UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0752

September Term, 2015

AMANDA POFFENBERGER

v.

DANIEL POFFENBERGER

Graeff,
Berger,
Zarnoch, Robert A.
(Retired, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: March 21, 2016

This appeal arises from a complaint for divorce and related relief filed by appellant, Amanda Wetzel f/k/a Amanda Poffenberger, against appellee, Daniel Poffenberger, in the Circuit Court for Frederick County. Following a two-day hearing, the court divided the marital property, granted joint legal custody with tie-breaking authority to Wetzel, joint physical custody to the parties, and placed restrictions on Poffenberger's alcohol consumption. Wetzel noted a timely appeal, and presents two questions for our consideration:

I. "Did the Trial Court err in its determination of the value of the marital property, by allowing Appellee the opportunity to refinance the marital home solely in his name when this relief was not requested at any point prior to trial, and, in addition, by offsetting Appellee's back child support against mortgage payments in disregard of Appellant's payments toward joint marital debt?"

II. "Did the Trial Court err in awarding the parties shared physical custody of their daughter?"

For the foregoing reasons, we affirm the judgment of the trial court.

BACKGROUND

Amanda Wetzel, a United States Postal Service employee, and Daniel Poffenberger, a PEPCO employee, were married in a civil ceremony in Frederick, on February 1, 2012, though the parties had been a couple for a number of years. Their daughter was four at the time of her parents' marriage. Three months after their marriage, the parties purchased a house in Thurmont. After an altercation on December 1, 2013, Wetzel left the marital home with the parties' daughter to live temporarily with her mother. Soon after, on December 27, 2013, Wetzel filed a complaint for divorce.

After mediation, the court entered a consent *pendente lite* order on June 3, 2014, providing for joint legal custody and setting terms under which Poffenberger would have custody of the child. An amended *pendente lite* order, dated August 21, 2014, was negotiated following a claim of domestic violence initiated by Wetzel. The amended order required Poffenberger to obtain alcohol testing and treatment, established access for Poffenberger on Monday, Wednesday, Saturday and Sunday of each week from 5 pm to 8:30 pm, and provided that if Poffenberger elected not to work on Sundays, his Saturday access could be overnight to Sunday.

At merits hearings held on December 11, 2014 and May 28, 2015, the parties described their contributions to the marriage and care of their daughter. Wetzel testified that Poffenberger's alcohol consumption led to the dissolution of their marriage. She asserted that since separation, Poffenberger continued to drink and continued to behave belligerently toward her and in front of their daughter, usually during custody exchanges. Poffenberger testified that he was heartbroken by the separation, and acknowledged that his alcohol consumption had played a role in the demise of the marriage. When asked what steps he had taken to change his lifestyle, Poffenberger stated that he had stopped drinking alcohol.

Both parents provided care for their daughter while the other was at work. After separation, Wetzel had primary custody of the child, and Poffenberger had visitation every other day. Poffenberger also went to school lunch with his daughter and met her at the bus stop after school. Both parents had extended family help with childcare.

Additionally, Poffenberger and Wetzel lived near each other, and their daycare provider was also nearby. The parents had no disputes about educational, religious or medical issues affecting the child. Although Wetzel testified that she was concerned about Poffenberger's continued hostility and the parties' ability to communicate respectfully, Poffenberger testified that he believed the parties could agree and continue to make decisions in the future. Wetzel requested primary custody of the child, with Poffenberger having visitation on weekends. Poffenberger requested joint custody under a 2/2/3 schedule.

Regarding property, the parties owned several cars and the marital home. Wetzel testified that she had been paying for living expenses for herself and her daughter, and that she continued to pay the debt on the refrigerator in the marital home and on a powered sofa. She also paid the note on a Chrysler automobile. Poffenberger testified that he paid the mortgage and the utilities on the marital residence, where he was living after separation, and that he paid the note on Wetzel's truck, which he retained possession of. He paid the daycare provider most weeks, but he had not paid child support.

Poffenberger testified that the value of the marital home was $210,000, and the amount of the mortgage was $208,000. Wetzel, in her proposed joint statement of property, valued the home at $240,000, and the debt at $209,000. Poffenberger's attorney, in her opening statement in December, stated that although Poffenberger desired to refinance the mortgage and buy out Wetzel's equity in the marital home, he could not afford to do so. When the trial resumed in May, Poffenberger asked the court to allow

him to try to refinance the home, indicating that he had spoken with loan officers and was under the impression that he would be approved for a mortgage solely in his name. He testified that he thought keeping the marital home was in his daughter's best interests. Wetzel objected to Poffenberger refinancing the home, noting that he had not pursued that avenue in the months since separation.

The trial court, ruling from the bench on May 28, 2015, found both parties to be hard working parents, of good character and reputation who were taking good care of their child. The court noted that both had a desire to be involved in the child's life and that each had made a good home for the child. The court awarded joint legal custody with tie-breaking authority to Wetzel, and ordered shared physical custody of the child according to a 2/2/3 plan, meaning that each parent gets two, consecutive overnight days during the week and the child alternates weekends.

The court divided the parties' property and considered their respective contributions to the marriage. It awarded one automobile to Wetzel and three automobiles to Poffenberger. It found that value of the marital home was $210,000, and the amount of the mortgage was $208,000. The court allowed Poffenberger the opportunity to refinance the home solely in his name and buy out Wetzel's share of the equity. It found that Poffenberger had paid the mortgage and utilities for 17 months, totaling $28,900 in mortgage payments, which included payment of Wetzel's share of the mortgage. Based on this finding and considering the value of the automobiles, the court determined that Wetzel was "ahead" $16,650. The court awarded child support to Wetzel

according to the guidelines in the Maryland Rules and determined that it did not need to make a monetary award because it could balance a potential award against the child support owed to Wetzel that had accrued from the date of filing the complaint for divorce.

Wetzel appealed to this Court on June 15, 2015.

DISCUSSION

I. Equitable Distribution of Marital Property

When a trial judge determines the value of marital property, an appellate court "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." Md. Rule 8-131(c); *Collins v. Collins*, 144 Md. App. 395, 408, 413 (2002). "When the trial court's findings are supported by substantial evidence, the findings are not clearly erroneous." *Innerbichler v. Innerbichler,* 132 Md. App. 207, 230 (Citations omitted), *cert. denied,* 361 Md. 232 (2000). "[A]s to the court's decision to grant a monetary award, and the amount thereof, [or transfer marital property], we apply an abuse of discretion standard of review." *Richards v. Richards*, 166 Md. App. 263, 272 (2005) (citing *Gallagher v. Gallagher,* 118 Md. App. 567, 576 (1997)). "Within that context, 'we may not substitute our judgment for that of the fact finder, even if we might have reached a different result.'" *Id.* (citing *Innerbichler,* 132 Md. App. at 230).

Maryland Code (1984, 2012 Repl. Vol.), Family Law Article ("FL") §§ 8-101 et seq., creates a three-step method for disposing of marital property. Under FL sections 8-203 to 8-205, the trial court must (1) determine which of a divorcing couple's property is marital property, (2) value such property, and then (3) determine whether to transfer property or to grant a monetary award "as an adjustment of the equities and rights of the parties[.]" *See Kelly v. Kelly,* 153 Md. App. 260, 270 (2003). FL § 8-202(b) provides that, after completing the first step of this analysis, a court may, "(1) grant a decree that states what the ownership interest of each party is; and (2) as to any property owned by both of the parties, order a partition or a sale instead of partition and a division of the proceeds."

In step three, when deciding whether to make a monetary award (and if so, in what amount and on what terms) or whether to order the transfer or sale of real property, courts must comply with FL § 8-205, which requires the court to consider each of twelve enumerated factors, including the value of the family home, as well as the existence of

"any award . . . with respect to . . . the family home[.]"[1] *See* FL § 8-205(a); FL § 8-205(b)(10).

[1] Fam. Law § 8-205 states, in relevant part:

(a)(1) Subject to the provisions of subsection (b) of this section, after the court determines which property is marital property, and the value of the marital property, the court may transfer ownership of an interest in property described in paragraph (2) of this subsection, grant a monetary award, or both, as an adjustment of the equities and rights of the parties concerning marital property, whether or not alimony is awarded.
(2) The court may transfer ownership of an interest in:

* * *

(iii) subject to the terms of any lien, real property jointly owned by the parties and used as the principal residence of the parties when they lived together, by:

1. ordering the transfer of ownership of the real property or any interest of one of the parties in the real property to the other party if the party to whom the real property is transferred obtains the release of the other party from any lien against the real property;
2. authorizing one party to purchase the interest of the other party in the real property, in accordance with the terms and conditions ordered by the court; or
3. both.

* * *

(b) The court shall determine the amount and the method of payment of a monetary award, or the terms of the transfer of the interest in property described in subsection (a)(2) of this section, or both, after considering each of the following factors:
(1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
(2) the value of all property interests of each party;
(3) the economic circumstances of each party at the time the award is to be made;
(4) the circumstances that contributed to the estrangement of the parties;
(5) the duration of the marriage;
(6) the age of each party;
(7) the physical and mental condition of each party;

(Continued . . .)

Although consideration of the section 8-205(b) factors is mandatory, the trial court need not "go through a detailed check list of the statutory factors, specifically referring to each, however beneficial such a procedure might be. . . for purposes of appellate review." *Doser v. Doser*, 106 Md. App. 329, 351 (1995) (quoting *Grant v. Zich*, 53 Md. App. 610, 618 (1983)) (Internal quotation marks omitted). This is because a judge is presumed to know the law, and is not required to "enunciate every factor he [or she] considered on the record[.]" *Malin v. Mininberg*, 153 Md. App. 358, 429-30 (2003) (Citations omitted). Thus, we reject Wetzel's assertion that the court erred because "it did not address the required factors listed in subsection (b) of the statute."

Wetzel contends that the court erred in allowing Poffenberger to refinance the marital home in his name because she was not on notice of his intention to do so. Specifically, she argues that she did not receive due process because Poffenberger was obligated to give notice of his intention to seek refinancing prior to the second day of

(. . . continued)

> (8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;
> (9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;
> (10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and
> (11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

trial, and, consequently, he could not now ask the court to allow him to refinance the home after discounting refinancing on the first day of trial (six months earlier). She maintains that, as a result of this failure to give notice, she did not attempt to obtain an appraisal of the house.

Regarding refinancing, this colloquy occurred on the second day of trial:

> [POFFENBERGER'S COUNSEL]: My client would like 90 days from the entry of judgment of absolute divorce to have the first opportunity . . . to buy out . . . Mrs. Poffenberger.
>
> * * *
>
> THE COURT: Okay, you don't have any problem with buying out as long as the numbers are what you like?
>
> [WETZEL'S COUNSEL]: I actually do.
>
> THE COURT: Okay.
>
> [WETZEL'S COUNSEL]: It's been six (6) months. There's been no effort made in that direction. And my, and respectfully in, in my previous opening I've already said how my client was ruined by the actions in part by Mr. Poffenberger, so.

No further explanation to Wetzel's objection was given. In closing, Wetzel asked for the court to order a sale of the house and reiterated that Poffenberger "made no effort whatsoever to . . . actually refinance [the home]." Poffenberger requested that the court allow him to pursue refinancing.

FL § 8-205 allows a trial judge discretion to balance the equities as necessary, which includes fashioning relief in the form of a sale or transfer of ownership of the marital home. In this case, Wetzel was not prejudiced by Poffenberger's failure to

initially ask for the court to allow refinancing.[2] Based on the discrepancies in the parties' respective valuations of the home, Wetzel was aware that the value and disposition of the marital home was at issue in the case. She could have obtained an appraisal at any point in the proceedings and presented that evidence to the court. Instead, she chose to rely on the discretion of the judge to fashion appropriate relief. We discern no abuse of discretion in this regard.

Wetzel further argues that the trial court erred because it "assumed with no real evidence that the home had essentially no value."[3] In this case, the parties agreed on which property was marital property and which property was non-marital property. Accordingly, the court here was charged with valuing and dividing the property between the parties. As stated on her proposed joint statement of property, Wetzel valued the property at $240,000. Poffenberger testified at trial that, in his opinion, the value of the marital home was approximately $210,000. Neither party presented any other evidence concerning the value of the home.

[2] Wetzel's citation to *Karmand v. Karmand*, 145 Md. App. 317 (2002), is not favorable to her position. There, we held that a spouse's failure to request a monetary award at trial precluded him from alleging error in the trial court's decision not to grant him an award, even though he made a cursory request for an award in his amended complaint for absolute divorce. *Id.* at 342. Here, Poffenberger specifically asked the trial judge for this relief.

[3] Wetzel also argues that her "case was prejudiced greatly because of her lack of notice; her case had rested, and she had no way to present rebuttal evidence." We note that, in fact, Wetzel's counsel did call her back to testify on rebuttal.

Under FL § 8-204, the trial court must determine the value of marital property. We have recognized that valuation is not an exact science. *Williams v. Williams*, 71 Md. App. 22, 36 (1987) (citing *Brodak v. Brodak*, 294 Md. 10, 27 (1982)). We give due regard to the court's ability to judge witnesses, and where the parties have presented evidence to the court, a judge does not error in accepting one party's valuation over the other. *See Brodak*, 294 Md. at 27. Thus, we hold that the court's determination that the marital home was worth $210,000 was not clearly erroneous.

Wetzel also argues that the court failed to consider her contributions to the payment of marital debt in balancing the equities.[4] Any error would be harmless, however, however, because in balancing the equities, the court found that Wetzel would be "ahead" $16,650.00. Even if the court had taken into account Wetzel's payment of marital debt, she would have still been "ahead" of Poffenberger, according to the trial court's findings. Significantly, the court declined to give Poffenberger a monetary award because of his use of the marital residence. Thus, any error on the part of the court in not considering the Wetzel's contributions to marital debt did not affect the outcome of its decision whether to grant her a monetary award. *See Karmand*, 145 Md. App. at 342.

Finally, Wetzel argues that it is unclear what the trial court meant when it stated "I will, however, order that the house be sold within one hundred and twenty (120) days of the Judgment of Absolute Divorce giving Mr. Poffenberger an opportunity to refinance

[4] We note that after the court initially valued and distributed the marital property, it asked "[W]ell, have I covered all property issues? . . . Anything else?" Wetzel's counsel did not ask the court to consider Wetzel's contributions to the marital debt.

that house in his name alone, and to . . . balance Mrs. [Wetzel] out of that, which I will certainly order." She argues that the court erred because it did not announce a specific procedure for the refinancing of the house, and maintains that in this scenario, Poffenberger must buy out her interest in the equity of the house after an appraisal. We disagree. The court valued the property at $210,000 with a $208,000 mortgage. There was, accordingly, $2,000 worth of equity in the house. In this context, "balancing out" means that Wetzel should receive her share of the equity in the house, approximately $1,000.[5] The trial court's statement concerning the disposition of the house was clear, and we discern no error in the relief it fashioned. In view of the trial court's substantial discretion to balance the equities in a divorce action, we discern no error, and affirm the court's property distribution.

II. Custody Determination

This Court reviews child custody determinations utilizing three interrelated standards of review. In *In re Yve S.*, the Court of Appeals remarked:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Md. 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

[5] We find no merit in Poffenberger's contention that the trial court determined that there was "no equity in the [marital] home." We need go no further than the words of the court itself, "I find [the marital home] has an approximately value [of] . . . two-hundred and ten-thousand dollars ($210,000.00), however it has a mortgage of approximately two-hundred and eight-thousand dollars ($208,000.00)."

> are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

373 Md. 551, 586 (2003). Therefore, as with property determinations, the reviewing court gives "due regard . . . to the opportunity of the lower court to judge the credibility of the witnesses." *Id.* at 584. The Court elaborated that,

> it is within the sound discretion of the [trial court] 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. 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; [it] 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" child.

Id. at 585-86.

When the trial court makes a custody determination, it is required to evaluate each case on an individual basis in order to determine what is in the best interests of the child. *Gillespie,* 206 Md. App. at 173 (Citations omitted). "Courts are not limited or bound to consideration of any exhaustive list of factors in applying the best interest 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) (Internal citation omitted) (quoting *Kennedy v. Kennedy*, 55 Md. App. 299, 310 (1983)). Nonetheless, Maryland courts have provided a list of factors that the trial court may use in rendering its custodial determination. These factors include:

> [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 choice, the preference of the child.

Wagner v. Wagner, 109 Md. App. 1, 39, 674 A.2d 1 (1996) (citing *Hild v. Hild,* 221 Md. 349, 357 (1960)). No factor, however, "has talismanic qualities and that no single list of criteria will satisfy the demands of every case." *Taylor v. Taylor,* 306 Md. 290, 303 (1986) (discussing joint custody considerations). Accordingly, "[t]he best interest of the child is therefore not considered as one of many factors, but as the objective to which virtually all other factors speak." *Id.*

In addition to the general considerations listed above, there are specific factors that are particularly relevant to a consideration of joint custody:

> (1) the capacity of the parents to communicate and reach shared decisions affecting the child's welfare; (2) the willingness of parents to share custody; (3) the fitness of the parents; (4) the relationship established between the child and each parent; (5) the preference of the child; (6) the potential disruption of child's social and school life; (7) the geographic proximity of the parental homes; (8) the demands of each parents' employment; (9) the age and number of children; (10) the sincerity of the parents' request for joint custody; (11) the financial status of the parents; (12) the impact on state or federal assistance; (13) the benefit to the parents; and (14) any other relevant factors to be considered.

Reichert v. Hornbeck, 210 Md. App. 282, 306 (2013) (citing *Taylor,* 306 Md. at 304-11).

Wetzel argues that the court abused its discretion in awarding joint custody because it allegedly (1) considered the child's access to her respective grandparents to be a paramount factor above the best interests of the child; (2) failed to consider that

Poffenberger's work schedule would make it difficult for him to see the child off to school; (3) "overlooked the fact that [Poffenberger] did not parent [the child] even when he had the chance to do so"; and (4) failed to considered Poffenberger's "pattern of belligerence."

As noted above, "a reviewing 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 [it] sees the witnesses and the parties, hears the testimony[.]" *In re Yve S.*, 373 Md. at 585-86.

We quote the trial judge in full to illustrate her thoughtful analysis of the custody issue:

> [W]ith regard to the child, I think these parents should begin today to share the joint legal custody of the child. . . . I believe each one of them is sincere in his and her love and devotion to Lilly. . . . I think they do put her first. It's time to demonstrate that they put her first. So, I am going to order the joint legal custody. However, I do think it's appropriate that after full and fair communication and . . . sharing of all information, if the parties are at an impasse that Ms. Poffenberger have the tie-breaking authority. I think that's fair, I think it's efficient, and I think it will encourage the parties to communicate and cooperate with each other to reach decisions which are in Lilly's best interest.
>
> I've taken into consideration the fitness of the parties. You are both hard-working people, I give you that. You're both hard-working people. I think you both love your child very much. I think [Mr. Poffenberger] heartbroken at the breakup of his marriage, yet I think his alcohol did have something to do with it. Obviously, it did have something to do with it. . . .
>
> [C]haracter and reputations of the parties, I think they're both of good character and both good reputation, and I do hope that Mr. Poffenberger, and I find that he is sincere, is sincere in getting his alcohol consumption under control.

I find that both parties have a desire to be equally involved in the children's lives and I did take into consideration early in, today I did go back and read that first consent [*Pendente Lite*] Order. Um, that potential for maintaining natural family relations is something that is very, very important to this Court. This child needs not only Mom, Dad, needs grandma, grandma, grandad, pop-pop, whatever they call him, other cousins. It's very important factor that the Court takes into consideration in determining the access and the physical custody schedule. Because I think if one side is more, perhaps not doing it intentionally, but if one side has more time than the other, than that family, obviously, the extended family has more time than the other. And I think the child deserves . . . to build those connections with extended families.

[M]aterial opportunity. Both of you are hard working people who are taking good care of your daughter, and I commend you both for that. She seems to be a healthy 7 year-old little girl, albeit with a gluten intolerance, you know. We see that a lot, . . . there's all kinds of stuff that kids are intolerant of, and as parents we have to be . . . mindful and careful.

[T]hese parents live very close to, to each other . . .in a small community where their extended families live. So, their residences and, I believe, think Ms. [Wetzel] has made a good home for her daughter in, in the new apartment. Mr. [Poffenberger] has maintained the home, the child's home that she grew up in and that she knew. They're very close to each other. They're going to have that good opportunity to be in each other's lives for equal visitation.

The parents have been separated for seventeen (17) months. I find no prior voluntary abandonment or surrender of custody.

I've thought very carefully about this, and I just listened very carefully to everyone, and, and thank the attorneys. Your attorneys did a very good job laying out the case for each parent. [B]ut I don't see any reason, at today's date, to not share equal custody, physical custody the children.

In my experience[,] recently the last few years of being a judge is that the two (2), two (2), three (3) seems to work well for everyone. Everyone is responsible for his or her time with that child, his or her needs for daycare with that child. And I think . . . children adapt to it . . . They're . . . in a positive way and in a comfortable way, because . . . they're not away from either parent for any long periods of time.

> So, I am going to grant a two (2), two (2) three (3) schedule of physical access. I find that each parent is a fit and proper person to do, to have that physical access, and I find that it is in [the child]'s best interest that her parents share the joint legal custody with her mother being the tie-breaker. And, that . . . it's in her best interest that her, that they share the . . . physical custody.

The trial court further ordered Poffenberger to abstain from alcohol completely and to submit to an alcohol evaluation within thirty days and follow any treatment recommendations.

We perceive no error or abuse of discretion. As evident from the transcript above, the trial court here considered the relevant factors and did not prioritize the involvement of extended family to the exclusion of other factors. The court had evidence of potential conflicts in both parents' work schedules. Substantial testimony, by all of the witnesses, demonstrated Poffenberger's commitment to parenting the child. Regarding Poffenberger's aggressive conduct, the court stated:

> I have no doubt that Mr. Poffenberger's drinking drove his wife away.
>
> I further have no doubt that he looked in the mirror and saw that that was a problem. I also have no doubt that he was heartbroken when she left. His family fell apart. And I'm sure when he looked in the mirror, um, that was apparent to him, but I have to agree with something that Counsel said, because it's something this Court says often, I want today to be a new day for you. Move forward. Put your hurt behind you. Put your anger behind you. And realize that you must be in each other's lives for the benefit of your child. Start to communicate. Start to be respectful, not angry, not slapping or even touching hoods of cars, and not fussing with each other.
>
> At the end of the day the Court has to make a decision with what I believe is in Liliana's best interest, and I do believe that she needs an equal important relationship with each parent going forward, and that each parent she needs to be loved and respected by each parent, she needs to have a

> relationship with each parent, and she needs to have a meaningful relationship with each parent.

It is clear that the court had the correct objective in mind—the best interest of the child—in addressing the factors and before determining that the parties would have joint physical custody. The circuit court was in the best position to observe all of the evidence and testimony presented, and we will not substitute our judgment. Therefore, we affirm the circuit court's order of joint legal and physical custody.

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.