

Circuit Court for Baltimore County
Case No. 03-C-17-002630

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0974

September Term, 2021

CHIMA MAXIMUS AMAKIRI

v.

CHIKA BEATRICE OKORONKWO

Nazarian,
Friedman,
Zic,

JJ.

Opinion by Zic, J.

Filed: April 29, 2022

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from an order of the Circuit Court for Baltimore County modifying custody of the minor child (“Child”) of Chima Amakiri (“Father”), appellant, and Chika Okoronkwo (“Mother”), appellee. The circuit court awarded Mother sole legal and physical custody of Child and altered Father’s visitation arrangement. Father appealed, raising two issues for our review, which we have recast as follows¹:

1. Did the circuit court err or abuse its discretion by finding a material change in circumstances to justify modifying custody?
2. Did the circuit court err or abuse its discretion by granting Mother sole legal and physical custody?

For the reasons explained below, we affirm the judgment of the circuit court.

BACKGROUND

Father and Mother married in 2015 and later separated around January 2016. The parties are the biological parents of Child who was born in February 2016. In January 2017, Mother traveled with Child to Nigeria, and they lived there until April 2018.

¹ Father phrases the questions presented as follows:

1. Did the lower court err when it granted sole legal and physical custody to Mother, despite an incomplete analysis of the best interest of the child that failed to consider Mother’s refusal to communicate with Father, her prior noncompliance with the visitation order, her history of preventing contact between Father and the minor child, and her voluntary relocation to Massachusetts?
2. Did the lower court err when it found a material change in circumstances and granted Mother’s Motion to Modify, without a complete analysis of the best interest of the child that failed to analyze how an ongoing financial situation adversely affected the child?

Mother filed a complaint for absolute divorce and custody in the Circuit Court for Baltimore County in March 2017, which she later amended in February 2018.

In response to Father’s request for DNA testing of Child, on December 13, 2017, Mother was ordered to produce Child in Maryland for testing and Father was ordered to pay for the plane tickets. In April 2018, Mother returned to the United States with Child and resided in Edgewood, Maryland and Lowell, Massachusetts. Since Fall 2018, Mother and Child have resided primarily in Lowell, Massachusetts.

On January 24, 2019, the circuit court issued a judgment of absolute divorce. The court granted primary physical custody of Child to Mother and joint legal custody to the parties with Mother having tie-breaking authority. The court also awarded Father supervised visitation every other Sunday in Maryland and required Mother to transport Child from Massachusetts to Maryland. Additionally, the court ordered the parties to communicate through My Family Wizard, a cellphone application, and, in the event of an emergency concerning Child, by telephone. The court further required that Mother provide Father with Child’s school and medical information and that Father make monthly child support payments.

Mother filed a request to modify custody on January 16, 2020, asserting that there had been a material change in circumstances warranting modification. Mother explained that Father has not paid child support since May 1, 2019 and that the expense of traveling to Maryland twice per month without child support “strains [her] resources.” She also stated that Child “has been crying when I picked him up [from visitation with Father] and

I am not sure why.” Mother then referenced an incident that occurred on January 5, 2020² during Father’s scheduled visit with Child, claiming that Father called the police to report child abuse based on a “small cut on [Child’s] face, without even asking me about it, to get me arrested and steal our son from my custody.” She stated that “[t]he cut . . . was the result of a play incident with another child.” Mother also alleged that during that custody visit, Father “had another child video tape [her].” In light of these events, Mother explained that she “feel[s] threatened by [Father]’s erratic behavior and do[es] not feel safe going to his house.” Mother requested, in relevant part, that the court order visitation with Father to cease, Father to pay child support and all arrears in full, and joint legal custody with Mother having tie-breaking authority.

On May 7, 2021 and July 28, 2021, the circuit court held remote hearings on the issues of modification of custody and visitation as well as child support.³ During the May 7 hearing, the court took judicial notice of certain facts concerning the COVID-19 pandemic, including Maryland’s declaration of a state of emergency around March 5, 2020 and its executive order advising quarantine and testing for travelers into the state, Massachusetts’s advisement, as of August 1, 2020, of testing for travelers into and out of the state, and that Maryland provided that “in-state persons . . . could travel for custody exchanges lawfully as a defined necessary action” while Massachusetts had “no express

² Father, in his brief, refers to the date of this incident as “around December 23, 2019.” For purposes of this appeal, we refer to this event as the January 2020 incident without commenting on the accuracy of the date.

³ Father filed a motion to modify child support, which is not at issue in this appeal.

custody exemption.” The court also took judicial notice that a round-trip Greyhound bus ticket costs approximately \$174 and that “driving one way from Massachusetts to Maryland takes approximately 6 hours and 48 minutes, including 417 miles and unexpected fuel costs of thirty-two-eighths.” Additionally, the court noted that “at no time from the [c]ourt’s divorce judgment [in January 2019] to January 5th, 2020, is there an allegation that [Father] did not receive his custody visits during 2019.”

During the May 7 hearing, Mother testified that her primary source of income comes from working at a nursing home and confirmed that she provides financial support for Child. She stated that Father paid child support in March, April, and May of 2019 and that since then she has received no child support from Father, other than a one-time payment in January 2020.⁴ Mother also testified that she and Child traveled to Maryland by bus for Father’s scheduled visits in 2019 and that, in addition to incurring the cost of the bus tickets, she occasionally used Uber in Maryland “to get to and from the bus drop-off,” which costs approximately \$50 or \$60. She explained that it was “expensive” and “hard on [her]” to pay for travel in addition to her and Child’s other expenses.

Mother then testified about the January 2020 incident. She explained that in December 2019, prior to the scheduled visit, she saw the “cut” on Child’s face while at home with her sister and her sister’s children. Mother opined that while she was “concerned” about Child’s face, she did not believe it was “life-altering” or required a hospital visit, and she concluded that the Child obtained the “cut” while playing with her

⁴ Father confirmed, during cross examination, that he provided two payments of \$500 to the Office of Child Support Enforcement in January 2020.

sister’s children. Mother testified that she applied ointment to the cut and that it stopped bleeding the next day.

Mother further testified that on January 5, 2020, at approximately 10:30 a.m., she arrived at Father’s house in Maryland for a scheduled visit. After parking her car, she and Child were met by a police officer who was standing with Father at the front of his house. According to Mother’s testimony, she had a conversation with the officer while Child was present, but the officer did not arrest or detain her. Mother stated that she has not been investigated for child abuse by anyone in Maryland. She also testified that the incident “was really surprising and . . . also scary” “[b]ecause as a father, he’s supposed to ask me. The first time he saw the mark, he’s supposed to ask me what was the cause of the . . . mark on the face. But he didn’t. But he went and called the police on me.” She explained that she did not show up for the next scheduled visit because she was “scared.”

During Mother’s testimony, her counsel referenced a letter dated January 10, 2020 that counsel sent to Father regarding the January 2020 incident. Mother confirmed that she authorized her attorney to contact Father to engage in a dialogue about the incident. Mother’s counsel then moved to admit the letter and Father’s attorney objected. The court sustained Father’s objection and stated that it “does note the testimony[] that there was a good faith attempt made to resolve matters.” Mother’s counsel next referenced a May 22, 2020 letter written by counsel to Father. Mother testified that since May 2020, Father made no requests to communicate with Child over the phone and that if she

received such a request, she would have arranged the phone visit.⁵ The court declared that “[t]he exhibit will remain as ID only.”⁶

Additionally, Mother’s counsel referenced an email dated September 25, 2020 from counsel to Father’s attorney, which was admitted into evidence. In the email, Mother’s counsel stated, in pertinent part, “I query to see if you would like to help arrange phone visits via video chat between [Father] and [Child]. I know he rejected this idea around June 2020.” Seemingly contrary to her earlier testimony, Mother stated that she received a response in September 2020 to her attorney’s query about setting up phone visits. Mother’s attorney then asked what response she received from Father and Mother testified “[n]o response.”

Father also testified during the May 7 hearing. Regarding the January 2020 incident, he testified that he “called the police and . . . told them my son was assaulted.”

⁵ In his brief, Father states: “On direct examination, Mother’s counsel asked her, ‘if you would have received a request for phone visits would you have tried to set it up?’ To which Mother initially replied ‘no.’ Counsel then asked Mother the exact same question, to which Mother replied ‘Yes, I would.’” (Citations omitted). A review of the transcript reveals that Mother may have initially misunderstood the question:

[MOTHER’S COUNSEL]: If you would have received a request for phone visits, would you have tried to set it up?

[MOTHER]: No.

[MOTHER’S COUNSEL]: My question was, if you would have, if you would have received a request for him to have phone visits with your son, would you have done-- what do you got-- arranged it so he could?

[MOTHER]: Yes. I would.

⁶ Notably, the two letters were admitted by the court during the July 28, 2021 hearing and the content of those letters is detailed in the below paragraphs.

Father stated that Mother “didn’t give [him] any explanation” for Child’s injury. He further indicated that he involved the police because he was “concerned . . . [that] she will come to [c]ourt tomorrow and say that assault happened in my house” and that he “had to invite the police for them to be a witness that this assault was not in my house.” Moreover, Father testified that it was “not only a legal obligation . . . it’s a moral obligation for me to provide [child] support[,] [b]ut I cannot give that which I do not have.”

At the conclusion of the May 7 hearing, the circuit court issued an oral ruling that a material change in circumstances existed:

[T]his [c]ourt does find there has been a material change in circumstance due to any number of reasons, including, but not limited to the difficulties in communication between the parties, which seem to continue to persist at a very high level, even this long after the divorce. [Father] is still maintaining what can only be described as some possibly irrational, persistent beliefs. I’m not sure. But in any event, whether it’s something that is irrational or delusional, or whether it’s something this [c]ourt doesn’t know about, the tension between the parties and the difficulties and communication between the parties involving their minor child have persisted, which calls into question in this [c]ourt’s mind whether joint legal custody is viable or not. There’s also the -- I do believe is correctly stated, the issue of impoverishment[.] I’m well-aware that [Mother] moved to Massachusetts for job purposes and maintaining herself and the minor child to be able to maintain herself and the minor child. She has maintained the visitation throughout the course of 2019. No one has, has stated otherwise. To her credit, and also, the fact that she has family in both places, has allowed her to do that for such an extensive length of time. You know, she doesn’t have to pay for a hotel or anything when she’s here is my understanding as well. But it has gone on for an extraordinary length of time and I do

believe that the length of time that she has not received anything has affected her and her child as far as their financial stability. So, I do believe that there has been a material change in circumstance.

The court continued the matter to July 28, 2021.

During the July 28 hearing, Father testified about his various attempts to communicate with Mother. He explained that his last communication with Mother was on January 5, 2020 and since that time he has attempted to communicate with her primarily about Child. A set of screenshots displaying multiple messages Father sent to Mother through My Family Wizard in March, April, and May of 2020 was admitted into evidence. In each message, Father asked to speak with Child. Father testified that Mother did not respond to his messages on My Family Wizard. He further explained that following the January 2020 incident he messaged Mother on My Family Wizard “[o]n a daily basis,” with his last message sent two days before this hearing, and that Mother did not respond.

During his direct examination, Father’s counsel asked him to elaborate on his prior testimony “about it being against [his] religion to have a video conference.” Father explained that in his community “[p]eople who are asked to do such things are those who have criminal records” and he has no such record. Additionally, Father’s counsel submitted photographs taken in 2019 documenting his visitation with Child, which were later entered into evidence. Father testified that during prior scheduled visits, he and Child would go to the library or to the playground. He also testified that he lives with family members who love Child and can help provide support if Child is in his care in

Maryland. Father’s counsel then presented photographs of Child’s room at Father’s residence, which were admitted into evidence.

Father testified that if given physical custody or visitation, he would enroll Child in school and spend time at the library to “make sure [Child] has an interest in education.” He also mentioned taking Child to the playground and the fair. Father next addressed his Social Security number, testifying that he was issued one for employment purposes only and that he has not used multiple Social Security numbers. He stated that his Social Security number has expired and he has been trying to renew it.

Regarding the January 2020 incident, Father provided the following explanation:

When she brought the child in December, I said what happened to my son? She did not tell me. And I know her. And I know her way. I have to protect myself. She will call my house. I want to know what actually happened to the child because the injury, the scars were there. She was -- she wouldn’t tell me. I had to invite the police. If I’m trying to be dubious, I would not call the police. I would take the laws into my hands. And I call the police. And the police just asked what happened to the child. She told the police. I have the police reports. That what happened to the child was that the child, you know, was fighting with another child. This is what she said to the police.

Then after that, January 6th, the next visitation, she did not provide the child. I called the police. She told the police, you know, she cannot prevent attack. That she could not come that day. I was surprised in her testimony before the [c]ourt. She said that a family member took a picture of her. That is why she stopped providing the child.

Father reemphasized that since January 5, 2020, he has made various attempts to contact Child through My Family Wizard, but Mother has denied him access to Child.

During cross examination of Father, the January 10, 2020 letter discussed in the prior hearing was admitted into evidence. In that letter, which was addressed to Father, Mother’s counsel asserted that Father “created an unnecessary chaotic scene” on January 5, 2020 and that his “conduct has made [Mother] feel unsafe for herself and her son.” Towards the end of the letter, Mother’s counsel stated that he is “happy to meet with [Father] and [Father’s] family at a convenient and appropriate time if you wish to discuss these events and how to right this path.” The letter also provided that, if the meeting happens, “[the parties] can construe it as a settlement meeting of the above unfortunate event that [Father] orchestrated.” When asked by Mother’s counsel if he recognized this letter, Father stated, “I filed a response.”

The court also admitted into evidence the May 22, 2020 letter from Mother’s counsel to Father. In the letter, Mother’s counsel proposed “set[ting] up a phone call with video between [Father] and [Child] in Massachusetts to replace [his] Sunday visits during this medical pandemic.” Counsel explained that Mother “cannot drive to Maryland during a medical pandemic and expos[e] herself and [Child] to multiple family members” and asserted that this “is a good solution until we find another solution that works.” The letter also noted that Father has not paid regular child support, though it recognized his payment of \$1,000 in January 2020. On cross examination, Father confirmed that he received and responded to the May 22, 2020 letter. He testified on redirect that after responding to Mother’s counsel’s letters, visitation with Child did not

resume and that he continued to send messages through My Family Wizard but received no response.

Father then requested to address the court, which the court permitted. He explained that he had a bank account but was not able to maintain it when he became unemployed. He further stated that he “want[s] to work” and “[i]f [he] ha[d] an opportunity to work tomorrow, [he] would be the happiest man” because he “want[s] to take care of [his] son.” When the court asked whether Mother maintained visitation up until the January 2020 incident, Father responded:

With all due respect, Ma’am, the most important thing is communication with my son every day. And this court ordered that I should be communicating with my son through The Family Wizard and when the request is made, contact has to be made through the phone numbers indicated in the judgment.

That my son comes to me twice in two weeks is not enough contact to be a good father to my child. I want to have an opportunity -- denying me opportunity of speaking with my son every day that I make a request through The Family Wizard --

The court next asked Father whether he was “willing to have electronic communication with” Child to which Father stated that his family would help him buy a phone for Child.

Mother also testified during the July 28 hearing. She testified that she did not receive a response “in writing” from Father or an attorney to her attorney’s letters.

Mother also testified that she did not receive any messages from Father on My Family Wizard in 2021 but admitted that she has not checked the application recently. She

further stated that she has not received “letters or other documents or presents from [Father] to [Child].”

On cross examination, Mother acknowledged that she was required to communicate with Father through My Family Wizard and confirmed that she downloaded the application on her phone. Mother stated that she was aware Father had contacted her on My Family Wizard to request visitation and access to Child and that he did so “very consistently” in 2020 but admitted that she did not grant Father telephone conversations as requested.

After hearing the testimony and evidence, the court reiterated its finding of a material change in circumstances and then issued a ruling on the record, awarding Mother sole legal and physical custody:

You know, this is an unfortunate situation that these parties are not in the same location. It does make it easier for access. But it does appear at the present time, as the [c]ourt indicated, that there has been a material change in circumstances. You know, and I probably said this at some earlier point in one of the many proceedings with these parties, but typically once things settle down and typically when there is a plan in place, things tend to get a little bit easier. Not to say that everyone is always happy or that things don’t have to change, but things tend to settle down and get a little bit easier; the communication gets a little better. But that has not happened in this case

I give [Mother] credit. She made any number of trips down to Baltimore from her current living location. It appears to this [c]ourt she has facilitated family interaction and that has been disrupted to some degree by the pandemic and to some degree, quite frankly, by [Father]’s behavior, which does not seem to be completely reasonable under the circumstances.

Looking at the various factors, capacity of the parents to communicate and share decision making, willingness of parents to share custody, fitness, relationship between the child and the parent, potential disruption of the child's social and school life, the geographic proximity of the parental homes and demands of parental employment, sincerity of the parents['] requests, financial status of the parents, benefit to the parents and others, other factors, the part that concerns the [c]ourt the most is the ability or the capacity of the parents to communicate and reach shared decisions. They can't even get to decision making on when they are going to speak and when they are not going to speak and when the child will speak and not speak and the child's treatment.

The willingness of the parents to share custody. It does not appear that they are -- either are very willing. The fitness of the parents. I cast no aspersions as to [Mother] or to [Father]. Both have been respectful to the [c]ourt even when they have disagreed with the [c]ourt. Obviously, the geographic proximity has made this difficult and [Mother] is the only one who is working, as near as I can tell, which therein lies an additional problem.

The financial status of the parents. I have no understanding what [Father]'s financial status is or whether he can support this child or not. I know he has family resources. I appreciate that. He appears to -- obviously he appears every time, he has counsel, certainly has capered [sic] a file. He has been involved. But I have no -- there is just no documentation whatsoever of any work from him one way or another, yet he obviously is doing something to support himself, whether it is through work overseas or whether it is through under the table work here which, by the way, we have a lot of parents that work under the table. But in any event, I don't really know what his financial status is.

It does not appear that he has fully complied with the [c]ourt's requirements for discovery. This is a bit of a difficult situation for the parties. I understand that. But on behalf of this minor child, it would appear appropriate to this

[c]ourt that sole legal and sole physical custody be awarded with [Mother].

After addressing Father’s child support obligations,⁷ the court set forth the visitation arrangement. The court concluded that it was not in Child’s best interest to require Mother to travel with Child to Maryland twice a month in light of “the pandemic and then also the additional both time and financial strain to [Mother] who has not received child support for quite some time.” It granted Father supervised, in-person visitation with Child to take place in Massachusetts on the first Thursday of each month. The court explained that if Father is unable to travel to Massachusetts, he may elect for the same visit to take place remotely through Zoom or other electronic means. Additionally, the court ordered “audio and/or visual remote visit[at]ions” to occur every other Thursday.

On August 5, 2021, the court entered an order consistent with its oral ruling. Thereafter, Father filed this appeal, challenging the modification of custody and visitation.

STANDARD OF REVIEW

When reviewing child custody determinations, this Court applies three interrelated standards of review:

When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies.

⁷ Regarding child support, we note that the circuit court concluded that Father “does appear to be capable, functional, articulate, intelligent and able to earn some income” and ordered, based on minimum wage, that Father make monthly payments of \$500, which included child support arrears. As previously mentioned, the court’s child support ruling is not at issue in this appeal.

[Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court’s] decision should be disturbed only if there has been a clear abuse of discretion.

Gillespie v. Gillespie, 206 Md. App. 146, 170 (2012) (alterations in original) (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)). Additionally, we recognize that the circuit court is vested with broad discretion because of its “unique ‘opportunity to observe the demeanor and the credibility of the parties and the witnesses.’” *Santo v. Santo*, 448 Md. 620, 625 (2016) (quoting *Petrini v. Petrini*, 336 Md. 453, 470 (1994)).

DISCUSSION

Father challenges the circuit court’s finding of a material change in circumstances and decision to award Mother sole legal and physical custody. When faced with a request to change an existing custody or visitation order, Maryland courts engage in a two-step process. *Gillespie*, 206 Md. App. at 170. “First, the circuit court must ascertain whether there has been a ‘material’ change in circumstance.” *A.A. v. Ab.D.*, 246 Md. App. 418, 433 n.10 (2020) (quoting *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005)). Second, “[i]f a finding is made that there has been such a material change, the court then proceeds to consider the best interests of the child as if the proceeding were one for original custody.” *Gillespie*, 206 Md. App. at 170 (quoting *McMahon*, 162 Md. App. at 594). Accordingly, we will first address whether the circuit court erred in finding a material change warranting a modification of its original custody and visitation order.

We will then consider the court’s analysis of Child’s best interests in modifying custody and visitation.

I. MATERIAL CHANGE IN CIRCUMSTANCES

A. Parties’ Contentions

Father raises various arguments in support of his assertion that the circuit court erred and abused its discretion in finding a material change in circumstances. He argues that the court erroneously “found a material change . . . because the parties’ difficulties in communicating remained the same,” noting that the court “did not cite any new incident or increase in communication difficulty.” According to Father, the court’s “only example of communication difficulty” was its reference to Father “maintaining . . . some possibly irrational, persistent beliefs.” The court, however, failed to “specify what about those beliefs was different[] or what new facts had arisen out of communication.” Father also challenges the court’s reliance on the “issue of impoverishment” to support its finding of a material change. He notes that Mother was able to facilitate visitation throughout 2019 even though Father’s child support payments essentially stopped after May 2019. The court, Father alleges, offered “no explanation as to why a situation that had remained unchanged from 2019 to 2020 was suddenly a material change.” Further, Father argues that the court “found a material change in circumstance necessitating change not based on a best interest of the child standard, but through an incomplete analysis of stability.”

Mother argues that the circuit court did not err in determining that a material change in circumstances occurred. She asserts that there was sufficient evidence

demonstrating that the parties’ communication issues had worsened since the original court order and that the court was not required to be more specific about how communication has changed. Mother also contends that her impoverishment constitutes a material change in circumstances. She argues that the court properly found that the absence of Father’s monthly child support payments in conjunction with the expense of traveling to Maryland over an extended period of time “created an ‘impoverishment’ of [Mother] making the child financially unstable.” Further, Mother claims that the pandemic also affected “the safety of the minor child[] travelling twice per month across state lines.”

B. Analysis

“A material change of circumstances is a change in circumstances that affects the welfare of the child.” *Gillespie*, 206 Md. App. at 171; *see also McMahon*, 162 Md. App. at 594 (explaining that the material change analysis and the best interest of the child analysis are often interrelated). The moving party bears the burden of showing “that there has been a material change in circumstances since the entry of the final . . . order and that it is now in the best interest of the child for custody to be changed.” *Sigurdsson v. Nodeen*, 180 Md. App. 326, 344 (2008). The requirement of a material change in order to modify custody is “intended to preserve stability for the child and to prevent relitigation of the same issues.” *McMahon*, 162 Md. App. at 596. “A litigious or disappointed parent must not be permitted to relitigate questions of custody endlessly

upon the same facts, hoping to find a chancellor sympathetic to his or her claim.”

McCready v. McCready, 323 Md. 476, 481 (1991).

We conclude that the circuit court did not err in finding a material change in circumstances warranting a revision of the original custody and visitation order. As summarized above, in announcing its ruling, the court referenced the parties’ “tension” and “difficulties . . . communicati[ng]” as well as “the issue of impoverishment,” namely the threat to Mother’s and Child’s “financial stability” based on Mother incurring travel expenses for Father’s visitation in Maryland twice per month without receiving Father’s monthly child support payments over an extended period of time. We hold that the court’s finding of a material change in circumstances affecting the welfare of Child was supported by sufficient evidence and within its discretion.

Regarding the parties’ tension and communication issues, the court heard testimony about the January 2020 incident, which stemmed from an injury to Child’s face that Mother, according to her testimony, noticed prior to the scheduled visit and about which she was admittedly concerned. During the May 7 hearing, Father acknowledged calling the police, explaining that Mother “didn’t give [him] any explanation” when he inquired about Child’s injury and that he was “concerned . . . [that] she will come to [c]ourt tomorrow and say that assault happened in my house.” Mother testified that it “was really surprising and . . . also scary” that Father called the police instead of asking her about Child’s face and stated that she did not show for the next scheduled visit because she was “scared.” She also testified about her subsequent “attempt to engage in

dialogue about what happened on January 5th, 2020” by authorizing her attorney to send the January 10, 2020 letter to Father. Additionally, Mother’s counsel introduced the September 25, 2020 email sent to Father’s attorney querying about scheduling phone visits between Father and Child. While Mother initially testified that Father did respond to the query, Mother’s counsel immediately asked what response she received from Father to which Mother replied, “[n]o response.”

Although Father argues that the court erred in failing to reference a “new incident or increase in communication difficulty” or “specify what about [Father’s] [irrational, persistent] beliefs was different,” we note that “the court need not articulate every step of the judicial thought process in order to show that it has conducted the appropriate analysis.”⁸ *Gizzo v. Gerstman*, 245 Md. App. 168, 195-96 (2020). Moreover, the court was presented with evidence showing a deterioration in the parties’ ability to communicate effectively since the date of the original order, such as the events surrounding the January 2020 incident. We thus disagree with Father’s contention that the “court relied on the fact that there was no change in communication between the parties” in finding a material change.

⁸ Throughout his brief, Father repeatedly raises the general contention that the circuit court did not provide sufficient specificity in its rulings. To the extent we do not address every instance in which Father makes this argument, we note that the circuit court is under no obligation to “articulate every step of the judicial thought process in order to show that it has conducted the appropriate analysis” and that, for the reasons provided in this opinion, we find no error or abuse of direction in its finding of a material change in circumstances or its modification of custody. *Gizzo*, 245 Md. App. at 195-96.

As for the “impoverishment” and “financial stability” of Mother and Child, Mother testified that her primary source of income was from working at a nursing home, that she financially supported Child, and that, except for a payment in January 2020, Father made no child support payments since May 2019. There was no dispute that Mother facilitated Father’s visitation with Child throughout 2019, and Mother testified that she and Child traveled to Maryland for these scheduled visits by bus twice per month. She further testified that it was “expensive” and “hard on [her]” to pay for travel in addition to her and Child’s other expenses. Moreover, the court took judicial notice of the cost of a round-trip bus ticket, totaling approximately \$174, and that “driving one way from Massachusetts to Maryland takes approximately 6 hours and 48 minutes, including 417 miles and unexpected fuel costs of thirty-two-eighty.”

Father asserts that because Mother maintained visitation from 2019 to 2020 without his monthly child support payments, such events cannot support a finding of a material change in circumstances. The court’s finding, however, was based on a change in Mother’s and Child’s financial stability rather than a change in Mother’s adherence to the visitation arrangement. And to the extent Father argues that the financial stability of a parent cannot constitute a material change, we note that the Court of Appeals has recognized parents’ financial status as a factor pertinent to determining the best interest of the child. *See Taylor v. Taylor*, 306 Md. 290, 303, 310 (1986); *see also Gillespie*, 206 Md. App. at 171 (“In [the custody modification] context, the term ‘material’ relates to a change that may affect the welfare of a child.” (alteration in original) (quoting *Wagner v.*

Wagner, 109 Md. App. 1, 28 (1996))). Lastly, quoting the Court’s statement in *McCready v. McCready*, 323 Md. 476 (1991), that “[s]tability is not, however, the sole reason for ordinarily requiring proof of a change in circumstances to justify a modification of an existing custody order,” Father seems to suggest that the court’s analysis is incomplete because it overly relied on Mother’s financial stability. *Id.* at 481. Father’s reliance on *McCready* is misplaced. In that quoted language, the Court is explaining that stability in a child’s life is one of the reasons why modification of custody orders requires justification. *See id.* at 481-82. In other words, the Court addresses the rationale for requiring a material change rather than what events may constitute a material change. *See id.*

II. CUSTODY MODIFICATION

A. Parties’ Contentions

In challenging the circuit court’s grant of sole legal and physical custody, Father argues that the court’s analysis of the best interest of the child factors was incomplete and that its decision amounted to an “abuse of discretion predicated on clearly erroneous factual analysis.” More specifically, he claims that the court did not consider the sincerity of each party’s request or adequately explain how said sincerity factored into its ruling. Additionally, according to Father, the court failed to consider Mother’s cessation of visitation and refusal to communicate and it “did not present any basis for the decision to favor Mother’s request for legal custody over Father’s.” Father also contends that the court improperly relied on his financial status as well as his “past actions” without

acknowledging Mother’s ongoing violation of the visitation order. Finally, he asserts that the court abused its discretion by citing discovery violations as a justification for modifying custody and visitation.

Mother responds that the circuit court did not err or abuse its discretion in awarding her sole legal and physical custody. She argues that the modifications to physical custody and visitation were reasonable and properly based on evidence of the health concerns posed by traveling during the pandemic, that Mother “was the only parent supporting her son financially,” and that Father made only four monthly child support payments since the original order in 2019. Regarding the reduction of Father’s in-person visits to once a month, Mother asserts that this too was reasonable considering concerns about traveling safely during the pandemic and the expense of traveling for Father in light of his unemployment status. She contends that sole physical custody was in Child’s best interest as she “is the only parent with a stable residence, income, employment, and lifestyle.” Additionally, after alleging that “communication was non-existent,” Mother argues that “[e]vidence supported awarding sole legal custody to the mother who already had joint legal custody with tie-breaker authority[] [and] was the physical caretaker of the child and sole economic provider.” Father, in contrast, “display[ed] irrational beliefs[] [and] an unknown financial status.” At last, Mother rejects the proposition that the court relied on the parties’ financial status in awarding sole legal custody and argues that the court properly considered the parties’ past actions since the date of the original order.

B. Analysis

The Court of Appeals has defined legal custody as “the right and obligation to make long range decisions involving education, religious training, discipline, medical care, and other matters of major significance concerning the child’s life and welfare.” *Taylor*, 306 Md. at 296. In the case of joint legal custody, “both parents have an equal voice in making those decisions, and neither parent’s rights are superior to the other.” *Id.* Physical custody has been defined as “the right and obligation to provide a home for the child and to make the day-to-day decisions required during the time the child is actually with the parent having such custody.” *Id.*

“Where modification of a custody award is the subject under consideration, . . . courts generally base their determinations upon the same factors as those upon which an original award was made, that is, the best interest of the child.” *Karanikas v. Cartwright*, 209 Md. App. 571, 589 (2013) (quoting *Montgomery County Dep’t of Soc. Servs. v. Sanders*, 38 Md. App. 406, 419 (1977)). Under the best interest of the child standard, there are various guiding factors courts must consider. *J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 253 (2021). In *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977), this Court laid out the following non-exhaustive factors: (1) fitness of the parents; (2) character and reputation of the parties; (3) desire of the natural parents and agreements between the parties; (4) potentiality of maintaining natural family relations; (5) preference of the child; (6) material opportunities affecting the future life of the child; (7) age, health and sex of the child; (8) residences of the parents and

opportunity for visitation; (9) length of separation from the natural parents; and (10) prior voluntary abandonment or surrender. *Id.* at 420.

Additionally, in *Taylor v. Taylor*, 306 Md. 290 (1986), the Court of Appeals discussed factors “particularly relevant to a consideration of joint custody,” some of which overlap with those identified in *Sanders*, including: (1) capacity of parents to communicate and reach shared decisions affecting the child’s welfare; (2) willingness of parents to share custody; (3) fitness of parents; (4) relationship established between the child and each parent; (5) preference of the child; (6) potential disruption of child’s social and school life; (7) geographic proximity of parental homes; (8) demands of parental employment; (9) age and number of children; (10) sincerity of parents’ requests; (11) financial status of parents; (12) impact on state or federal assistance; and (13) benefit to parents. *Id.* at 303-11. Importantly, “[w]hen considering the *Sanders-Taylor* factors, the trial court should . . . avoid focusing on or weighing any single factor to the exclusion of all others.” *Jose v. Jose*, 237 Md. App. 588, 600 (2018). Child custody determinations “must be made on a case-by-case basis due to the uniqueness of the fact patterns in such disputes.” *Petrini v. Petrini*, 336 Md. 453, 469 (1994).

Here, the circuit court considered various factors in determining a custody and visitation arrangement that would serve the best interest of Child. It explicitly stated that it was taking into account, among other factors, the capacity of the parties to communicate and share decision making, the parties’ willingness to share custody, fitness of the parties, the relationship between Child and each party, potential disruption to

Child’s social and school life, geographic proximity of the parental homes, demands of parental employment, sincerity of the parties’ requests, and financial status of the parties. Turning to the first factor, the court expressed significant concern about the parties’ ability to communicate and reach shared decisions, stating: “They can’t even get to decision making on when they are going to speak and when they are not going to speak and when the child will speak and not speak and the child’s treatment.” *See Taylor*, 306 Md. at 304 (recognizing that parents’ capacity to effectively communicate with each other concerning the best interest of the child, “is clearly the most important factor in the determination of whether an award of joint legal custody is appropriate and is relevant as well to a consideration of shared physical custody”). The court noted that neither party appears to be “very willing” to share custody and that the distance between Mother in Massachusetts and Father in Maryland has created difficulties.

The court also “credit[ed]” Mother’s efforts in “facilitat[ing] family interaction,” acknowledging that she made multiple trips from Massachusetts to Maryland, and then commented that this “has been disrupted to some degree by the pandemic and to some degree, quite frankly, by [Father]’s behavior, which does not seem to be completely reasonable under the circumstances.” Next, the court considered the fitness of the parties, concluding: “I cast no aspersions as to [Mother] or to [Father]. Both have been respectful to the [c]ourt even when they have disagreed with the [c]ourt.” As for the financial status of the parties, the court stated that Mother was employed but that it had “no understanding what [Father]’s financial status is or whether he can support this child

or not.” The court recognized that Father has “family resources” but explained that it had “no documentation whatsoever of any work from him one way or another, [though] he obviously is doing something to support himself.” Regarding the absence of documentation, the court subsequently commented that “[i]t does not appear that [Father] has fully complied with the [c]ourt’s requirements for discovery.”

In view of the above considerations, the court declared that an award of sole legal and physical custody to Mother was in Child’s best interests. The court then set forth the revised visitation arrangement, reducing in-person visitation to once per month and changing the location of these scheduled visits to Massachusetts. It explained that it was not in Child’s best interest to travel to Maryland twice a month in light of the pandemic and “the additional both time and financial strain to [Mother] who has not received child support for quite some time.”

Based on our review of the record, and in consideration of the significant deference afforded to the circuit court’s custody determinations, we find no abuse of discretion or error in the court’s decision modifying custody and visitation. The court properly considered the factors relevant to the particular circumstances of this case and, relying on the evidence before it, adequately articulated the basis for its conclusion that Child’s best interest would be served by awarding sole legal and physical custody to Mother.⁹ As such, we cannot say that the court’s decision modifying custody and

⁹ During oral arguments, Father asserted that the circuit court did not even utter the phrase “best interest of the child” in its ruling. We believe that the court’s reference to and explanation of various factors under the best interest of the child analysis as well as its statement that “on behalf of [Child], it would appear appropriate to this [c]ourt that

visitation was “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *In re Yve S.*, 373 Md. 551, 583-84 (2003).

Turning to Father’s contentions, we first note that the record indicates that the circuit court did, contrary to Father’s position, consider the parties’ requests and the sincerity of those requests—in its oral ruling, the court explicitly referenced “sincerity of the parents[’] requests” as one of the factors in its best interest of the child analysis. Father highlights his multiple requests to see Child and attempts to contact Mother over My Family Wizard as well as his desire, expressed during the hearings, for more contact with Child. But to the extent this factor favored Father, Maryland courts have repeatedly stressed that the best interest analysis involves examination of the totality of the circumstances and courts should avoid focusing on any single factor to the exclusion of all others. *Karanikas*, 209 Md. App. at 590. Moreover, while Father faults the court’s level of specificity in evaluating this particular factor, courts are not required “to articulate every step of the judicial thought process in order to show that it has conducted the appropriate analysis.” *Gizzo v. Gerstman*, 245 Md. App. 168, 195-96 (2020). As explained above, we believe the court properly considered the factors relevant to the custody determination and adequately explained the reasons supporting its ruling.

sole legal and sole physical custody be awarded with [Mother]” indicate that the court employed the proper analysis, focusing on determining the custody and visitation arrangement that would be in Child’s best interest.

We also find Father’s arguments concerning the court’s failure to consider Mother’s cessation of visitation and refusal to communicate unavailing. At the conclusion of both hearings, the court expressly recognized that communication difficulties existed between the parties. We have found nothing in the record, and Father provides no supporting record citation, indicating that the court’s finding was premised only on Father as the sole source of the parties’ communication issues, thereby ignoring or discrediting evidence suggesting that Mother also contributed to these issues. While Father emphasizes that the court “credit[ed]” Mother for “facilitat[ing] family interaction” in arguing that it neglected to “analy[ze] . . . Mother’s history of attempting to alienate Father,” the context in which that statement was made indicates that the court was merely crediting Mother for her multiple trips to Maryland before she stopped complying with the court-ordered visitation. Further, in light of our analysis above, we disagree with Father’s assertion that the court “did not present any basis for the decision to favor Mother’s request for legal custody over [his].”

Similarly, we are not persuaded by Father’s remaining contentions. Father argues that the court improperly relied on his financial status, neglecting to “explain why [his] unknown financial status affected the child’s best interests.” But in addressing this factor, the court expressly stated that because it did not know Father’s financial status, it had “no understanding . . . whether he can support this child or not.” Father next takes issue with the court’s reference to “concerns about [his] mental health and emotional state” and his “multiple and repeated filings” in alleging that the court abused its

discretion in relying heavily on his “past actions.” These comments were not, however, part of the court’s custody modification ruling and instead pertained to the court’s decision to not impose sanctions on Father, which is not at issue in this appeal. He also points to the court’s assertion about his “not . . . completely reasonable” behavior disrupting visitation and, citing *Azizova v. Suleymanov*, 243 Md. App. 340 (2019), argues that there was no “analysis on why Father’s behavior would have a ‘direct adverse impact’ on the child.” In our view, the circuit court did, in making that assertion, indirectly address his behavior’s adverse impact on Child’s best interest—disrupting Child’s scheduled visits with Father.¹⁰ Finally, Father avers that the court cited his discovery violations as a justification for modifying custody. Father seems to misinterpret the court’s ruling. The court commented that “[Father] has [not] fully complied with the [c]ourt’s requirements for discovery” for the purpose of explaining why Father’s financial status was unknown. And we find no indication in the record that Father’s noncompliance with discovery requirements was itself a factor or consideration in modifying custody and visitation.

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

¹⁰ Relatedly, as part of the proposition that the circuit court overly relied on Father’s past actions without acknowledging Mother’s prior behavior, Father asserts that there was no mention by the court that “the geographic distance between the parties was solely due to Mother’s decisions to relocate with” Child. At the conclusion of the May 7 hearing, however, the court stated, “I’m well-aware that [Mother] moved to Massachusetts for job purposes and maintaining herself and the minor child to be able to maintain herself and the minor child.”