Circuit Court for Montgomery County
Case No.: C-15-FM-22-000898

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 46

September Term, 2025

YAKOUBOU OUSMANOU

v.

AHMADOU MARYAM ROUKAYATOU

Graeff,
Shaw,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: December 26, 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).

Following a two-day modification of custody hearing, the Circuit Court for Montgomery County granted Yakoubou Ousmanou ("Father") and Ahmadou Maryam Roukayatou ("Mother") shared physical and legal custody of their two young children. The court also awarded Mother $892 in monthly child support and $5,000 in attorney's fees, and it denied Father's motion for contempt.

On appeal, Father presents the following questions for this Court's review, which we have rephrased slightly, as follows:

1. Did the circuit court err when it modified the custody order in the absence of a material change of circumstances?

2. Did the circuit court err in ordering joint legal custody, rather than giving Father sole legal custody or tie-breaking authority?

3. Did the circuit court err in its child support calculation?

4. Did the circuit court err in denying Father's motion for contempt?

5. Did the circuit court err in not ordering Mother to have the children regularly attend religious instruction when they were in her care?

6. Did the circuit court err in ordering Father to pay attorney's fees to Mother in the amount of $5,000?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In 2012, Father and Mother were married in a religious ceremony in Cameroon. Two years later, they were married in a civil ceremony in Rockville, Maryland. Two sons were born during the marriage, one in 2014 and one in 2017.

In 2022, Mother filed a complaint and supplemental complaint for absolute divorce in the Circuit Court for Montgomery County. Father filed a countercomplaint.

On June 22, 2023, following a three-day custody trial, the circuit court issued a written order awarding Father primary physical custody and the parties' joint legal custody of their two children. The court set out a visitation schedule with Mother to have visitation every Tuesday after school until 8:00 p.m., and every other weekend from Friday after school to the following Monday morning. The court included a holiday schedule and a summer schedule, which generally alternated weekly visitation for each parent. Additionally, the court ordered Father to pay Mother $422 a month in child support and $20,000 in attorney fees.

On December 15, 2023, Father filed a petition for contempt and a motion to modify the custody order. He sought, among other things, sole legal custody, a recalculation of child support to reflect Mother's new employment, a directive to have the children regularly attend religious instruction when in Mother's care, and attorney's fees. Mother filed a counterpetition seeking sole legal custody and primary physical custody, child support, and attorney's fees.

On March 15, 2024, the circuit court granted the parties an absolute divorce. At that time, the parties resolved their financial issues by consent.

A two-day trial on the parties' modification motions and Father's contempt petition was held on October 29 and 30, 2024. Father, Mother, and her mother ("Grandmother"), among others, testified at the trial.

Father testified that he had worked for more than four years, mostly remotely, for Harford County Public Schools as a Senior Manager of Research and Program Evaluation. His last paystub was admitted into evidence. The children attended Maryvale Elementary School, a Montgomery County French immersion public school. Father testified that he paid $240 a month for Kumon, an academic tutoring program. Father suggested, however, that it might not be necessary for the older child, and there were other options for the younger child.

At the time of the initial court order, the children had been enrolled in Sunday school at the Islamic Society of Germantown (ISG), but they did not attend every Sunday. In September 2023, Father enrolled the children at the Islamic Center of Maryland (ICM), which the children attended every Sunday when they were in Father's care.

Father testified that, in the beginning of 2024, he enrolled the children on his health insurance plan. He never informed Mother, however, even though she had carried the children on her health insurance plan since 2017.

Father testified that he wanted Mother to have more limited physical custody of the children, only every other weekend from Friday to Saturday evening. The court admitted texts and email exchanges between the parties regarding Mother's alleged violation of the custody order, and as a reflection of how the parties were getting along at the time of and during the original custody order.

Mother testified that, in April 2023, a couple of months before the original custody order, she was living in the basement of a friend's home that did not have accommodations for her children. At the end of August 2023, a couple of months after the original custody

order, she signed a lease for a two-bedroom apartment. She recently renewed the lease, which was admitted into evidence. Her apartment was within walking distance of Father's house, and the bus stop for the children's school was between their homes. At the time of the court's original custody order, she worked as a para-educator and began work at 8:00 a.m. At the time of the modification hearing, Mother worked full-time as a special education teacher, and she began work at 9:00 a.m., so she was able to get the children to their school bus prior to work. Her 2023 tax return was admitted into evidence.

Mother testified to the many difficulties she and Father had when the children transitioned from one parent to the other. Tuesday night dinners were stressful because it was not enough time for her and the children to catch up, and the children were exhibiting separation anxiety when it was time to return to Father's house.

With respect to Sunday school, Mother testified that Father enrolled the children at ICM, which is approximately 30 minutes from her home. When the parties were together, the children did not attend school every Sunday. Since separated, she had not taken them to ICM every Sunday when they were in her care because she felt that it was important for the children to spend time with her. Additionally, Father did not inform her about the children attending soccer or boy scouts through the ICM. Mother testified that the children had been enrolled on her health insurance plan since 2017, and she discovered during Father's testimony that he had enrolled the children on his health insurance plan in 2024. Mother paid for Kumon over the summer.

At the time of the initial custody order, Mother did not have immediate family living nearby, but in September 2023, her mother ("Grandmother"), who is now a permanent

United States resident, relocated from Cameroon and lived with her full-time. Grandmother testified regarding how she helped Mother with childcare. She testified that it was difficult to get the children to separate from Mother when Mother's custody time ended because their time together was very short.

On February 4, 2025, the circuit court issued an oral ruling from the bench. The court ordered that the parties have shared physical custody, alternating each week, with a set holiday visitation schedule. The court stated that this gave more stability for the children, with the least amount of disruptions as possible because it reduced the number of transitions between the parents. The court stated that both parties were good parents, but they needed to stay out of the other parent's business when the children were with that parent. It ordered the parties to use a parenting app to resolve difficulties in communication.

The court ordered shared legal custody, stating that, if the parties were unable to reach an agreement, they were required to participate in one, two-hour mediation before filing a motion in court. The court further ordered the parties to communicate through a parenting app. It ordered Father to pay Mother $892 a month in child support and $5,000 in attorney's fees. The court denied Father's contempt petition. The circuit court subsequently issued a written order reflecting its oral ruling.

This appeal followed.

DISCUSSION

Father, an unrepresented litigant, raises six contentions of error on appeal. Before addressing them, we discuss the applicable standard of review.

We review decisions of the circuit court to modify custody using three interrelated standards of review. We review factual findings under the clearly erroneous standard, legal questions without deference, and we shall not disturb the ultimate conclusion of the circuit court unless there has been a clear abuse of discretion. *In re Yve S.*, 373 Md. 551, 586 (2003). Because the circuit court sees the witnesses and the parties and hears the testimony, 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." *Id*. The above standards of review also apply to monetary awards. *See Kaplan v. Kaplan*, 248 Md. App. 358, 385 (2020) (standard of review for child support awards); *Henriquez v. Henriquez*, 185 Md. App. 465, 475-76 (2009), *aff'd*, 413 Md. 287 (2010) (standard of review for attorney's fees).

I.

Physical custody

Father contends that the circuit court abused its discretion in modifying the terms of the initial custody order because there had been no material change of circumstances to warrant a change.[1] Mother disagrees, as do we.

When a circuit court is presented with a request to modify custody, the court must engage in a two-step process. *Velasquez v. Fuentes*, 262 Md. App. 215, 246 (2024). The circuit court first must determine whether there has been a material change in

[1] We note that Father makes this argument with some ill-grace, given that he initiated these proceedings by filing a motion to modify custody, which, as he points out and we discuss, is appropriate only if there has been a material change in circumstances.

circumstances. *Id.* "A material change of circumstances is 'a change in circumstances that affects the welfare of the child.'" *Id.* (quoting *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012)).

If the court finds a material change of circumstances, then the "court proceeds to consider the best interests of the child as if the proceeding were one for original custody." *Id*. "The burden is [] on the moving party to show that there has been a **material change in circumstances since the entry of the final custody order** and that it is now in the best interest of the child for custody to be changed." *Id.* (alteration in original) (quoting *Gillespie*, 206 Md. App. at 171-72).

Father's claim of error is based on the first step of the analysis; he contends that the "court failed to make the threshold finding of a material change in circumstances." He contends that Mother's "trivial relocation and vague assertions of improved caregiving" were insufficient to create a material change of circumstance where the children were "thriving" in his sole physical custody. Father argues that Mother's new apartment was less than a mile from where she had been living, and there was no evidence that the children were being harmed under the initial custody order.

Based on our review of the record, the circuit court did not err or abuse its discretion in determining that there had been a material change of circumstances. Mother testified that, at the time of the original custody order, she lived in the basement of a friend's home. Since that time, she had moved to a two-bedroom apartment. Her mother was living with her full-time and helping her with childcare. Additionally, because Mother had changed jobs, she could get the children on the bus before work. Mother testified that the children

were suffering from anxiety when they transitioned from Mother's to Father's care because they were unable to fully "catch up" and relax before having to transition back to Father's care. Because Mother now has an apartment to accommodate the children, as well as more available time due to her change in employment, and because Grandmother can now help Mother with childcare, there was a material change in circumstances. Father's claim to the contrary is devoid of merit.

II.

Legal custody

Legal custody confers the "right and obligation to make long range decisions involving education, religious training, discipline, medical care, and other matters of major significance concerning the child's life and welfare." *Taylor v. Taylor*, 306 Md. 290, 296 (1986). Father contends that the circuit court abused its discretion in ordering joint legal custody, asserting that the court should have given him tie-breaking authority or sole legal custody because the evidence showed that co-parenting was impossible due to Mother's "intentional obstruction" of the court's orders. Mother argues that the court did not abuse its discretion in ordering joint legal custody.

The court stated that it was torn on the issue of custody. It stated that both parents were "capable of communicating with each other, but they've struggled somewhat in that regard." The court determined that joint legal custody was appropriate because both parents had a lot to offer and "the children [were] entitled to the benefit of both parents' input into the important decisions that need to be made, particularly now as they begin to get a little bit older and decisions about education start to come forward." It declined to award tie-

breaking authority, stating that it believed "that in these situations where parents are having these kind of communication issues, that giving one parent that tiebreaking authority basically winds up being that parent makes the decisions in all the situations. And I don't want that. I don't think that's what's best for these children."

As Father notes, the capacity of the parents to communicate and reach shared decisions is the most important factor in determining whether an award of joint custody is appropriate. *Taylor*, 306 Md. at 304. Father's argument that there was no cooperation between the parents here, however, is belied by the record. Although there was evidence that Father made some decisions, such as enrolling the children in religious education in a place farther from Mother's home and obtaining health insurance for the children without notifying Mother, there also was evidence that the parents cooperated in making the decision to enroll the children in a French immersion school and finding medical care.

The court here clearly put thought into its decision and found that the "parents are capable of communicating with each other," although it acknowledged that "they've struggled somewhat in that regard." To help with communication issues, the court ordered the parties to communicate via a parenting app, and it ordered the parties, if they could not agree on something, to engage a mediator for a one, two-hour session before filing a motion with the court. The court believed that these added communication components would require the parents to "work a little bit and try to reach an agreement." Under the evidence presented, the circuit court did not abuse its discretion in ordering joint legal custody.

III.

Child support award

After ordering the parties to submit child support guidelines, the court stated that it would "calculate the child support to be awarded from one parent to the other based upon 50/50 shared custody." The court then completed its own guidelines worksheet and ordered Father to pay child support in the amount of $892 a month.

Father contends that the circuit court erred in its child support calculations. He lists three errors in that regard: (1) failing to consider his annual $10,000 annual "marital buyout" of the parties' house and monthly tutoring payments; (2) failing to consider his health insurance contributions; and (3) relying on inaccurate income for both parties.

Mother argues that there is no merit to Father's arguments. She asserts that "the court properly calculated the child support guidelines based on the parties' documented incomes (their pay stubs, tax returns, and W-2s)," and it correctly excluded Father's payments based on Mother's interest in the former martial home.

Maryland Family Law § 12–204 provides a schedule and guidelines for child support. The amount owed by each parent is adjusted in proportion to each parent's income minus expenses, such as childcare, health care, and medical expenses. Md. Code Ann., Family Law ("FL") § 12-204 (a), (e), (g), (h) (2025 Supp.).

The record here reflects that the court completed a guidelines worksheet using the amount of monthly income for each party as set forth by that party in their respective proposed guidelines, i.e., $5,750 for Mother and $11,281 for Father. Father contends that this amount failed to take into account an increase in Mother's income shown by her 2023

pay records. Mother testified that her 2023 W-2 partly included her lower para-educator salary and her current annual income at the time of the hearing was approximately $69,000, which is the amount the court used in its child support calculations. There was no error in this regard.

The court's worksheet also shows that the court did not include in Mother's income the $10,000 a year that Father paid to Mother to buy out her interest in the martial home.[2] The court did not err in doing so.

FL § 12–201(b)(3)(i-xvi) defines "actual income" to include:

> (i) salaries;
> (ii) wages;
> (iii) commissions;
> (iv) bonuses;
> (v) dividend income;
> (vi) pension income;
> (vii) interest income;
> (viii) trust income;
> (ix) annuity income;
> (x) Social Security benefits;
> (xi) workers' compensation benefits;
> (xii) unemployment insurance benefits;
> (xiii) disability insurance benefits;
> (xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;
> (xv) alimony or maintenance received; and
> (xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the

[2] When the circuit court initially granted the parties an absolute divorce, the parties had reached a consent agreement on some financial issues. Both parties waived their right to alimony, and Father agreed to pay Mother $85,000, representing Mother's interest in the marital home, to be paid $10,000 on April 30, 2024, and $10,000 at the end of the year, every year until it was all paid.

> extent the reimbursements or payments reduce the parent's personal living expenses.

Additionally, a court may consider the following items as actual income: severance pay; capital gains; gifts; or prizes. *See* FL § 12-201(b)(4)(i-iv).

A payment made to buy out interest in the martial home is not considered income under the language of FL § 12-201(b)(3) or (4). Accordingly, the court's failure to include the buy-out in Mother's actual income for determining child support was not an abuse of discretion.[3]

With respect to Father's contention that the circuit court erred in excluding the amount he paid for health insurance for the children, we note that FL § 12-204(h)(1) provides: "Any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible shall be added to the basic child support obligation and shall be divided by the parents in proportion to their adjusted actual incomes." In this case, however, Father obtained health insurance for the children while they already had existing coverage under Mother's plan, without any notice or discussion with Mother. Under these circumstances, the court did not abuse its discretion in failing to include Father's expense in the child support calculations.

We turn next to Father's contention that the circuit court erred in not including tutoring expenses in its child support determination. As this Court has explained, the circuit

[3] When Father calculated Mother's income, he calculated Mother's annual salary based on her paystubs from January and February 2024 ($3,024.50) which equaled $78,637. Father then added $10,000 to Mother's yearly salary to account for the buy-out payment and determined that Mother received $7,386 monthly.

court can "supplement the Guidelines obligation only for certain categories of expenses: child care; extraordinary medical expenses; the cost of attendance at a special or private elementary or secondary school; and transportation expenses." *Horsley v. Radisi*, 132 Md. App. 1, 26 (2000).[4] Although a court has discretion to depart from the guidelines in a particular case, *id.* at 29, the court did not abuse its discretion in declining to include these expenses here, particularly when Father admitted they may not be needed. Father's contentions regarding the child support ruling are devoid of merit.

IV.

Contempt

Father contends that the circuit court erred in failing to find Mother in contempt for repeated violations of the court's original custody order. This argument is not properly before us.

In Maryland, "a party that files a petition for constructive civil contempt does not have a right to appeal the trial court's denial of that petition." *Pack Shack, Inc. v. Howard Cnty.*, 371 Md. 243, 246 (2002). "[O]nly those adjudged in contempt have the right to appellate review. The right of appeal in contempt cases is not available to the party who unsuccessfully sought to have another's conduct adjudged to be contemptuous." *Becker v. Becker*, 29 Md. App. 339, 345 (1975). Because the circuit court *denied* Father's petition

[4] "If the parties' combined monthly adjusted income is under $30,000 (or $360,000 annually), the circuit court must apply the guidelines." *Sims v. Sims*, 266 Md. App. 337, 384 (2025). This case was governed by the guidelines.

for contempt, we will not consider his appellate argument regarding the ruling denying his contempt petition.

V.

Religious education

Father contends that the circuit court abused its discretion by failing to issue a directive ordering Mother to take the children to religious instruction at ICM Sunday School when the children are in her physical custody. He asserts, citing to *Bienenfeld v. Bennett-White*, 91 Md. App. 488, *cert. denied*, 327 Md. 625 (1992), that "Maryland law requires that, in custody matters, a child's established religious and moral formation be protected absent evidence of harm."

Bienenfeld does not stand for the proposition cited. In that case, the mother was restricting the children's access to the father because of her views regarding their children's religious upbringing. *Id.* at 508. The holding in that case was that the court did not abuse its discretion in considering the mother's views on the children's religious upbringing to the extent that it posed a threat to the children's relationship to their father, and therefore, the children's emotional well-being. *Id.*

Here, the evidence showed that both parents intended to raise their children as Muslim. The court did not abuse its discretion in permitting each party to provide for their children's religious upbringing in their own way during the time they had the children.

VI.

Attorney's fees

Father contends that the court abused its discretion in ordering him to pay $5,000 to Mother for attorney's fees.[5] He argues that the award was improper because of Mother's "litigation misconduct and noncompliance" and his own "verified legal expenses totaling $8,371.50." Father further argues that the court made no determination that the fees were reasonable.[6]

The awarding of attorney fees in the context of custody and visitation proceedings is governed by FL § 12-103. This statute provides, in pertinent part, that the court may award to a party costs and counsel fees after considering: "(1) the financial status of each party; (2) the needs of each party; and (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding." FL § 12-103(a), (b).

Although FL § 12-103 "does not expressly mandate the consideration of reasonableness of the fees, … evaluation of the reasonableness of the fees is required." *Sczudlo v. Berry*, 129 Md. App. 529, 550 (1999). In *Lieberman v. Lieberman*, 81 Md. App. 575, 601–02 (1990), this Court guided trial courts to consider the following four factors in

[5] Father did not raise, in his questions presented, an issue regarding the award of attorney's fees. And he did not raise this as a separate argument section until his reply brief. Nevertheless, he did mention the issue in the initial brief, as part of the argument summary and request for relief, and appellee responded to the issue. Accordingly, we will address it.

[6] Father did not argue below that the attorney's fees submitted by Mother were not reasonable. Accordingly, this contention is not preserved for this Court's review. *See* Md. Rule 8-131(a) (appellate court ordinarily will not review an issue "unless it plainly appears by the record to have been raised in or decided by the trial court[.]").

determining whether the amount awarded for attorney's fees was reasonable: "(1) whether the [award] was supported by adequate testimony or records; (2) whether the work was reasonably necessary; (3) whether the fee was reasonable for the work that was done; and (4) how much can reasonably be afforded by each of the parties." A court's discretionary decision to award counsel fees is afforded deference on appeal. *Lemley v. Lemley*, 109 Md. App. 620, 633 (1996), *cert. denied*, 344 Md. 567 (1997).

Here, Mother produced invoices for legal fees incurred prior to the hearing on the motion to modify in the amount of $8,354. The records delineate the tasks that Mother's attorney performed in preparing and litigating her case, and the time each task took, and the hourly rate charged. Mother testified that she paid her most recent fees with a loan from a friend, and her legal invoice showed that she still owed fees at the time of the hearing.

In rebuttal, Father testified regarding the attorney's fees he had incurred, i.e., more than $40,000 paid to his prior attorney, and $5,000 owed to his attorney for the custody hearing. Father stated that he was in debt. The court questioned why Father failed to offer evidence of his attorney's fees during his case in chief. Father testified that Mother should pay attorney's fees to him because she failed to comply with court orders, he was already paying her $10,000 for the house, and he did not "even have that $10,000."

The court then set a time for written closing arguments. It asked the parties to submit what fees had been incurred related solely to the issues presented in the motions before the court. The court asked the parties to specify how much each party was requesting in dollars, and it would double check the end number.

In its award of attorney's fees to Mother, the court stated that it had considered all the statutory factors. It noted that the previous child support order and custody order required Father to pay Mother $20,000 in attorney's fees. The court stated that it had reviewed the parties' financial statements and all relevant information presented at trial. The court gave significant weight to the disparity in income between the parties, noting that Father earned almost double what Mother earned as a special education teacher. The court stated that both parties acted in good faith, and neither party unduly increased the expense of the action. After reviewing the requisite factors, the court ordered Father to pay Mother $5,000 in attorney's fees. We perceive no abuse of discretion in the court's ruling in this regard.

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