

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 0521

September Term, 2025

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BRANDON KINSEY

v.

SAMANTHA CROUSE

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Zic,  
Ripken,  
Eyler, James R.,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Ripken, J.

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Filed: April 28, 2026

Appellant, Brandon Kinsey (“Father”), appeals from a decision of the Circuit Court for Baltimore City that denied Father’s exceptions to a magistrate’s recommendation that child custody be modified. The court issued an order granting appellee Samantha Crouse’s (“Mother”) motion to modify custody and changed the physical and legal custody of the parties’ children. Father filed a timely appeal. In an informal brief, he presents the following issue for our review:<sup>1, 2</sup>

Whether the circuit court erred in accepting the magistrate’s findings that a material change in circumstance had occurred since the entry of the 2021 custody order.

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

### **FACTUAL AND PROCEDURAL BACKGROUND**

The parties have two children, whom we shall refer to as A., born in 2016, and B., born in 2018. In 2021, the Circuit Court for Baltimore City issued an order determining legal and physical custody of the minor children (“the 2021 Order”). The 2021 Order provided that Mother and Father would share joint legal custody of the children, with Father having tie-breaking authority on educational matters and medical care. The court further established a physical access schedule in which Father had primary physical

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<sup>1</sup> Rephrased and consolidated from:

- I. The circuit court erred in finding a material change in circumstances where the evidence relied upon consisted solely of stale events from 2021-2022 and no current deterioration was shown.
- II. The circuit court failed to conduct a meaningful independent review of the magistrate’s[]s report and the filed exceptions[.]

<sup>2</sup> Mother did not file a brief in this action.

custody of the children, with Mother having visitation on alternating weekends from Friday evenings through Sunday evenings.<sup>3</sup> The 2021 Order contained additional provisions concerning drop-offs and exchanges and parental access to the children when the children were in the other parent's care.

In August of 2022, Mother filed a petition to modify custody. However, this petition was not served.<sup>4</sup> Subsequently, in May of 2023, Mother filed an amended motion to modify custody. She asserted that since the entry of the 2021 Order, circumstances had materially changed. She sought an order granting her sole legal and physical custody of the children and requiring Father's access to be supervised. Father answered the petition and filed his own counter-motion to modify custody. A modification hearing was set before a judicial magistrate, who heard testimony on December 1, 2023, and on February 9, 2024.

On August 12, 2024, the magistrate issued a forty-four-page report detailing the testimony of both parties, examining whether a material change in circumstances had occurred, as well as the best interests of the children under the applicable law. The report

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<sup>3</sup> In the 2021 Order, the court initially provided Mother with alternating weekend access to the children from Thursday evenings through Sunday evenings; however, once the children began attending school, the access was to shift. In the 2021 Order, the court also provided for holiday and summer visitation access.

<sup>4</sup> After Mother filed her initial petition to modify custody, Father's parents filed a motion to intervene in the case, which was granted. They later withdrew as parties and were removed.

also explained the basis for the recommendations to the circuit court. From this report, we elicit the following facts.<sup>5</sup> See *Okafor v. Ojih*, 268 Md. App. 508, 511 (2026).

The magistrate described the extensive history between the parties that constituted a material change in circumstances. First, the magistrate noted that the parties agreed that there had been issues with communications since the 2021 Order. Father described the parties' relationship as "miserable[,]" and the testimony and evidence demonstrated an inability to respectfully co-parent, as reflected by vitriol, rudeness, and other inappropriate language. The magistrate observed that the parties' co-parenting relationship was riddled with significant challenges that extended beyond poor communication:

The parties have had issues far beyond rude text messages. Mother testified that there have been several periods of time where Father or his family have withheld access to Minor Children from her, including from October 2021 through April of 2022, and again from September 2022 through May 2023. In October 2021, Mother testified that Father was arrested for Driving Under the Influence and Child Endangerment after being involved in a car accident with Minor Children in the vehicle. Paternal Grandparents, with whom Father has lived since prior to the entry of the June 2021 Order, began withholding Minor Children from Mother following this accident. Mother stated that she was never notified that Minor Children were in the car when Father got into the accident, and that she was blocked from all contact with Father, Paternal Grandparents, and Minor Children immediately following the incident. After it was clear to Mother she had been blocked, Mother drove to Father's home and arrived with police in order to see Minor Children but testified that Paternal Grandparents would not open the door for the police. Mother testified that this period of withholding came to an end only after she filed a Petition for Contempt, and Father was found to be in contempt of the June 2021 Order in April 2022.

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<sup>5</sup> We note that Father does not contest the magistrate's underlying factual findings; rather, he asserts that the magistrate, and later the circuit court, erred in determining that the circumstances as described by the magistrate and testified to by the parties constitute a material change, and that both abused their ultimate discretion in weighing the best interest factors.

Shortly thereafter, Mother testified that in June 2022 she conducted an exchange of Minor Children with Paternal Grandfather at a new location. Around this time Mother testified that she received an alert from a third-party app that Father had been arrested again. As Minor Children were not in school and Father was incarcerated, Mother kept Minor Children in her home and continued to care for them for the duration of summer 2022. Having not heard from Father as the start of the school year approached, Mother enrolled Minor Children in school in Maryland. However, in September 2022 during the first week of Minor Children's enrollment, Mother went to pick Minor Child up from school and Father and Paternal Grandfather were waiting there. Mother testified that after she realized they were trying to take Minor Child, she and Father got into a physical altercation where Father slammed her head against a car. Police were called, and eventually Father and Paternal Grandfather were able to leave with Minor Children. Mother called . . . her mother[] as a witness who, although not present at the September 2022 incident, saw Mother shortly after the incident. [Maternal Grandmother] testified that Mother sustained injuries as a result of this altercation in the head and neck area, describing parts of her body as swollen and that Mother had a limited range of motion in her shoulders, unable to raise her arms normally. [Maternal Grandmother] admitted that she did not see any medical records, CT or MRI scans regarding the alleged injuries sustained at the September 2022 incident. Mother testified that she sought and was granted a Final Protective Order as a result of this altercation. Mother also pursued criminal charges following this incident but testified that ultimately no charges were filed.

Father and Paternal Grandfather's account of this September 2022 incident differs greatly from Mother's testimony. Father testified that he was released from jail the Friday before the incident. Paternal Grandfather testified at this time Minor Children had been with Mother for three months, and that he had not had contact with them during this entire period. Upon his release, Father and Paternal Grandfather drove to Mother's home immediately to pick up the children. When Father arrived at Mother's home, he called the police to try to regain access to Minor Children, but Mother allegedly told the officers she would rather go to jail herself than return Minor Children to Father. Ultimately, the police did not go inside Mother's home, and Father left. Father then went to his sister's home in Baltimore and began to call schools near Mother's home to determine if and where Minor Children were enrolled. The following Monday, Father went to unenroll Minor Children from their Maryland schools and return them to Delaware. Father was able to pick up [A.] without issue, but in route to the daycare to retrieve [B.] the altercation with Mother occurred. Father testified that Mother opened up Paternal Grandfather's car door, grabbed Minor Child,

and began running up the street with their son in her arms “like a football.” Paternal Grandfather chased and eventually caught Mother. Paternal Grandfather testified that he tried to grab Minor Child, who was yelling and screaming. Father then caught up with the pair and there was a short skirmish to try to get Mother to release Minor Child. Father recalled that once Mother realized that law enforcement had arrived on the scene, the altercation ended. Father claims it was at this time Mother first told the officers that Father had assaulted her. Father denied striking Mother. Paternal Grandfather also testified that Father never hit or choked Mother. After over an hour of speaking with the officers, Father was eventually permitted to leave the scene with Minor Children. Father testified that while the situation was being sorted out, Mother was walking around, smoking a cigarette, and had no visible injuries resulting from the incident. Paternal Grandfather also did not recall Mother having any visible injuries and stated that no ambulances were called to the scene. Paternal Grandfather believes that Minor Children’s demeanor has changed as a result of this incident, particularly when they talk about Mother. Father reported that both Minor Children were enrolled in therapy due to the trauma of this event but are no longer attending.

Mother testified that following the September 2022 incident, her regular visitation was again denied. Mother attempted to contact both Father and Paternal Grandfather, but later found out that Father had been arrested again shortly after the incident. Mother testified that, once again, she was denied access with Minor Children until she filed another Petition for Contempt against Father in April 2023[.]

(citations to exhibits in the record omitted).

The magistrate, in the report, further outlined the evidence regarding the parties’ co-parenting relationship. Mother asserted that Father had been charged in at least one more DUI case since the 2021 Order in addition to the DUI when one of the children was in the car. She was concerned regarding periods of incarceration, Father’s drinking, and whether it was Father or Father’s parents who primarily parented the children. Father acknowledged spending approximately six months total incarcerated since the entry of the 2021 Order. Father denied having a problem with alcohol.

In addition to the protective order Mother obtained against Father following the September 2022 incident, Mother had previously obtained another protective order against Father in 2021 following an incident where she was visiting a friend in Carroll County, and Father texted her the address of her location. At that time, Mother found a tracking device attached to the car. The magistrate also described evidence of hostility between the parties at custody exchanges. Further, there was competing evidence between the parties regarding Mother's ability to obtain information regarding the children's education. Mother testified that she had generally been unable to obtain information from the school regarding the children's education, and until the first modification hearing, had not been told by Father what platform to use to review the educational information. Father asserted that there was nothing preventing Mother from signing up for the educational platform and claimed that although there were times he had not communicated with Mother about the children's school, these were due to periods of his incarceration or due to protective orders.

In light of these circumstances, the magistrate found that there was a material change in circumstances since the entry of the 2021 Order, stating the following:

It is clear to this Magistrate from the testimony and evidence presented that there have been major disruptions in the schedule outlined in the June 2021 Order, resulting in the parties being out of compliance with its terms more often than they have been abiding by it. Furthermore, the parties clearly have issues communicating with each other and sharing information relevant to the wellbeing of Minor Children. Therefore, based on the testimony and exhibits presented to the Court, this Magistrate finds that these interruptions and communication deficits have resulted in a material change in circumstance requiring the Court to proceed to the best interest analysis regarding physical custody, visitation, and legal custody.

Having found a material change in circumstances, the magistrate next examined the best interest factors used for determining physical and legal custody. The magistrate first examined physical custody by evaluating the factors identified in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977).<sup>6</sup> The magistrate reviewed the evidence concerning each of the factors. The magistrate observed that the children were doing well in their current environment and that “both parents offer Minor Children some sense of stability, with plenty of familial support, and a general loving and caring environment.” However, the magistrate noted a concern in leaving primary physical custody with Father based on Father’s actions since the entry of the 2021 Order, and his family’s “minimization of these actions.” The magistrate expressed the following:

Father appears to believe that he alone has the authority to enforce or ignore the June 2021 Order as he sees fit. Furthermore, his disdain for Mother and her status as an equal parent has not been hidden from Minor Children. Father failed to provide any rational reason why there have been frequent and long-lasting periods of withholding of parental access from Mother, other than an alleged fear that Mother would keep Minor Children in her custody if he allowed visitation to occur. Additionally, Father testified he felt Mother should have been more grateful to him when he “allowed” her to resume visitation with Minor Children, which is not a privilege he has the power to grant or deny as the June 2021 Order dictates the parties’ visitation schedule.

The magistrate indicated that Father’s October 2021 arrest for a DUI with one of the minor children in the car, coupled with Father’s insistence that he did not have a drinking problem, demonstrated poor judgment. This concern was compounded by the fact that Father’s family denies that Father has a problem with alcohol or consumes alcohol

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<sup>6</sup> The magistrate indicated that the preferences of the children or prior voluntary abandonment would not be considered because evidence as to those factors was not adduced during the hearings.

around the children. The magistrate further observed that Father had also exhibited poor judgment when he told his parents to deny Mother access to the children during his incarceration. The magistrate noted that although the children had established stability in Delaware, that stability appeared to be due to the paternal grandparents rather than Father.

Based on the evidence and the evaluation by the magistrate of the factors, the magistrate determined that it was in the children's best interest to transition to Mother's residence during the school year, with Father having parenting time on alternating weekends from Friday evening through Sunday evening.

The magistrate then turned to evaluation of legal custody in light of *Taylor v. Taylor*, 306 Md. 290, 296 (1986). The magistrate considered that the parents' ability to communicate and reach shared decisions affecting the children's welfare was "the most important factor" in determining whether legal custody could be shared.

The magistrate reviewed the evidence concerning the parties' communications regarding decision-making. Father testified that he was heavily involved in arranging medical care and education for the children, including a series of autism evaluations for one child, while he did not perceive Mother as being involved in these events. According to Mother, she had a history of attempting to obtain educational information from Father and the children's school without success. In addition, Mother indicated that Father would not inform her of educational events until the last minute when it was too late to attend, and that Father only informed her of one of the autism evaluations.

Similarly, in relation to the children's medical needs, Father testified that he and his parents take the children to receive pediatric, dental, and mental health care. Mother

testified that she only learned of where the children were receiving care through the court proceedings, and that Father refused to provide her details when she tried to have conversations on the subject. As recently as a few weeks before the final modification hearing, the parties continued to struggle to communicate about the children’s needs. For instance, in late January of 2024, Father took the children to an urgent care facility where they were diagnosed with the flu, and informed Mother of this the following day. The magistrate noted that “Father described Mother as ‘ungrateful’ when he shared this information with her and expressed that although he knows it is his obligation to share information about Minor Children with Mother, he would like Mother to be more respectful and gracious when he does.” After one of the children began running a 105-degree fever while in Father’s care, Father recalled calling Mother to report the fever, at which time Mother became upset with him. Mother recalled Father informing her that he would put the child in an ice bath to lower the child’s temperature, which Mother believed would be dangerous. She asked Father to take the child to the hospital instead, but he refused. Mother contacted the paternal grandfather by phone, and he clarified that Father was using a lukewarm bath to cool the child down rather than an ice bath.

The magistrate found that based on the evidence, the parties did not appear to have the capacity to communicate effectively, stating the following:

It is clear to this Magistrate that the parties are currently not communicating effectively. Mother maintains that Father does not keep her informed about legal custody decisions he makes. Father testified that when he reaches out to Mother to discuss legal custody decisions, she usually does not listen to what he has to say. Father believes that Mother thinks she is always right and does not want to engage in a conversation, so when he has communicated in the past, he provides only what information he believes he

is required to convey under the June 2021 [order] and leaves it at that. Father further testified that Mother does not reach out or ask about medical or educational issues relating to Minor Children. Father stated that he would give Mother updates if she asked him, pointing to the fact that he gave her updates during the recent incident after Mother became aware of Minor Children's illnesses and called for updates. Father reiterated, however, that the communication surrounding this recent illness was indicative of his testimony that Mother does not listen to anyone else's opinions and insists things be done her way. What Father neglects to realize with his approach, is that Mother often is several steps behind in coming to him to request information only after being notified by a third party to ask. In other words, this Magistrate wonders if Mother had not been alerted by the school that Minor Children were absent, would Father ha[ve] shared this information with her at all. This Magistrate finds Mother's testimony in regard to inquiring about Minor Children's school absences rather than Father's offering of this information to be credible given the testimony presented.

It is clear to this Magistrate that, whether it be through personal animosity or different parenting styles, the parties thus far have been unable to effectively communicate about legal custody decisions for Minor Children. Despite this animosity, Minor Children are healthy and appear to be doing well in school. Both parties should continue to monitor [A.'s] school and any behavioral challenges and seek further mental health treatment and educational assessments if necessary. It is important that both parents be a part of any such future assessments in order for [A.'s] mental health professionals to benefit from both parents' observations. Although the parties need to improve their communication for the sake of Minor Children, it is this Magistrate's recommendation that the parties maintain joint legal custody of Minor Children. However, as this Magistrate recommends a change in the physical custody arrangement, this Magistrate further recommends that Mother have tiebreaking authority for educational decision[-]making. Before Mother exercises her tie-breaking authority, she must engage Father in at least three separate good faith attempts to discuss[] with Father to reach a joint resolution. Accordingly, the recommendation of this Magistrate is that the Amended Motion to Modify, as it relates to legal custody, be granted.

In light of the recommendations to change custody, the magistrate recommended that child support be recalculated. The magistrate also recommended a proposed order modifying custody that reflected the recommendations.

Father filed pro se exceptions to the report. Later, after counsel appeared on Father's behalf, the court permitted counsel to file a supplemental brief on Father's behalf, consolidating and summarizing the grounds for his exceptions. Father asserted that the magistrate's recommendations should be denied because there was not a material change in circumstances justifying the modification of the custody arrangement. He claimed the changed circumstance was primarily his October 2021 DUI, which he asserted led to the other circumstances, yet was not a material change because he was remorseful, the situation was resolved, and the children were doing well in school. Father conceded that communication issues between the parties were "ongoing[.]" and he posited that the magistrate's recommendations addressing that topic should be retained.

Father next argued that the magistrate's best interest analysis was incorrect because Father believed he was a fit and proper parent, and because the magistrate's conclusion that Mother had a history of stability was clear error. Mother opposed Father's exceptions.

A hearing was held on Father's exceptions in March of 2025. On April 29, 2025, the court held a hearing at which it issued an opinion. The court noted that in reviewing the magistrate's recommendations, it had reviewed the recordings of the evidentiary hearings. The court outlined the applicable legal standards and indicated that after exercising its own independent judgment, the court agreed with the magistrate that a material change in circumstances had occurred and it was in the children's best interest to change physical custody and tie-breaking authority. The court highlighted as factors constituting a material change: the parties' deteriorating communications and interactions, the periods during which Father and his family withheld the children from Mother, Father's DUI and

incarcerations of which he did not inform Mother, and the altercation between the parties that resulted in a final protective order being issued against Father. The court clarified that the interruptions to the custody schedule and communication deficits between the parents resulted in a material change in circumstances.

The court then outlined the standards used to determine what custody arrangement would serve the children’s best interest. The court observed that in accordance with those standards, the magistrate had “appropriately evaluated the child[ren’s] life chances in each of the homes competing for custody and then predicted with whom the child[ren] would be better off in the future.” The court found that the magistrate’s conclusions and recommendations were well-supported by the evidence, and in exercising its own independent judgment, the court found the recommendations to be correct. The court denied Father’s exceptions. A written order modifying custody in accordance with the magistrate’s recommendations was entered the following day.

This timely appeal followed.<sup>7</sup>

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<sup>7</sup> In May of 2025, Father also filed a motion to revise the judgment under Maryland Rule 2-535 within ten days of the order’s entry. After Father noted his appeal, the circuit court denied the revisory motion. Despite the notice of appeal being filed before the disposition of the revisory motion, the notice of appeal is nonetheless effective. *See Edsall v. Anne Arundel Cnty.*, 332 Md. 502, 508 (1993) (“[A] notice of appeal filed prior to the withdrawal or disposition of a timely filed motion under [Maryland] Rule 2-532, 2-533, or 2-534, is effective. Processing of that appeal is delayed until the withdrawal or disposition of the motion. The trial court retains jurisdiction to decide the motion notwithstanding the filing of the notice of appeal.”).

## DISCUSSION

**THE CIRCUIT COURT DID NOT ERR IN ACCEPTING THE MAGISTRATE’S FINDING THAT A MATERIAL CHANGE IN CIRCUMSTANCES OCCURRED SINCE THE ENTRY OF THE 2021 ORDER.**

### **A. Party Contentions**

Father contends that the magistrate, and later the circuit court, erred in determining that a material change in circumstances had occurred sufficient to modify custody. He claims the only facts the magistrate identified as a change were the DUI and related incidents, which he claims were stale because they occurred several months before the recommendations were issued. Per Father, a modification cannot be based on past conduct unless the children’s present welfare is negatively affected—which he claims was not the case here. Father argues that because the events underlying the change in circumstances were old and not ongoing, the court clearly erred in finding a material change in circumstances, and the order granting the custody modification must be reversed.

Mother did not file a brief in this case.

### **B. Standard of Review**

When evaluating custody determinations, this Court utilizes “three interrelated standards of review.” *Velasquez v. Fuentes*, 262 Md. App. 215, 227 (2024) (quoting *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012)). “First, ‘when reviewing a magistrate’s report, both a trial court and an appellate court defer to the magistrate’s first-level findings (regarding credibility and the like) unless they are clearly erroneous.’” *Id.* (emphasis and brackets omitted) (quoting *McAllister v. McAllister*, 218 Md. App. 386, 407 (2014)). Second, if the circuit 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.” *Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). Finally, if the ultimate conclusion of the circuit court was founded upon sound legal principles and based upon factual findings that are not clearly erroneous, a reviewing court will disturb the circuit court’s decision “only if there has been a clear abuse of discretion.” *Id.* (quoting *Gillespie*, 206 Md. App. at 170). ““While the circuit court may be “guided” by the magistrate’s recommendation, the court must make its own independent decision as to the ultimate disposition, which the appellate court reviews for abuse of discretion.”” *Id.* at 227–28 (brackets omitted) (quoting *McAllister*, 218 Md. App. at 407).

### **C. Analysis**

When evaluating a request to modify custody, trial courts must engage in a two-step process. *Velasquez*, 262 Md. App. at 246. ““First, the circuit court must assess whether there has been a “material” change in circumstance.”” *Id.* (quoting *Gillespie*, 206 Md. App. at 170, 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.* (further citation omitted). 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 (citing *McCready v. McCready*, 323 Md. 476, 482 (1991); *see also Caldwell v. Sutton*, 256 Md. App. 230, 270 (2022) (“Evidence bearing upon materiality necessarily relates to the best interests of the children.”) (citation omitted)).

“A material change [in] circumstances is a change in circumstances that affects the welfare of the child.” *Gillespie*, 206 Md. App. at 171 (citation omitted). “[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) (citing *McCready*, 323 Md. at 482). 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 v. Kadish*, 254 Md. App. 467, 504 (2022).<sup>8</sup>

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

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<sup>8</sup> 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*, 254 Md. App. at 504 (citing *Taylor*, 306 Md. at 304–11).

declined to adhere to bright-line pronouncements 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” because 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 indicated that it had reviewed not only the exceptions and the magistrate’s recommendations; it had also reviewed the recordings of the hearings held before the magistrate. The court agreed with the magistrate that the evidence demonstrated changed circumstances affecting the children’s welfare, as exemplified by the parties’ poor communications; Father’s DUI resulting in a collision with one of the children in the vehicle, of which he failed to notify Mother; the periods of withholding access to the children by Father and his family; and the altercation following Father’s release that resulted in the issuance of a final protective order. The court agreed that those interruptions and communication deficits had resulted in a material change.

We see no error with respect to these findings described by the magistrate and the circuit court, which were supported by evidence from the record and are therefore not clearly erroneous. *See Velasquez*, 262 Md. App. at 227. Moreover, we do not agree with Father’s assertion on appeal that his underlying DUI was, as a matter of law, too old to have been considered by the magistrate as part of the changed circumstances. Rather, the DUI and its subsequent cascading impacts on the parties—including deterioration of communications and lengthy periods during which Father and his family withheld the children from Mother—are part of the fact-specific inquiry that reflects the unique circumstances of the case. *See Domingues*, 323 Md. at 500. In addition, that the children were healthy and doing well in school was not a bar to the circuit court determining that modification of custody was required, because a trial court need not find “that the changes have already caused identifiable harm to the children.” *See id.* at 499.

Here, the magistrate and circuit court’s findings centered on circumstances where the parties had a deteriorating ability to communicate, even about matters involving the children’s best interest; and Father had driven under the influence with one of the children in the car, and thereafter demonstrated a pattern of withholding the children from Mother. That pattern started in 2021 shortly after Father’s DUI incident, and had repeated and continued until as recently as April of 2023, when Mother filed a petition for contempt. We see no error with respect to the magistrate’s finding or with the circuit court’s conclusion that, based on its review and independent exercise of discretion, the magistrate’s recommendations were correct.

Father asserts that the circuit court abused its discretion in reviewing and accepting the magistrate’s report and recommendations without adequate exercise of its independent judgment. This argument is without basis. *See McAllister*, 218 Md. App. at 408 (“We need go no further than to state that the court reviewed each exception and provided a cogent and incisive rationale for each of the conclusions it reached.”). Here, the court reviewed each of Father’s exceptions and explained the basis of its own review, which additionally included review of the arguments at the exceptions hearing, the evidentiary hearings held before the magistrate, the applicable law, and the magistrate’s forty-four-page report. The court then provided its own summary of the facts that constituted the material change in circumstances and explained that based on its review of the best interest standards, the magistrate’s recommendations were correct. The court therefore gave ample basis for supporting the magistrate’s conclusions and denying Father’s exceptions. *See McAllister*, 218 Md. App. at 408. Accordingly, we affirm.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**