which Mother argues requires reversal of all the court's decisions after Judge Tipton became a judge. Likewise, Mother's arguments to this Court regarding the court ordering her to pay the BIPA's fees are entirely based on her allegation that Judge Tipton should have recused herself. Because the issue of Judge Tipton's recusal seems viable and should be addressed, we will not dismiss Case Number 1920 as Father asks.

Case Number 2367

In the argument section of her brief, Mother makes one reference to her Motion to Stay the Order Regarding Visitation and Parenting Time, the court's denial of which is the sole subject of her appeal in Case Number 2367. But in her brief, Mother contends the court erred in denying the motion to reconsider because it failed to admit into evidence a supplementary report from a medical expert at one of the Review Hearings. In other words, her argument does not mention the motion to stay at all, only the motion to reconsider. Even if Mother had appealed the motion to stay, she does not provide a legal argument to support a contention that the court's decision to exclude evidence during the Review Hearings somehow required the circuit court to grant the motion to stay. Therefore, we dismiss Case Number 2367 as Mother makes no argument related to the Motion to Stay the Order Regarding Visitation and Parenting Time. *See* Md. Rule 8-504(a) (stating a brief

must contain "[a] clear concise statement of the facts material to a determination of the questions presented . . ." and "[a]rgument in support of the party's position on each issue").

DISCUSSION

I. Judge Tipton Did Not Abuse Her Discretion by Not Recusing Herself After Becoming a Judge on the Circuit Court.

A. Standard of Review

We review a judge's decision to recuse his or herself for abuse of discretion:

> The canon [addressing judicial participation in proceedings when impartiality might reasonably be questioned] has not been interpreted to require a trial judge, who has presided over a prior case, involving the same defendant or incident, automatically to recuse him or herself from presiding over a subsequent trial involving the defendant. This is so because there is a strong presumption in Maryland, and elsewhere, that judges are impartial participants in the legal process, whose duty to preside when qualified is as strong as their duty to refrain from presiding when not qualified. The recusal decision, therefore, is discretionary, and the exercise of that discretion will not be overturned except for abuse.
>
> To overcome the presumption of impartiality, the party requesting recusal must prove that the trial judge has "a personal bias or prejudice" concerning him or "personal knowledge of disputed evidentiary facts concerning the proceedings." Only bias, prejudice, or knowledge derived from an extrajudicial source is "personal." Where knowledge is acquired in a judicial setting, or an opinion arguably expressing bias is formed on the basis of information "acquired from evidence presented in the course of judicial proceedings before him," neither that knowledge nor that opinion qualifies as "personal."

Jefferson-El v. State, 330 Md. 99, 106–07 (1993) (internal citations omitted) (cleaned up).

B. Parties' Contentions

Mother contends Judge Tipton should have recused herself from the proceedings in this case, particularly after she became a judge on the circuit court. Judge Tipton's failure to recuse herself, Mother argues, was a violation of Mother's due process right to a fair and

impartial hearing by an unbiased judge. Mother argues Judge Tipton was required to recuse herself under the Code of Judicial Conduct because she ruled based on personal experience, had personal knowledge of disputed facts, and was a *de facto* witness to the case when she received evidence *in camera*. Additionally, Mother points to numerous parts of the record she claims support her contention that then-Magistrate Tipton showed an appearance of bias against Mother.[12]

[12] Specifically, on pages 25 and 26 of Mother's brief, she states:

> Without hearing a single witness, the magistrate warned "I don't know, frankly, you want me on this case… I just think the damages that are being done to you-all's girls is tremendous, unless there's going to be some form of definitive proof that there's been any kind of abuse, kind of thing." She disclosed discomfort in "these cases." She refused to allow Mother access to the concealed CPS records she relied on. She disrupted counsel and interrogated every witness, especially Mother. She falsely found that Mother filed charges for Father's arrest. She expounded from her private experiences and voiced lay opinions on the children's psychological reactions to medical vaginal exams. She refused to enforce the "global agreement" for supervised pendente lite access after Father and the BIA rescinded it. She permitted them to cross-examine Mother over collateral matters even she labeled irrelevant. As Judge Tipton, she found "very offensive" testimony by Dr. Jones, Mother's therapist and pastoral counselor, regarding Mother's Japanese language and the court. She criticized Dr. Jones for "strong boundary issues" because Dr. Jones submitted subpoenaed sealed records to the clerk's office. *See* Rule 2-510(i). E361-62, 364-65, 379-80, 393, 431-38, 443-49, 730-32, 740-45, 1463-66, 1587-90, 1602, 1631-32, 1651-52, 1711-13, 1753-57, 1773-80, 1879-99, 1908-27, 1962-74, 2036-40, 2050-51, 2071-73, 2075-77, 2082-84, 2121-24, 2133-36, 2166-70, 2171-73, 2178-80, 2213-18, 2238-45, 2252, 2259-62, 2269-71, 2280-2311, 2473, 2476, 2489-91, 2510, 2513-14, 2522-26, 4262-74, 4369-71, 4402-05, 4440-42, 4462-65, 4472-75, 4547-69, 4643, 4690-97, 4737, 4759-65, 5106-07, 5194-95, 5262-76, 5287-5331, 5342-43, 5758, 5761-67, 5775-79.

(citation spacing altered). Mother's citations to the record are difficult to follow as it is unclear which citations contain the quoted material in the paragraph. When attempting to

Father replies, first, that Mother waived her argument because she failed to include the applicable standard of review or state her arguments regarding judicial recusal with particularity. Accordingly, Father argues, we may dismiss Mother's appeal pursuant to Rule 8-504(a)(5) and (6), which states a brief must include "a concise statement of the applicable standard of review for each issue" and "[a]rgument in support of the party's position on each issue[.]"[13]

On the merits, Father argues Judge Tipton need not have recused herself because her knowledge of the facts came from judicial proceedings, not personal knowledge or

review the numerous citations to the 30-volume record, many of them do not appear to be related to Mother's arguments.

[13] In Mother's reply brief, she claims Father's contention is "wrong" because Rule 8-504(a)(3) does not require a standard of review. And she directs us to specific pages in her brief containing a standard of review.

Father's brief did not cite 8-504(a)(3), which requires appellant briefs to include a statement of questions presented. He cited 8-504(a)(5), which does require appellants' briefs to include a "concise statement of the applicable standard of review for each issue . . . ." Mother's references to pages in her brief contain the standard for reviewing general custody determinations and a recitation of case law related to due process and the importance of judges maintaining impartiality. Although Mother briefly quotes Code of Judicial Conduct Rule 18-102.11(a), she never mentions the abuse of discretion standard.

Regardless, we exercise our discretion and do not dismiss Mother's recusal argument because of her counsel's failure to articulate a proper standard of review. Maryland law recognizes that "dismissing an appeal on the basis of an appellant's violations of the rules of appellate procedure is considered a drastic corrective measure . . . reaching a decision on the merits of a case is always a preferred alternative." *Rollins v. Capital Plaza Associates, L.P.*, 181 Md. App. 188, 202 (2008). Although Mother's counsel's misrepresentations of facts, arguments, and law in this appeal, including the Maryland Rules here, tempt this Court to take up Father's offer, we do not wish to prejudice Mother because of her counsel's conduct and failure to comply with the Maryland Rules.

extrajudicial sources. For the same reason, Father contends Judge Tipton was not made a *de facto* witness by reviewing CPS records *in camera* because this was done in her judicial capacity. Finally, Father disagrees that the record reflects bias or prejudice against Mother just because Judge Tipton previously made findings and rulings that were not in Mother's favor.

C. Analysis

"[T]he question of recusal, at least in Maryland, ordinarily is decided, in the first instance, by the judge whose recusal is sought." *Surratt v. Prince George's Cnty.*, 320 Md. 439, 464 (1990). "Generally speaking, a judge is required to recuse himself or herself from a proceeding when a reasonable person with knowledge and understanding of all the relevant facts would question the judge's impartiality." *In re Russell*, 464 Md. 390, 402 (2019) (citing *Jefferson-El*, 330 Md. at 106–07).

> To overcome the presumption of impartiality, the party requesting recusal must prove that the trial judge has a personal bias or prejudice concerning him or personal knowledge of disputed evidentiary facts concerning the proceedings. Only bias, prejudice, or knowledge derived from an extrajudicial source is personal. Where knowledge is acquired in a judicial setting, or an opinion arguably expressing bias is formed on the basis of information acquired from evidence presented in the course of judicial proceedings before him, neither that knowledge nor that opinion qualifies as personal.

Jefferson-El, 330 Md. at 107 (internal citations and quotation marks omitted). The Maryland Code of Judicial Conduct sets forth a non-exhaustive list of instances in which a judge must recuse themselves:

> 1) The judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

> 2) The judge knows that the judge, the judge's spouse or domestic partner, an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual . . .
>
> (D) is likely to be a material witness in the proceeding.
>
> * * * *
>
> 5) The judge . . .
>
> (B) served in governmental employment, and in such capacity participated personally and substantially as an attorney or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;
>
> (C) previously presided as a judge over the matter in another court; or
>
> * * * *

Md. Rule 18-102.11(a). The Code of Judicial Conduct also applies to magistrates. Md. Rule 18-200.2(a).

Maryland appellate decisions also recognize the importance of "the judicial process not only being fair, but appearing to be fair," and apply an objective test when the appearance of impropriety is at issue:

> The test to be applied is an objective one which assumes that a reasonable person *knows and understands all the relevant facts*.... We disagree with our dissenting colleague's statement that recusal based on an appearance of impropriety ... requires us to judge the situation from the viewpoint of the reasonable person, and not from a purely legalistic perspective. Like all legal issues, judges determine appearance of impropriety—not by what a straw poll of the only partly informed man-in-the-street would show—but by examining the record facts and the law, and then deciding whether a reasonable person knowing and understanding all the relevant facts would recuse the judge.

Jefferson-El, 330 Md. at 107–08 (emphasis in original) (internal quotation marks omitted) (quoting *Boyd v. State*, 321 Md. 69, 86 (1990)).

Mother's first motion to recuse then-Magistrate Tipton was filed on February 17, 2023. Then-Magistrate Tipton recommended the circuit court not recuse her, and the circuit court denied Mother's motion on March 13, 2023. Then, five days later, on March 18, 2024, Magistrate Tipton became Judge Tipton. This prompted Mother to file a "Motion for Referral of Custody and Visitation Modification Matters to Another Magistrate, and Request for Hearing," another motion for Judge Tipton to recuse herself. Judge Tipton denied the motion on July 2, 2024. On July 15, 2024, Mother's counsel renewed their recusal motion orally during a hearing. The colloquy between Mother's counsel and Judge Tipton went as follows:

> [MOTHER'S COUNSEL]: Yes, Your Honor, may it please the Court, and as we indicated in the motion that was filed and denied, we renew our objection to the Court continuing to preside over the matter based on your judicial appointment for the reasons that it's inconsistent with the statutory scheme, and it's a deprivation of Dr. Asano's due process.
>
> THE COURT: It is not, Counsel. It's still -- I am still a member of the Judiciary as a magistrate; I'm a member of the Judiciary as a Judge. It has not changed. And on top of it, it would not be in the children's best interest for the Court to just basically throw out eight days of testimony, 51 exhibits, ten witnesses, and just say let's start over. Dr. Asano has not seen her children in over two years. That would simply delay even more time. And you're not -- she's not entitled to have anybody hear this case unless it's an establishment. And only then by statute does it have to be a judge. Your motion was denied. It remains denied. You have covered your record. Anything else?
>
> [MOTHER'S COUNSEL]: I understand. Thank you, Your Honor. No, Your Honor. That was it from our end.

It seems the underlying premise of Mother's recusal argument is that magistrates are not "member[s] of the [j]udiciary," and then-Magistrate Tipton's involvement in the case was something akin to a government employee whose role was personal in nature. For support, Mother cites *State v. Weigmann* and other cases for the proposition that magistrates are not judicial officers. 350 Md. 585, 593 (1998). While it is true magistrates are not judicial officers, they are still members of the judiciary as officers of the court:

> A [magistrate] is, however, an officer of the court, appointed by the circuit court; that court has constitutional authority to make such appointments. Md. Const. art. 4, § 9 ("The Judge, or Judges of any Court, may appoint such officers for their respective Courts as may be found necessary."); Md. Rule 2–541(a)(3) ("A [magistrate] serves at the pleasure of the appointing court and is an officer of the court in which the referred matter is pending.").

Wiegmann, 350 Md. at 594–95; *see also Merchant v. State*, 448 Md. 75, 102 (2016) ("Magistrates are arms of the judiciary whereas [Administrative Law Judges] perform executive functions."). Although magistrates do not have all the powers of a judge, they are still acting in a neutral, court-appointed position in which they rule on the admissibility of evidence, examine witnesses, and recommend findings of fact and law. Rule 9-208(b); *see Vogel v. Touhey*, 151 Md. App. 682, 709 n.8 (2003) ("[A magistrate] is authorized to take testimony, and a [magistrate's] findings of fact are to be treated as *prima facie* correct and are not to be disturbed by the court unless found to be clearly erroneous . . . ." (citation and internal quotation marks omitted)).

Mother's citations to the record that she purports show Judge Tipton had personal knowledge of facts or evidence were, in fact, instances in which Judge Tipton acted in her

official, court-appointed capacity as a member of the judiciary. As such, Maryland law is clear that Judge Tipton was not required to recuse herself because her exposure to evidence and testimony in this case was not done in a personal capacity but rather as a member of the judiciary. *Jefferson-El*, 330 Md. at 107 ("Only bias, prejudice, or knowledge derived from an extrajudicial source is personal."). Likewise, Judge Tipton's findings contrary to Mother's interpretation of the facts were not personal in nature.

Furthermore, Mother has not met her burden showing that Judge Tipton's words or actions during proceedings gave the appearance of bias against her. The quoted portions of Judge Tipton's statements that Mother provides do not persuade us that a "reasonable person knowing and understanding all the relevant facts would recuse the judge." *Jefferson-El*, 330 Md. at 108 (citation omitted).

Finally, Mother argues in her brief that Judge Tipton "deprived Mother of her rights to a *de novo* judicial review of the record and the magistrate's recommendations[.]" This is not true. We do not see an instance in the record where Judge Tipton adopted any recommendations she made while a magistrate. If Mother's argument is in reference to the April 7 Order, that Order was signed by Judge DiPietro. Mother does not cite any law for the proposition that Judge Tipton could not preside over the Review Hearings, order her to pay the BIPA's fees, modify her visitation, deny her request to stay, or deny any of her motions to reconsider these decisions. *See* Rule 9-208(a)(1)(F) ("[T]he following matters arising under this Chapter [including modification of an order or judgment as to custody or visitation] shall be referred to the standing magistrate as of course, unless, in a specific

case, the court directs that the matter be heard by a judge[.]"). Mother was still able to obtain judicial review of Judge Tipton's decisions by this Court, which she is doing in this case.

Accordingly, we conclude Judge Tipton did not err in declining to recuse herself, and, consequently, Mother suffered no due process violation.[14]

II. The Circuit Court Did Not Err by Excluding Mother's Evidence of Alleged Abuse by Father During Review Hearings or by Determining Mother Required Supervised Visitation in the Order Regarding Visitation and Parenting Time.

A. Standard of Review

This Court reviews child custody determinations utilizing three interrelated standards of review. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). Specifically:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

Id. (alteration in original) (quoting *In re Yve S.*, 373 Md. at 586). Further,

> We recognize that "it is within the sound discretion of the [trial court] to award custody according to the exigencies of each case, and . . . a reviewing

[14] Mother's appeals of the Order Regarding BIPA's Judgment and denial of her Motion to Remove Children's Counsel and Other Relief in Case Number 1920 were entirely based on her argument that Judge Tipton should have recused herself. Because we reject Mother's recusal argument, we only consider her challenges to the circuit court's denial of her motions to reconsider those decisions, which are addressed in Section III, below.

> court may interfere with such a determination only on a clear showing of abuse of that discretion. Such broad discretion is vested in the [trial court] because only he sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; he is in a 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."

Id. at 171 (alteration in original) (quoting *In re Yve S.*, 373 Md. at 585–86).

An abuse of discretion occurs "where no reasonable person would take the view adopted by the trial court" or when the court "acts without reference to any guiding rules or principles." *Alexander v. Alexander*, 252 Md. App. 1, 17 (2021) (cleaned up). "Put simply, we will reverse the trial court [under the abuse of discretion standard] unless its decision is 'well removed from any center mark imagined by the reviewing court.'" *Santo v. Santo*, 448 Md. 620, 626 (2016) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1997)). "A finding of a trial court is not clearly erroneous if there is competent or material evidence in the record to support the court's conclusion." *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996).

B. Analysis

Mother contends the Order Regarding Visitation and Parenting Time should be vacated because (1) the circuit court did not allow Mother to admit evidence of Father's abuse of the Children during hearings to evaluate Mother's visitation, and (2) the record does not support the circuit court's finding that Mother required supervised visits with the Children. We take each of these arguments in turn and explain why the court did not err in either decision.

1. The Circuit Court Did Not Err by Excluding Mother's Evidence of Alleged Abuse by Father During Review Hearings.

Mother contends the circuit court's Order Regarding Visitation and Parenting Time should be vacated because the circuit court refused to admit what she alleges is evidence of physical and sexual abuse by Father during the numerous Review Hearings. Mother contends § 9-101.1 of the Family Law ("FL") Article of the Maryland Code requires trial courts to consider evidence of abuse against parents or children committed by a party in custody or visitation disputes. Mother then lists several instances throughout the Review Hearings in which Judge Tipton sustained Father's objections to Mother's attempts to admit evidence of alleged abuse by Father.[15]

Father responds that the Maryland Rules of Evidence applied during the Review Hearings and Judge Tipton properly excluded Mother's evidence of alleged abuse by

[15] Specifically, Mother complains she was not allowed to testify regarding: "the relationship being '(v)ery abusive,'" being pressured to abort the Children, the Children's "disclosures and behaviors," Father striking one of the Children being a factor in believing the children were human trafficking victims, hearing one of the Children's "bone-chilling" scream during a remote session, Father forcing Mother to sign a contract, Father strangling Mother, the court punishing Mother for trying to protect the Children from abuse, and other general testimony that Father abused the children.

Additionally, Mother complains the court sustained objections to Mother's attempts to enter the following evidence: Mother's access to CPS records for its abuse allegations; a 2018 video of Father striking one of the Children from Mother's arms; evidence of the "Code of Supreme Understanding" allegedly written by Father; admission of Dr. Champion's 2021 evaluation of abuse and neglect allegations and testimony regarding her 2021 report; Dr. Lefkowits' evidence supporting Mother's abuse allegations; Dr. Krugman's testimony that Mother had reasonable grounds to suspect child abuse; and nanny-cam recordings of the Children's sexual acts.

Father because it was not relevant to the hearings—which were to determine Mother's fitness for visitation with the Children—and several exhibits were unauthenticated. Furthermore, Father argues, the circuit court already found there were not reasonable grounds to believe Father abused the Children, and Mother was trying to re-litigate abuse allegations already addressed in hearings prior to the April 7 Order. Finally, Father points out the court did allow Mother to enter some evidence of Father's alleged abuse during the Review Hearings, considered the evidence of alleged abuse, expressly acknowledged its obligation to consider abuse allegations under FL § 9-101.1, and expressed it understood Mother's beliefs regarding the alleged abuse of the Children.[16]

FL § 9-101.1(b) states:

> In a custody or visitation proceeding, the court shall consider, when deciding custody or visitation issues, evidence of abuse by a party against:
>
> (1) the other parent of the party's child;
>
> (2) the party's spouse; or
>
> (3) any child residing within the party's household, including a child other than the child who is the subject of the custody or visitation proceeding.

"If the court finds that a party has committed abuse . . . the court shall make arrangements for custody or visitation that best protect: (1) the child who is the subject of the proceeding; and (2) the victim of abuse." FL § 9-101.1(c). However, as Father points out, Maryland

[16] Father also contends Mother waived this issue because she failed to set forth an applicable standard of review, present a meaningful legal analysis, and articulate a legal theory. As explained before, although we agree in large part with Father's contentions, we exercise our discretion and address the merits of Mother's argument.

Rule 5-101(a) states the Maryland Rules of Evidence "apply to all actions and proceedings in the courts of this State." Rule-5-101(b) contains a list of proceedings in which the rules of evidence do not apply, none of which apply to child custody and visitation proceedings under Title 9 of the Maryland Rules. Of importance to the issue in this appeal is Rule 5-402: "Evidence that is not relevant is not admissible." Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 5-401.

Mother's contention that her evidence of Father's alleged abuse was required to be entered under FL § 9-101.1 is incorrect. Mother makes no attempt to argue the relevance of the alleged abuse evidence. We agree with Father, and the circuit court, that Mother's evidence was properly excluded for lack of relevance pursuant to Rule 5-402. In *Asano I*, we affirmed the April 7 Order adopting the magistrate's finding that there were "no reasonable grounds to believe that Father has abused a child, including [the] Children" and, ultimately, granting Father primary physical custody and sole legal custody of the Children. *Asano I* at *3. Unlike the hearings preceding the April 7 Order, the purpose of the Review Hearings was to determine Mother's fitness for visitation with the Children, not Father's custody. Therefore, we affirm the circuit court's decision to exclude Mother's evidence of Father's alleged abuse from the Review Hearings.

2. The Circuit Court Did Not Err in Determining Mother's Visitation Must Be Supervised.

Mother contends the circuit court erred in determining her visitation with the Children requires supervision, arguing the court's "entire rationale to abrogate Mother's custody were the judge's *ipse dixit* conjectures."[17] Mother cites various parts of the record she contends highlight her fitness as a parent. She also cites testimony and evidence from various medical professionals, including: clinical psychologist and court appointed evaluator, Dr. John Lefkowits; Mother's therapist, Dr. Sandra Jones; dialectical behavior therapist, Dr. Kerstin Youman; and psychologists hired by Mother, Drs. Stephanie Wolf and Stephanie DeBoard-Lucas. Mother argues the medical professionals' testimony and evidence presented during the Review Hearings refutes the court's finding that supervision was needed to ensure the Children's physical, psychological, and emotional well-being. Mother further argues there was no evidence showing her concern that her Children were being abused by Father resulted in harm to the Children.

In response, Father contends the court did not err in determining Mother's visitation requires supervision. Father argues the court's determination was supported by expert testimony, and Mother's references to testimony from medical professionals "misrepresents the record" as it leaves out key caveats. For example, while Dr. Lefkowits testified he did not think Mother's acute stress disorder would impair her ability to parent,

[17] Mother argues the circuit court's determination that her visitation must be supervised was a clearly erroneous factual finding. The circuit court's order imposing supervised visitation was not a factual finding, but an ultimate conclusion we review for abuse of discretion. *See Gillespie*, 206 Md. App. at 170.

Dr. Lefkowits deemed Mother's psychological testing largely invalid. Father additionally argues the "Children's health and well-being are precisely the result of Mother's notable absence from their lives and the court's decision to deny her unsupervised access[.]"

"[T]he non-custodial parent has a right to liberal visitation with his or her child 'at reasonable times and under reasonable conditions[.]'" *Boswell v. Boswell*, 352 Md. 204, 220 (1998) (quoting *Myers v. Butler*, 10 Md. App. 315, 317 (1970)). While the non-custodial parent's "right of visitation is an important, natural[,] and legal right, . . . it is not an absolute right, but one which must yield to the good of the child." *North v. North*, 102 Md. App. 1, 12 (1994) (quoting 2 William T. Nelson, *Divorce and Annulment*, § 15.26, at 274–75 (2d ed. 1961)). For example, "[i]n situations where there is evidence that visitation may be harmful to the child, the presumption that liberal unrestricted visitation with a non-custodial parent is in the best interests of the child may be overcome." *Boswell*, 352 Md. at 221. When limiting a parent's access to their child, such as by requiring supervised visitation, "[t]he ultimate question is whether that limitation is a reasonable one . . . . The determination of what is reasonable, in this context, is a matter resting within the trial court's discretion." *North*, 102 Md. App. at 12. Additionally, "before a trial court restricts the non-custodial parent's visitation, it must make specific factual findings based on sound evidence in the record." *Boswell*, 352 Md. at 237.

FL § 9-101 outlines the steps a court must take if the court believes a party to a custody or visitation proceeding abused or neglected a child:

> (a) In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to

> the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.
>
> (b) Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.

FL § 9-101. "The preponderance of the evidence standard applies when the court determines whether reasonable grounds exist" under FL § 9-101(a). *Baldwin v. Baynard*, 215 Md. App. 82, 106 (2013).

FL § 9-101 does not require the court to find a parent unfit or to have abused the child before imposing supervised visitation. *Id.* at 108 ("[T]he circuit court was not required to base its decision *regarding supervised visitation* solely on § 9-101 of the Family Law Article." (emphasis added)). "[T]he source of [a] court's authority to make custody and visitation determinations does not stem from [FL] § 9-101 alone." *Id.* Namely, this Court and the Supreme Court of Maryland have held that "[o]verarching all of the contentions in disputes concerning custody or visitation is the best interest of the child." *Hixon v. Buchberger*, 306 Md. 72, 83 (1986); *see also Baldwin*, 215 Md. App. at 108. And importantly for this case, "[t]he best interests of the child standard is also used to limit or restrict custody and visitation." *Boswell*, 352 Md. at 225.

The circuit court in this case applied FL § 9-101 and found that, by a preponderance of the evidence, there were no reasonable grounds to believe Father abused the Children. The court ultimately made the same finding with respect to Mother but expressed concerns about Mother's fitness as a parent:

> [T]he Court has serious concerns about Mother's continuous allegations of abuse against Father. Sadly, the Court finds that despite Mother having limited access with minor children with over two years, Mother continues to believe that Father is abusive towards minor children.
>
> The Court finds that very little about Mother's mindset has changed from our hearing in November of 2021. The Court finds that Mother remains preoccupied and fixated with minor children being injured. While the Court does not find that this rises to the level of abuse, it does go directly to her fitness. Ultimately, the Court finds that by a preponderance of the evidence there are not reasonable grounds to believe that Mother has abused a child, including minor children.

After making findings pursuant to FL § 9-101, the circuit court then found that "until Mother properly addresses and treats her underlying trauma, and the Cluster B traits in Mother's personality,[18] Mother's visitation should be supervised, which is in minor children's best interest." The court went on to find that "supervised visitation is the only way to be assured that minor children's physical, psychological, and emotional well being are not harmed by Mother's untreated trauma and systems of [C]luster B personality traits."

In determining supervised visitation with Mother was in the Children's best interest, the circuit court considered the ten factors outlined in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406, 420 (1978): (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,

[18] Here, the circuit court is referencing Dr. Lefkowits diagnosing Mother with "traits of Cluster B personality disorder, which can be displayed as excessively dramatic, histrionic, emotional manipulation, narcissism, erratic and unpredictable behavior, such as antisocial behaviors."

and sex of the child; (8) residences of parents and opportunities for visitation; (9) length of separation from the natural parents; and (10) prior voluntary abandonment or surrender. The circuit court also considered Mother's psychological assessment mandated by the court in the April 7 Order.

While discussing the *Sanders* factors and Mother's psychological assessment, the circuit court made numerous findings that support its order imposing supervised visitation. Namely, the court found "Mother is still very fixated on her belief that Father is abusing minor children[,]"leading the court to express its concern "about minor children having an adverse child experience, physically and psychologically, due to the continued abuse allegations made by Mother." The court also contrasted what the Children's lives were like when they were in Mother's primary care versus Father's:

> [I]t's important to consider what minor children's lives have been like when they were in the primary care of Mother. The Court finds that minor children have been subjected to CPS investigations, . . . abuse evaluations, medical appointments, questions from Mother, and therapy since they were three years old. The fact that minor children do not want to talk to Mother about any perceived injuries should not be surprising to anyone. These little girls have spent over half their life talking to professionals about Mother's concerns.
> . . . .
> The Court finds that minor children have not reported any allegations of abuse since the change in custody [from Mother to Father], which was April 7, 2022. The Court finds that there is no evidence that CPS has been called since the minor children have been in Father's care and custody. The Court finds that no one in North Carolina, such as minor children's teachers, pediatrician, extracurricular activity providers have expressed any concerns to Mother.

In light of what the Children's lives were like when in Mother's primary care, the circuit court found the Children "would benefit from having access with [M]other provided it is

conducted in a safe and healthy manner, focused on minor children and their activities and interests, and not Mother's allegations of abuse by Father and his caregivers." The court additionally noted its concern that the Children's "unsupervised access with Mother will result in the same situation that existed in November of 2021[,]" that is, the Children being "constantly subjected to false allegations of abuse, CPS investigations, and unnecessary appointments."

Notwithstanding Mother's arguments to this Court, we conclude the circuit court did not abuse its discretion in determining Mother's visitation of the Children must be supervised. As an initial matter, the circuit court could rely on the best interests of the child standard to require Mother's visitation be supervised. *See Baldwin*, 215 Md. App. at 108; *Boswell*, 352 Md. at 237. Additionally, the circuit court complied with *Boswell* by "mak[ing] specific factual findings based on sound evidence in the record[,]" before ordering supervised visitation. 352 Md. at 237. Those findings support the circuit court's determination that supervised visitation is in the Children's best interests. Accordingly, we conclude the circuit court did not abuse its discretion in ordering Mother's visitation be supervised as it is a reasonable limitation on Mother's access to the Children that is not "well removed from any center mark imagined by [this] reviewing court." *Santo*, 448 Md. at 626 (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. at 313).

III. The Circuit Court Did Not Err by Denying Mother's Motions for Reconsideration.

A. Standard of Review

"An appeal from the denial of a motion asking the court to exercise its revisory power is not necessarily the same as an appeal from the judgment itself." *Green*, 125 Md. App. at 362 (cleaned up). Specifically, the scope of review for a denial of a motion to reconsider is "limited to whether the trial judge abused his [or her] discretion in declining to reconsider the judgment." *Grimberg v. Marth*, 338 Md. 546, 553 (1995). "Except to the extent that they are subsumed in [the question of whether the trial court abused its discretion in denying the motion for reconsideration], the merits of the judgment itself are not open to direct attack." *Sydnor v. Hathaway*, 228 Md. App. 691, 708 (2016) (alteration in original) (citing *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 241 (1998)). While a "decision on the merits . . . might be clearly right or wrong[, a] decision not to revisit the merits is broadly discretionary," even "boundless" or "virtually without limit." *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002).

Under the abuse of discretion standard, this Court will not reverse a trial court's decision to decline to exercise its revisory power "unless there is a grave reason for doing so." *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 724 (2002). In this context, "even a poor call [in denying a motion to reconsider] is not necessarily a clear abuse of discretion." *Stuples*, 119 Md. App. at 232. The denial of a motion to revise a judgment should be reversed only if the denial "was so far wrong—to wit, so egregiously wrong—as to constitute a clear abuse of discretion." *Id.* (emphasis in original). "It is hard to imagine a more deferential standard than this one." *Est. of Vess*, 234 Md. App. 173, 205 (2017).

B. Parties' Contentions

Mother argues the circuit court erred by denying four motions to reconsider: (1) her "unopposed February 2024 motion to reconsider and revise the magistrate's findings, the immediate orders, the orders denying mother's exceptions, the court's refusal to enjoin Father's relocation of the children, and its ruling to exclude evidence of abuse"; (2) her motion to reconsider the $31,112.82 judgment to the BIA; (3) her motion to reconsider the Order Regarding Visitation and Parenting Time; and (4) her motion to reconsider the Motion to Stay the Order Regarding Visitation and Parenting Time. Mother argues these rulings violated her due process right to an independent judicial review by an unbiased judge.[19] More specifically, Mother contends her "first, third, and fourth motions proffered evidence that supported her good faith and fitness," namely the evidence the circuit court excluded from the Review Hearings for lack of relevance and evidence that was not permitted at the "November 2021 custody trial and April 2022 Immediate Hearing." Regarding the second motion to reconsider the $31,112.82 judgment to the BIA, Mother argues the circuit court entered the judgment "without considering substantial justification and the needs and resources of the parties[.]"

In response, Father argues many of Mother's contentions relate to proceedings before *Asano I* and were not subject to revision by the circuit court. Father contends the

[19] Mother also makes a reference to the circuit court violating her "immunity for reporting and participating in investigations of abuse." Mother makes no argument explaining her immunity or how the court specifically violated it, therefore we do not consider it further.

remaining issues relate to reconsideration of the court excluding evidence of Father's abuse were properly denied by the circuit court as irrelevant, so it was not an abuse of discretion to deny reconsideration. Finally, Father presents no argument regarding the motion to reconsider the BIPA's fees because he "is not a party to that judgment."[20]

C. Analysis

We already explained, *supra*, that Judge Tipton's decision to not recuse herself did not violate Mother's rights, so we do not consider Mother's argument regarding judicial bias. Additionally, we already dismissed Mother's appeal under Case Number 2367 as it relates to the motion to reconsider the Motion to Stay, which Mother never filed. For the remaining three motions to reconsider, Mother largely reiterates her arguments on the merits of the circuit court's decisions and presents no additional reason the circuit court abused its discretion in denying the motions. *See Steinhoff*, 144 Md. App. at 484 ("Appellate consideration of a denial of a motion to reconsider . . . does not subsume the merits of a timely motion made during the trial."). Therefore, as explained below, we conclude the circuit court did not err in denying Mother's motions for reconsideration.

[20] Father also argues, again, that Mother did not comply with Rule 8-504(a)(5) by failing to include a standard of review for motions for reconsideration and a proper remedy. Although we agree Mother lacks a coherent standard of review or remedy, we continue to exercise our discretion and decline to reject her arguments for failing to comply with procedural rules.

Starting with Mother's first motion for reconsideration, we are unsure what Mother's "February 2024 motion" specifically refers to.[21] To the extent Mother's first motion was to reconsider the April 7 Order—and decisions to exclude evidence in the November 2021 trial and April 2022 immediate hearing that led to the April 7 Order, those issues were addressed in *Asano I*. *See Kline*, 93 Md. App. at 700 ("Neither the questions that were decided nor questions that could have been raised and decided on appeal can be relitigated."). To the extent Mother's motion was to reconsider the motion to enjoin Father's relocation to North Carolina, that is the subject of Case Number 965, which we dismissed as moot at the beginning of this opinion.

Mother's motions to reconsider her "February 2024 motion" and the Order Regarding Visitation and Parenting Time are both based on her assertions that the circuit court improperly excluded evidence at the Review Hearings.[22] The only argument Mother provides for why the circuit court erred in denying her motions to reconsider is that the

[21] As far as we can tell, based on Mother's brief and citations to the record, Mother's "February 2024 motion" refers to a motion titled "[Mother]'s Motion to Reconsider and Revise Rulings Not Disposing of Entire Custody and Visitation Action, and Request for Hearing." The motion requested the court to reconsider multiple pieces of evidence of alleged abuse by Father that Mother argued was improperly kept out of the Review Hearings, but it has nothing to do with the April 7 Order or Injunction. The motion was filed on July 12, 2023—although the table of contents filed in the record to this Court indicates it was filed February 23, 2024. The record does not contain any other motions filed in February 2024.

[22] Specifically, Mother references "evidence reviewed by the custody evaluators, the 2018 video of Father's assault on [one of the Children], and the 2020 nanny-cam recordings of the children's sexualized behaviors at 3 years old"; "reports from the court-approved supervisors who corroborated her fitness"; and the "supplementary report of Dr. Krugman, the medical expert in evaluating child abuse[.]"

excluded evidence "supported her good faith and fitness." This does not explain why the court erred or otherwise persuade us that the circuit court was "so egregiously wrong" by denying her motion for reconsideration. *Stuples*, 119 Md. App. at 232.

Finally, we disagree with Mother that the circuit court abused its discretion by denying the motion to reconsider the $31,112.82 judgment to the BIPA. Mother simply asserts the circuit court should have considered "substantial justification and the needs and resources of the parties" but provides no reference to law or legal argument to support her assertion. This does not persuade us the circuit court abused its discretion.

Mother's arguments regarding the circuit court's denial of her motions for reconsideration are an attempt to have us review the merits of the underlying decisions. We already addressed the merits of many of those decisions, and Mother makes no argument as to how the circuit court abused its discretion by not putting these decisions "back on the table." Accordingly, we affirm the circuit court's decisions to deny Mother's motions for reconsideration.

APPEAL NUMBER 965 FROM THE SEPTEMBER 2022 TERM AND NUMBER 2367 FROM THE SEPTEMBER 2024 TERM ARE DISMISSED. THE REMAINING JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY ARE AFFIRMED. APPELLANT TO PAY THE COSTS.