UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1608

September Term, 2015

MORGAN WOODS

v.

REGINALD JOHNSON

Eyler, Deborah S.,
Arthur,
Kenney, James A., III
(Retired, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 25, 2016

Even before this Court had decided her earlier appeal of the circuit court's original custody decision, appellant Morgan Woods ("Mother") moved for a modification of legal and physical custody. The Circuit Court for Montgomery County refused to modify legal custody, but altered the custody arrangement so that Mother's ex-husband, Reginald Johnson ("Father"), no longer has primary physical custody. Mother, representing herself, has appealed only from the court's refusal to modify legal custody; Father did not cross-appeal from the decision regarding physical custody.

QUESTIONS PRESENTED

Mother presents three questions for our review, which we have rephrased and consolidated into one, as follows:

> Did the circuit court commit legal error or abuse its discretion in denying Mother's motion to modify legal custody over the parties' children?[1]

Upon a full examination of the record and the arguments on appeal, we conclude that the circuit court neither erred nor abused its discretion. We therefore affirm.

[1] Mother phrased her questions for review as follows:

I. Did the trial judge abuse [its] discretion by failing to provide a basis for not modifying legal custody?

II. Did the court err by ignoring the impact of Mr. Johnson's disability on the children's welfare?

III. Did the trial judge err by dismissing recommendations to keep the children in therapy?

FACTUAL AND PROCEDURAL BACKGROUND

A. Divorce and Appeal

This is the second time in less than two years that Mother and Father have appeared before this Court following the dissolution of their marriage. The parties, who were married in 2006, are parents to nine-year-old D. ("Son") and eight-year-old S. ("Daughter"). They separated in August 2012, Father filed a complaint for absolute divorce, and Mother counterclaimed.

On March 11, 2014, the circuit court awarded Father primary physical custody of the children, with liberal visitation rights to Mother. The court awarded the parties joint legal custody, with tie-breaking authority reserved to Father in the event that they failed, via mediation, to resolve disagreements over decisions concerning the children. Mother appealed to this Court, which affirmed the circuit court's order in every respect. *Morgan Woods v. Reginald Johnson*, No. 53, Sept. Term 2014 (filed Sept. 19, 2014).

B. Motion to Modify Legal and Physical Custody

On September 10, 2014, the day of oral argument in her first appeal, Mother, representing herself, moved the circuit court to modify the custody order to give her sole physical and legal custody of the children. She claimed that, since the date of the original order, circumstances had changed such that it was no longer in the children's best interests to maintain the original custody arrangement. As support, she asserted that (1) she had moved closer to the children's home, (2) she provides for "before and after care," (3) during the summer of 2014 the children's therapist had initiated a Child Protective

Services ("CPS") investigation against Father, and (4) "the children's home with Father is pending for sale."

Father, through counsel, responded that Mother had failed to satisfy her burden of proving that a material change of circumstances had occurred. He contended that Mother's decision to move closer to the children and the parties' decision to sell the marital home were both irrelevant to the court's determination. He also contended that, following an investigation into the allegations, CPS had ruled out sexual abuse by Father and had closed its investigation. He concluded that, even if circumstances had changed under the meaning of the law, it was not in the children's best interests to change physical or legal custody.

C. Mother's Emergency Motion

About six months later, in March 2015, Mother, through counsel, moved the court to issue an emergency order enjoining Father from removing the children from the school that they had been attending in Montgomery County. In the alternative, she asked the court to temporarily modify custody until the end of the school year.

Mother asserted that in the middle of the semester Father had enrolled the children at a new school, in Prince George's County, without either notifying Mother of the move or seeking her input. Mother contended that Father had had ample opportunity to discuss the decision with her and that she had learned of it after the fact, from one of the children's teachers. She also asserted that Father and the children moved into the Prince

George's County home of his fiancée, Dr. Johnetta Washington,[2] again without notifying Mother. She claimed that her attempts to find out where they would be living were ignored.

At a hearing on March 16, 2015, Father conceded that he had unilaterally made the significant decision to move, with the children, from Takoma Park to Dr. Washington's home in Mitchellville. On that same day, the circuit court granted Mother's emergency motion. The court ordered that the parties' children "shall be re-enrolled in their respective grades" at their former school in Takoma Park; that Mother be awarded primary physical custody of the children "until the end of the 2014-2015 school year[;]" and that Mother be awarded "sole legal custody with respect to educational decisions pending further order of this court." Under the emergency order, Mother would have physical custody of the children, except overnight on Tuesdays and from Thursday evening to Sunday evening, when they would be with Father. Later, the court extended the duration of the temporary order until July 7, 2015, the date of the start of the custody modification hearing.

Shortly after the emergency order, on April 8, 2015, the court appointed a best interest attorney ("BIA") for the children.

[2] According to trial testimony, Father became engaged to Dr. Washington in February 2015.

D. Custody Modification Hearing

The circuit court held four days of hearings on the custody-modification motion, from July 7 through July 10, 2015. Both parties had counsel, and the BIA represented the children.

At the hearing, Mother again pointed to Father's sudden decision to enroll the children in a new school, located in a neighboring county, without giving her notice of the change or responding to her inquiries. She said that Father moved the children into Dr. Washington's Mitchellville home with only a day of warning to the children, and only a few months after having introduced them to Dr. Washington, her twin two-year-olds, and their live-in nanny. Mother testified that despite her many efforts, she had had difficulty learning where Father and the children had moved and that Father was unresponsive to her inquiries.

Mother also said that Father had made it more difficult for her to communicate with the children by limiting the liberal telephone access to which she was entitled under the original custody order. She claimed that, on a number of occasions, Father played games with her visitation by, for example, requiring that she drop off the children's personal items at the front door without knocking and by reneging on an agreement to allow her to have the children for an extra day so that they could see her graduate from Howard University. She testified that on two occasions Father or Dr. Washington had, without justification, hastily called the police to intervene.

Mother testified further that Father, a military veteran, had a history of PTSD and of smoking marijuana. She asserted that on at least one occasion she was concerned

because she believed she smelled marijuana smoke near Father at the time of pick-up or drop-off.

Mother claimed that these alleged changes had not only demonstrated Father's poor judgment, but had also taken a toll on the children. She asserted that Son had begun to act out in unacceptable ways: he occasionally "bullied" his sister; he had started ignoring or defying parental and teacher instructions; he would sometimes engage in socially inappropriate conduct (which had apparently begun even before the original custody order); he had some new problems focusing at school; and he urinated in public on one occasion. Mother said that Daughter had continued to suffer from enuresis, and the problem had worsened. By contrast, Mother testified that since the emergency order the children were better-adjusted and were enjoying life in her primary care.

On cross-examination, Father's counsel presented Mother with several unflattering communications she had sent to Father. A sampling of these messages included: Mother's email from December 2014, stating "no matter what you do, I will not stop seeking justice and getting more time with the children that I carried for nine months bottom line[;]"; her email to the children's therapists noting her "disgust" with the Maryland court system; and her text message to Father, from shortly after resolution of the first appeal, stating, "And know we will be in court for a long time."

In addition, counsel elicited Mother's prior statements that contradicted her claims that Daughter and Son had been struggling emotionally and academically since the original custody order was entered. Counsel attempted, also through Mother's prior

statements, to refute her testimony that the elementary school in Takoma Park was superior to the Prince George's County school in which Father had enrolled them.

Through his testimony, Father attempted to reveal what he believed to be Mother's combative behavior. He conceded, and expressed regret, that at times he had been unresponsive with Mother, stating at one point, "I would like to apologize to the Court, [and] apologize to [Mother] as well for my lack of communication at times." But he also stated that he had made several conciliatory overtures to Mother, who would respond with "a multitude" of unpleasant and aggressive emails and text messages. He testified that Mother had threatened ongoing litigation, that she made unilateral decisions about the children's therapists without including him in the process, and that she apparently spurred CPS (which already had closed one investigation into Father) to open another investigation, this time concerning an allegation about Son's conduct toward his sister. Father's testimony was supported by that of Dr. Washington and Father's neighbor, both of whom said that they had seen Mother acting aggressively toward Father in public and in front of the children. His testimony was also supported by many emails and text messages that evidenced Mother's aggression and hostility even in the face of conciliatory gestures by Father.

Father disputed Mother's claim that the children had been experiencing significant hardships since the original custody order. He claimed that many of Mother's claims about Son were overblown or were descriptions of the typical acting-out behavior of a nine-year-old. He claimed that, aside from isolated events, including occasionally picking on his younger sister, Son was well-adjusted and doing fine in school as a

"middle of the pack" student. He emphasized that Daughter's enuresis, although worsening a little of late, was not a "change," but in fact dated back to several years before the custody order was entered.

Father testified that shortly before the hearing he learned that Mother had taken the children to be interviewed by a rebuttal expert on the children's schools. Mother did not consult with either Father or the BIA – the children's court-appointed attorney – before taking them to be interviewed by her expert.

Lastly, Father, testified that, although he moved into Dr. Washington's home only a few months after the children first met her, his decision was both reasonable and minimally disruptive. He said that before the move he had spoken with the children about the possibility of moving, and he claimed that the children got along very well with Dr. Washington and had already adjusted well to the new home and neighborhood.

E. Court Ruling

In beginning its analysis of the issues, the court cited the leading case of *McCready v. McCready*, 323 Md. 476, 482 (1991). Following *McCready*, the court proceeded to observe that before it may modify custody, the moving party must make a threshold showing that since the last custody order, there has been a material change in circumstances that affects the welfare of the child, and therefore that it is in the child's best interest to modify custody.

The court addressed each item of evidence that Mother had presented. The court found that the sale of the marital home was something that happens in the course of normal divorces involving marital property. It also found that the children's behavioral

changes were largely "not outside normal child conduct [or] mild misbehavior[,]" and that those kinds of things are normal in the course of divorces. The court doubted that Father's actions caused any existing behavioral problems and commented that in almost every situation the parents' separation "would trigger some acting out" by the children.[3]

The court further found that Mother's recent re-marriage and Father's move into Dr. Washington's home were not material changes and that the children were not hurt by these acts. The court also found that the 20-mile move, from Takoma Park to Mitchellville, did not qualify as a "relocation," and that, although it created some inconvenience, it did not constitute a material change of circumstances. The court dismissed the notion that Mother's allegedly improved relationship with the children since the temporary custody order sufficed as a material change.

The court emphasized that Father's unilateral decision to move the children out of school was a "poor decision[,]" but it added that "there are a lot of poor choices to go around here." The court found that this isolated decision did not constitute "a material change of circumstances affecting the welfare of the children."

The court dismissed the "deterioration in the parties' relationship" as sufficient to give rise to a material change. It characterized the deterioration as mutually created, unfortunate, and for the most part not new. It admonished Father for his conduct regarding the change in schools, but stressed that, to the extent that any new deterioration had happened since the original custody order, it was "substantially fueled at least on a

[3] The children's BIA rightly questioned Mother's judgment for making a public issue about some aspects of her nine-year-old son's alleged conduct.

more consistent basis" by Mother's "ongoing" "in[-]your[-]face aggression." Citing "the emails, the name calling," and Mother's decision to have the children interviewed by an expert without even talking to their best interest attorney, the court lamented that in an effort "to undo what [the court] had decided was appropriate" in the original order Mother had engaged in an "ongoing siege since [the court] initially heard this case." The court concluded that the alleged "changes" were "the normal events of life" after a separation or divorce" and were "not material changes." "If the Court were to accept these as material changes," it said, almost every custody case "would have material changes after the initial custody decision."[4]

On the assumption that an appellate court might disagree with its conclusion about the absence of any material change, the court went through the various factors that courts generally consider when deciding whether, in light of a material change in circumstances, a change in physical or legal custody would serve the child's best interests. On the question of legal custody, which alone is at issue in this appeal, the court noted its "serious question[s]" about the parties' co-parenting fitness as well as their patent difficulties in communicating or in reaching joint decisions. Nevertheless, the court concluded that, if it were to find a change in circumstances, it would still retain joint legal custody for the parents. The court stressed various factors, including both parents' strong relationships with the children, the unlikelihood that joint custody would disrupt the

[4] At another point, the court remarked that this ongoing battle was "generated by" Ms. Woods's "refusal to accept" the circuit court's original custody order, which the court called "reasoned" and "very persuasive."

children's social lives, the adequacy of both parents' financial resources to care for the children, and the benefits to both parents in sharing legal custody.

Despite concluding that there was no material change in circumstances (and thus that physical and legal custody could not be modified), the court held off on issuing a final order. It invited the parties to discuss the issue of altering the "access schedule," which the court suggested might be "in play" notwithstanding its conclusions.

When the hearing resumed a week later, the court stated that it "should totally have separated the legal custody and physical custody aspects of the change-in-circumstance evaluation." With respect to the request to modify legal custody, the court reiterated that there had been no material change in circumstances affecting the welfare of the children and that the "alleged changes" were just the normal changes that occur after a divorce. The court added that "even if there had been a [material] change," legal custody should remain as it was. The court, however, gave the parents a number of opportunities to agree on a new schedule for access to the children.

On August 21, 2015, after learning that the parties had not reached an accord, the court ruled that the parents would have equally-shared physical custody over the children, to be achieved via alternating seven-day periods. The court expressed its lack of concern with the summer and holiday visitation schedule already in place, and it emphasized that the parents must ensure that the children were dropped off at school on time.

The court embodied its rulings in a written order. Mother's appeal relates only to the denial of her motion to modify the custody order so that she would have sole legal custody.[5]

DISCUSSION

Mother's appeal, spread across many subparts, boils down to one essential challenge to the trial court's finding that no "change in circumstances" had occurred and, therefore, that no change in legal custody was warranted. She claims that the court erred by "failing to provide a basis" for its ruling and that it failed to consider the proper legal factors in its discussion. She further argues that the court erroneously failed to place appropriate weight on certain testimony presented at the hearing.

A. Standard of Review

Maryland appellate courts review child custody determinations using three interrelated standards of review. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012). As this Court recently noted:

[5] Md. Code (1974, 2013 Repl. Vol.) § 12-303(3)(x), permits an appeal of an interlocutory order "[d]epriving a parent . . . of the care and custody of his child, or changing the terms of such an order[.]" In this case, although the order denying the motion concerns custody, it does not, strictly speaking, deprive Mother of the care and custody of her children or change the terms of such an order to her detriment, as it merely maintains the regime of joint custody. Nonetheless, in *Frase v. Barnhart*, 379 Md. 100, 118-19 (2003), the Court of Appeals held that a mother could use section 12-303(3)(x) to appeal an interlocutory custody ruling that declined to eliminate ongoing conditions on her access to her children. Similarly, in *Seidlitz v. Seidlitz*, 23 Md. App. 327, 330-32 (1974), this Court held that, under the predecessor of section 12-303(3)(x), it had appellate jurisdiction to decide an appeal from an interlocutory ruling in which the trial court had declined to make any changes in custody. In view of those decisions, we hold that under section 12-303(3)(x) Mother has the right to appeal the denial of her motion insofar as it pertains to the question of legal custody.

> [First],[w]hen the appellate court scrutinizes factual findings, the clearly erroneous standard of [Md. Rule 8-131(c)][6] 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.

Reichert v. Hornbeck, 210 Md. App. 282, 304 (2013) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)); *accord Lemley v. Lemley*, 109 Md. App. 620, 628 (1996) (appellate court will not disturb "decision founded upon sound legal principles and based upon factual findings that are not clearly erroneous" absent showing of "clear abuse of discretion") (citation omitted).

This Court gives "'due regard . . . to the opportunity of the lower court to judge the credibility of the witnesses.'" *Reichert*, 210 Md. App. at 304 (quoting *In re Yve S.*, 373 Md. at 584). It is within the trial court's sound discretion to "award custody according to the exigencies of each case, and . . . a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion." *In re Yve S.*, 373 Md. at 585-86. "Such broad discretion is vested in the [trial court] because only [it] sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child[.]" *Id.* at 586. The court "is in a far better position than is an appellate court, which

[6] Rule 8-131(c) provides:

> When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor." *Id.*

B. Custody Modification Framework

Resolution of a custody-modification request requires a two-step process. First, the circuit court must find that there has been a material change in circumstances since the last custody order. *Gillespie*, 206 Md. App. at 170. "A material change in circumstances is one that affects the welfare of the child." *Id.* at 171. If the court finds that a material change has occurred, it "proceeds to consider the best interests of the child as if the proceeding were one for original custody." *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005) (citing *Wagner v. Wagner*, 109 Md. App. 1, 28 (1996)).

The two steps of this changed circumstances analysis are often interrelated in that each addresses the child's best interests. *See Gillespie*, 206 Md. App. at 171.

> "[I]n the more frequent case . . . there will be some evidence of changes which have occurred since the earlier [custody] determination was made. Deciding whether those changes are sufficient to require a change in custody necessarily requires a consideration of the best interest of the child. Thus, the question of 'changed circumstances' may infrequently be a threshold question, but is more often involved in the 'best interest' determination, where the question of stability is but a factor, albeit an important factor, to be considered."

Id. at 171 (quoting *McCready v. McCready*, 323 Md. 476, 482 (1991)).

Courts making determinations of custody in light of changed circumstances may, and regularly do, consider the following factors:

> "[A]mong other things, the fitness of the persons seeking custody, the adaptability of the prospective custodian to the task, the age, sex and health of the child, the physical, spiritual and moral well-being of the child, the environment and surroundings in which the child will be

> reared, the influences likely to be exerted on the child, and, if he or she is old enough to make a rationale [sic] choice, the preference of the child."

Reichert, 210 Md. App. at 305 (quoting *Wagner*, 109 Md. App. at 39); *accord Braun v. Headley*, 131 Md. App. 588, 610-11 (2000) (citing *Montgomery Cnty. v. Sanders*, 38 Md. App. 406, 420 (1977)) (noting similar factors).

"Courts are not limited or bound to consideration of any exhaustive list of factors in applying the best interests standard, but possess a wide discretion concomitant with their 'plenary authority to determine any question concerning the welfare of children within their jurisdiction[.]'" *Bienenfeld v. Bennett-White*, 91 Md. App. 488, 503-04 (1992) (citations omitted).

Where the court determines that the moving party has failed to meet the initial burden of showing that a material change has occurred since the last custody order, the court's inquiry should cease. *See Braun*, 131 Md. App. at 610 (citing *Wagner*, 109 Md. App. at 28). A requirement of genuine proof of a change in circumstances advances the goal of "maintaining stability in the life of a child[,]" and also serves to prevent "litigious or disappointed parent[s]" from "relitigat[ing] questions of custody endlessly upon the same facts, hoping to find a [trial judge] sympathetic to his or her claim." *McCready*, 323 Md. at 481. The "absence of a showing of a [material] change in circumstances ordinarily is dispositive" (*id.* at 482), and at that point the court "does not weigh the various factors to determine the best interest of the child." *Id.*

C. Material Change Analysis

Mother, having emerged from these proceedings with a greater share of physical custody than she enjoyed when the court first entered the original custody order, now challenges the legal and evidentiary basis of the court's ruling with respect to legal custody. Her arguments are unpersuasive.

1. Legal Challenge

Mother argues that the court conducted improper legal analysis. She contends that when the court revised its tentative conclusion in light of a week of reconsideration, it erroneously "corrected the record" without providing a basis for its legal custody determination. We agree that the court took an unusual route to reach its final conclusion. That being said, it is apparent from the court's discussion, both on July 10, 2015, and at the hearing that followed a week later, that it properly analyzed the issue of legal custody.[7]

The court considered each of Mother's assertions of changed circumstances in detail and dismissed all of them as factually insufficient to constitute a material change in circumstances that affected the welfare of the children. When it "revised [its] thinking" one week later, the court did so only with respect to "access" or physical custody. The court reiterated that, on the question of legal custody alone, its analysis and conclusion remained *unchanged*. In particular, the trial judge stated: "I found and I still find that

[7] Given the court's decision to modify "access" or physical custody, it might have been more appropriate for the court simply to find a change of circumstances, but that the change was not material to the question of legal custody. The court effectively reached that conclusion when it stated that "even if there had been a [material] change," legal custody should remain as it was.

there's no material change in circumstances affecting the welfare of the children with regard to legal custody." The court did not "correct" any part of the record; rather the record remains unaltered. Simply put, Mother failed in her burden of persuading the court that there had been material change of circumstances, and it is almost impossible for a judge to be clearly erroneous when, as here, he or she is simply not persuaded of some fact. *Bricker v. Warch*, 152 Md. App. 119, 137 (2003).

Separately, Mother contends that the court improperly assessed the many factors courts consider when reaching custody determinations. Mother appears, however, to have overlooked the court's clear finding that on the question of *legal custody* there was no material change in circumstances. After that finding, the court's inquiry could properly have ceased. *See Braun*, 131 Md. App. at 610; *Wagner*, 109 Md. App. at 28. In proceeding to discuss the factors pertaining to legal custody, the court was offering an alternate basis for its decision – it was explaining why it would not alter legal custody even assuming that there had been a material change in circumstances. Because the court did not err in concluding that there had been no material change in circumstances, the balance of its discussion is superfluous.

Even were we to consider the court's analysis of the various factors, we would find no error. The court evaluated the pertinent factors in light of the evidence presented and reached a discretionary conclusion. It was not required to place any specific amount of weight or focus on any one of the numerous factors courts regularly consider to the exclusion of others. In fact, it was within the court's discretion to discuss on the record only some factors and not others. *See Taylor*, 306 Md. at 303 (stating that no one factor

"has talismanic qualities[] and that no single list of criteria will satisfy the demands of every case").

2. Evidentiary Challenge

Mother argues that the trial court erred by failing to place appropriate weight on certain testimony in reaching its final determination. She contends that the court "ignor[ed] the impact of Father's disability on the children's welfare[,]" apparently referring to assertions that Father, a veteran, suffers from PTSD-related symptoms. She further contends that the court, in its final custody determination, "dismiss[ed] recommendations to keep the children in therapy[.]"

These arguments fail to apprehend the limited nature of this Court's review. How to evaluate testimony or to weigh its credibility and force in reaching a custody determination is a function quintessentially reserved for the trial court. It bears repeating that it is within the court's broad discretion how to rule in light of all that evidence. We decline to "spend judicial resources second-guessing the chancellor's every decision." *Viamonte v. Viamonte*, 131 Md. App. 151, 157 (2000).

In light of this highly deferential standard of review, the trial court was quite free to consider the limited evidence of Father's PTSD and resulting treatment and was equally free to place no weight on that evidence in the final analysis. Indeed, nothing in the record establishes the connection that Mother says the court ignored: that Father's "disability" of PTSD caused him to act in any number of irrational ways that in turn

negatively affected the children's welfare. The court did not abuse its discretion in placing little if any weight on Father's PTSD.[8]

In the same vein, the court was free to consider and comment on (as it did) Father's poor decision-making in moving the children to a new school with no advance warning, just as it was free to find that this error alone did not create a material change in circumstances. Lastly, the court was free to consider whether the custody order should require a provision requiring indefinite therapy for the children. The court did not "dismiss" Mother's recommendations on this issue, but rather expressly considered them and discussed on the record why they were unnecessary.

Mother is dissatisfied with the weight the court afforded the evidence at trial and with the eventual result, opinions to which she is very much entitled. However, that the trial court disagreed with her evaluation of the evidence is not, absent some clear abuse of discretion, a proper basis for appeal.

CONCLUSION

"A litigious or disappointed parent must not be permitted to relitigate questions of custody endlessly upon the same facts, hoping to find a chancellor sympathetic to his or her claim." *McCready*, 323 Md. at 481. "[W]here it is clear that the party seeking modification of a custody order is offering nothing new, and is simply attempting to relitigate the earlier determination, the effort will fail on that ground alone." *Id.* at 482.

[8] Mother attempted to raise the issue of PTSD in connection with the original custody order and in her unsuccessful appeal therefrom.

The circuit court did not err or abuse its discretion in declining to modify legal custody in this case.

JUDGMENTS OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. APPELLANT TO PAY ALL COSTS.