Circuit Court for Prince George's County
Case No. CAD22-22054

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0918

September Term, 2025

SAYEEMAH S. AHMED

v.

AHMID BROWN

Nazarian,
Kehoe,
Irma S. Raker,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

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

Sayeemah Ahmed ("Mother") and Ahmid Brown ("Father") are the parents of a minor child, S. In July 2022, Father filed a complaint in the Circuit Court for Prince George's County seeking primary physical custody and sole legal custody of S, and in October of that year, Mother filed a counter-complaint that likewise requested sole custody. In January 2024, the circuit court entered an order granting the parties joint legal custody, granting Mother primary physical custody, and granting Father parenting time with S every other weekend. The following month, Mother began withholding visitation, purportedly because S had started to exhibit sexually inappropriate behavior after her second weekend with Father. After filing multiple petitions for contempt that the court denied or dismissed for lack of service, Father filed an emergency motion for temporary custody in April 2025, raising concerns that S was exhibiting sexually inappropriate behavior due to Mother's conduct. After an emergency hearing, the court granted Father's motion in part and issued an order modifying the original custody order temporarily. Mother appeals from the emergency custody order, and we vacate and remand for further proceedings consistent with this opinion.

I. BACKGROUND

S was born to Mother and Father in November 2020. Mother and Father were never married and Mother acted as S's primary caregiver for the first two years of S's life. In July 2022, Father, then a resident of Philadelphia, Pennsylvania, filed a Complaint for Custody in the circuit court against Mother, then a resident of Lanham. Father requested primary physical custody of S on the grounds that Mother was "unfit, mentally unstable, and

struggles with continual suicidal ideations and attempts" and "lives a very unhealthy and unstable lifestyle." He also requested sole legal custody on the basis that Mother "lacks decision making skills and is very easily influenced by others." He asked that the court allow Mother visitation with S every other weekend.

Mother responded with a Counter-Complaint For Custody, Child Support, And Other Appropriate Relief in October 2022. She alleged that Father was "not a fit and proper person to have custody of [S]." Among other allegations, she claimed that Father had abused her "physically, verbally and emotionally" and that there were pending actions against Father for committing acts of domestic violence, assault, sexual assault, violation of a protective order, and theft against Mother. She alleged as well that Father hadn't contributed financially to S's care since the child's birth. Mother asserted that it was in S's best interest that she be granted "sole physical and legal custody . . . . both *pendente lite* and permanently." Father amended his complaint a day later, alleging further that Mother was unfit to care for S because she suffers from various mental health conditions and "consistently has mental blackouts and breakdowns that causes her to become violent and abusive"; because, "[u]pon information and belief," she "is employed as a sex worker and constantly has [S] in unsafe environments" and "leaves [S] with strangers while she is working"; because she "has a history of disappearing with [S] and not informing Father of her whereabouts and safety"; and because "every time Father received [S] she is dirty and unbathed." He argued that because he had a flexible job and could provide S with a stable home and a safe environment, the court should grant him sole legal and shared physical

custody.

On February 27, 2023, the circuit court entered a *pendente lite* order granting Mother primary physical custody of S.

After discovery, a merits hearing was scheduled for January 23, 2024. On January 23, though, the parties instead reached an agreement and signed a Consent Custody Order (the "Custody Order"), which the court docketed on January 31. The Custody Order awarded the parents joint legal custody of S and gave Mother tie-breaking authority and primary physical custody. The Custody Order granted Father visitation with S every other weekend and directed exchanges to occur at Apple Tree Child Care Center in College Park.

On February 26, 2024, Father filed a Petition For Contempt, stating that Mother failed to deliver S to him for visitation the weekend before. About a month later, on March 22, Mother filed an Emergency Motion To Suspend Access. Mother alleged in her motion that about three weeks earlier, a friend of Father's had informed her that Father had "naked photographs" of S on his cellphone. She also alleged that she had observed S stripping the clothing from her dolls and acting out sexualized behavior with her one-year-old brother, and that S's childcare provider had notified her that S was "acting differently and did not want anyone to touch her." Mother represented that based on her observations and the information she'd received, she had filed for a protective order against Father that led to an "inconclusive" Child Protective Services ("CPS") report. She asked the court to suspend Father's access to S because, she alleged, Father had threatened to sell nude photos of S that he had on his phone if she did not "drop child support." She contended as well that

meeting with Father to deliver S for visitation would put Mother in harm's way because Father had threatened to commit acts of violence against her if she didn't give him full custody of S. In reply to Father's Petition For Contempt, Mother admitted to withholding S from him based on the same concerns she described in her motion. Father replied to Mother's Emergency Motion To Suspend Access and denied Mother's allegations, and the circuit court denied both Father's Petition and Mother's motion.

Father filed two more contempt petitions in October 2024 and March 2025, both of which the court dismissed for lack of service. On April 11, 2025, Father filed an Emergency Motion For Custody And Enforcement requesting temporary legal and physical custody of S on the basis of his alleged concerns that Mother caused S to exhibit inappropriate sexual behavior; that S had reported to CPS that Mother hits her; that S "was found walking naked and unattended in a hotel hallway" while in Mother's care in April 2024; that Mother had enrolled S in therapy but had been secretive with Father about her reasons for doing so; and that CPS had informed Father in January 2025 that they had conducted a welfare check of S with police after they received a call from a concerned individual and had been unable at the time to locate Mother and S.

The court held a hearing on Father's emergency motion on May 29. During the hearing, the court heard arguments from counsel on both sides, but did not take testimony or receive evidence. On June 6, the court issued an Emergency Custody Order granting Father's motion in part and providing that Father would have custody of S every weekend until the court could conduct a full custody merits hearing. Under the Emergency Custody

Order, Father would pick up S each Friday afternoon at her preschool in Rockville and Mother would pick up S each Sunday evening either at Father's current residence in Riverside, New Jersey or at the nearest police station. Mother noted a timely appeal from the Emergency Custody Order.

II. DISCUSSION

Mother presents four issues for our review.[1] Three of them are not properly before us,[2] and we rephrase the remaining question as follows: did the circuit court err in issuing its Emergency Custody Order, which modified the Custody Order, without first making a

[1] Mother phrases her Questions Presented as follows:

1. Whether the court erred in scheduling a hearing without service of a summons or complaint.
2. Whether the court erred in entering an emergency custody order without hearing testimony or evidence.
3. Whether the court erred in failing to expand the trial time.
4. Whether the court erred in failing to transfer venue.

Father doesn't state any Questions Presented in his brief.

[2] With some narrow exceptions, a party to an action in circuit court may appeal only from a final judgment entered by that court. Md. Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts & Judicial Proceedings Article ("CJ"). A final judgment is one that resolves all claims against all parties to the action. *Washington Suburban Sanitary Comm'n v. Bowen*, 410 Md. 287, 294–95 (2009) (*citing County Comm'rs for St. Mary's County v. Lacer*, 393 Md. 415, 424 (2006)). Here, Mother seeks to appeal from the circuit court's orders denying her motions to dismiss, to transfer venue, and to postpone trial and expand trial time, none of which are final orders. *See City of Dist. Heights v. Denny*, 123 Md. App. 508, 514 (1998) ("Because the denial of a motion to dismiss is not a final judgment, it is ordinarily not subject to interlocutory review."); *Lennox v. Mull*, 89 Md. App. 555, 559 (1991) (order denying motion for change of venue was neither an appealable final judgment nor appealable under the collateral order doctrine); *cf. Blanton v. Equitable Bank, Nat'l Ass'n*, 61 Md. App. 158, 163 (1985) ("[T]he denial of a continuance is an unappealable interlocutory order."). This leaves us with the Emergency Custody Order.

finding that the modification was justified by a material change in circumstances affecting S's best interests?[3] We hold that it did.

"[T]hree distinct standards of appellate review apply to [child custody] matters." *Elza v. Elza*, 300 Md. 51, 55 (1984). *First*, we uphold the factual findings of the circuit court unless clearly erroneous. *Id.* at 55 (*quoting Davis v. Davis*, 280 Md. 119, 125 (1977)). *Second*, upon a finding that the court erred as a matter of law, we ordinarily order additional proceedings in that court unless the error was harmless. *Id.* (*quoting Davis*, 280 Md. at 126). *Third*, if we find that the circuit court's decision was "founded upon sound legal principles and based upon factual findings that are not clearly erroneous," we disturb that decision only for an abuse of discretion. *Id.* at 55–56.

Mother argues that the circuit court erred in issuing the Emergency Custody Order and modifying the original Custody Order without hearing any testimony or receiving any evidence at the May 29, 2025 hearing. Failure to conduct a full evidentiary hearing, she

[3] Father contends that the Emergency Custody Order "is clearly temporary in nature" and that "since it specifically contemplates a further hearing, it clearly was not intended to be, and in fact, is not, a final order." Accordingly, he asserts that the Emergency Custody Order, like the orders from which Mother appeals, is an unappealable interlocutory order. It's true that the order is interlocutory, but it's appealable nevertheless. CJ § 12-303 allows parties to appeal from certain interlocutory orders issued by circuit courts in civil cases. Among these appealable interlocutory orders are those "[d]epriving a parent . . . of the care and custody of [their] child, or changing the terms of such an order." CJ § 12-303(3)(x). The Emergency Custody Order, which modified the "final" Custody Order to grant Father more frequent visitation (if temporarily), falls squarely within this exception to the final judgment rule. *See, e.g.*, *Wagner v. Wagner*, 109 Md. App. 1, 10, 17 (1996) (hearing challenge to temporary custody order); *Shunk v. Walker*, 87 Md. App. 389, 392 (1991) (hearing appeal from temporary *pendente lite* custody order); *Miller v. Bosley*, 113 Md. App. 381, 385 (1997) (appeal of *pendente lite* custody and visitation order).

asserts, prevented the court from examining the facts at issue carefully or evaluating properly whether temporary modification of the Custody Order was in the child's best interests, the "paramount concern" in any child custody case. Father counters that the Emergency Custody Order was proper because the same judge issued both orders and was "familiar with the parties and the case"; the court "heard briefly from both parties and from . . . Father's girlfriend" at the hearing; and the Emergency Custody Order "did not substantially modify the Custody Order of January 2024."

We make no decision here about the level of factfinding a trial court must undertake before ordering modification of an existing custody order in the best interest of the child, a decision to which we generally accord great deference. *See Shunk*, 87 Md. App. at 398 ("When a [court] finds that the moving party has satisfied th[e] heavy burden [to establish] a significant justification for a change in custody, those findings must be accorded great deference on appeal, and will only be disturbed if they are plainly arbitrary or clearly erroneous."). Rather, we hold that the circuit court erred as a matter of law by not determining first whether a modification of custody was necessary to protect S's best interests.

As both the Supreme Court of Maryland and this Court have emphasized on numerous occasions, "in any child custody case, the paramount concern is the best interest of the child." *Taylor v. Taylor*, 306 Md. 290, 303 (1986); *see also Hixon v. Buchberger*, 306 Md. 72, 83 (1986) ("Overarching all of the contentions in disputes concerning custody or visitation is the best interest of the child."); *McCready v. McCready*, 323 Md. 476, 481

(1991); *Shunk*, 87 Md. App. at 396 ("The guiding principle of any child custody decision, whether it be an original award of custody or a modification thereof, is the protection of the welfare and best interests of the child."); *Wagner*, 109 Md. App. at 11. Section 9-201 of the Family Law Article ("FL") lists sixteen factors for a court to consider when making a custody decision to ensure that the decision is in the child's best interest.[4] The statute

[4] These "best interest" factors are:

(1) stability and the foreseeable health and welfare of the child;

(2) frequent, regular, and continuing contact with parents who can act in the child's best interest;

(3) whether and how parents who do not live together will share the rights and responsibilities of raising the child;

(4) the child's relationship with each parent, any siblings, other relatives, and individuals who are or may become important in the child's life;

(5) the child's physical and emotional security and protection from exposure to conflict and violence;

(6) the child's developmental needs, including physical safety, emotional security, positive self-image, interpersonal skills, and intellectual and cognitive growth;

(7) the day-to-day needs of the child, including education, socialization, culture and religion, food, shelter, clothing, and mental and physical health;

(8) how to:

(i) place the child's needs above the parents' needs;

(ii) protect the child from the negative effects of any conflict between the parents; and

(iii) maintain the child's relationship with the parents, siblings, other relatives, or other individuals who have or likely may have a significant relationship with the child;

(9) the age of the child;

Continued . . .

also requires the court to "articulate its findings of fact on the record or in a written opinion, including [its] consideration" of the "best interest" factors "and any other factor that the court considered." FL § 9-201(b) (2025 Cum. Supp.). And once the circuit court enters a child custody order, it may modify that order if it "determines that there has been a material change in circumstances since the issuance of the order that relates to the needs of the child or the ability of the parents to meet those needs and that modifying the order is in the best interest of the child." FL § 9-202(a) (2025 Cum. Supp.); *see also Domingues v. Johnson*, 323 Md. 486, 492–93 (1991) ("[O]nce [a custody] decision has been entered as a judgment, it will ordinarily not be modified except upon a showing of a change in circumstances justifying a change in custody to accommodate the best interest of the child.").

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(10) any military deployment of a parent and its effect, if any, on the parent-child relationship;

(11) any prior court orders or agreements;

(12) each parent's role and tasks related to the child and how, if at all, those roles and tasks have changed;

(13) the location of each parent's home as it relates to the parent's ability to coordinate parenting time, school, and activities;

(14) the parents' relationship with each other, including:

(i) how they communicate with each other;

(ii) whether they can co-parent without disrupting the child's social and school life; and

(iii) how the parents will resolve any disputes in the future without the need for court intervention;

(15) the child's preference, if age-appropriate; and

(16) any other factor that the court considers appropriate in determining how best to serve the physical, developmental, and emotional needs of the child.

FL § 9-201(a) (2025 Cum. Supp.).

As such, the statute directs a two-step analysis on a motion to modify custody, whether on a permanent or temporary basis. *Wagner*, 109 Md. App. at 28 (applying two-step analysis when reviewing temporary custody order); *see also McCready*, 323 Md. at 479–81 (reviewing physical custody order under analysis). *First*, as a threshold question, the court must determine if a material change in circumstances has occurred since the issuance of the custody order to be modified. *Wagner*, 109 Md. App. at 28; *see McCready*, 323 Md. at 482. To be material, the alleged change in circumstances must affect the child's welfare. *Wagner*, 109 Md. App. at 28, 33. Without a material change in circumstances, "there can be no modification of custody," and the inquiry ends. *Id.* at 29. This threshold requirement helps to ensure that the stability in the life of the child under the existing custody order is not disturbed needlessly and to prevent "litigious or disappointed parent[s]" from "relitigat[ing] questions of custody endlessly on the same facts." *McCready*, 323 Md. at 481.

Second, "[i]f a material change of circumstance is found to exist . . . the court, in resolving the custody issue, considers the best interest of the child as if it were an original custody proceeding." *Wagner*, 109 Md. App. at 28. In other words, the court must decide whether a modification of custody is in the child's best interest based on the changed circumstances, and the court must do so by considering the FL § 9-201(a) factors on the record or in a written opinion. *See* FL §§ 9-201(b), 9-202(a) (2025 Cum. Supp.). The party seeking a change in custody bears the burden of demonstrating both the existence of a sufficient change in circumstances to justify that change and that a change in custody would

be in the best interest of the child. *Wagner*, 109 Md. App. at 30–31; *Shunk*, 87 Md. App. at 397–98 ("The burden . . . is clearly on the party 'who affirmatively seeks action by the [court]'" to "establish that the modification is necessary to safeguard the welfare of the child." (*quoting Jordan v. Jordan*, 50 Md. App. 437, 443 (1982), *abrogated by Domingues v. Johnson*, 323 Md. 486 (1991))).

As an initial matter, the Emergency Custody Order did, in fact, modify the original Custody Order. The original Custody Order granted Mother, who resides in Maryland, primary physical custody of S and granted Father visitation with S every other weekend, with exchanges to occur in College Park. Although Mother retains primary physical custody under the Emergency Custody Order, that order increased the frequency of Father's visitation to every weekend and required Mother to pick up S from Father's residence in Riverside, New Jersey each Sunday.

The order is silent, however, as to what, if any, material change in circumstances the court found to support this modification—neither the record at the emergency custody hearing nor the Emergency Custody Order includes any such determination. It's unlikely that the court could have relied on Father's assertion that Mother had, through her alleged occupation as a sex worker, exposed S to inappropriate conduct, as Father had been making such allegations in his filings since before the court issued the original Custody Order. It's possible that the circuit court recognized Mother's withholding of visitation from Father as a change in circumstances that arose after the issuance of the Custody Order. At the hearing on May 29, 2025, Father's counsel stated that Mother had only delivered S for visitation

twice and that he had not seen S since February 2024, over a year before. Mother's counsel confirmed that Mother was unwilling to give Father access to S because she "firmly believe[d]" that Father was exposing S to sexualized behavior. And denial of visitation can constitute a material change in circumstances justifying modification of custody if the denial affects the welfare of the child. *See Shunk*, 87 Md. App. at 399–401 (affirming court's modification of custody on the basis that father, by moving out of the country with child surreptitiously and denying mother visitation, had "created a significant change in circumstances which may well affect the welfare of the child" and prevented the court from exercising its jurisdiction to protect the child's best interests); *Wagner*, 109 Md. App. at 13, 17, 33 (finding attempts by mother, who moved with child from Maryland to Colorado with court permission, to discontinue father's visitation by filing a restraining order; claiming child was ill and couldn't fly to Maryland for visitation; and ultimately absconding surreptitiously with child to a women's shelter in California under an assumed name created material change in circumstances that justified custody modification to protect child's best interests).

But even if the court did rely on Mother's withholding of visitation as a change in circumstances, there was no conclusion that the change was material. Put differently, neither the record nor the Emergency Custody Order reflects a determination that by withholding visitation, Mother had created a change in circumstances that affected S's best interests. We don't dispute that by withholding visitation, Mother deprived Father of his right to see his child under the Custody Order. And the court appeared to view the custody

modification under the Emergency Custody Order as a remedy for this deprivation. With regard to the modification requiring Mother to pick up S from Father's residence in New Jersey rather than in College Park, the court remarked that Father was not "going to spend any more money on this back and forth." The court also appeared to be concerned with Father's contention that Mother "just continually files, and files and files protective orders and then violations of protective orders" against him. To this end, the court stated, "I just don't believe [Mother's allegations] to be true. . . . This happens all the time. When you can't get your way, you start saying things like this. . . . It's criminal really, making these false allegations." But "'[t]o justify a change in custody, *a change in conditions must have occurred which affects the welfare of the child and not of the parents*.'" *Levitt v. Levitt*, 79 Md. App. 394, 398 (1989) (*quoting Jordan*, 50 Md. App. at 443). Without a finding that a material change of circumstances had occurred that affected S's welfare, not just Father's, the inquiry should have ended. *See Wagner*, 109 Md. App. at 28. And even if the court had reached such a conclusion, we would be required to vacate the Emergency Custody Order all the same because the court did not determine either on the record or in the order that, based on the FL § 9-201(a) factors, modification of custody served S's best interest. *See* FL §§ 9-201(b), 9-202(a) (2025 Cum. Supp.).[5]

[5] The closest the court got to considering S's best interests expressly was to note on the record that in light of each parent's allegation that the other had exposed S to sexually inappropriate behavior, "the right thing to do really is for [the court] to call [CPS] right now and tell them to pick up the child." This statement doesn't shed any light on the court's ultimate decision to increase Father's visitation, however, or explain why the court found increased visitation with Father to be in S's best interest.

As the party moving for a modification of custody, Father had the burden of proving a material change in circumstances that justified a modification of custody to protect S's best interests. *See Wagner*, 109 Md. App. at 30–31; *Shunk*, 87 Md. App. at 397–98. At the hearing, though, the circuit court appeared to place the burden on Mother to prove that modification was *not* warranted. *First*, after Mother's counsel explained to the court that a CPS investigation into Father had been ongoing since February 2024 but that CPS had "not reached any conclusions," the court replied that Mother had not put forward "anything that tells [the court] that in a year [CPS has] taken this seriously enough to investigate right away." *In addition*, after Mother's counsel presented the court with a CPS letter ruling Mother out for abuse following the April 2024 report about S wandering naked and unattended in a hotel hallway while under Mother's care, the court responded, "So you managed to get a letter about the allegation about the child in the hallway but not the one saying that yes, [Father] is indicated [for abuse]?" *Finally*, the court later asked Mother if she'd taken S to a doctor to have her evaluated for sexual abuse, and when Mother replied that she'd informed S's pediatrician of her concerns, the court responded, "So she hasn't been to a doctor is the answer. This is outrageous for you to think that I'm going to believe that [CPS] didn't make a decision by now for a four year old child . . . ."

But the burden wasn't on Mother to prove that the court *shouldn't* modify custody to increase Father's access to S. The burden was on Father to prove to the court that it *should* modify custody because increasing his access to S *was* in the child's best interests. Because the circuit court didn't consider whether Father had satisfied his burden to show

a material change of circumstances such that modification was in S's best interests, *see Shunk*, 87 Md. App. at 398, the court erred in modifying the terms of the Custody Order. This error wasn't harmless, *see Elza*, 300 Md. at 55, and so we vacate the Emergency Custody Order and remand for further proceedings.

EMERGENCY CUSTODY ORDER OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY VACATED. COSTS TO BE DIVIDED EVENLY.

The correction notice(s) for this opinion(s) can be found here:

https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/0918s25cn.pdf