

Circuit Court for Montgomery County  
Case No. 146548FL

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 577

September Term, 2025

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MELISSA M. JENKINS

v.

RICARDO T. JAMES

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Berger,  
Leahy,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Leahy, J.

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Filed: December 15, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant Melissa M. Jenkins (now known as Melissa Oliva) (“Mother”) timely appealed an order entered by the Circuit Court for Montgomery County pertaining to modification of legal custody of one of the minor children she shares with appellee Ricardo T. James (“Father”). Mother mainly challenges the circuit court’s alleged failure to consider certain evidence and assigns error to the court’s decision to award Father tie-breaking authority over Daughter’s medical and educational concerns.<sup>1</sup>

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<sup>1</sup> The questions to be considered, as set forth *verbatim* by Mother in her informal brief, are:

1. Is the trial court’s judgment void where the Appellee engaged in a pervasive campaign of intrinsic fraud (perjury, misleading cross-examination) and extrinsic fraud (paternal alienation, misrepresentation to third parties), compounded by unethical conduct from Plaintiff counsel?

2. Did the trial court violate the Appellant’s constitutional right to due process by refusing to admit her evidence, ignoring a prior judicial finding, creating a contradictory and unfair process, and failing to appoint a Child Custody Evaluator in a high-conflict case?

3. Did the trial court abuse its discretion by failing to consider the Appellee’s history of domestic violence, as documented in police reports, thereby violating its statutory duty?

4. Did the trial court err in modifying custody by rewarding the Appellee’s custodial interference and destabilizing conduct while failing to make any findings regarding his parental unfitness?

5. Did the trial court abuse its discretion by granting tie-breaking authority to a parent with a documented history of bad faith, medical neglect, and coercive control?

6. Did the trial court err by basing its custody decision on the stated preference of a child who is the victim of documented parental alienation and emotional abuse?

(continued)

For the reasons that follow, we will affirm the circuit court’s custody modification order.

### **BACKGROUND**

Mother and Father married in August 2008 and have two children together, a daughter born in 2008 (“Daughter”) and a son born in 2011 (“Son”).<sup>2</sup> In 2017, Father filed a complaint for absolute divorce. Mother and Father entered into a voluntary separation agreement, which provided that the parties would share joint legal custody of the children, and that Mother would have primary physical custody. The circuit court granted Father a judgment of absolute divorce by order entered October 24, 2017, and incorporating, but not merging, the separation agreement therein.

From 2017 through most of 2021, Mother and Father were, for the most part, able to co-parent the children and abide by the custody and visitation terms of the settlement agreement. On Christmas Day 2021, however, Mother and Daughter argued, and Daughter

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7. Did the trial court commit reversible error by failing to appoint a Child Custody Evaluator, thereby abdicating its duty to protect a vulnerable child?

8. Did the trial court abuse its discretion by failing to rule on Appellant’s pending motions for firearm removal, reinstatement of child support arrears, and supervised visitation?

9. Did the trial court err as a matter of law by quashing valid subpoenaed evidence of certified police records that would have proven the Appellee committed perjury regarding domestic abuse?

<sup>2</sup> Two other children did not survive infancy. In addition, Mother and Father each have two older children from prior marriages.

asked Father to pick her up from Mother’s home. Since then, Daughter has declined to return to Mother’s home and has remained in Father’s physical custody.

As a result of that precipitating incident, on February 4, 2022, Mother filed a petition for contempt and a motion to modify custody, asserting that Father refused to return Daughter to her physical custody, despite the prevailing custody order. According to Mother, Father also showed favoritism toward Daughter, to the point that Son did not want to engage in visitation with him. Moreover, Mother claimed, Father changed the children’s medical appointments without consulting Mother and refused to pay his portion of doctors’ co-pays. Finally, Mother was concerned that a physical altercation between Father and the children’s stepmother, L. J. (“Stepmother”) had resulted in a visit by the police. Mother said that Stepmother had been convicted of driving while impaired and placed on probation, and while she was on probation, Father unlawfully kept a firearm in his house. Mother, therefore, sought tie-breaking authority as a modification to the parties’ joint legal custody.

On March 24, 2022, Father filed a cross-petition for contempt and a cross-motion to modify custody, averring that Mother had repeatedly violated the terms of the separation agreement and denied him access to the children. Father asserted, as a material change in circumstances, Daughter’s attainment of an age and level of maturity to take into account her preference regarding custody and access time. He said it was Daughter’s decision to

continue to reside primarily with him due to her estrangement from Mother. Father therefore sought primary physical custody of Daughter.<sup>3</sup>

Mother amended her motion to modify custody on April 18, 2022, seeking sole legal and primary physical custody of the children, on the ground that Father had manifested significant behavioral changes, which detrimentally impacted his ability to maintain joint legal custody and access to the children.

The circuit court heard argument on Mother’s and Father’s competing custody modification motions on October 2-3, 2023. Daughter’s maternal half-sister testified that the incident on Christmas Day 2021 began when Mother demanded that the children clean up while they were still opening their presents. Annoyed, Daughter told her half-sister that Father was coming to get her. Since then, Daughter seemed always to be angry at Mother and other members of the family.

Daughter, aged 15 at the time of the hearing, added that Mother called her a “brat” and “spoiled” and made fun of her when she asked for medical treatment for the severe gastrointestinal symptoms she had been having.<sup>4</sup> By contrast, Father always did his best to make her feel as if her feelings matter. Daughter said she asked Father to pick her up that Christmas Day because she “couldn’t take it anymore” and that if Father told her she had to go back to Mother’s home, she did not believe she could stay there.

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<sup>3</sup> Father made no assertion that physical custody of Son should change.

<sup>4</sup> Daughter was diagnosed with Crohn’s Disease and Inflammatory Bowel Disease (“IBD”) in 2022. She required surgeries with lengthy hospital stays in March and July 2023.

Mother testified that from October 2017 through Christmas Day 2021, she and Father had abided amicably by the access schedule set forth in their separation agreement. She said she spoke to Father after he picked Daughter up on Christmas Day, and he told her that Daughter was upset. Father asked if Daughter could stay with him for a few days, and Mother agreed. Once school resumed following the winter break, however, Mother realized that Father did not intend to return the child to her custody.

Since then, Mother said she had seen Daughter only at a few visitations with Father, at school events, and during doctors' visits. She was upset that Daughter called her derogatory names and referred to her by her first name, while calling Stepmother "mommy." Mother therefore asked the court to grant her sole legal custody, so as to permit her to make all final decisions relating to both children's medical and academic interests.

According to Father, Daughter called him on Christmas Day 2021, and asked him to pick her up from Mother's house because Mother and Daughter's half-siblings were screaming at her. He offered to keep Daughter with him through the rest of the winter break to alleviate the tension, with Mother's acquiescence.

Father testified that when he took Daughter to Mother's house to retrieve some clothes and school items Mother pushed the child out of the house and told her, "If you leave, you leave with nothing." Although her siblings brought some of her belongings outside to her, Daughter was upset with Mother for her reaction. As a result, Father declined to return Daughter to Mother's home because Daughter was "adamant" about not going back to Mother, saying she was "scared" and that Mother did not take her health concerns seriously.

Father said that when he later attempted to visit with Son, Mother refused, responding, “If you want to see [Son] that much, that must mean your [sic] returning [Daughter] to me.” The last time Son had been in Father’s home was Christmas 2022. It was Father’s opinion that Mother was being “punitive” by not permitting him to see Son because Daughter refused to return to Mother’s home.

Father was concerned that if forced to return to Mother’s primary physical custody, Daughter would be “unhappy and just miserable.” He did not believe that having a relationship with Mother meant Daughter had to live with her. Father agreed that Mother should play a role in Daughter’s life, but opined that professional intervention by a therapist was required to facilitate a better relationship between them. Father therefore asked the court to award him primary physical custody of Daughter and to enforce his parenting time with Son.

At the close of all the testimony, Mother and Father informed the court that they had reached an agreement in lieu of having the court decide the custody issues. Each would withdraw their motions for contempt without findings. In addition, Mother and Father agreed to continued joint legal custody as to both children and participation in therapy, with acceptance of the chosen therapist’s recommendation as to where Daughter should live. Until that recommendation was offered, Daughter would remain with Father, and Son would remain with Mother. Visitation among all four family members at a nearby Wegman’s food court, which had begun in 2022 but was unsuccessful, would resume. Mother and Father each acknowledged that the agreement was in the best interest of the children.

The circuit court entered a consent order on November 7, 2023, incorporating those terms and thereby resolving the outstanding issues of custody and visitation.<sup>5</sup>

On December 30, 2023, Mother moved to vacate the consent order, “due to procedural errors, [Father’s] inflexibility with academic and medical appointment scheduling, [Father’s] encouragement of negative behavior towards [Mother] by their daughter, and demonstrable prejudice against [Mother.]” On January 10, 2024, Mother moved to amend the consent order, requesting a change in visitation location, modification of custody, and a re-allocation of Daughter’s health expenses between the parents. By order entered January 24, 2024, the circuit court denied Mother’s motion to vacate, and by order entered February 29, 2024, the court dismissed Mother’s motion to amend for failure to state a claim upon which relief could be granted and failure to show a material change in circumstances since the entry of the consent order.

On January 26, 2024, Mother moved for reconsideration of the denial of her motion to vacate the consent order. The circuit court denied the reconsideration motion on February 21, 2024.<sup>6</sup>

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<sup>5</sup> Per the court’s request, the consent order was sealed; it was not entered into MDEC.

<sup>6</sup> Mother also moved for an *en banc* review hearing on the denial of her motion to vacate, but she later withdrew that request. The court dismissed the *en banc* hearing with prejudice.



On June 6, 2024, Mother filed an emergency motion to modify custody.<sup>7</sup> Therein, she repeated a claim that she had made in her petition for contempt and motion to modify custody on February 4, 2022—namely, that the children had been present in Father’s home during two incidents of domestic violence.<sup>8</sup> Mother also noted that during this period, she had received a text message from Father stating that he had purchased a firearm. She claimed, therefore, that Father had lied to the responding police officers when he said there were no firearms on the premises. Finally, Mother attached a report authored by a psychologist who found parental interference and alienation by Father’s refusal to return Daughter to Mother’s custody, and recommended the immediate removal of Daughter from Father’s home

When Father did not respond to Mother’s emergency motion, Mother requested an order of default. Father then filed an affidavit stating he never received service of Mother’s motion. He was ultimately served on December 26, 2024. The court entered an order of default against Father, but it later vacated the order.

Mother filed a second motion to modify the consent custody order on March 27, 2025. Mother claimed that since Daughter had been in Father’s physical custody, Father had not scheduled medical, dental, vision, and therapy appointments and that Father had

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<sup>7</sup> The record reflects that Mother’s motion was subject to a notice of deficiency by the clerk’s office, for failure to include her signature, address, email address, and telephone number. The docket does not show a re-submitted motion ameliorating the deficiency until August 26, 2024.

<sup>8</sup> The police incident reports Mother attached to her motion indicate the disturbances occurred in 2019 and 2020.

mismanaged Daughter's prescription drugs and permitted her to miss excessive amounts of school. In addition, Father had not contributed toward medical co-pays, nor communicated with Mother regarding Daughter's medical and educational concerns. In response, Father denied all the claims in Mother's motion.

The circuit court heard argument on Mother's motions to modify custody on April 14 and 15, 2025. Mother was represented by counsel, and Father appeared pro se. During her testimony, Mother reasserted that Father was: (1) not properly caring for Daughter's medical issues by failing to arrange for doctors' and dental routine visits and childhood immunizations; (2) failing to communicate with Mother about medical and educational issues; (3) only permitting Mother to visit with Daughter in medical waiting rooms during doctors' appointments; and (4) permitting Daughter to miss an excess of school days. In essence, Mother stated, Father was willfully flouting the terms of their joint legal custody.

Mother acknowledged on cross examination, however, that Father continued to pay child support to her for Daughter, even though Daughter had been living with Father exclusively since December 2021. She also acknowledged that, despite her claim that Father did not keep her informed as to Daughter's education, he sent her reports of Daughter's grades.

Father conceded that he had failed to schedule some routine medical and dental appointments during Daughter's many other medical treatments for her Crohn's Disease. However, Father countered that: (1) he was undertaking all Daughter's doctor-recommended treatments and providing her with all doctor-recommended medications; (2) Daughter was up to date on all required immunizations; (3) Mother—with her joint legal

custody—could make medical appointments for Daughter herself; (4) Daughter had no unexcused absences from school; and (5) any failure of visitation or communication rested on Mother, who had tried to renege on the parties’ consent custody agreement almost as soon as she had signed it in November 2023. Adding that Mother had not permitted him to see Son in over a year, Father said he just wanted to continue following the plan in the consent order and to have the court enforce it.

Following an *in camera* interview with Daughter, then 16-years-old, the circuit court summarized its discussion, stating that Daughter was worried about the outcome of the case because she believed herself to be the healthiest she has been since living with Father, and she didn’t think Mother would provide the same level of care if she were returned to Mother’s physical custody. She also expressed her comfort and happiness in living with Father.

In closing, Mother’s attorney suggested that the parents’ inability to communicate effectively—which they blamed on each other—was itself a sufficient reason to modify legal custody. Mother requested sole legal custody of Daughter, or, at the very least, tie-breaking authority regarding medical, educational, and religious issues. She also sought a court order requiring that Daughter visit with her outside of doctors’ appointments.

Father responded by stating that Mother had failed to show any material change in circumstances since the last hearing to justify a change in custody. In his view, Mother was just trying to relitigate the custody agreement that she had signed but had since decided she didn’t like.

Mother replied that the change in circumstance was the lack of true joint legal custody and Father's failure to follow the court's order by failing to make doctors' appointments or engage in visitation. Therefore, Mother reiterated that she required at least tie-breaking authority.

In its oral ruling, the circuit court found both parents to be credible witnesses. The court agreed that the parents were not able to communicate effectively about the welfare of the children and that that inability, along with the absence of visitation with each parent's non-custodial child, despite the consent custody agreement, constituted a material change in circumstances affecting the children. The court thus found that Mother had satisfied her burden of proving a need for a modification of legal custody, but not of physical custody, of Daughter.

Having found a material change in circumstances, the circuit court went on to discuss the suggested factors in considering a custody award, pursuant to *Montgomery County Dep't of Social Services v. Sanders*, 38 Md. App. 406 (1977), and *Taylor v. Taylor*, 306 Md. 290 (1986), explicitly finding that:

- (1) both parents were fit to have access to the children;
- (2) there were no concerns about the character and reputation of either parent;
- (3) both parents were sincere in their requests for access to the children and wanting to be participants in their lives;
- (4) the parents were not willing or able to share custody of either child, despite their consent custody agreement;
- (5) neither party presented evidence as to the children's extended family;

(6) Father testified that he encourages a relationship between Mother and Daughter, and family therapy will help that relationship, as well as the relationship between Daughter and Son;

(7) there are no other children living in Father's home, and no evidence was presented of children other than Son living in Mother's home, as it appeared that Mother's older children were emancipated and living elsewhere;

(8) an interview with Daughter revealed her to be of sufficient age and capacity to form rational judgment, and she did not appear to be subject to manipulation in expressing her comfort and happiness in living with Father and trepidation about having to return to Mother's home;

(9) Mother and Father did not have the capacity to communicate and reach shared decisions about the children's welfare;

(10) there was no evidence regarding the parents' geographical proximity, but Father's home was appropriate and stable;

(11) there was no negative evidence presented about either parent's financial status, except for the fact that their jobs were then insecure, as both parents worked for the federal government and were subject to termination by DOGE action;

(12) as to the age, health, and sex of the children, Daughter was 16 and suffered from IBD and Crohn's Disease, and Son was 13 and suffered from scoliosis and a failure to thrive;

(13) there was no evidence of a natural separation of the children from their parents, other than the length of time since each parent had had access to the non-custodial child;

(14) Daughter was strongly bonded to Father, but her bond with Mother appeared to be "fractured";

(15) the testimony revealed that Mother takes good care of Son and is bonded with him, but Father's bond with Son was damaged due to lack of access;

(16) the parties could not co-parent without disrupting Daughter's life, but modifying access provisions of the consent custody agreement would not be disruptive to the children's lives;

(17) both parents wanted to be involved in the children’s lives and educational and social growth. Father had met those needs with regard to Daughter but Mother, despite trying, had not. Both parents had met Son’s needs;

(18) the parents had not been able to shield Daughter from their conflict;

(19) Father had not tried to alienate Daughter from Mother and had continued to attempt visitation at Wegman’s for weeks even when Mother failed to appear. While the court did not find that Mother had tried to alienate Son from Father, the court was “concerned” that Father had not had contact with Son in so long;

(20) despite Mother’s claim of domestic violence in Father’s home, there was no evidence presented of that, and Daughter told the court she had seen none;

(21) each parent was meeting the needs of the child in their physical custody, including Daughter’s medical needs; and

(22) neither parent had engaged in vexatious litigation.

The circuit court entered its written order on April 22, 2025, granting in part, and denying in part Mother’s motions to modify the consent custody order. The court continued the parties’ joint legal custody of Son. The court also continued the parties’ joint legal custody of Daughter, but added tie-breaking provisions to Father regarding medical and educational decisions for her, on the ground that Mother and Father were not effective at communicating with each other, and even when they did communicate, “they are not able to reach decisions and do not have productive conversations.” As the parents had not shown the court an ability to make joint decisions, Father would be responsible for scheduling Daughter’s medical appointments but must inform Mother and permit her to attend. Both parents would have access to all school and medical portals and be permitted to attend all school and social events.

The court further ordered that visitation with Mother, Father, Daughter, and Son resume for two hours every other Thursday evening so that the non-custodial parent could spend time with the child not in their custody and the siblings could spend time with each other. Neither party was permitted to interfere with the children’s communication with the other parent or with each other. To the extent that the terms of the November 7, 2023, consent order had not been amended, they remained in effect, including the physical custody arrangement.

Mother, acting pro se, noted her appeal of the court’s order on May 16, 2025.<sup>9</sup>

### **DISCUSSION**

In her informal brief, Mother raises a litany of reasons why she believes we should reverse the circuit court’s custody modification order, most of which are based on allegations of Father’s alleged perjury and on evidence that she did not seek to have admitted at the hearing, was properly excluded by the court, or was considered by the court and found not to be relevant or compelling.<sup>10</sup> Mother’s primary challenge is to the circuit

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<sup>9</sup> After the filing of her notice of appeal, Mother filed a flurry of motions in the circuit court, including motions to vacate the November 2023 consent custody order and the April 2025 modification order. The court denied the motions to vacate, on the ground that, pending appeal, the circuit court was divested of jurisdiction over the matter.

<sup>10</sup> For example, Mother claims that the judicial process was corrupted by Father’s fraud upon the court in perjuring himself by failing to admit to his history of domestic abuse. The court, however, considered Mother’s allegations of Father’s domestic abuse and found the evidence lacking, especially after Father vehemently denied the allegation and Daughter told the court she had seen no violence in Father’s home. And, any other claims of Father’s “perjury” in Mother’s brief amount more to a claim about Father’s credibility in his testimony, *e.g.*, about the content of notes he sent to Daughter’s school. Mother was, however, represented by counsel at the custody hearings, and her attorney had

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court’s determination to continue the parents’ joint legal custody but award Father tie-breaking authority over Daughter’s medical and educational concerns, which she claims is not in the best interest of the children. *See McMahon v. Piazze*, 162 Md. App. 588, 594 (2008). We hold that the circuit court operated within its broad discretion in determining that the parents’ inability to communicate effectively with each other established a material

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the opportunity to cross-examine Father. Any determination of the credibility of the witnesses was properly left to the circuit court. *See Edsall v. Huffaker*, 159 Md. App. 337, 342 (2004) (quoting *Great Coastal Express, Inc. v. Schruefer*, 34 Md. App. 706, 725 (1977)) (A circuit court “‘may believe or disbelieve, accredit or disregard’” any testimony adduced at the hearing.).

Mother also complains that the court’s custody decision was based primarily on the stated preference of Daughter. However, the record shows that the court specifically denied asking Daughter about her preference during the *in camera* interview, and there is nothing to suggest that the court based the custody ruling on that factor, other than briefly mentioning her expression of comfort and happiness in living with Father and concern about returning to Mother’s home.

In addition, Mother claims that the court violated her right to due process by failing to appoint a child custody evaluator, but the record does not reflect any request to the court for such appointment. Therefore, we will not consider the issue for the first time on appeal. *See* Md. Rule 8-131(a) (“Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”).

Mother also avers that an award of tie-breaking authority to Father relating to medical decisions “unlawfully interferes with [her] private insurance contracts” as the policyholder of the children’s insurance because Father would have the authority to make decisions that legally and financially bind Mother. Again, this argument was not made to the circuit court and may not be raised for the first time on appeal.



change in circumstances and in modifying legal custody to provide tie-breaking authority to Father as in the best interest of Daughter.<sup>11</sup>

### **Standard of Review**

In a custody case tried before the circuit court, “an appellate court will review the case on both the law and the evidence[,]” and we “will not set aside the judgment of the trial court on the evidence unless clearly erroneous,” giving “due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c). Indeed, “[t]he trial judge who sees the witnesses and the parties, and hears the testimony is in a far better position than the appellate court, which has only a transcript before it, to weigh the evidence and determine what disposition will best promote the welfare of the child.” *Gizzo v. Gerstman*, 245 Md. App. 168, 201 (2020) (cleaned up).

Specifically, the decision of “whether to grant a [custody] modification rests with the sound discretion of the trial court and will not be disturbed unless that discretion was arbitrarily used or the judgment was clearly wrong.” *Leineweber v. Leineweber*, 220 Md. App. 50, 61 (2014) (cleaned up). A court abuses its discretion “when no reasonable person would take the view adopted by the trial court, or when the court acts without reference to

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<sup>11</sup> Mother, in the conclusion section of her brief, asks this Court to “reinstate her as the primary physical custodian” and “enter an order awarding [her] sole legal and physical custodian.” To the extent that she is challenging Daughter’s continued physical custody with Father, her argument must fail. Following the custody modification hearing, the circuit court left in place the physical custody award agreed to by the parties in the November 2023 consent custody order. As a general rule, “no appeal lies from a consent order.” *Barnes v. Barnes*, 181 Md. App. 390, 411 (2008). Any attempt by Mother to regain physical custody of Daughter would best be achieved through another motion to modify.

any guiding rules or principles, or when the ruling is clearly against the logic and effect of facts and inferences before the court.” *Gizzo*, 245 Md. App. at 201.

### Analysis

When, as here, a parent moves for modification of custody, the circuit court engages in a two-step process in deciding the motion. The court must consider: “(1) whether there has been a material change in circumstances, and (2) what custody arrangement is in the best interests of the children.” *Santo v. Santo*, 448 Md. 620, 639 (2016). A material change in circumstances requires some evidence that a change has occurred since the prior custody determination that “affects the welfare of the child.” *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012). If the court finds that there has been a material change, the next consideration is the best interests of the child. *Id.* at 173.

Our decisional law instructs that “the two steps are often interrelated.” *Id.* at 171; *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005) (“Deciding whether those changes are sufficient to require a change in custody necessarily requires a consideration of the best interest of the child. Thus, the question of ‘changed circumstances’ may infrequently be a threshold question, but is more often involved in the ‘best interest’ determination[.]”) (quoting *McCready v. McCready*, 323 Md. 476, 482 (1991)). The moving party has the burden of showing that there has been a material change in circumstances. *Gillespie*, 206 Md. App. 146, 171-72; *Sigurdsson v. Nodeen*, 180 Md. App. 326, 344 (2008). The two-step process is intended to prevent relitigating earlier determinations by litigious or disappointed parents upon the same facts. *See McCready*, 323 Md. at 481.

In the instant case, we find that there was sufficient evidence to support the circuit court’s finding that a material change of circumstances had occurred. Since the Christmas Day 2021 argument between Mother and Daughter, Daughter has resided with Father, despite the prevailing custody order providing Mother with physical custody. Mother and Father, once able to amicably communicate and co-parent, suffered a breakdown in communication over Daughter’s decision to stay with Father, leading to anger amongst the family members, failure of visitation with each parent’s non-custodial child, lapse in routine doctors’ visits for Daughter, and loss of information sharing between Mother and Father relating to the children’s school activities and medical issues.

We therefore agree with the circuit court’s conclusion that the parents’ inability to communicate adversely affected the children and constituted a material change in circumstances. *See Taylor*, 306 Md. at 304 (recognizing that the parents’ ability to communicate and reach shared decisions “is clearly the most important factor in the determination of whether an award of joint legal custody is appropriate[.]”); *see also Santo*, 448 Md. at 628 (“*Taylor* stands for the proposition that effective parental communication is weighty in a joint legal custody situation”).

Having found a material change in circumstances, the circuit court then explicitly and thoroughly considered the *Taylor/Sanders* factors in order to determine an appropriate custody arrangement that is in the best interests of Daughter. After considering all the evidence, including Father’s assurance that he would be more attentive in scheduling Daughter’s routine medical appointments, as well as Daughter’s interview in which she expressed that Father was better able to manage her complex health issues, the court

determined to maintain the parents’ joint legal custody but grant Father tie-breaking authority over Daughter’s medical and educational decisions. *See Santo*, 448 Md. at 633 (A tie-breaking provision is “consonant with the core concept of joint custody,” because such provision requires parents “to work together to decide issues affecting their children” and ensure each parent to have “a voice in the decision making process.”). Additionally, although the court did not change the physical custody provision set forth in the November 2023 consent custody agreement, the court required more access time for each child with their non-custodial parent, which is appropriate in light of the evidence that Mother and Daughter needed to repair their relationship and Father was being denied access to Son.

In order for us to set the tie-breaking provision of the custody order aside, we must conclude that the trial court’s decision was “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *North v. North*, 102 Md. App. 1, 14 (1994). On the record before us, we cannot reach that conclusion.

The circuit court appropriately took the various factors and Daughter’s best interest into account and “carefully set out the facts and conclusions that support[ed]” its award of tie-breaking authority. *Santo*, 448 Md. at 630. In light of the undisputed communication challenges between the parties and the circuit court’s first-hand observations of the parties during the modification hearing, we see no abuse of discretion in the court’s decision to award joint legal custody with tie-breaking authority to Father. Tie-breaking authority is “not a rare or extraordinary measure,” *Kpetigo v. Kpetigo*, 238 Md. App. 561, 587 (2018),

and it is appropriate in situations like this one where parents’ difficulties in communicating can affect the best interests of their child.

### **Conclusion**

We conclude that the circuit court’s factual findings were not clearly erroneous, and its custody modification ruling was founded upon sound legal principles. The circuit court’s decision was not “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *North*, 102 Md. App. at 14. Accordingly, we affirm the circuit court’s April 22, 2025 custody and visitation order.

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