UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1118

September Term, 2016

JESSICA PINEDA

v.

FRANTZ HONORE

Woodward,
Berger,
Arthur,

JJ.

Opinion by Arthur, J.

Filed: April 25, 2017

A mother named a man as the father of her child, both on the child's birth certificate and in an affidavit of parentage. The man acknowledged that he was the father, and he sought custody. The Circuit Court for Howard County awarded primary physical custody to the man and gave joint legal custody to him and the mother.

The mother complains that the court should have required the man to take a paternity test and should have postponed the custody hearing. We affirm.

FACTUAL AND PROCEDURAL HISTORY

I. Background

At some point, Frantz Honore ("Father") and Jessica Pineda ("Mother") engaged in a casual romantic relationship, but they were never married to one another and never lived together. When their relationship occurred was a matter of dispute at trial: Father maintains that they met in 2008, while Mother asserts that they did not meet until 2011.

On September 25, 2009, Mother gave birth to a daughter ("Daughter"). Father maintains that he is Daughter's biological father. Mother denies that Father is Daughter's biological father.

Father and Mother were not in contact with one another at the time of Daughter's birth. Nonetheless, despite Mother's contention that she did not meet Father until 2011, Father testified that Daughter began to live primarily with him when she was six or seven months old, which would have been in 2010.

Mother and Father signed an affidavit of parentage on November 20, 2012, attesting that Father was Daughter's "natural father" – and indeed, her "only possible

father." Daughter's birth certificate, also issued on November 20, 2012, lists Father as the father.

At some point, Mother moved from Maryland to South Carolina, but Daughter continued to live with Father in Maryland. On occasion, Mother would come to Maryland to visit Daughter. Father allowed Mother to take custody of Daughter for brief periods on the tacit agreement that she would bring Daughter back to Father's house at the end of the visit.

During Mother's visit with Daughter in July 2015, Father asked when she planned to bring Daughter back to his home. Mother responded that she was not going to bring her back. She absconded with Daughter.

Father and his wife spent months trying to locate Daughter. In December 2015, five months after Mother disappeared with Daughter, Father learned through Facebook that Daughter was in South Carolina. Father and his wife immediately drove to South Carolina, located Daughter, and returned her to Maryland.

II. Onset of Litigation

On August 18, 2015, while trying to locate Daughter, Father, representing himself, filed a complaint for custody in the Circuit Court for Howard County. After engaging counsel, Father filed an amended complaint on December 22, 2015. Representing herself, mother filed a counterclaim for custody, in which she asserted that Father was not Daughter's biological father. Both parties requested a paternity test.

On January 15, 2016, Mother and Father consented to a temporary order for

custody, which gave the parties joint legal custody and Father primary physical custody. The temporary order granted visitation rights to Mother, but imposed strict limits on her access to Daughter. Among other things, the order provided that visitation would occur only at Father's house or at Arundel Mills Mall and that Mother could not remove Daughter from Maryland.

III. Final Custody Hearing

After several months and some discovery disputes, the court held a hearing on June 10, 2016.

Although Father had previously sought but failed to obtain a postponement, his counsel stated that Father was ready to proceed with the hearing. Father also withdrew his request for a paternity test.

Mother, too, had previously sought but failed to obtain a postponement. Representing herself, she reiterated her request on the day of trial. The administrative judge's designee denied her request, and the trial judge proceeded to conduct the custody hearing that day.

A. Father's Case

Father has been employed by the Department of Defense for 20 years and earns approximately $175,000 annually. He works 40 hours per week and sometimes up to ten or 12 hours of overtime. When he is at work, his wife cares for Daughter.

Father currently lives in Hanover, Maryland, with his wife, their two daughters, and Daughter. His 6,000 square-foot house has six bedrooms and six bathrooms.

Daughter has her own bedroom and shares a bathroom with one of Father's daughters.

Father testified that he met Mother in 2008. He described their relationship as being that of "friends who dated."

Father testified that he was not in touch with Mother when she was pregnant and when Daughter was born. He said that Mother brought Daughter to live with him when she was six or seven months old. At that time, he did not know where Mother was living because "she always lived [in] different places."

After Mother brought Daughter to Father, Mother initially saw Daughter once a month, but their primary contact was through phone calls. Mother had liberal phone access to Daughter, but Father said that it was often hard to reach Mother because her phone number changed frequently or she would not answer her phone. On the other hand, Father testified that he talks with Mother's parents regularly and that he makes arrangements for them to see Daughter whenever they desire.

Father enrolled Daughter in Kindercare. She was in kindergarten at a public elementary school at the time of the hearing. Father testified that she was doing very well in school. He said that she played softball and basketball and that she was going to start playing soccer in the fall.

Father testified that as time passed Mother began to visit Daughter more frequently, and he would allow her to take Daughter to various places for the day. One day in July 2015, he sent Mother a text-message asking when she was planning to bring Daughter back to his house. Mother responded that she was not bringing her back,

because Daughter did not want to live with him.[1]

For months, Father and his wife tried to find Daughter. Finally, in December 2015, Daughter's maternal grandmother saw pictures of her on Facebook and was able to tell that she was at a location in South Carolina.

Father and his wife immediately drove to South Carolina to retrieve Daughter. He went to the "school system," which said that he could not "get her from the school," but would have to "get her off the bus." Father and his wife followed Daughter's bus, and they took custody of her when she got off the bus.

Somehow the local police were alerted. They stopped Father and handcuffed him, but released him when he managed to show them Daughter's birth certificate. The officers waited 45 minutes for Mother to arrive on the scene. When she did not appear, the police allowed Father and his wife to leave with Daughter on the understanding that he would return to Maryland and establish custody rights. He filed this suit upon his return.

Father said that when he and his wife brought Daughter back from South Carolina, she was wearing shoes that the school had given to her. He also said that he and his wife took Daughter to the doctor, who said that she was 20 pounds overweight.

Father testified that he had significant concerns about Daughter being in Mother's care in South Carolina, because Mother told him that she had lived with someone who

[1] Neither parent had sought or received any formal adjudication of custody rights at this time.

had touched Daughter in an inappropriate way. Before Mother moved to South Carolina, neither Father nor her parents knew where she was living, because, he said, she never had a stable residence. He added that Mother had not had stable employment since he had known her and that she was "always going from job to job."

Father testified that in the five months after the January 2016 order Mother had visited Daughter only once even though the order allowed her to visit every other weekend. Father concluded that he could provide Daughter with a safe, stable home, a great education, and the love that a child needs.

On cross-examination by Mother, Father reaffirmed that he did not know where Daughter was born, but that she had been brought to him when she was roughly six months old. Father testified that he and Mother have difficulty communicating, because she calls from different numbers and was difficult to reach. On the other hand, Father said that he had been in contact with Mother's parents for roughly three years and that they had "normal conversations." He said that he paid all of Daughter's bills, a claim that Mother did not dispute. Father stated that Daughter spends time with both sides of her extended family. Mother acknowledged that Father's family treated Daughter well.

Father's wife ("Wife") also testified on his behalf. She believed that Father provided a very stable environment for his family. She treats and refers to Daughter as if she were her own biological daughter.

Wife testified that Father and Daughter are very close and interact well together. She said that she used to communicate with Mother directly, but that Mother was "rude"

to her, so she decided to have Mother communicate directly with Father. Nonetheless, Wife speaks with Mother's mother on a weekly basis and fosters a relationship with Daughter's maternal grandparents. She stated that Father has strong family ties in Maryland and a strong support group for Daughter.

Wife expressed concern about the possibility of the court awarding Mother primary custody or extended visitation with Daughter. She said that when Daughter had spent weekends with Mother, she came back in the same clothes that she had been wearing when she left and that her suitcase full of clean clothes would be untouched. When Daughter lived with Mother in South Carolina, she did not participate in any extracurricular activities and came back to Maryland 20 pounds heavier than when she left. Wife also expressed concern that while Daughter was in South Carolina Mother did not properly care for Daughter's lactose intolerance and allergies to pets.

Wife corroborated Father's testimony that when they retrieved Daughter from South Carolina, she was wearing the shoes that the school had given to her. According to Wife, the principal informed her that the school gave Daughter the shoes because she was wearing sandals in October, which concerned the school officials.

Wife said that she encouraged Daughter to have a relationship with Mother and that Mother was always more than welcome to visit. She observed, however, that Mother had not been consistent in exercising her visitation rights and that she was not reliable or dependable.

The final witness testifying on Father's behalf was Mother's mother (and

Daughter's maternal grandmother) ("Grandmother"). Grandmother testified that she had adopted Mother when Mother was five years old. She revealed that Mother had another daughter who had lived with her father (i.e., the daughter's father) for most of her life. She said that Mother's living situation was not stable and that Mother had had multiple residences over the years. She also said that Mother had lived intermittently at her home, usually "when she was not able to . . . meet her rent," which occurred frequently. She stated that Mother had lived with two people in South Carolina, but that they kicked Mother out of their home three years ago. At that point, Mother came back to live with Grandmother, because she had nowhere to go and needed money.

Grandmother expressed concern because Mother had told her that she was living with someone in South Carolina who may have been mentally unstable. Mother had also told Grandmother that a person with whom she was living had male relatives who engaged in "inappropriate behavior" in the apartment. Grandmother testified that she had significant concerns and was upset about her granddaughter living with Mother in South Carolina, because she did not think that the child should have been in that type of environment.

According to Grandmother, Mother had had many different jobs, but seemed unable to keep a job for an extended period of time. She did not believe that Mother should have full custody of Daughter and believed that it was not in Daughter's best interest to spend an extended period of time with Mother in South Carolina. On cross-examination, Grandmother acknowledged that she and her daughter had had a "very

difficult" relationship.

B. Mother's Case

Mother testified that she had not been a perfect parent. She acknowledged that she gave custody of her older daughter to the father because she thought it was in her daughter's best interest to do so. She said that she put Father's name on Daughter's birth certificate and put Daughter in Father's care because of her medical problems, and she felt that Father was now trying to take "advantage of that situation."

Mother asserted that Father was not Daughter's biological father. Her assertion prompted the court to ask whether she had lied under oath when she signed an affidavit of parentage stating, under the penalties of perjury, that Father was Daughter's biological father. Mother answered that she had lied on the affidavit. Mother did not identify the man whom she believed was Daughter's true biological father.

Mother claimed that Father was always at work and often had to rely on his wife and other family members to care for the children. She drew a contrast with her own situation, saying that she worked full-time in a family-friendly regional office. She asserted that she would have more of a physical presence in Daughter's life than Father because she was not constantly working like Father.

Mother said that she wanted to work things out with Father and that she wanted him to be a part of Daughter's life, but she believed that they needed to go their separate ways. She claimed that, contrary to Father's assertions, she had made attempts to call and have a larger presence in Daughter's life. She testified that when Father got married,

which occurred in 2014, he stopped communicating with her. She felt that he prevented her from having private conversations with Daughter and that she had no bond with Daughter. She claimed that Daughter was not happy with Father. She also claimed that Daughter had suffered unnecessary mental anguish.

To conclude, Mother expressed concern over how Father treated Daughter and asserted that Father had a very bad temper. She also asserted that she had greater love for Daughter than he did and that she would do what was in Daughter's best interest.

On cross-examination, Mother claimed that she did not know Father when she was pregnant with Daughter. She said her health problems began in 2011 with a car accident and worsened after receiving treatment from a chiropractor. She had had multiple jobs since Daughter's birth and had trouble recalling all of them when asked. She testified that she was currently working as a clerk and that she worked 36 to 40 hours a week for $10.85 or $10.86 an hour. Mother had lived in several places since Daughter's birth, but she had trouble recalling all of the residences and the dates in which she lived in each residence.

Mother admitted that she had visited Daughter only one time since the January 2016 order. Nonetheless, she argued that Father was not a fit and proper person to have custody of Daughter. She reiterated her concern that Father worked long hours and that Daughter was in the care of a babysitter or relative while Father was at work.

C. Circuit Court Ruling

In a lengthy and cogent oral opinion, the court began by stating that Father had

withdrawn his request for a paternity test. The court proceeded to deny Mother's request for a paternity test, finding no credible evidence to permit Mother to contest Father's parentage "based on the admission that she lie[d] under the penalties of perjury."

The court reviewed, at great length, the factors pertaining to a determination of Daughter's best interest in custody cases. *See generally Taylor v. Taylor*, 306 Md. 290 (1986); *Montgomery Cnty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406 (1977). Most of the factors favored Father, while none favored Mother, and some favored neither parent.

On the subject of fitness of the parents, the court expressed concern regarding Mother's inability to maintain stable employment or a stable home. In addition, the court questioned Mother's fitness as a parent, because she either exposed Daughter to someone who improperly touched or abused her or permitted her to be improperly touched or abused. By contrast, the court found Father fit to have custody of Daughter.

For those reasons, the court found that Father clearly was the more fit parent and the proper person to have custody of Daughter. The court said it was in Daughter's best interests to convert the temporary custody order to a permanent order and that it would include a child support calculation in its written order.

On June 30, 2016, the court signed a written order that reflected this ruling. In brief, the order incorporated the central terms of the temporary order, including the award of joint legal custody to both parents, the award of primary physical custody to Father, and the imposition of limitations on Mother's physical access to Daughter, and it made

those terms permanent. In addition, the court ordered that telephone access between Mother and Daughter be unsupervised and unmonitored. However, the order did not include any child support calculations. The order was stamped as received in the clerk's office and entered on the docket on July 5, 2016.

Meanwhile, on July 1, 2016, Mother noted an appeal. On September 12, 2016, the court issued an amended order, which added "that the parties shall be charged generally with child support."

QUESTIONS PRESENTED

Mother presents two questions for review, which we restate slightly as follows:

I. Did the circuit court err in failing to order a paternity test?

II. Did the circuit court err in denying a postponement?

DISCUSSION

I. Finality and Appealability

"This Court has jurisdiction over an appeal when the appeal is taken from a final judgment or is otherwise permitted by law, and a timely notice of appeal was filed." *Doe v. Sovereign Grace Ministries, Inc*., 217 Md. App. 650, 661 (2014). We have the duty to ask, on our own motion, whether we lack appellate jurisdiction because a notice of appeal is premature. *See Jenkins v. Jenkins*, 112 Md. App. 390, 395-96 (1996); *see also Miller and Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 240 (2010) ("we must dismiss a case *sua sponte* on a finding that we do not have jurisdiction"); Md. Rule 8-

602(a)(1) ("[o]n motion or on its own initiative, the Court may dismiss an appeal . . . [if] the appeal is not allowed by these rules or other law").

On June 10, 2016, the trial court announced from the bench that it would convert the temporary order into a permanent order for custody. That ruling could not have led to a conventional final judgment, because the court did not decide how it would resolve the issue of child support. Nonetheless, the order became an appealable interlocutory order, when entered on the docket, because it "[d]epriv[ed] a parent . . . of the care and custody of [her] child." Md. Code (1974, 2013 Repl. Vol.), § 12-303(3)(x) of the Courts and Judicial Proceedings Article; *see Frase v. Barnhart*, 379 Md. 100, 119 (2003) (permitting mother to use § 12-303(3)(x) to appeal interlocutory custody ruling that declined to eliminate ongoing conditions on access to children).

The court embodied its oral ruling in a written order that was dated June 30, 2016, but not entered on the docket on July 5, 2016. *See* Md. Rule 2-601(d) ("the date of the judgment is the date that the clerk enters the judgment on the electronic case management system docket"). Meanwhile, on July 1, 2016, Mother had noted her appeal. Because Mother appealed before the date of the judgment, her appeal was premature. As a result of that "'jurisdictional defect'" (*Doe*, 217 Md. App. at 662, quoting *Jenkins*, 112 Md. App. at 408), we may lack appellate jurisdiction, unless another rule steps in to save the appeal.

One such savings provision is Rule 8-602(d), which states that "[a] notice of appeal filed after the announcement or signing by the trial court of a ruling, decision,

order, or judgment but before entry of the ruling, decision, order, or judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket." Rule 8-602(d) is designed to protect a litigant who files a notice of appeal after the court has announced a decision or an order, but who is so prompt and diligent that her notice of appeal makes it to the clerk's office before the court's written order.

Rule 8-602(d) saves Mother's premature appeal because the court announced the appealable interlocutory ruling at the hearing on June 10, 2016, and Mother appealed before the clerk docketed a written order that reflected the oral decision. *See Bussell v. Bussell*, 194 Md. App. 137, 154-55 (2010). Therefore, Mother's appeal is treated as having been filed on July 5, 2016, but after the entry of the order on the docket.

II. Paternity Test

Mother does not appear to challenge the court's ultimate decision to award the parties joint legal custody and Father primary physical custody, or the findings of fact and conclusions of law that led to that decision. The question that she has presented concerns the court's ancillary decision to deny her request for a paternity test. We hold that the court properly denied that request.

Neither party has clearly articulated the standard of review that this Court must apply to that issue. Mother principally argues that both parties had (at least at some point) requested a paternity test, but she offers no basis to conclude that the court's decision was anything other than a matter of judicial discretion, which is subject only to a highly deferential standard of review. To constitute an abuse of discretion, "'[t]he

decision . . . has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *McAllister v. McAllister*, 218 Md. App. 386, 400 (2014) (quoting *North v. North*, 102 Md. App. 1, 14 (1994)).

Father, by contrast, appears to argue that, in view of Mother's sworn statements in the affidavit of parentage, she had the right to a court-ordered paternity test only if she showed "fraud, duress, or material mistake of fact." Md. Code (1984, 2012 Repl. Vol.), § 5-1028(d)(2)(i)-(ii) of the Family Law Article ("FL"). Presumably, the question of whether Mother met that burden would be a mixed question of law and fact. When reviewing mixed questions of law and fact, "'we will affirm the trial court's judgment when we cannot say that its evidentiary findings were clearly erroneous, and we find no error in that court's application of the law.'" *Conrad v. Gamble*, 183 Md. App. 539, 551 (2008), quoting *Storetrax.com, Inc. v. Gurland*, 168 Md. App. 50, 81 (2006), *aff'd*, 397 Md. 37 (2007). In an abundance of caution, we shall apply the more exacting standard and treat this issue as a mixed question of law and fact.

"An executed affidavit of parentage constitutes a legal finding of paternity." FL § 5-1028(d)(1). An affiant may, however, rescind the affidavit within 60 days after its execution. *See id.* § 5-1028(d)(1)(i)-(ii). Thereafter, "an executed affidavit of parentage may be challenged in court only on the basis of fraud, duress, or material mistake of fact." *Id.* § 5-1028(d)(2)(i). "The burden of proof shall be on the challenger to show fraud, duress or material mistake of fact." *Id.* § 5-1028(d)(2)(ii).

On November 20, 2012, Mother and Father executed an affidavit of parentage that acknowledged that they were Daughter's parents. The top of the affidavit stated: "**This Affidavit is a legal document and constitutes a legal finding of paternity."** (Boldface type in original.) Printed above Mother's signature were the following statements:

> *I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true* to the best of my knowledge, information, and belief. *I consent to the assertion of paternity by the man named in Part III of this affidavit*, and *I acknowledge that he is the only possible father of the child named in Part I of this affidavit*.

(Emphasis added.)

Father's signature appears on the form under a similar advisement, in which he affirms, under the penalties of perjury, that he is "the natural father of the child." Father's name also appears on Daughter's birth certificate, which was also issued on November 20, 2012.

Neither Mother nor Father rescinded the affidavit within 60 days of its execution. Mother, nevertheless, maintains that Father is not Daughter's biological father. Instead, Mother maintains that she perjured herself on the affidavit of parentage because she was undergoing a health crisis and needed Father to care for Daughter. As a result, she contends that she is entitled to compel Father to take a paternity test. Mother is mistaken, because she has not satisfied her burden of proving that she executed the affidavit of parentage because of fraud, duress, or a mistake of material fact.

The court conducted a lengthy hearing that gave Mother and Father an ample opportunity to offer their competing accounts of paternity. The court engaged in a

meticulous review of the evidence, while reaching credibility determinations and drawing inferences that were supported by the testimony. After a full review of the record and testimony presented, the court denied Mother's request for a paternity test because "based on the admission that [Mother] lied under the penalties of perjury," it found "no credible evidence" to support the claim that Father is not the father. The court added that Mother had originally identified Father as the father and had acknowledged him as the father. He is "listed on Daughter's birth certificate, and has had a significant relationship and contact with his child since his child has been six months old." These findings were galaxies away from being clearly erroneous, and the court did not err in employing them as a basis to conclude that Mother failed to sustain her burden.[2]

Mother argues that the court erred in failing to order a paternity test because it was requested by both parties. In his amended complaint, Father indeed requested a paternity test to prove that he was the biological father. However, Father withdrew his request for

[2] A majority of the members of the Court of Appeals has stated that under FL § 5-1038 a putative *father* may ask to modify or set aside a circuit court's "declaration of paternity" if *he* signed it "on the basis of a genuine but incorrect belief that he is the father of the children." *See Davis v. Wicomico County Bureau*, 447 Md. 302, 349 (2016) (McDonald, J., dissenting); *id.* at 336 (Adkins, J., concurring). In those circumstances, if the putative *father* "later requests a genetic test to show whether [he] is in fact the father of the children," a majority of the Court of Appeals has said that "*he* is entitled to one." *Id.* at 349 (McDonald, J., dissenting) (emphasis added); *see id.* at 336 (Adkins, J., concurring). Neither in this Court nor in the circuit court did Mother argue that Father was proceeding on the basis of a genuine but incorrect belief that he is Daughter's father and hence that *Mother* was entitled to subject him to a genetic test. Accordingly, we have no basis to decide that issue. *See* Md. Rule 8-131(a). In any event, this case does not involve a "declaration of paternity," entered by a circuit court, but an affidavit of parentage signed by the mother and a man who voluntarily affirmed that he is the "only possible" father.

a paternity test at an emergency hearing on January 15, 2016. To ensure clarity on the record, Father again withdrew his request for a paternity test at the hearing on June 10, 2016. It is, therefore, incorrect to assert that as of the date of the hearing both parties requested a paternity test.

Mother also asserts that Father "never produced, admitted or entered into evidence a Birth Certificate or an Affidavit of Parentage." That assertion is false: Plaintiff's Exhibit 1 is Daughter's birth certificate, and Plaintiff's Exhibit 4 is the affidavit of parentage. The transcript reflects that the court and the parties discussed both documents at trial.

Finally, Mother relies on *McDermott v. Dougherty*, 385 Md. 320, 353 (2005), to contend that where a custody dispute is between a fit parent and a third party, courts prefer the minor child to be in the custody of the fit parent. *McDermott* is inapposite. In her reliance on *McDermott*, Mother implicitly views Father as a third party, but he is not relegated to that role. Mother signed the affidavit of parentage, in which she acknowledged, under the penalties of perjury, that Father was the only possible father of Daughter. At a minimum, the affidavit is Mother's admission that Father is not a mere third party.

In summary, we see no basis to conclude that the circuit court erred in any way in denying Mother's request for a paternity test.[3]

[3] Under *Monroe v. Monroe*, 329 Md. 758, 766-67 (1993), Mother may have been able to obtain a genetic test by using Md. Rule 2-423, the discovery provision that

III. Continuance

Mother challenges the court's decision to deny her oral motion to postpone the hearing.[4] Although her argument is not well developed or entirely clear, she appears to argue that a postponement was necessary so that: (1) the court could compel Father to submit to a paternity test; (2) she could retain counsel; and (3) discovery issues could be resolved. We are unpersuaded by Mother's contention that the trial court abused its discretion when it denied her request to postpone the hearing.

Md. Rule 2-508 states that, "[o]n motion of any party or on its own initiative, the court may continue a trial or other proceeding as justice may require." The circuit court has broad discretion in deciding whether or not to grant a party's motion for a continuance. *See Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). We review a court's decision to deny a motion for a continuance for an abuse of that discretion. *Id.* (citing *Greenstein v. Meister*, 279 Md. 275, 294 (1977)).

The denial of a continuance may constitute an abuse of discretion when, for example, (1) "the continuance was mandated by law," (2) "counsel was taken by surprise by an unforeseen event at trial, when he [or she] had acted diligently to prepare for trial," or (3) "in the face of an unforeseen event, counsel had acted with diligence to mitigate the effects of the surprise[.]" *Touzeau v. Deffinbaugh*, 394 Md. at 669-70 (citations

---

empowers a court to order mental or physical examinations of a party. She would, however, have been required to show "good cause." Mother did not pursue that avenue.

[4] A few weeks before the hearing, on May 20, 2016, the court had denied Mother's written request for a postponement.

omitted). None of those circumstances, nor any similar circumstances, are present in this case.

According to the transcript that the parties have supplied and the docket entries in this case, the trial judge did not deny Mother's oral request for a postponement. Instead, in accordance with the court's internal protocols, the trial judge referred the parties to the administrative judge's designee, who denied the oral request.

In the brief proceeding before the administrative judge, Mother requested a postponement on the ground that she needed time to engage an attorney.[5] The judge did not abuse his discretion in denying a postponement on that ground.

Mother had initially employed an attorney, but the court granted the attorney's motion to withdraw on January 15, 2016. A week later, on January 22, 2016, the court sent Mother a "Notice to Employ New Counsel" pursuant to Md. Rule 2-132(c). The notice stated that Mother was not represented by counsel and that if new counsel did not enter an appearance within 15 days, her failure to have counsel would "not be grounds for postponing any further proceedings concerning the case." Mother had ample time to secure counsel before the postponement hearing on June 10, 2016, but she failed to do so. She cannot complain that the court denied her motion for postponement when she had yet to retain counsel nearly five months after the court issued her a "Notice to Employ New

[5] From Mother's statements, it appears that she had consulted with an attorney, but had not yet paid his fee, or his full fee.

Counsel." *See e.g.*, *Serio v. Baystate Properties, LLC*, 209 Md. App. 545, 556-58 (2013); *see also Das v. Das*, 133 Md. App. 1, 31-32 (2000).

Only after the court denied her request for a postponement did Mother mention her request to require Father to submit to a paternity test. Father's counsel responded that Mother had listed Father on the affidavit of parentage and on the child's birth certificate, and the court promptly reiterated its denial of the postponement request. We cannot conceive of how that decision amounts to an abuse of discretion: even if Mother's admissions in the affidavit and birth certificate did not put an end to the issue of paternity, Mother had no justification for waiting until the morning of a long-scheduled trial to press for a continuance because of the failure to secure a ruling on whether Father had to submit to the test.

Because Father had once filed a motion for postponement, Mother now argues that "[b]oth parties conceded that this matter was not ready to proceed to final litigation" and that the court improperly denied a postponement. Father did indeed request for postponement on May 16, 2016, but the court summarily denied his request three days later, on May 19, 2016. Furthermore, on the day of trial, Father's attorney said, "[W]e are prepared to move forward today with this trial." Father, therefore, did not concede that the case was not ready for trial, and Mother is incorrect in asserting that he did.

Finally, we note that it would not have been in Daughter's best interests to prolong the temporary custody regime and to delay a final determination about custody and

visitation. For that additional reason, the court did not abuse its discretion in denying a postponement.

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