

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1482

September Term, 2015

ADAM WILLIAMS

v.

KATHERINE WILLIAMS

Kehoe,
Friedman,
Wilner, Alan M.
(Retired, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: May 11, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellate courts don't exist to "second-guess" the factual decisions of trial courts. The function of an appellate court is much more limited. We correct legal errors. And in the most egregious cases, we can fix a factual mistake. But appellate courts never re-weigh evidence. That's because the trial court saw the witnesses, heard their testimony, and did its best to make justice for the parties. Boiled down to its essence, appellant Adam Williams asks us to re-weigh the evidence that was presented to the trial court and come to a different conclusion. We cannot.

BACKGROUND

The parties, Adam and Katherine Williams, were married in Maryland in 2009. Their son, Bradley, was born in 2010. Shortly thereafter, the family relocated to North Carolina. The parties separated in 2013 and Katherine and Bradley returned to Maryland. In 2014, Adam moved to Michigan. Pursuant to the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA), Maryland was determined to be Bradley's "home state" and custody litigation has proceeded in our courts.

A four-day custody hearing was held in the Circuit Court for Montgomery County (Dugan, J.). At the conclusion of the hearing, Judge Dugan made an oral ruling from the bench in which he listed and gave comment on each of the child custody factors that he considered. *See Montgomery Cnty. Dep't of Social Servs. v. Sanders*, 38 Md. App. 406, 420 (1977) (identifying factors). At the conclusion of this recitation, Judge Dugan awarded custody to Katherine.

DISCUSSION

Maryland courts are instructed that the key factor in deciding child custody is the best interest of the child. *In re: Rashawn and Tyrese H.*, 402 Md. 477, 494 (2007). To facilitate the court's analysis of the best interest, our appellate courts have provided lists of factors to consider. *Viamonte v. Viamonte*, 131 Md. App. 151 (2000); *Montgomery Cnty.*, 38 Md. App. at 420. We review the custody decision on the abuse of discretion standard, meaning if the court's conclusion was based on sound legal principles and factual findings that are not clearly erroneous, we don't get involved. *Petrini v. Petrini*, 336 Md. 453, 470 (1994).

Here, Adam concedes, as he must, that the trial court considered the appropriate factors. Instead, he argues that the trial court put too much weight on evidence of one factor (his choice to move to Michigan), or not enough weight on evidence of other factors (the custody evaluators' recommendations *and* Katherine's alleged unwillingness to foster communication). But the relative weight to give evidence is committed to the sound judgment of the trial court. *Petrini*, 336 Md. at 473. We see nothing in this record to suggest that the trial court did not carefully and diligently weigh *all* of the evidence and come to a custody decision that it felt was in Bradley's best interest.

Adam's second argument is that the trial court's award of custody was based solely on "unfounded and unpredictable aspirations rather than established facts." He points to portions of the trial court's opinion that were critical of Katherine and characterized Adam's concerns as "legitimate."

The distinction between, on the one hand, the kind of speculation that is condemned in *Schaefer v. Cusack*, 124 Md. App. 288, 298 (1998), and, on the other hand, a “best guess” as to the future that is endorsed by *Montgomery Cnty.*, 38 Md. App. at 419, is admittedly very thin. But the trial court’s comments were not themselves impermissible, nor do they suggest to us that the trial court’s custody award was based on improper assumptions. Rather, the comments suggest that the trial court was making a difficult choice in a close case.

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