Circuit Court for Montgomery County
Case No. C-15-FM-24-005193

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 924

September Term, 2025

JUSTIN KAMINSKI

v.

JESSICA WHALEN

Graeff,
Zic,
Wright, Alexander Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: May 29, 2026

*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 Justin Kaminski ("Father") timely appealed an order entered by the Circuit Court for Montgomery County pertaining to custody of the minor children he shares with appellee Jessica Whalen ("Mother"). Father asks us to consider the following questions:

1. Did the [c]ourt err in awarding Appellee primary physical custody of the Minor Children?

2. Did the [c]ourt err in awarding the Appellee tie-breaking authority for medical decisions?

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

BACKGROUND

Mother and Father married in 2020 and had two children together, E. (born 2020) and Z. (born 2024). The parties separated when Mother moved with the children out of the marital home in August 2024, in what Mother deemed a constructive eviction based on Father's "cruel and erratic behavior." The children have resided primarily with Mother since the separation.

Mother filed for absolute divorce on the ground of irreconcilable differences. In her complaint, she sought sole legal and primary physical custody of the children, along with child support, a monetary award, a determination of marital property, and use and possession of the family home.

Father filed a counter-complaint for absolute divorce, stating that, in vacating the marital home, Mother abandoned him. He sought joint legal and physical custody of the children and meaningful access to them via a visitation schedule.

Following a *pendente lite* hearing on January 14, 2025, Mother and Father resolved their differences pertaining to custody. They agreed, by written *pendente lite* order entered February 11, 2025, that until April 19, 2025, Father would have access to E. overnight every Wednesday and every other weekend from Friday to Sunday afternoons. His access to Z.—then still under the age of one year—would occur every Wednesday and every other Friday from 4:30 until 7:00 p.m., every other Saturday from noon until 4:00 p.m., and every other Sunday from noon until 4:00 p.m. Father would have additional access to both children every other Monday from 4:30 until 7:00 p.m. at Mother's home and every other Saturday from noon until 4:00 p.m. at a location of his choosing. From April 19, 2025, onward, Father would commence overnight visitation with Z. every other weekend from Saturday at 9:00 a.m. until Sunday at 4:00 p.m. The parties also agreed that Father would pay Mother child support in the amount of $1,900 per month.[1] All other outstanding matters were reserved for a custody merits hearing scheduled for May 2025.

At the May 12-13, 2025 custody merits hearing, Mother testified that she was the primary caregiver for E. from the time of his birth in 2020. When she became pregnant with Z. in 2023 (after suffering two miscarriages), Father's parental involvement with E. did not increase and was generally limited to family dinners and approximately thirty minutes with E. around bedtime; by the time Father awoke at 10:00 or 11:00 in the mornings, Mother had already taken E. to daycare, and in the evenings, Father spent much

[1] Shortly thereafter, Mother filed a petition for contempt, asserting that Father had not paid any child support or agreed-upon daycare expenses. Father conceded that he did not pay any support until the contempt petition was filed. Mother later withdrew her petition when Father became current on his obligation.

of his time playing video games and smoking marijuana.[2] How much help Father provided with E. seemed to depend on how much sleep Father had gotten the night before and his unpredictable moods. On several occasions when he appeared depressed and expressed suicidal thoughts, Father would sleep for days at a time, leaving Mother to care entirely for E. Father also told Mother that her requests for help with E. were triggering to him and that she was not paying enough attention to him.

Shortly after Mother became pregnant with Z., she said, Father's communications became "volatile" and "demeaning." Near Christmas 2023, for example, Mother contracted COVID, and although Father initially cared for E. while Mother was sick in bed, he eventually told Mother to call the vet to obtain medication for their sick dog and to call her mother over to take care of the child.

Days before her scheduled C-section with Z., Father discussed separating from Mother. He did not, however, move out of the marital home. For approximately two weeks after Z.'s birth, Father primarily cared for E. while Mother cared for the newborn, but after those two weeks, Father returned to work, and Mother cared for both children.

In May 2024, Mother left the home for approximately 1.5 hours to attend a Mother's Day celebration at E.'s pre-school, leaving Z. in Father's care. Within twenty-five minutes, Father began texting her that Z. was crying incessantly, and he did not know what to do,

[2] Father said he stopped using medical marijuana in August 2024. Mother acknowledged that Father had tested negative for marijuana use after they separated and agreed that he may have quit because he wanted to spend more time with the children. Father also testified at the custody hearing that his work day as a video game software developer generally did not begin until 10:00 a.m.

so he was leaving the baby's room. When Mother arrived home, Z. was screaming and crying in his bassinette, and Father was in the living room wearing noise-canceling headphones. That day was the longest stretch of time Father cared for Z. alone prior to the parties' separation.

Mother said she asked Father to attend couples' therapy with her, but he refused, asserting that he did not need therapy. They began to talk about separation approximately two weeks later, when Mother told Father she could not live like they were any longer. In response, Father insisted he would want 50/50 custody of the children as "fair and equitable"—even though Mother was exclusively feeding Z. breast milk that she pumped on demand because Z. had developed an aversion to nursing—and that he would spend every dollar he had to ensure he got it.

Realizing that they would have to co-parent regardless of the status of their marriage, Mother and Father began marriage counseling; at that time, Mother was open to reconciliation, although she acknowledged that she had already started to look for an apartment for herself and the children. The marriage counseling was unsuccessful.

Mother did not tell Father of her plan to move out of the marital home because Father had made a scene about a separation in front of the children, and she was nervous about how he would react to her leaving if she told him in advance. She feared that if she advised him of her plan, he would not let her take the children.

Mother said the children were doing well with the schedule as set forth in the *pendente lite* consent order. Going forward, she thought that, for E., overnight visits with Father every Wednesday and every other weekend, along with Friday night dinner on the

off week of her proposed two-week schedule, was in the child's best interest. For Z., she believed that visits on Wednesdays, and Fridays from 4:30 to 7:30 p.m. and Saturdays from 9:00 a.m. until noon on the weekends E. was with Father, with a ramp up to full weekends in approximately sixty days, were appropriate and in the child's best interest. Mother expressed concern about Father's insistence on a 50/50 custody schedule due to his lack of consistency in parenting and the fact that the children had been doing well with the *pendente lite* schedule; she did not think it was in their best interest to "shake it up."

Mother also addressed her and Father's differences regarding the children's education. She believed that a Montessori school was appropriate for E., while Father disagreed. She and Father had also disagreed about medical treatment for E. after his pediatrician expressed concern that the child might have a hyper-flexibility issue, with Mother advocating for physical therapy and Father suggesting that they just "let E[.] be E[.]"

Because she and Father had demonstrated that they "do not make decisions together very well[,]" Mother sought joint legal custody with tie-breaking authority regarding educational and medical concerns. Nonetheless, she agreed that Father loved the children, and she was not concerned for their safety when they were with him.

Lynda Mallory testified as an expert in parent coaching and child development on behalf of Father. She stated that Father reached out to her in October 2024 to obtain parent coaching when he was going through the grief of the end of his marriage. She conducted seven sessions with him, including one recent home visit to observe him with the children. She described Father as having a responsive, calm parenting style, with a positive, secure

attachment with both boys. During the observation, Mother came to pick up the children, and Ms. Mallory described her as lovely and polite. The children exhibited no apprehension about the exchange between the parents.

In his testimony, Father disputed Mother's testimony that he did not help with E. in the months following the child's birth. Father said he helped as best he could and tried to stay awake with Mother during the nights "in solidarity with her[,]" but attempts at having E. take a bottle so Father could do nighttime feeds were unsuccessful. Once he and Mother began to sleep train E., however, Father was able to participate more with E.'s nighttime waking. Father said he also changed "countless" diapers and helped during bath time.

Prior to Z.'s birth in 2024, Father continued, things became difficult between him and Mother. They were not communicating well, and they lacked a physical bond. Mother asked him to participate in marriage counseling, but Father was more private and suggested they first have a family meeting with Mother's mother as mediator, which at least opened some lines of discussion that had dwindled between them. Nonetheless, he believed that he and Mother were able to co-parent well, although he admitted there was sometimes drama when they disagreed.

After Z. was born, Mother and Father agreed that Mother would be the primary caregiver for the newborn, while Father would primarily care for E. That worked well because it gave Father the opportunity to make decisions about E., which Mother had previously declined to let him make.

Father did not know that Mother had, by that time, already retained a family lawyer. He also had no prior knowledge that she planned to leave with the children in August 2024,

although they had discussed the possibility of divorce. He had hoped that the marriage counseling they had undertaken would result in them remaining together as a family.

When a process server delivered a letter from Mother's attorney advising that she had moved out with the children, Father cried and texted his family members. He asked Mother to have the children overnight, but that did not happen until approximately a week after the separation.

Father commenced individual therapy to help deal with the divorce and co-parenting, while acknowledging that he declined to do so when Mother asked him repeatedly to go to therapy during the marriage. Therapy, he said, was helping him deal with his anxiety and providing coping mechanisms, thus making him a better parent.

After the parties' separation, Father said that the access schedule, including the consent *pendente lite* order, was dictated by Mother and was not exactly what he wanted, as he desired more time with the children. He acknowledged, however, that Mother did, on some occasions, provide him with access time additional to that provided in the *pendente lite* order. In January 2025, for example, Father gave up his attendance at a prepaid gaming event to accept Mother's offer for additional time with the children, and he spent the night caring for Mother and both children at her apartment when they contracted a stomach bug.

Regarding the incident when Mother came home from the Mother's Day celebration at E.'s school to find Z. crying and Father wearing noise-canceling headphones, Father stated that he had removed himself from the stressful situation for a few minutes to collect himself. He explained that his headphones connected to his computer and permitted him to monitor Z., who eventually fell back asleep.

In terms of access going forward, Father sought a two-week rotation, with one parent to have the children overnight Monday, Tuesday, and the weekend, and the other parent to have Wednesday and Thursday, and then switching for the second week. He believed that he and Mother could effectively co-parent that way and that it would be in the best interest of the children for each parent to have equal time. He further believed that he and Mother could come to joint decisions on legal custody issues. He opined that tie-breaking authority "breaks the premise" of making decisions together. Instead, in case of a disagreement, he suggested he might accede to Mother's decision or suggest some form of mediation.

In its oral ruling, the circuit court discussed the required factors in considering a custody award, pursuant to *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1978), and *Taylor v. Taylor*, 306 Md. 290 (1986), finding that: (1) both parties are "fit, proper parents" but noting some concern about Father's mental health issues that on occasion keep him in his bedroom "under the stress of parenting"; (2) both parties are of "well-meaning, good character"; (3) both parties are sincere in their requests for custody and "love these kids to death"; (4) the court had entered a prior *pendente lite* order, "but if that was a long-lasting agreement, I wouldn't be here"; (5) both parties seem willing to share custody "[i]n the abstract," but are not in agreement on "the details of how it should be done"; (6) no evidence was presented about the maintenance of the children's relationships with other relatives, other than the grandparents, who are "very involved"; (7) no evidence was presented of either parent having other children; (8) the preference of the children was not a factor in the court's decision as they are too young to state a

preference; (9) Mother and Father, both articulate and smart, seem "to be a little off track right now in the ability to come to agreements" and can both be "a little strong-minded" in wanting to be in control; (10) both parents are able to maintain a safe and stable home for the children; (11) both parties earn over $100,000 annually and are financially able to meet the children's needs; (12) as to the demands of parental employment, both parents have somewhat flexible work-at-home hours; (13) as to the age, health, and sex of the children, E. is five years old and Z. is one year old, both male and both healthy; (14) each parent has a "healthy, robust, good relationship" with each child; (15) although Father has not spent as much time with them, each parent is able to care for the children; (16) the parties have been separated for approximately nine months; (17) the children are too young to be overly concerned about the potential disruption in their social and school life; (18) state and federal assistance is not at issue; (19) benefits of an award of joint custody that would enable the parents to bestow more benefits upon the children is inapplicable; and (20) there has been no involuntary surrender of child custody.

The court went on to find that, although it could not say that Father did nothing in terms of parenting, Mother has been "the lead actor, taking care of most of the [children's] activities." The court was "concerned" about some of Father's difficulties, citing the trouble he had with a crying baby after less than one hour and his need for attention from Mother while she was still reeling from the after-effects of her two miscarriages and a later C-section. As such, to the court, it seemed like Mother was the stronger parent, more able to care for the children at that time. With the goal of having the children spend as much time as possible with each parent, the court found that Mother should remain the primary

parent, with 50/50 custody appropriate "in the future" if Mother and Father improved their communication and ability to work together.

The court, "tweaking the PL order[,]" determined that Father would have physical custody of E. every other weekend from Friday at 4:30 p.m. until Monday morning school drop-off and every other Wednesday from school pick-up until school drop-off on Thursday morning and of Z. every other Wednesday from daycare pick-up in the afternoon until drop-off at Mother's home at 8:00 Thursday morning and every other weekend from Friday at 4:30 p.m. until Saturday at noon and then Sunday from noon until Monday morning at 8:00 a.m. Starting January 1, 2026, the access schedule for Z. would be the same as for E.[3] The court also instituted a holiday and summer vacation schedule. As to legal custody, the court, not having seen evidence of the parents' ability to work things out between themselves, granted them joint legal custody with Mother to have tie-breaking authority on medical issues.

The circuit court entered its written custody and child support order on June 2, 2025, memorializing its oral ruling on physical and legal custody.[4] In addition, the court kept in

[3] Because the January 1, 2026, date of change in access schedule has passed, any issue raised by Father about the custody order prior to that date is now moot.

[4] Father claims that the court's access schedule as set forth in its written order differs from that stated in its oral ruling. Our review of the record, however, uncovers no significant difference between the court's oral ruling and its written order. Were there any difference between the oral ruling and the written order, the written order would comprise the final judgment. *See Sims v. Sims*, 266 Md. App. 337, 357 (2025) ("For our purposes, the order for judgment of absolute divorce is the judgment, not the oral ruling."); *Taha v. S. Mgmt. Corp.*, 367 Md. 564, 570 (2002) ("[A]n oral comment by the trial judge contained (continued…)

place Father's child support payment of $1,900 per month until January 1, 2026, when it would decrease to $1,685 per month to account for Father's additional overnights with Z. The court deferred issues of retroactive child support and attorneys' fees until the divorce merits hearing, currently scheduled for April 2026.

Father filed his notice of appeal of the court's custody order on July 2, 2025. The same day, Father moved for reconsideration of the custody order, asserting that, while it granted him the same number of bi-weekly overnight visits with the children as did the *pendente lite* consent order, the final order created an eight-day gap between some visits, in comparison to a no longer than two-day period without visitation granted by the *pendente lite* order. In his view, the final custody order was not in the best interest of the children and was contrary to the agreement between the parties and the status quo in place at the time the court's findings were made. Mother responded that the testimony and evidence introduced at the custody merits hearing fully supported the findings and ruling of the circuit court and that Father had raised no new argument or facts in his motion for reconsideration. The court denied Father's motion for reconsideration by order entered on July 22, 2025.

DISCUSSION

Father claims that the circuit court erred in its application of the law to the facts of this matter when awarding Mother primary custody and leaving him with an access schedule that was less than provided in the *pendente lite* order and less than Mother was

in the record is insufficient to create a final judgment." (citing *Estep v. Georgetown Leather Design*, 320 Md. 277, 284 (1990))).

asking that he have, without explaining why that schedule was in the children's best interest. In Father's view, the judge's custody award was based on his own perceived bias, as a parent with young children, that Mother is better able to care for the children, even though the judge determined that both parents are fit, of good character, sincere in their desire for access time to the children, and able to provide for them. Father also questions the court's grant of tie-breaking authority on medical issues to Mother with no basis for doing so, as the evidence did not show that the parties had been unable to agree upon a medical decision for either child. The court's decisions, Father concludes, were not supported by the evidence presented at the custody hearing.

Standard of Review

This Court conducts only a "limited review" of a circuit court's custody decision. *Wagner v. Wagner*, 109 Md. App. 1, 39 (1996). "[A]n appellate court does not make its own determination as to a child's best interest; the trial court's decision governs, unless the factual findings made by the lower court are clearly erroneous or there is a clear showing of an abuse of discretion." *Gordon v. Gordon*, 174 Md. App. 583, 637-38 (2007). 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).

We review the evidence in the light most favorable to the prevailing party, and if there is any competent, material evidence to support the circuit court's factual findings, we cannot hold that those findings are clearly erroneous. *Hosain v. Malik*, 108 Md. App. 284,

303-04 (1996). Regarding the court's ultimate decision on the custody matter, an abuse of discretion exists if "'no reasonable person would take the view adopted by the trial court'" or the ruling is "'clearly against the logic and effect of facts and inferences before the court[.]'" *Santo v. Santo*, 448 Md. 620, 625-26 (2016) (cleaned up) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)).

Analysis

In custody cases, the "'court's objective is not . . . to punish the less capable parent'" but "to determine what custody arrangement is in the best interest of the minor children[.]" *Burdick v. Brooks*, 160 Md. App. 519, 528 (2004) (quoting *Hughes v. Hughes*, 80 Md. App. 216, 231 (1989)). *See also Conover v. Conover*, 450 Md. 51, 60 (2016) ("The primary goal of access determinations in Maryland is to serve the best interests of the child."). Although circuit courts are not limited to a list of factors in applying the best interest standard in each individual case, this Court and the Supreme Court of Maryland, beginning with *Taylor v. Taylor* and *Montgomery County Department of Social Services v. Sanders*, have set forth a non-exhaustive list of factors that a circuit court must consider when making custody determinations:

> (1) The fitness of the parents;
> (2) The character and reputation of the parties;
> (3) The requests of each parent and the sincerity of the requests;
> (4) Any agreements between the parties;
> (5) Willingness of the parents to share custody;
> (6) Each parent's ability to maintain the child's relationships with the other parent, siblings, relatives, and any other person who may psychologically affect the child's best interest;
> (7) The age and number of children each parent has in the household;
> (8) The preference of the child, when the child is of sufficient age and capacity to form a rational judgment;

> (9) The capacity of the parents to communicate and to reach shared decisions affecting the child's welfare;
> (10) The geographic proximity of the parents' residences and opportunities for time with each parent;
> (11) The ability of each parent to maintain a stable and appropriate home for the child;
> (12) Financial status of the parents;
> (13) The demands of parental employment and opportunities for time with the child;
> (14) The age, health, and sex of the child;
> (15) The relationship established between the child and each parent;
> (16) The length of the separation of the parents;
> (17) Whether there was a prior voluntary abandonment or surrender of custody of the child;
> (18) The potential disruption of the child's social and school life;
> (19) Any impact on state or federal assistance;
> (20) The benefit a parent may receive from an award of joint physical custody, and how that will enable the parent to bestow more benefit upon the child;
> (21) Any other consideration the court determines is relevant to the best interest of the child.

Azizova v. Suleymanov, 243 Md. App. 340, 345-46 (2019) (quotation marks omitted) (quoting Cynthia Callahan & Thomas C. Ries, *Fader's Maryland Family Law* § 5-3(a), at 5-9 to 5-11 (6th ed. 2016)).[5]

Maryland's appellate courts have consistently affirmed custody determinations when the circuit court embarked upon a thorough, thoughtful, and well-reasoned analysis in line with the various custody factors. *See Santo*, 448 Md. at 646 (stating that the court's decision was "predicated on its thorough review of the *Taylor* factors, deliberation over custody award options, sober appreciation of the difficulties before it, and use of strict rules

[5] Many of the *Taylor* and *Sanders* factors were recently codified in Md. Code, § 9-201 of the Family Law Article, effective October 1, 2025.

including tie-breaking provisions to account for the parties' inability to communicate" and "was rational and guided by established principles of Maryland law" and "[n]o abuse of discretion occurred in this case"); *Reichert v. Hornbeck*, 210 Md. App. 282, 308 (2013) (stating that, even assuming the parents were unable to communicate, "the court articulated fully the reasons that supported the conclusion that joint physical and legal custody was appropriate through an extensive and thoughtful consideration of all suggested factors" (cleaned up)).

Based on the record in this matter, we cannot say that the circuit court's factual findings were clearly erroneous or that it abused its discretion in its award of primary physical custody of the children to Mother with a specific access schedule to Father. Over the course of a two-day hearing, the court heard testimony from Mother and Father, their own mothers, and an expert witness, and reviewed almost ninety exhibits, most of which were telling text messages between Mother and Father, which tended to show that Mother was the primary caregiver for E., even while suffering the physical and emotional effects of two miscarriages and the later birth of Z. via C-section. During that challenging time, Father bemoaned Mother's failure to pay more attention to him and occasionally retreated to his bedroom for days at a time in a mood of depression with suicidal ideation, leading to Mother assuming the bulk of the care for both children.

Despite Mother's entreaties that Father undertake therapy, he refused, suggesting that he did not need a therapist, just a "loving caring nurturing wife[.]" The court expressed concern about Father's admitted mental health issues and apparent difficulty in adapting to a newborn after Z.'s birth. On the first occasion Mother left Father alone with infant Z., for

example, he demonstrated an inability to handle the crying child for the less than one hour Mother was away, leaving the room and donning noise-canceling headphones to block out the sounds. And, when Father began overnight visits with the children, he entreated Mother to drive to his house at night to drop off pumped breast milk for Z. after she explained that she was only able to pump on demand and could not amass a surplus to provide to Father for visitation.

Upon their separation, Father was inconsolable, but, despite that and his earlier difficulties in caring for the children, his focus was on obtaining no less that 50/50 custody, even telling Mother he would spend every dollar he had to do so, without considering whether that arrangement would be in the children's best interest. For all these reasons, the circuit court questioned whether Father had the immediate ability to care for the children on his own for extended periods of time.

The circuit court carefully considered all the testimony and the extensive number of exhibits and then explicitly and thoroughly considered the *Taylor*/*Sanders* factors in order to determine an appropriate custody arrangement and visitation schedule that would continue Mother's primary caregiving of the young children while permitting Father four overnights during each two-week period. The court specifically noted that the quantity of the time the children spent with each parent was not as important as the quality of that time, but stated that it would consider a 50/50 physical custody arrangement in the future if Mother and Father improved their communication and ability to work together. But, based

on the evidence before it, the court found that Mother was then the stronger parent, and it was in the children's best interest for her to continue to have primary custody.[6]

In deviating from the terms of the then-prevailing *pendente lite* order in determining what custody arrangement was in the best interest of the children, the court did not err. A *pendente lite* order, by its very nature, assumes the possibility of change in a final order and is not binding upon the court. *See Frase v. Barnhart*, 379 Md. 100, 111 (2003) ("A *pendente lite* [custody] order is not intended to have long term effect and . . . is subject to modification during the pendency of the action, as current circumstances warrant, and it does not bind the court when it comes to fashioning the ultimate judgment."); *Kovacs v. Kovacs*, 98 Md. App. 289, 312 (1993) ("The proper standard the court should use to determine a change of custody from a *pendente lite* order is and continues to be what is in the best interest of the child."). Moreover, the very terms of Mother's and Father's *pendente*

[6] Although Father complains, in his brief, that the court displayed a maternal bias in its custody decision, the evidence does not bear out that assertion. The court, in issuing its oral ruling, commented:

> [I]t just seems like Mom was a stronger parent at the time. And maybe at this point just a little bit more able to care for what is just an exhausting matter. And maybe I'm projecting from our three kids how exhausting it is when they're young, but it sounds like I'm not from reading the texts of the parents. It's just common sense, that's what you hear from every parent. And my goal is that each parent spend as much time with the kids as possible.

Even were we to construe the court's comment as a potential projection of Mother's strength as a parent relative to Father's based on the judge's experience with three young children, the court went on to dispel that notion by reference to the parties' text messages, which evidenced the imbalanced workload between the parents and made clear that Mother had been "the lead actor, taking care of most of the activities."

lite order provide that it was "without prejudice to either Party to seek any relief properly pled at any future hearing on these matters."

Nor can we say that the circuit court erred in concluding that Mother and Father had difficulties in communicating effectively such that an award of joint legal custody with a grant of tie-breaking authority to Mother on the issue of medical decisions was appropriate. *See Taylor*, 306 Md. at 304 (explaining that our courts have long held 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"); *Santo*, 448 Md. at 633 (stating that 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 ensures that each parent has "a voice in the decision-making process").

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 the children's best interest into account in its award of tie-breaking authority. Despite Father's claim that the court did not have before it any dispute between him and Mother relating to medical issues, Mother did testify that she and Father disagreed about medical treatment for E. relating to a potential hyper-flexibility issue, with Mother advocating for physical therapy and Father

suggesting that they just "let E[.] be E[.]" In light of that lack of agreement, the parties' acknowledged difficulty in communicating on some occasions, and Father's testimony that, should disagreements arise between him and Mother, he would possibly accede to her position in any event, we see no abuse of discretion in the court's decision to award joint legal custody with tie-breaking authority to Mother. 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 when parents have difficulties communicating and acting in the best interest of their children.

Conclusion

We conclude that the circuit court's factual findings were not clearly erroneous, and its custody 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 June 2, 2025, custody and visitation order.

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