

Circuit Court for Anne Arundel County
Case No. C-02-FM-23-811470

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 2040

September Term, 2023

ROBERT PAYNE, III

v.

TAYLOR PAYNE

Graeff,
Leahy,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: April 14, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from a petition for protection from domestic abuse filed by Taylor Payne (“Wife”) against her husband, Robert Payne, III (“Husband”). Wife filed the petition on behalf of herself and the parties’ then four-year-old child, “F.”¹ On November 16, 2023, the Circuit Court for Anne Arundel County issued a final protective order that, among other things, barred Husband from abusing, threatening to abuse, harassing, contacting, or attempting to contact Wife and F. for a period of one year. Wife was awarded custody of F. for the duration of the protective order. Husband noted this timely appeal and raises two questions:

1. Did the court err in finding that Husband had committed an act of abuse and issuing a final protective order?²
2. Did the [court] err in finding that [Husband’s] alleged act of abuse precluded any award of visitation or access with the parties’ minor child as part of the [f]inal [p]rotective [o]rder?

We perceive no error in the court’s finding Husband had committed an act of abuse and shall affirm. Because the second issue regarding visitation is moot, we will not address it.

BACKGROUND

The parties were married in 2020. Together, they are the parents of one child, F., who was born in September of 2019.³

¹ To protect the child’s identity, we refer to him by a randomly selected letter.

² Rephrased from: “Did the Hearing Judge err in finding that Mr. Payne had committed an act of abuse and issuing a final protective order when Ms. Payne failed to satisfy her burden of proof?”

³ In addition to F., Wife has an older child from a previous relationship.

On November 9, 2023, Wife filed a petition for a protective order against Husband on behalf of herself and F. In support of the petition, Wife alleged that Husband was threatening her life and the life of F., threatening harm to himself, and sending “harassing” text messages. The court granted a temporary protective order.

A final protective order hearing was held on November 16, 2023. At that hearing, Wife was unrepresented, and Husband was represented by counsel.

Wife’s Case

Wife testified that shortly after the parties were married, “the physical abuse would get so bad” that she sought medical help and required hospitalization. The first “reported” incident occurred in April of 2020. The parties were then residing in North Carolina, where Husband was stationed in the military. According to Wife, Husband picked her up and “slamm[ed]” her onto the ground “over and over and over again.” He then broke her phone and keys, took her military identification, and left the house with F.

Wife went to a neighbor’s house for help. She was seen by a doctor in the emergency room two days later. She explained that she did not know anyone in the area and had to wait to seek medical attention until family arrived to “help [her] with the kids.”

Wife told the court about another incident that took place on an unspecified date in 2021, when, during an argument, Husband “grabbed” her and “threw [her] around a little bit.” She said, “[w]hen he went to grab me[,] my arm [went] all the way back.” Wife testified that, as a result, she sustained extensive nerve damage to her left arm and that she had bruises in the shape of handprints all over her body.

Wife sought to introduce documentation of medical treatment she received following the 2020 and 2021 incidents. The court sustained Husband’s objection to the admission of the documents on hearsay grounds because they had not been certified as business records.

Wife stated that she had been living with her sister for a couple of months prior to the hearing. Before that time, she lived with her grandmother for an unspecified period of time.

Wife testified that Husband had been sending her “threatening” text messages and photographs. She tried to block these communications, but each time she did, Husband “instantly” generated a new phone number and continued to send messages. For that reason, there was “no way to possibly block them . . . all.”

The court admitted into evidence seventeen pages of text messages and photographs that Husband sent to Wife. Although some of the messages have no discernable date, Wife testified that they were sent between 2021 and 2023. We have quoted excerpts from the messages as written, without alteration or correction to grammatical or spelling errors, except for substituting “F.” for the child’s name.⁴

In the earliest dated message, which was sent on September 14, 2021, Husband said: “I’m writing this simply because you didn’t believe me when I told you that my life revolves around you and that there is no me without you. You tend to run around and think

⁴ The text messages are presented in chronological order to the extent dates are clear. Messages without discernable dates are presented in the order in which they appear to have been made.

you’re feelings towards me just go away[.]” A day or two later, Husband sent the following message:

Tell your BF knuckle the fuck up

Gun tf up it don’t matter

You my mother fuckin wife

In a lengthy message with no apparent date, Husband wrote:

I’ll never get a divorce from you but I will take that line to the end so youll be free. So instead of being a divorced single mom you can have a better title of widowed single mom. . . . You can hope and plead things will get better but they won’t not for you. . . . I’ve begged you and pleaded with you to just show I’m the only one work with me through my character flaws through my mistakes but I’m human and every human makes mistakes every human does things they regret. . . . I was an asshole I was disrespectful I did lie. But I’m human and I don’t deserve to be degraded and belittled by another human who has made mistakes as well. . . . So I hope my flaws and my imperfections were so great that those kids never grow up with their REAL dad. We both know you’ll try to push someone to be [F.’s] dad to get [F.] to call someone else dad you’ll probably do it soon just to hurt me. . . . I mean nothing to you. You can try to blame me for all your flaws . . . but they only real thing you can blame me for is this. This “selfish” act is what you call it. I see it as a release of my own mind. . . .

I’m asking you for literal help like I get where you’re coming from and I know I need help but I can’t do it without you. And idk how to get you to realize that. I fucking need my soul mate I’m sorry I’ve been a horrible horrible person. . . . I’m serious if you are willing to be by my side I’ll quit drinking I’ll quit anything you want me too and cut off everything and anyone for you. . . . I know im obsessed with my wife i crave you I adore you I need you, flaws and all. I wasn’t this person today that I was when you met me and I really have no clue what it was that put me on this path I’m sorry for the EVERYTHING that happened in North Carolina in Florida during your pregnancy.

* * *

I was honestly a bully that hated himself so much and was so unhappy with who he was that he projected it on the one thing that made him the best he could be. You make me a better human . . . you come first the kids come first . . . then I can worry about my own internal toxic bullshit I've projected on myself and have just made myself think it's you because it was easier. Im sorry for that im deeply sorry for that. Im done doing the toxic things . . . Everyday from today on im going to do something that betters me as a husband. Which is not blow your phone up if you don't respond to this long ass message when you wake up right away[.]

* * *

I love you Taylor I love love you I don't honestly think there's enough words to describe it, I literally just have to show you and I will. You are my everything. I love you. Don't feel rushed or pressured to respond in anyway, because I'll be right here, waiting.

This is stil gonna be how I feel when I'm gone.

In another series of undated messages, Husband wrote:

Can you talk to me as well about us and stuff I'm going crazy trying to get your attention

Unblock my number please

I feel like I'm in prison

Taylor I'm not gonna stop with this

I love you and miss you so fucking much

Please

All I want and need is you please

Can you come over today

Please

* * *

I can't chill anymore taylor I'm at the bottom of the barrel there no chilling left

In another undated message, Husband wrote:

I love you till death does us part . . . If I survive no one see this but Taylor Marie Payne if you do don't bother coming to see me where ever I go. [F.'s] at my moms so go there.

In the six weeks before Wife filed for the protective order, Husband sent the following messages⁵:

September 26, 2023

This is the last time I get blocked yelled and told by the person I love they don't care. Thank you now I can go with no regrets.

October 3, 2023

This Robert Payne the 3rd telling everyone at the of Taylor Marie Mitchell this is th end of us and she blocked me at the time 00:24 and responded at 00:22. So she knows the extent of what's about to happen.

October 4, 2023

You blocked me

Why am I blocked

October 8, 2023

I'm leaving right the fuck now have a good fucking life Taylor you're the only person that could do that's and prevent it.

Answer me please. I'm scared.

⁵ Although the text messages in Wife's Exhibit 4 indicate the month and date, but not the year, Wife testified that the text dated "Oct 3" was sent in 2023. Therefore, it is logical to assume that the other messages included in that exhibit were also sent in 2023.

October 23, 2023

Am I gonna be able to see [F.] before

Please don't do this.

Taylor I'm begging you

October 24, 2023

Taylor please answer me and let's meet and talk this out please I'm begging you I miss you so much and I love you so much

On October 26, 2023, Wife filed for divorce. The next day, while F. was in Husband's custody, Husband sent Wife a photograph of numerous lacerations of the inside of his left wrist, over an area of his body where, according to Wife, Husband has a tattoo of F.'s initials. The parties exchanged the following messages:

October 27, 2023, at 1:51 PM

[Husband]: You blocked me when I just want to talk

[Wife]: No you're saying horrible things

[Husband]: I need to talk to you pleas

Please

I'm proud

I need you

I need you to ft me

Please

I'm asking to talk please

October 27, 2023, at 6:04 PM

[Husband]: I neee to show you something

Call me on the regular phone

[Wife]: Where is my son

[Husband]: Just talk me pleas
[Wife]: Rob tell me now
Is [F.] ok
[Husband]: Yes I'm far away from hm this is ain't abut him
[Wife]: Why
Where the Fuck is he
[Husband]: With my mom. Or nonna
I just need to talk to you talkin okeae
Please call me
My wrists hurt . . .
Ya know what fuck it have great a badg party or
whatever. And if you can't do what I ask on the list send
it . . .^[6]

Upon receiving the photograph of the lacerations, Wife “freak[ed] out” and tried to find out where F. was so she could pick him up. She drove by Husband’s mother’s house, where Husband “primarily” lived, but his car was not there. She could not call Husband’s mother because the mother had blocked Wife’s phone number. Wife texted Husband’s grandfather and asked if he knew where F. was, but the grandfather did not know. She tried to find F. several times over the next few days, without success. In an undated text mail chain, the parties exchanged the following messages:

[Wife]: Where’s [F.]
[Husband]: Am I ever gonna be unblocked
Please
[Wife]: Where’s [F.]
[Husband]: Taylor he’s here are you just gonna ignore our
conversation last night

⁶ No discernable text appears after the ellipsis in the record on appeal.

[Wife]: Send a pic
[Husband]: . . . Unblock me
[Wife]: I want to know he's ok
[Husband]: Why would he not be okay?
Unblock me
[Wife]: Wtf?? Are you being fuckin fr. I have been asking to pick up, see and talk to my son for fucking days and nobody will acknowledge it
[Husband]: I'm blocked how am I suppose to call you with him
[Husband]: [sends photograph of a child who is ostensibly F.]
You have eveyones numbers silenced or blocked. I've getting unblocked
I love you
Can you please talk to me
Please I'm not gonna give up on this
Taylor please
I miss you so much

In a series of text messages apparently sent after Husband sent Wife the photograph of his wrist, there was the following exchange:

[Wife]: You should've checked in though because you took it too far
[Husband]: I tried checking in with you. I told my family that exact thing I took it to far. But I wanted you I didn't care what anyone was saying to me I wanted you
[Wife]: I can't be the one to keep you alive though rob
That's unfair
[Husband]: It wasn't about keeping me alive Taylor or you doing that it was the person I wanted to hear I love you from I didn't

I know you don't see it but I always seek your approve
or to make you happy with me someone you call it a
flaw but I do

I hate sleeping without you

I love you

The last dated text exchange occurred on October 29, 2023:

[Husband]: I love you

Taylor I love you and miss you so much I'll do whatever
it takes I'll start therapy if I have to go on medication i
will you can have whatever you need I'll work 3 jobs if
I have to I'll do whatever I have to do for you to be
happy and to trust me and for us to build and grow as a
family I'll do whatever it takes I'll stop drinking.
Whatever you need I'll do it please

I'll sign a contract saying I'll never do this again and to
never leave you I don't care what it is I'll do it.

[Wife]: DO YOU UNDERSTAND YOU ARE MAKING MY
CLASS 3 TIMES AS LONG

[Husband]: Gn I love you.

On October 31, 2023, Wife picked F. up from his day care provider after she received a notification that he had been dropped off there. At some point between October 31 and November 7, 2023, Husband “showed up” at the home of one of Wife’s sisters. Wife was not there at the time. Wife filed the petition for protective order on November 9, 2023.

On cross-examination, counsel for Husband asked Wife if she filed for a protective order “as a reaction to filing for divorce.” Wife responded, “No. I filed [the petition] as a reaction of seeing [Husband’s] behavior progressively get worse[.]” She stated, “I don’t

want to be looking over my shoulder for me and [F.], because obviously it's clear that he's progressively gotten worse and getting worse and more and more behavior [sic] to hurt me." She added, "So, I am scared that he is going to hurt me through . . . hurting [F.]" Counsel for Husband asked Wife, "[Husband] threatened to harm himself, but not you. Correct?" Wife responded, "Not in the messages. No. . . . But yes. He has."

Husband's Case

At the outset of his direct examination, Husband was asked to explain what happened the day he cut himself. Husband testified that he "felt like [he] lost [Wife] forever," and that it was the worst thing that had ever happened to him.

According to Husband, he and Wife had been "planning on working everything out." He said that he had stayed with Wife at her sister's house for a period of two weeks, during which time Wife said that she wanted to talk about "reestablish[ing] [them]selves." She told him it would be "best" if he went to his grandparents' house and "set up a place for [them] to live." A couple of days after he left, Wife blocked his phone number and ignored his calls. He said, "[s]he wouldn't give me the time of day to even talk to me on the phone and explain why she doesn't want to see me or anything like that, after she just told me she wanted to work things out." He said, "I thought I could trust [Wife] to be with me and love me and we could continue. And when it gets ripped from you, it's like losing somebody. And you know, a death scenario."

Although he denied ever threatening to injure Wife, he admitted that he went to Wife's sister's house on November 7, 2023. He testified, "I told her I was going to come.

I hadn't seen my son in . . . over a week at that time.^[7] And honestly, I just wanted to see him and talk to him. I wasn't going to . . . take him from her or anything like that." When he got to the sister's house, he spoke to Wife's grandmother, who told him that Wife and the sister had left with F., and that she did not know where they were going. Husband explained that he "didn't want to make this hard for anybody or make a problem[,]" and that he was "just trying to see [his] son." He then left.

Husband testified that Wife called him on November 8, 2023, the day after he went to her sister's house and the day before she filed the petition for protective order. During that conversation, according to Husband, Wife told him that she loved him and cared about him, which gave him a "sense of hope." She then told him that she was going to the store and would call him back when she returned. Instead, he stated, "the next thing I knew, my number was blocked. So, I didn't get to speak to her or my son."

The only other witness was Husband's grandfather, who testified that Husband and Wife had lived with him "off and on" between 2020 and 2023. During that time, the grandfather never witnessed Husband threatening or physically abusing Wife.

The Court's Ruling

Ruling from the bench, the court found that Wife had satisfied her burden of proving, by a preponderance of the evidence, that Husband placed her in fear of imminent serious bodily harm. The court found that, although the text messages "primarily" contained threats of self-harm, there were also "veiled threats" against Wife. The court

⁷ It is not clear, as noted in Husband's brief, whether Husband told Wife or her sister that he was coming to the sister's home.

noted that Husband did not refute Wife’s testimony regarding “serious incidents” of domestic violence in 2020 and 2021 which resulted in “pretty serious injuries” that required treatment at the hospital. The court stated that it was “required to look at the evidence as [Wife] would see it, in light of the parties’ history, and determine whether she would have reasonable fear of imminent serious bodily harm[.]” The court concluded, “I believe that she would under the circumstances of this case.” The court declined to grant Husband any visitation with F., stating, “I am concerned enough that I’m not going to order any access in this case.”

Immediately following the hearing on November 16, 2023, the court entered a final protective order which prohibited Husband from abusing, threatening to abuse, contacting or attempting to contact Wife or F. for a period of one year. Custody of F. was awarded to Wife for the duration of the final protective order. Husband was ordered to stay away from Wife’s home and school, and from F.’s daycare provider. Husband was also ordered to complete an abuser intervention program and to surrender and refrain from possessing any firearms.

On December 18, 2023, Husband filed this appeal from the final protective order. On February 5, 2024, and April 4, 2024, the child custody provisions of the final protective order were modified by pendente lite consent orders entered in the divorce proceeding. Pursuant to the most recent pendente lite order, Husband has unsupervised visitation pursuant to a schedule.

STANDARD OF REVIEW

“A trial court may grant a final protective order if there is a finding ‘by a preponderance of the evidence that the alleged abuse has occurred[.]’” *Hripunovs v. Maximova*, 263 Md. App. 244, 261 (2024) (quoting Md. Code (1984, 2019 Repl. Vol., 2023 Supp.) Family Law Article (“FL”) § 4-506(c)(1)(ii)). “Preponderance of the evidence means ‘more likely than not[.]’” *Id.* at 263 (quoting *C.M. v. J.M.*, 258 Md. App. 40, 56-57 (2023) (additional citation omitted)). “‘If the court finds that the petitioner has met the burden, it may issue a protective order tailored to fit particular needs that the petitioner has demonstrated are necessary to provide relief from abuse.’” *Piper v. Layman*, 125 Md. App. 745, 754 (1999) (quoting *Ricker v. Ricker*, 114 Md. App. 583, 586 (1997)).

On review of the issuance of a final protective order, an appellate court “‘accept[s] the circuit court’s findings of facts, unless they are clearly erroneous.’” *Hripunovs*, 263 Md. App. at 261 (quoting *C.M.*, 258 Md. App. at 58). In making this determination, “[w]e ‘must consider evidence produced at the trial in a light most favorable to the prevailing party[.]’” *C.M.*, 258 Md. App. at 58 (quoting *Friedman v. Hannan*, 412 Md. 328, 335 (2010)). Moreover, we “defer to the trial court’s credibility determinations because it ‘has the opportunity to gauge and observe the witnesses’ behavior and testimony during the trial.’” *Id.* (quoting *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001)). “‘If there is any competent evidence to support the factual findings [of the trial court], those findings cannot be held to be clearly erroneous.’” *Cherry v. Mayor & City Council of Balt. City*, 475 Md. 565, 594 (2021) (quoting *Della Ratta v. Dyas*, 414 Md. 556, 565 (2010)). “As to the circuit court’s ultimate conclusion, ‘we must make our own independent appraisal by reviewing

the law and applying it to the facts of the case.” *C.M.*, 258 Md. App. at 58 (quoting *Piper*, 125 Md. App. at 754).

DISCUSSION

I.

Husband asserts that the court erred in finding that his actions placed Wife in fear of imminent serious bodily harm. Specifically, he argues that his text messages contained only threats of self-harm, or requests “exhorting” Wife to contact him, but there is no evidence of a threat directed toward Wife. Without such evidence, he argues, the history of past abuse was insufficient to sustain a finding that Husband’s recent conduct placed Wife in reasonable fear of imminent serious bodily harm to her or to F.⁸ We disagree.

Final protective orders in the context of domestic violence are governed by FL §§ 4-504 through 4-512.1, the purpose of which is to “protect and ‘aid victims of domestic abuse by providing an immediate and effective’ remedy.” *Katsenelenbogen v. Katsenelenbogen*, 365 Md. 122, 134 (2001) (further quotation marks and citation omitted) (quoting *Coburn v. Coburn*, 342 Md. 244, 252 (1996)). The statute broadly defines “abuse” to include acts that cause serious bodily harm or place a person in fear of imminent serious bodily harm; assault in any degree; rape or sexual offenses; attempted rape or sexual offenses; false

⁸ At oral argument, Husband asserted that the issue of whether the court abused its discretion in granting a final protective order is not moot, even though the order has expired. We agree. *See Piper v. Layman*, 125 Md. App. 745, 753 (1999) (“[T]he expiration of [a] protective order does not automatically render the matter moot. The review of such finding on appeal, and the potential for vacation of the order, thereby removing the stigma [attached to a finding of domestic abuse], gives substance to [the] appeal.” (internal quotation marks and citation omitted)).

imprisonment; stalking; and revenge porn. FL § 4-501(b). ““The statute provides for a wide variety and scope of available remedies designed to separate the parties and avoid future abuse. Thus, the primary goals of the statute are preventive, protective[,] and remedial, not punitive.”” *Katsenelenbogen*, 365 Md. at 134 (quoting *Coburn*, 342 Md. at 252).

When, as in this case, the abuse triggering the issuance of a protective order is conduct placing the victim in “imminent fear of serious bodily harm,” the court must apply an “individualized objective” standard. *Id.* at 138. In other words, the court must view the situation and circumstances as they would “be perceived by a reasonable person in the petitioner’s position[.]” *Id.* This standard rests on the premise that “a belief as to imminent danger ‘is necessarily founded upon the [petitioner’s] sensory and ideational perception of the situation that he or she confronts, often shaded by knowledge or perceptions of ancillary or antecedent events.’” *Id.* at 139 (quoting *State v. Marr*, 362 Md. 467, 481 (2001)). The issue is “not whether those perceptions were right or wrong, but whether a reasonable person with that background could perceive the situation in the same way.” *Id.*

In the context of domestic violence, the Supreme Court of Maryland has observed that a “person who has been subjected to the kind of abuse defined in [FL] § 4-501(b) may well be sensitive to non-verbal signals or code words that have proved threatening in the past to that victim but which someone else, not having that experience, would not perceive to be threatening.” *Id.* Similarly, in *Porter v. State*, 455 Md. 220 (2017), the Court noted that a victim of domestic abuse “becomes able to sense the escalation in the frequency and intensity of the violence” and is “able to recognize a threat of imminent danger from conduct that would not appear imminently threatening to someone who had not been

subjected to that repetitive cycle of violence.” *Id.* at 238 (quotation marks and citation omitted).

Husband maintains that the only reasonable inference that can be drawn from the evidence is that Wife did not construe his text messages as a threat of physical harm, but as only harassment, which is not a form of “abuse” warranting the issuance of a protective order. We are not persuaded. Wife testified that she viewed Husband’s text messages as evidence that his behavior was “progressively get[ting] worse,” and that she felt she had to “look[] over [her] shoulder” because she was “scared” for herself and for F.

Husband further asserts that the record does not support the court’s finding that his text messages contained “veiled” threats against Wife. We disagree. For example, Husband wrote, “I love you till death does us part[,]” followed by, “If I survive no one sees this[,] but [Wife,] *if you do* don’t bother coming to see me[.]” (Emphasis added.) In another message, he told Wife, “I’ll be right here, waiting.” A month before Wife filed for an order of protection, he appeared to warn her of “the extent of what’s about to happen.” Messages worded as such could reasonably be construed by a victim of domestic abuse as a threat.

The undisputed evidence before the court established a history of physical abuse, which twice resulted in Wife seeking medical attention. Husband described himself as a “bully” and admitted to doing “toxic things” to Wife. In September of 2021, he accused Wife of infidelity and threatened to respond with physical and/or gun violence.⁹ In subsequent text messages, Husband continued to exhibit troubling and coercive behavior.

⁹ Husband’s threat (“Tell your BF knuckle the fuck up[,] [g]un tf up it don’t matter”) could reasonably be construed as a threat of violence against both Wife and the alleged boyfriend.

He told Wife that he was “obsessed” with her and that he was “going crazy” trying to get her attention. He accused her of “degrad[ing]” and “belittl[ing]” him. He threatened to harm himself if she did not agree to stay in the marriage. He continually circumvented her attempts to block him from contacting her and informed her that he was “not gonna stop.” When Wife again blocked his number, he warned her of “the extent of what’s about to happen.” The day after Wife filed for divorce, Husband sent her a photograph of self-inflicted lacerations over his tattoo of F.’s initials, and then responded to Wife’s concern for F.’s safety by pleading with her to call him and unblock him. After Wife again cut off communication, Husband showed up at the home of her sister.

Viewing the evidence in the light most favorable to Wife, as the prevailing party, we are not persuaded that the court was clearly erroneous in finding that Husband’s conduct and communications would, more likely than not, place a reasonable person in Wife’s position in fear of imminent serious bodily injury. Accordingly, the court did not err by issuing a final protective order.

II.

The second contention raised by Husband is that the court erred in declining to award any visitation with or access to F. for the duration of the protective order. At oral argument, counsel for Husband conceded that the issue of visitation was rendered moot by the consent pendente lite custody orders entered in the divorce case, pursuant to which Husband was awarded unsupervised visitation. Husband asks that we nonetheless reach the issue. He asserts that the issue of visitation arises frequently in protective order cases, the

standards governing the issue are “ill-defined,” and that, because of the limited duration of protective orders, the issue will evade review on appeal.

“[W]e will, on rare occasions, address the merits of a moot case when ‘we are convinced that the case presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct.’” *Katsenelenbogen*, 365 Md. at 125 (quoting *Coburn*, 342 Md. at 250). Deciding a moot issue is justified “if ‘the matter involved is likely to recur frequently’ and ‘the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision[.]’” *Coburn*, 342 Md. at 250 (quoting *Lloyd v. Bd. of Supervisors of Elections of Balt. Cnty.*, 206 Md. 36, 43 (1954)).

Decisions regarding custody of a child are difficult because of “the uniqueness of each case, the extraordinarily broad spectrum of facts that may have to be considered in any given case, and the inherent difficulty of formulating bright-line rules of universal applicability in this area of the law.” *Domingues v. Johnson*, 323 Md. 486, 501 (1991). Because the court’s decision regarding custody in this case was highly fact-specific, we are not persuaded that the same issue is likely to recur frequently, or that reviewing it within the context of this appeal will establish a rule for future conduct. Accordingly, we decline to address the merits of the moot issue.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**