Circuit Court for Calvert County
Case No. C-04-FM-20-000234

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0067

September Term, 2025

MARK QUINTIN GADSON

v.

HA THI THU HOANG

Graeff,
Ripken,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: September 11, 2025

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

This case arises out of a dispute between Mark Quintin Gadson ("Father") and Ha Thi Thu Hoang ("Mother") involving custody of their minor child, "C."[1] After both parties filed motions to modify physical and legal custody of the child, the Circuit Court for Calvert County held a hearing that took place over the course of several days. The court found that a material change in circumstances had occurred, and therefore issued an order modifying custody of the minor child. This timely appeal followed.

ISSUES PRESENTED FOR REVIEW

Father has presented the following two issues for this Court's review:[2]

I. Whether the circuit court erred in finding that a material change in circumstances occurred.

II. Whether the circuit court abused its discretion in allowing testimony regarding Father's former co-parenting relationship.

For the reasons to follow, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

A. Divorce and Initial Custody Order

The parties in this action were married in 2016. Their child C. was born in 2020. The parties subsequently obtained a judgment of absolute divorce which was entered in

[1] To protect the anonymity of the minor child, we refer to him by a randomly selected letter.

[2] Rephrased from:

1. Whether The Trial Court Erred By Finding A Material Change of Circumstances When There Was No Finding Of Or Evidence Of Any Adverse Effects To The Minor Child.
2. Whether The Trial Court Erred By Allowing In Testimony Of Appellant's Relationship With His Child From Another Relationship And Co-Parenting Relationship With A Former Partner That Occurred Over Fifteen Years Prior To The Case.

October of 2021. Based on the parties' agreement, the court awarded them joint legal custody of C., granting tie-breaking authority to Father with respect to "medical, extracurricular, and religious matters" and to Mother with respect to "mental health and educational matters." The court granted the parties joint physical custody of C. on a two-week schedule. Pursuant to their arrangement, during the first week, Mother had C. in her custody from Sunday evening through Wednesday, and Father had C. in his custody from Wednesday evening through the following Sunday. During the second week, Mother had C. in her custody from Sunday evening through Thursday, and Father had C. in his custody from Thursday evening through Sunday. The order provided that on days of the custody exchanges, the pickup and drop-off was to occur at 5:00 p.m. The order also provided a holiday access schedule. Although this arrangement provided Mother nine of fourteen overnights with C., the weekend time she shared with C. under this schedule was limited to Sunday evenings.

B. Contempt Petitions and Motions to Modify Custody

In August of 2023, Mother filed a petition for contempt against Father, which she amended in September of 2023. Mother asserted that Father had violated the divorce decree in several ways, including: disparaging Mother in the presence of the minor child; failing to communicate regarding the minor child through the agreed and ordered calendar coordinating software; and failing to discuss decisions with Mother regarding the child before exercising tie-breaking authority. After the court issued a show cause order, Father responded to the petition, denying most of the allegations and denying that he was in contempt.

Simultaneous to the filing of his answer to the contempt petition, in October of 2023, Father filed a motion seeking modification of custody. Father asserted that since the initial custody order was entered, there had been a material change of circumstances warranting a change in custody. In particular, Father claimed that Mother had "abused her tie-breaking authority" in relation to C.'s education. Father asserted that Mother had failed to sufficiently discuss education and preschool options with him before exercising her tie-breaking authority to enroll C. in programs. Father claimed that because Mother's employment status had changed to full-time, she was unable to provide "a stable environment for the minor child[.]" Father argued that based on the change in circumstances, the court should modify the prior custody order and grant him full legal and primary physical custody of C. On the same day, Father also filed his own petition for contempt against Mother, on the basis that she was failing to discuss educational decisions regarding C. and failing to keep him informed of those decisions.

Mother responded to Father's motion to modify custody, denying that she had abused her tie-breaking authority, and asserting that Father's manner of communications had made it impossible to engage in productive discussions regarding C. She did not agree that Father should be awarded sole legal or primary physical custody of C. Mother denied the allegations in Father's petition for contempt for the same reasons.

In March of 2024, Mother filed a counter motion seeking modification of custody. She asserted that since the time of the initial custody order, the circumstances had changed materially, and a modification of custody was warranted. Mother asserted that Father had engaged in disparagement of Mother in the presence of C. at custody exchanges and that

Father had "consistently exhibited an inability to communicate" with her. Mother sought primary physical custody of C.

Following a hearing in March of 2024, the court denied both petitions for contempt.[3] The court ordered the parties to communicate solely via a third-party communication program, Our Family Wizard (hereinafter, "OFW"), with ToneMeter.[4] Father filed a subsequent petition for contempt against Mother in August of 2024, again claiming that she was "abusing tie-break [sic] privileges."

C. Custody Modification Hearing

The court held a hearing on the merits of both parties' motions to modify custody, Father's petition for contempt, as well as additional outstanding motions. The merits hearing spanned the course of five days in October of 2024 and January of 2025. Both parties testified at the hearing.

Father testified that he did not agree with Mother's placement of C. in various educational or daycare programs. He asserted that Mother did not sufficiently discuss with him placement of the child before exercising her tiebreaking authority to enroll C. into these programs. Father asserted that when he attempted to present Mother with alternative

[3] Father noted an interlocutory appeal of this order to this Court, which was dismissed as not allowed by law. *See* Md. Code (1974, 2020 Repl. Vol.), Courts and Judicial Proceedings Article § 12-304; *see also Kadish v. Kadish*, 254 Md. App. 467, 508–09 (2022) (holding that a finding that a party is not in contempt of court is not an appealable interlocutory order).

[4] According to OFW, ToneMeter is a communication tool that identifies when a parent's message "might sound confrontational" and will then suggest "a neutral alternative[.]" Our Family Wizard, *ToneMeter*, https://perma.cc/5ZKT-DTY5 (last visited Sept. 9, 2025).

educational options, she did not consider those suggestions. He also asserted that Mother had enrolled C. in mental health services—which Father did not believe C. needed—without adequate discussion.

Mother testified regarding the parties' co-parenting relationship. She testified that she did attempt to discuss issues such as daycare and preschool educational program placement with Father. For example, for the Fall 2024 term, Mother proposed reenrolling C. in a Head Start preschool program, with hours from 9:00 a.m. through 4:00 p.m., and which also allowed for early drop-off; however, Father rejected this proposal, contending that C. should attend a program at a private school in Solomon's Island with hours from 10:00 a.m. through 2:00 p.m.[5] Mother testified that she researched the differences in the private program Father selected, and that it did not work for several reasons, including the short schedule of the private program, which would require her to secure additional care for C.; the private program had a lower accreditation level than the program Mother had proposed; and the private program had a higher cost. Mother explained the reasons she believed her proposal was a better fit for C., and asked Father to visit the campus of the program she had proposed; Father declined. The messages entered in evidence reflected that Father refused to consider any option other than the private program he put forth. Because discussions with Father were unfruitful, Mother exercised her tie-breaking authority and enrolled C. in the Head Start program. Father responded by stating the

[5] In addition, the institution suggested by Father had an academic summer program that he wished for C. to be enrolled in. Mother offered to enroll C. in Father's selected summer program if Father agreed to contribute to the cost. However, Father responded that he would not pay for the program.

following: "Whatever untruths make you happy[.] You're just filling up OFW with nonsense and your motivations."

Mother testified that when the parties agreed to the initial custody access schedule in 2021, she worked part time at H&R Block, and worked only during the weekend, staying home with C. during the weekdays. She testified that since that time, she had obtained her CPA license and worked for the Calvert County Public School System. Mother testified that her work schedule had changed, allowing her to work during the week and not on weekends. She also testified that C. attended preschool during the week, and that she did not have any weekend time with C. Mother testified that C. was negatively impacted by the absence of quality parenting time with her. She testified that she had attempted to discuss changing the access schedule with Father to allow for C. to alternate weekends between both parents; however, Father had refused to consider this adjustment.[6] Mother

[6] Father's text messages in response to Mother's request were admitted over his objection, and expressed the following:

> I don't know why you wrote all this information. I also don't understand why you are waking the boys very early in the mornings and begging other people to help you.
>
> No wonder [C.] is always tired or in need of a nap every day. He shouldn't be up at [5:00 a.m.] nor [6:00 a.m.] in the mornings.
>
> You are doing all these unnecessary things; continuing to make bad decisions. I already told you weeks ago, that I will get [C.] from the daycare on the weekdays he is with me. That will happen regardless of what you and your attorney try to do.

When Mother attempted to further explain her position,Father responded as follows:

> You do not have [C.] at [4:00 p.m.] either. Don't bother me anymore with your crazy thoughts. I told you yesterday.
>
> If you make this a problem also, then the new judge will settle it. I'm certain you will lose.

further testified that due to Father's inflexibility in making even temporary adjustments to the schedule, she was unable to bring C. with her to her presentation ceremony for her CPA license.

Additional witnesses were also presented. Among those witnesses was Theresa Booker ("Booker"), the Head Start coordinator for Calvert County Public Schools. Booker testified that when C. was initially enrolled in the Head Start program, Father had contacted the Head Start offices questioning C.'s eligibility for enrollment. She testified that after explaining that C. met the federal requirements for the program, Father became "belligerent" and informed her that she "didn't know what [she] was doing," that she should be fired, and that "he would take it to the next level[.]" She testified that Father did in fact take it to the next level by contacting the superintendent of the schools and the Office of Head Start with complaints, both of which opened investigations. Both investigations were closed without any findings of wrongdoing.

Mother's other child testified. He testified that during the summer when he and Mother had more time with C., they would participate in activities such as going to the playground, shopping, or other "stuff that [C.] likes." However, he testified that during the school year there was not as much opportunity to do such activities because Mother had to work, and both the children had to go to school.

> And this is why I will never give you a weekend with [C.]. You are an evil person. [C.] doesn't like living with you. I suspect you are trying to manipulate him and cause him grief. You have caused many problems for him that are documented.

Father's estranged sister, Tanya Holland ("Holland"), also testified. Holland testified regarding her observations concerning Father's prior coparenting relationship with the mother of his now-adult daughter. She testified that Father had been "controlling" and that he did not have a good relationship with his prior coparent.[7] Holland testified that she maintained a good relationship with Mother and visited with C. a few times a year using a combination of in-person and video visits.

In addition to the testimony, both parties presented multiple exhibits, including hundreds of pages reflecting communications between the parties. The communications between the parties reflected multiple messages from Father which appeared to be not conducive to co-parenting discussion, as Father prefaced the messages with language indicating that the purpose of the communication was to create a record for the litigation. The following are examples of such communications:

- "These are untruths that will be exposed later."
- "I communicated problems with your previous canceled contract with [a prior daycare provider]. The untruths will be exposed later."
- "For the Record: [C.]'s mother is further abusing the joint custody and tie-break arrangement; making ill-advised decisions logical considerations." [sic]
- "For the Record: The defendant [Mother] continues to be in contempt with the original court custody order. The defendant continues to be dishonest, unreasonable, and illogical. Does not consider the best considerations or

[7] Father objected to Holland's testimony concerning his prior coparenting relationship based on relevance, claiming that the testimony was from many years ago and did not relate to Mother or C. The court overruled the objection, ruling that the testimony regarding the prior coparenting relationship was relevant. The court noted that concerns regarding the time frame of the observations testified to would go to weight of the testimony.

opportunities for [C.] Repeatedly, only thinks about her personal needs and not the welfare of [C.]"

- "For the Record: At a date to be determined by [Father], [C.] will be assessed by a medical expert in the field of Child Psychology and Mental Health. This is only being done to prevent further inappropriate behaviors and life threatening decision making by his mother[.]"

- "I will do what is necessary to protect [C.] from your actions and you deliberately harming him by providing illogical assessments. It will be very revealing in October. I divorced you in 2020 in part because I realized in 2017 that you have significant psychological problems. Rarely, do people have two marriages within 4 years that last no longer than 1-3 years. [sic] I wish that I had listened to my better instincts prior to 2016."

- "We both know that these statements are untruths or nonfactual. Furthermore, you posting court documents handed to you by [C.'s mental health provider], solidifies the conspiracy, corruption, and unethical behaviors at hand by both you, a licensed health care provider, and your attorney. Which will be addressed later by the Maryland State Bar Association concerning [Mother's attorney]'s behaviors as your representation." [sic]

- "For the Record: [C.] was unnecessarily taken to the doctor."

- "What is the update or specifics of the visit [with C.'s mental health provider]? When is the next visit? Your biligerent [sic] behaviors to provide no information continues to violate the custody order. The fact that you continue to take [C.] to see an incompetent medical professional who couldn't remember his age and provided you with an inaccurate, false assessment is abhorrent. Her professional reputation in the area is terrible. That's why she doesn't have any staff nor clients. The damage that she continues to cause will eventually be acknowledged. She won't be able to hide forever behind the malpractice laws that protected her on Jan. 9th. Of course, in order to protect [C.] from her permanent harm, the matter with her isn't done."

- Father sent multiple additional messages prefaced by text stating "For the Record" which were followed with various arguments, links, or other statements that did not invite further discussion.

D. Circuit Court Findings and Modification of Custody

Following the conclusion of the merits hearing, the court made findings of fact based on the evidence presented by the parties. The court determined that a material change of circumstances did exist. With respect to the change in Mother's work schedule and the impact on C., the court stated the following:

> First, [Mother's] work schedule has changed. When the current custody order was agreed to[,] [Mother] was working weekends. In order for the parties to share custody, [Father] received every weekend during the school year. [Mother] no longer works every weekend and is now able to have access with [C.] during the weekends. The ability to have access with [C.] on weekends allows for more time to be able to be spent with her as opposed to when he is at school during the week. Obviously, weekend access provides opportunities to engage in activities that just are not manageable during the week when he is in school.

The court continued with a description of the material change of circumstances regarding the parties' ability to communicate and reach decisions together, stating the following:

> [T]he parties by agreement[] share tie breaker [authority] with [Father] having it relative to medical, extracurricular, and religious matters and [Mother] having it for mental health and educational matters. . . . [Father] often provides his position and is unwilling to discuss other options. This does not allow the parties to reach joint decisions and often results in more contention between the parties. Further, there have been times, such as the summer Head Start program, where [Mother] has had to wait until the last day available to register [C.] as [Father] has not responded to [Mother's] proposal. This inability to have a full discussion and listen to the others proposal and rationale is not in [C.'s] best interest and is a material change in circumstances that affects [C.]

Having determined that a material change existed, the court then considered the factors set forth in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977) and in *Taylor v. Taylor*, 306 Md. 290 (1986) to evaluate what arrangement

of custody was in C.'s best interest.[8] Based on its consideration of the factors, the court found that it was in C.'s best interest for Mother to have sole legal custody. The court also found that it was in C.'s best interest to have a schedule that allowed both parents weekend access, and it was in C.'s best interest "to spend time with his maternal and paternal family outside of just a few hours after school." The court therefore modified the schedule to an alternating 2-2-3 access schedule, which allowed the parties weekday and weekend access to C. Under this schedule, the first week Mother had overnights with C. on Monday and Tuesday; Father had overnights with C. on Wednesday and Thursday; and Mother had overnights with C. on Friday, Saturday and Sunday. The following week the above access schedule would rotate to the other parent. All custody exchanges were to occur based on C.'s school schedule. The court also ordered holiday, school break, and summer access.

Father then noted this timely appeal.

[8] The ten non-exclusive factors identified in *Sanders* serve as a guide for trial courts to evaluate the best interest of the children at issue. 38 Md. App. at 420. These factors were expanded upon in *Taylor* to identify thirteen factors, some of which overlap with the *Sanders* factors, that are particularly appropriate for consideration of joint custody. 306 Md. at 304–11. The *Taylor* factors include the following:

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

Kadish v. Kadish, 254 Md. App. 467, 504 (2022) (citing *Taylor*, 306 Md. at 304–11).

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN FINDING THAT A MATERIAL CHANGE IN CIRCUMSTANCES OCCURRED.

A. Party Contentions

Father contends that the circuit court erred in finding that a material change in circumstances occurred.[9] He contends that Mother's change in work schedule is not a material change because, he asserts, Mother was still able to exercise visitation with C. under the original schedule. He asserts that a parental change in work schedule is akin to the natural progression of a child's age and cannot be the basis of a material change in circumstance. Father further contends that the parties' strained communications cannot qualify as a material change in circumstance for two reasons: first, there was no evidence of the parties' communications prior to the original custody order; and second, there was no evidence that the communications had an impact on the welfare of C.

Mother responds that the circuit court correctly concluded a material change in circumstances had occurred. She argues that the question of materiality necessarily encompasses consideration of the child's best interests; therefore, the court appropriately considered the demands of parental employment in determining that the time each parent had to spend with C. during days off work was a material change that occurred following the entry of the original custody order. In addition, Mother argues that the parties presented evidence of difficulty in communicating, and that the difficulty arose following the

[9] We note that this argument marks a departure from Father's pleading in the circuit court, in which he alleged that there had been a material change of circumstances warranting a change in custody.

implementation of the original custody order—in particular, the joint legal custody and the exercise of tie-breaking authority to make educational decisions for C. Mother argues that because the disagreements stem from the custody order, they could not have existed at the time the custody order was entered. Thus, Mother asserts that the circuit court appropriately found that the change was material.

B. Standard of Review

"We review a court's child custody determinations utilizing three interrelated standards of review." *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022).

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

Id. (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)).

A court's factual findings cannot be held to be clearly erroneous if there is any competent evidence that supports the trial court's findings. *St. Cyr v. St. Cyr*, 228 Md. App. 163, 180 (2016). When conducting appellate review of factual findings, we give "due regard . . . to the opportunity of the lower court to judge the credibility of the witnesses[.]" *Kadish*, 254 Md. App. at 503 (internal quotation marks and citation omitted). An abuse of discretion occurs "where no reasonable person would take the view" adopted by the trial court, when the trial court acts "without reference to any guiding rules or principles," or when the ruling under consideration is "clearly against the logic and effect of facts and

inferences" before the trial court. *In re Yve S.*, 373 Md. at 583 (internal quotation marks, alterations, and citation omitted).

C. Analysis

When evaluating a request to modify custody, trial courts must engage in a two-step process. *Velasquez v. Fuentes*, 262 Md. App. 215, 246 (2024). "'First, the circuit court must assess whether there has been a "material" change in circumstance.'" *Id.* (quoting *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012), in turn quoting *Wagner v. Wagner*, 109 Md. App. 1, 28 (1996)). Second, if a circuit court finds that there has been a material change, "the court proceeds to consider the best interests of the child as if the proceeding were one for original custody." *Id.* Although evaluation of a petition to modify custody is a two-step process, those two steps "are often interrelated" because consideration of the materiality of a change necessarily implicates consideration of the child's best interest. *Gillespie*, 206 Md. App. at 171; *see also Caldwell v. Sutton*, 256 Md. App. 230, 270 (2022) ("Evidence bearing upon materiality necessarily relates to the best interests of the children.").

"A material change [in] circumstances is a change in circumstances that affects the welfare of the child." *Gillespie*, 206 Md. App. at 171. "[T]he test of materiality is whether the change is in the best interest of the child." *McMahon v. Piazze*, 162 Md. App. 588, 596 (2005). If a circuit court finds "that an existing provision concerning custody or visitation is no longer in the best interest of the child and that the requested change is in the child's best interest, the materiality requirement will be satisfied." *Id.* "In analyzing the best interests of the child, we are guided by the factors articulated" in *Montgomery County*

Department of Social Services v. Sanders, 38 Md. App. 406 (1977) and in *Taylor v. Taylor*, 306 Md. 290 (1986). *Kadish*, 254 Md. App. at 504.[10]

Determination of whether a material change in circumstances has occurred is an inherently fact-specific inquiry that depends on the unique circumstances of each case. *See Domingues v. Johnson*, 323 Md. 486, 500 (1991). The Supreme Court of Maryland has declined to adhere to bright-line pronouncements—for example, a rule holding that relocation due to employment or remarriage could never constitute the basis for custody modification—in matters concerning child custody, holding that changes in custody depend "upon the circumstances of each case." *Id.* at 500–01. The Court further stated that creation of absolute rules in relation to custody would be "inappropriate" as the decision making process in such cases "flows in large part from the uniqueness of each case, the extraordinarily broad spectrum of facts that may have to be considered . . . , and the inherent difficulty of formulating bright-line rules of universal applicability in this area of the law." *Id.* at 501. To determine that a modification is required, a trial court need not find "that the changes have already caused identifiable harm to the children." *Id.* at 499. All that is required for a determination that a change is material is that "changes have occurred which, when considered with all other relevant circumstances, require that a change in custody be made to accommodate the future best interest of the children." *Id.*

Here, the circuit court concluded that there were two material changes affecting C.'s well-being: first, following the entry of the original custody order, Mother's work schedule

[10] *See* n.8 *supra*.

had changed from weekends to a regular non-weekend workweek, while C. attended preschool programs during the non-weekend portion of the week, resulting in a lack of opportunity to engage in meaningful activities; and second, the parties' ability to communicate—particularly regarding educational decisions subject to Mother's tie-breaking authority—had devolved, in large part due to Father's unwillingness to engage in discussions. There is ample evidence in the record to support the circuit court's finding that these changes had occurred following the issuance of the initial order and affected C.'s welfare (i.e., that the changes were therefore material).

There was evidence presented that at the time of the original order, Mother worked exclusively on weekends, which allowed her to spend most weekdays with C., who at the time was not in school programs. Following the initial order, Mother had a change in employment to a position that generally required work from Monday through Friday, without weekend work; the new schedule coincided with C.'s school schedule in limiting Mother's time with C. Mother testified that due to the conflicting schedule, she did not have recreational time with C. during the school year. Mother testified that C. was negatively impacted by the lack of quality time with her.[11] In addition, there was

[11] Father asserts that the change was not material because: 1) the change in schedule still allowed Mother weekend time with C.—i.e., Sunday evenings after 5:00 p.m., which notably is a school night; and 2) there was no evidence regarding how the scheduling change affected C. As to the first assertion, the trial court found that "weekend access provides opportunities to engage in activities that are just not manageable during the week when [C.] is in school[,]" which was supported by the testimony from Mother and her other son in that the original schedule did not allow an opportunity to engage in quality activities. We do not find Father's second assertion regarding the perceived lack of evidence of the scheduling change's impact on C. to be an accurate representation of the trial record, as there was evidence regarding that issue presented by both Mother and her other son. To the

evidence—through the testimony of Mother's other child—that C. did not have quality time to spend with him or Mother on the weekend. Further, there was evidence that Father intended not to allow Mother to have access to C. on weekends at any time. There was therefore ample evidence in the record to support the circuit court's finding that the change in Mother's schedule, as well as Mother and C.'s weekend availability, was a material change in circumstance.

In making his argument that the schedule change could not qualify as a material change, Father asserts that parental change in employment is akin to the expected change of a child's aging; thus, he asserts, a change in employment cannot serve as a material change in circumstance. Father's comparison is inapt because it does not encompass the entirety of the circuit court's findings regarding the material change. The court did not merely find Mother's shift in employment and weekend availability to be a change in circumstance; the court found that Mother's new work schedule, coupled with C.'s new weekend availability due to school and the limited time for quality parenting time during the week, constituted a material change in circumstance. We see no error with respect to this finding.

As to the change in the parties' ability to effectively communicate, there was evidence demonstrating substantial discord in the parties' discussions regarding C., particularly from Father. The discord frequently surrounded Mother's use of her tie-

extent Father contends that this evidence should have been discounted by the circuit court, we note that as an appellate court conducting review of a trial court's factual findings, we give "due regard . . . to the opportunity of the lower court to judge the credibility of the witnesses[.]" *Kadish*, 254 Md. App. at 503.

breaking authority. Although there was not evidence of the parties' communication style at the time of the original order, following the filing of the petitions to modify, there was sufficient evidence of hostile communications leading to the court's order requiring Father and Mother to limit communication to the use of OFW with a tone moderator. Even with the use of OFW for messaging, the evidence before the court demonstrated continued discord and Father's unwillingness to deviate from his point of view regarding reaching joint decisions. This was a marked devolution from the parties' status at the time of the initial custody order. *Cf. Gillespie*, 206 Md. App. at 172–73 (affirming trial court's determination that deterioration of one parent's mental illness—a condition that existed at the time of the earlier custody order—qualified as a material change sufficient to justify custody modification). Because the trial court's finding of material changes in circumstances was supported by evidence in the record, we perceive no error with respect to that finding.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN ALLOWING TESTIMONY REGARDING FATHER'S PREVIOUS CO-PARENTING RELATIONSHIP

A. Party Contentions

Father contends that the circuit court erred in allowing Holland's testimony, which he describes as "irrelevant" and "highly prejudicial." Father asserts that the testimony concerning his prior co-parenting relationship was irrelevant because it concerned observations that were "distant in time" and "of no consequence" to the facts of the present case. He asserts that the testimony regarding his character and parenting history was

"highly prejudicial because of how similar the facts between the two situations are purported to be."[12]

Mother responds that Holland's testimony regarding Father's prior co-parenting relationship was relevant to the trial court's consideration of best interest factors—particularly, the character and reputation of the parties. Mother asserts that Holland's testimony was relevant to this factor because it made it more likely that Father had a history of "poor relationships with co-parents[.]" Mother asserts that the age of Holland's observations went to their weight rather than to prejudice and thus not to admissibility. Because Father did not identify any other specific prejudice resulting from Holland's testimony, Mother asserts that the trial court did not abuse its discretion in admitting the testimony.[13]

B. Standard of Review

Decisions regarding the admissibility of evidence are generally left to the sound discretion of the trial court. *Blitzer v. Breski*, 259 Md. App. 257, 279 (2023). In relation to

[12] Father further alleges that Holland's testimony was of questionable veracity and "possibly false[.]" We note that witness credibility "lies solely within the purview of the factfinder." *Neal v. State*, 191 Md. App. 297, 318 (2010). "In a non-jury case, matters involving the credibility of witnesses and conflicts in the evidence are firmly within the purview of the trial judge, sitting as the trier of fact." *Porter v. Schaffer*, 126 Md. App. 237, 269 (1999). On appeal, this Court "will not set aside the judgment of the trial court on the evidence unless clearly erroneous" and we "give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c).

[13] Mother also asserts in the alternative that even if Holland's testimony was unduly prejudicial, any error in its admission was harmless because the court did not substantially rely on Holland's testimony in its analysis. Because we agree that the circuit court did not abuse its discretion in admitting Holland's testimony, we do not reach Mother's alternative argument.

relevance of evidence, appellate review of a trial court's decision to admit evidence "involves a two-step analysis." *Akers v. State*, 490 Md. 1, 24 (2025). The first step requires a determination of whether the evidence is relevant, "which is a conclusion of law that we review *de novo*." *Id.* If the evidence admitted is relevant, the second step requires a determination of whether the probative value of the evidence is outweighed by the danger of unfair prejudice. *Id.* at 25. This second step is subject to an abuse of discretion standard. *Id.* An abuse of discretion occurs "where no reasonable person would take the view adopted by the circuit court." *Montague v. State*, 471 Md. 657, 674 (2020) (internal quotation marks and citation omitted).

C. Analysis

Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Md. Rule 5-401. All relevant evidence is generally admissible. *See* Md. Rule 5-402. However, relevant evidence may be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice[.]" Md. Rule 5-403. When weighing the probative value of evidence against the danger of unfair prejudice, "this Court is mindful that prejudicial evidence is not excluded under Rule 5-403" merely because it hurts one party's case. *Montague*, 471 Md. at 674. Rather, the probative value of evidence "is substantially outweighed by unfair prejudice when the evidence 'tends to have some adverse effect . . . beyond tending to prove the fact or issue that justified its admission.'" *Id.* (quoting *State v. Heath*, 464 Md. 445, 464 (2019)) (further citation omitted).

In cases involving petitions to modify custody, should a circuit court find a material change in circumstances occurred, it must also proceed "to consider the best interests of the child as if the proceedings were one for original custody." *Kadish*, 254 Md. App. at 503–04 (quoting *Gillespie*, 206 Md. App. at 170). To evaluate the best interests of the child, circuit courts are guided by the best interest factors articulated in *Sanders* and *Taylor*. *Id.* at 504 (citing *Sanders*, 38 Md. App. at 420, and *Taylor*, 306 Md. at 304–11). These factors include consideration of the potential for "maintaining natural family relations" and the "capacity of the parents to communicate and to reach shared decisions affecting the child's welfare[.]" *Id.* Consideration of the parents' ability to communicate is particularly important in cases where joint custody is at issue. *Santo v. Santo*, 448 Md. 620, 628 (2016) (citing *Taylor*, 306 Md. at 304). In evaluating parental communication, "the best evidence" to guide trial courts is "past conduct . . . of the parties." *Id.* (quoting *Taylor*, 306 Md. at 307).

Here, Holland's testimony was highly probative of the above factors. Her testimony regarding her current relationship with Mother and visits with C. made the existence of a fact of consequence—i.e., that Mother would facilitate the familial relationship between Holland and C.—more likely than it would have been without her testimony. This fact was of consequence because it directly addressed one of the factors the trial court considered in determining C.'s best interest. Holland's testimony regarding Father's prior coparenting relationship was also relevant because it concerned his capacity to communicate in order to reach shared decisions affecting C.'s welfare. Because "the best evidence" towards this

factor is a parent's "past conduct[,]"[14] Holland's testimony regarding Father's prior coparenting relationship made the existence of a fact of consequence—i.e., that Father had lack of willingness to communicate and coparent—more likely than it would have been without her testimony.

Having determined that Holland's testimony was relevant, we turn to whether the probative value of Holland's testimony was substantially outweighed by the danger of unfair prejudice, and whether the circuit court therefore abused its discretion by admitting the testimony. At trial, the only prejudice Father identified was the length of time that had elapsed between Holland's observations of his prior coparenting relationship and the present custody dispute. To this Court, Father repeats this concern and contends that Holland's testimony was "highly prejudicial because of how similar the facts between the two situations are purported to be." The concerns regarding similarity of situations in relation to coparenting communications is not the type of unfair prejudice that prohibits admission. *See Montague*, 471 Md. at 674 ("[T]his Court is mindful that prejudicial evidence is not excluded under Rule 5-403 only because it hurts one party's case."). The test to exclude evidence is when its probative value "is substantially outweighed by unfair prejudice when the evidence 'tends to have some adverse effect . . . *beyond tending to prove the fact or issue that justified its admission*.'" *Id.* (quoting *Heath*, 464 Md. at 464) (emphasis added) (further citation omitted). Here, Holland's testimony was probative of Father's capacity for communicating in coparenting relationships. While that evidence may

[14] *See Santo*, 448 Md. at 628 (quoting *Taylor*, 306 Md. at 307).

have been harmful to Father's case, it did not carry with it an adverse effect beyond the probative value that justified its admission; nor did Father point to any. The court did not abuse its discretion in admitting Holland's testimony.

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