Circuit Court for Prince George's County
Case No. CAD-13-15290

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 175

September Term, 2017

ROLAND DUPREE

v.

TINA MARIE ALLEN

Woodward, C.J.,
Friedman,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 5, 2017

Roland Dupree, appellant, and Tina Allen, appellee, are the parents of A.D., a minor child. In 2014, Dupree and Allen filed counter-complaints for absolute divorce, custody, visitation, and child support. The Circuit Court for Prince George's County entered a judgment of absolute divorce on August 5, 2016, awarding Allen sole legal custody and primary physical custody of A.D. On September 6, 2016, Dupree filed a "Motion to Reconsider," pursuant to Maryland Rule 2-535(a). The circuit court denied that motion following a hearing and, thereafter, Dupree filed a notice of appeal. Because, Dupree's motion for reconsideration was filed more than ten days after the judgment of absolute divorce, and thus did not toll the time noting an appeal from that judgment, *see* Md. Rule 8-202(c), this Court entered an order limiting this appeal to a single issue: whether the circuit court abused its discretion when it denied Dupree's motion for reconsideration. For the reasons that follow, we affirm.

Although abuse of discretion is ordinarily a highly deferential standard of review, the required degree of deference is even greater when the appeal challenges a discretionary decision not to revise a judgment. In that context, "even a poor call is not necessarily a clear abuse of discretion." *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 232 (1998). Moreover, "the ruling in issue does not have to have been right to survive so minimal and deferential a standard of review." *Id*. That is because "an appeal from the primary judgment itself is the proper method for testing in an appellate court the correctness of such a legal ruling." *Hardy v. Metts*, 282 Md. 1, 6 (1978). "At most, the very parochial inquiry we shall undertake is into whether [the circuit court's] denial of the

Motion to Revise was so far wrong – to wit, so egregiously wrong – as to constitute a clear abuse of discretion." *Stuples*, 119 Md. App. at 232.

In his motion for reconsideration, Dupree primarily contended that, in awarding Allen sole legal custody and primary physical custody, the trial court had placed too much emphasis on the parties' lack of trust and communication and "did not explain" why it believed Allen had carried the "bulk of the weight of parental responsibility." However, the record demonstrates that the court's factual findings on these issues were supported by the evidence. And weighing the factors set forth in *Montgomery County v. Sanders*, 38 Md. App. 406 (1978) and *Taylor v. Taylor*, 306 Md. App. 290 (1986) to determine the best interests of the child, "is within the sound discretion of the [trial court]." *See In re Yve S.,* 373 Md. 551, 585-586 (2003). Consequently, we cannot say that the court abused its discretion in declining to entertain re-argument of that decision.

Dupree also claims that the trial court should have revised its order to establish a more detailed visitation schedule for birthdays, holidays, and A.D.'s summer vacation. But the court was not legally required to establish a more detailed visitation schedule and its failure to do so was not so "egregiously wrong" that it constituted an abuse of discretion under the circumstances.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT