

Circuit Court for Montgomery County
Case No.: C-15-FM-23-003513

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1197

September Term, 2025

FATIMA MEZIANE

v.

ABDELOUAHAB AITOUICHE

Berger,
Friedman,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: April 23, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Abdelouahab Aitouche (“Father” and appellee) filed a complaint for an absolute divorce in the Circuit Court for Montgomery County, seeking, among other relief, custody of the three minor children he shares with Fatima Meziane (“Mother” and appellant). After an extended contested custody trial, the court granted Father sole legal and primary physical custody of the children with supervised visitation for Mother. Mother moved to alter or amend the custody decision, which the court denied.¹

Mother appeals, presenting the following issues for our review, which we have condensed and rephrased for clarity²:

¹ The circuit court subsequently entered a judgment of absolute divorce and addressed disposition of marital property, a monetary award, alimony, child support, and attorneys’ fees. Those issues are the subject of a separate appeal (No. 2615, Sept. Term, 2025), and we express no view on them here.

² Mother phrased her issues as follows:

1. Whether the Circuit Court abused its discretion by rejecting the findings and recommendations of its own court-appointed custody evaluator without explanation and imposing an extremely restrictive custody arrangement.
2. Whether the Circuit Court abused its discretion by misapplying domestic-violence evidence and treating trauma-related responses as parental unfitness while minimizing evidence of Father’s violence.
3. Whether the Circuit Court abused its discretion by relying on the Best Interest Attorney’s position despite the absence of an independent investigation.
4. Whether the Circuit Court abused its discretion by excluding Mother’s fact and expert witnesses, thereby preventing her from presenting material evidence regarding parenting and caregiving.

(continued...)

1. Did the circuit court err or abuse its discretion in excluding or limiting the testimony of some of Mother’s witnesses?
2. Did the circuit court err or abuse its discretion in its factual determinations, analysis, and ultimate custody decision?

Finding neither error nor abuse of discretion, we shall affirm.³

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5. Whether the Circuit Court abused its discretion by imposing indefinite supervised visitation and severe communication restrictions without applying the least-restrictive-alternative principle.
 6. Whether the Circuit Court abused its discretion by imposing access and communication arrangements incompatible with the youngest child’s non-verbal autism.
 7. Whether the Circuit Court abused its discretion by failing to explain the basis for its custody determinations, rendering the order inadequate for appellate review.
 8. Whether the Circuit Court failed to comply with Maryland Family Law § 9-101.3 and the General Assembly’s mandates governing custody cases involving domestic violence and child abuse.

³ Both Mother and Father were represented by counsel throughout the circuit court proceedings, but both are self-represented in this appeal.

We suspect that Mother may have used generative AI to assist in drafting her briefs, as many of the citations in her brief do not stand for the stated proposition. For example, on page 11 of her principal brief, Mother states, “Although a court is not bound to adopt an evaluator’s recommendations, it may not disregard uncontroverted expert observations or substitute a contrary outcome without explaining why the evaluator’s findings were rejected.” In support, she cites *In re Yves S.*, 373 Md. 551, 586–87 (2003) and *Karanikas v. Cartwright*, 209 Md. App. 571, 589–90 (2013). Neither of these cases support the stated proposition.

To be sure, citations of inapposite authority is not uncommon in *pro se* filings, and, alone, it does not necessarily indicate the use of AI, but Mother’s principal brief also contains two apparently fictitious citations:

- *Hurd v. Hurd*, 223 Md. App. 654, 667–68 (2015), *see* Appellant’s Br. at 13, does not exist. There is no Maryland case bearing this caption, and the principal cite leads to *Assateague Coastal Tr., Inc. v. Schwalbach*, 223 Md. (continued...)

BACKGROUND

Although we have reviewed the extensive record as a whole, we need not report the entire factual and procedural background in this case as the parties themselves are aware of it. *See, e.g., Teixeira v. State*, 213 Md. App. 664, 666 (2013). What we do set forth in

App. 631 (2015) (a zoning appeal), while the pincite leads to *Smith v. Rowhouses, Inc.*, 223 Md. App. 658 (2015) (a lead-paint case). Mother did not include this case in her Table of Authorities.

- *Bradley v. Bradley*, 174 Md. App. 234, 248–50 (2007), *see* Appellant’s Br. at 16, does not exist. There are five Maryland cases with this caption, but none from the indicated year or concerning supervision: 208 Md. App. 249 (2012) (intentional infliction of emotional distress); 214 Md. App. 229 (2013) (alimony); 117 Md. 515 (1912), 119 Md. 645 (1913), and 123 Md. 506 (1914) (a trio of probate appeals). Mother’s citation leads to *Gunby v. Olde Severna Park Improvement Ass’n, Inc.*, 174 Md. App. 189 (2007) (a declaratory-judgment case about riparian rights). Mother included this case in her Table of Authorities but with a different citation: 79 Md. App. 490 (1989), which leads to *State Dep’t of Assessments and Tax’n v. Loyola Fed. Sav. & Loan Ass’n*, 79 Md. App. 481 (1989) (a franchise-tax case).

We recently discussed in *Mezu v. Mezu*, 267 Md. App. 354, 367–68 (2025), there are potential dangers of using AI to conduct legal research or generate filings, including the risk of “hallucinated” citations. Moreover, “[t]he citation of fake cases in a brief or other pleading filed with a court implicates multiple Maryland Rules.” *Id.* at 368. Indeed, attorneys who submit filings containing fake citations may be referred to the Attorney Grievance Commission depending on the nature and severity of the misconduct. *See id.* at 374. Although there is no parallel disciplinary action for *pro se* litigants, at the least, Rule 1-311(c) authorizes us to strike the offending filing. Where, as here, the filing is an appellant’s principal brief, striking it could result in dismissal under Rule 8-602(c)(5) for failure to file a brief. *See* Md. Rule 1-311(c) (“[T]he action may proceed as though the [struck] pleading or paper had not been filed.”).

That said, given the significant rights involved for the parties here, we shall exercise our discretion and take no action regarding Mother’s brief and will address the merits of her appeal. This does not excuse Mother’s suspected misconduct. Rather, despite her reliance on inapposite and apparently fictitious authorities, we can sufficiently address the issues raised.

this opinion is what we deem necessary to put the matter in context and to address the issues on appeal.

The parties met in Algeria in June 2013 and were married in a religious ceremony there soon after. Father moved to the United States from Algeria roughly thirty years ago. He has a Ph.D. and is employed as a scientist for the National Institutes of Health for twenty years. Father owned the marital home in Germantown, Maryland before the parties met. At the time, Mother was a college student in Algeria, but she moved to the United States after meeting Father, and they were married in a civil ceremony in Rockville, Montgomery County, on September 24, 2013.

The parties had three children during the marriage: I. (boy, age ten); M. (girl, age eight); and V. (boy, age five). The children all attend school near the marital home. They also attend Sunday religious school at the Islamic Center.

V. has been diagnosed as autistic and is non-verbal. His diagnosis and treatment has caused friction between the parties, and they have disagreed as to his treatment and education. Ultimately, after obtaining a second opinion, which confirmed the diagnosis, Father enrolled V. in Applied Behavior Analysis (“ABA”) therapy. V. continues to receive therapy three times per week, which takes place at Father’s home. At the time of trial, Mother had not participated in V.’s ABA therapy; however, V.’s ABA therapy supervisor testified that Mother e-mailed her a week earlier to ask how Mother could be involved in sessions or treatment.

In 2018, the parties began living separate and apart in the marital home. Mother slept in the primary bedroom, while Father slept in M.’s room. According to Father, the

parties started living separately because Mother picked fights several times per day “over any existing things.” According to Mother, the parties’ relationship soured because Father was controlling and just wanted her to be home and did not want her to have friends, drive a car, or learn English.

On June 1, 2023, Father filed a complaint for an absolute divorce, to which Mother timely counterclaimed. The circuit court held a *pendente lite* (“PL”) hearing on October 30, 2023. On November 7, 2023, the court issued a PL Order awarding Father primary physical custody and allowing Mother supervised access. Father was also granted use and possession of the marital home. Mother’s motion to modify the order was denied.

On January 22, 2024, Mother sought a protective order in the District Court, sitting in Montgomery County. Later that month, the District Court entered a Temporary Protective Order and transferred the case to the circuit court.

Over the course of several months, the circuit court held a seven-day hearing.⁴ In the end, the court found, by a preponderance of the evidence, that Father committed abuse against Mother and that Mother was fearful as a result. The court further found, however, that Mother sought the protective order, in part, as an end-run around the PL Order after her efforts to overturn it failed. The court declined to modify the custody provisions of the PL Order because it found, under Md. Code, Family Law (“FL”) § 9-101, that there were reasonable grounds to believe that Mother had abused the children. Accordingly, on June

⁴ At the custody trial, the transcript of the ruling in the protective order case was admitted into evidence over Mother’s objection, and the court took judicial notice of those proceedings. Mother does not challenge this evidentiary ruling on appeal.

28, 2024, the court granted Mother a final protective order against Father that did not affect the custody arrangement.

Soon after, Mother sought protective orders relating to all three children. All three were denied for lack of jurisdiction. She also attempted to obtain the same relief in the custody case but that too was denied.

Following these proceedings, at Mother’s request and over Father’s opposition, the court appointed a Best Interest Attorney (“BIA”) for the children.

The custody trial was initially scheduled for four days. The hearing was ultimately held on seven days—not including three status conferences—over the course of three months. Both parties testified at the hearing. The court also heard testimony from the court-appointed custody evaluator; a psychiatrist who performed a court-ordered psychological evaluation on Mother; the parties’ former marriage counselor; two former visitation supervisors; V.’s ABA therapy supervisor; a licensed clinical social worker who worked with Mother as part of the Abused Persons Program; a psychologist who performed a trauma assessment of Mother; and Mother’s sister (“Maternal Aunt”).

During the trial, the parties produced substantial evidence of various injuries that the children had suffered during the marriage. Each party claimed that the other parent was responsible for the injuries.

On June 16, 2025, the circuit court entered a custody order and, two days later, issued an accompanying 102-page memorandum opinion. After addressing the custody factors set forth in *Taylor v. Taylor*, 306 Md. 290, 304–11 (1986) and *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406, 420 (1978), the court found

that much of Mother’s testimony was not credible. Further, under FL § 9-101, the court found reasonable grounds to believe that Mother had neglected the children, and it did not find that there was no likelihood of further neglect without supervised access.

Given these findings, the circuit court granted Father sole legal and primary physical custody. Mother was granted supervised visitation through the court supervision center every other weekend, and through a private custody supervisor for two hours every week, as well as certain holidays. Mother was also granted daily, virtual access (text, phone, or video) with each of the children through a court-approved app for up to ten minutes per child, and the court authorized her to participate in V.’s ABA therapy on her custodial days. This appeal followed.

We shall provide additional facts and circumstances as necessary to the resolution of the issues presented in this appeal.

DISCUSSION

I.

Both before and during trial, the circuit court excluded or limited the testimony of several of Mother’s witnesses due to her discovery violations. Among these was Dr. Jessica Hasson.⁵ The court had directed Mother to meet with Dr. Hasson early in the proceedings about receiving a psychological evaluation before ultimately selecting another

⁵ Dr. Hasson’s name is also spelled at various points in the record as “Hassan.” We use the spelling from the signature line of Dr. Hasson’s letter to the court.

psychologist.⁶ Mother designated Dr. Hasson as an expert witness on November 8, 2024, more than a year after the deadline set by the court’s scheduling order and less than a month before the initial trial date. The designation did not provide the substance of any findings or opinions to which Dr. Hasson was expected to testify. *See* Md. Rule 2-402(g)(1)(A). Accordingly, Father moved to strike the designation. At a hearing on December 2, 2024, Mother explained that she intended Dr. Hasson to serve as a rebuttal expert to the psychologist who had performed the court-ordered examination of Mother—and whom Father had designated as an expert witness. Although the court ultimately granted Father’s motion and struck Mother’s designation, it made clear that Mother could call Dr. Hasson as a rebuttal witness.

Later, during trial, Mother indicated that she intended to call Dr. Hasson to testify as a fact witness and rebuttal expert. After Father orally moved *in limine* to exclude several

⁶ In her principal brief, Mother does not identify any witness who was excluded or limited, nor does she explain how the circuit court’s decision to do so was erroneous. She states only that “the court ruled that several of Mother’s fact witnesses would not be permitted to testify, including witnesses who had firsthand experience observing Mother’s caregiving and parenting over time” and asks us to vacate and remand so that she may be “permitted to present relevant witness testimony concerning her parenting and caregiving.”

Dr. Hasson is the only witness about whom Mother presents specific argument, and she does so for the first time in her reply brief. Accordingly, we limit our review to the rulings regarding Dr. Hasson. *See Diallo v. State*, 413 Md. 678, 692 (2010) (“Arguments not presented in a brief or not presented with particularity will not be considered on appeal.” (cleaned up)); *Van Meter v. State*, 30 Md. App. 406, 408 (1976) (“Surely it is not incumbent upon this Court, merely because a point is mentioned as being objectionable at some point in a party’s brief, to scan the entire record and ascertain if there be any ground, or grounds, to sustain the objectionable feature suggested.” (cleaned up)). *See also* Md. Rule 8-504(a). Even this is an exercise of our discretion because we “ordinarily do not consider issues that are raised for the first time in a party’s reply brief.” *Gazunis v. Foster*, 400 Md. 541, 554 (2007).

of Mother’s witnesses due to her discovery failure, the court issued an order directing Mother to supplement her responses within six days. The court then held a status conference on February 13, 2025, to resolve Mother’s lingering discovery deficiencies because Father still objected to several witnesses, including Dr. Hasson, based on Mother’s continued failure to provide the substance of findings and opinion on which she was expected to testify. The court announced that Dr. Hasson could testify regarding a letter she had submitted to the court detailing her reservations about conducting a psychological evaluation of Mother, but “only to the extent that such testimony or evidence constitute[d] fact testimony, as opposed to expert testimony, except to the extent that the matters set forth in the letter would constitute expert rebuttal evidence.”

Finally, on March 4, 2025, Mother offered “to compromise” and suggested that she would be satisfied if the court accepted Dr. Hasson’s letter into evidence. The parties eventually stipulated to the admissibility of the letter, and the court also accepted Dr. Hasson as an expert in psychological evaluations. Although the court indicated that Mother could still call Dr. Hasson to testify as a fact witness, she ultimately chose not to do so.

On appeal, Mother contends that the court erred in limiting Dr. Hasson’s testimony. In her view, the court should have looked past her discovery violation because Dr. Hasson’s testimony would have shown that “the psychological testing instruments used in the court-ordered evaluation were not compatible with non-native English speakers.” Her argument is not persuasive.

Standard of Review

“Normally, we evaluate a trial court’s discovery sanction in a civil case through a well-defined lens—abuse of discretion.” *A.A. v. Ab.D.*, 246 Md. App. 418, 441 (2020). That said, “before we look through that lens in a child custody case, we must be satisfied that the court has applied the best interests of the child standard in its determination.” *Id.*

In a child custody case, the trial court’s broad discretion “to exclude evidence is not only measured by the potential prejudice to the parties, but is constrained by a court’s absolute and overriding obligation to conduct a thorough examination of all possible factors that impact the best interests of the child.” *Kadish v. Kadish*, 254 Md. App. 467, 495 (2022) (cleaned up). Before excluding evidence as a sanction, “the court should take a proffer or otherwise ascertain what the evidence is that will be excluded, and then assess whether that evidence could assist the court . . . in its determination of the best interests of the child[.]” *A.A.*, 246 Md. App. at 448–49. We then review any discovery sanction imposed after the court completes this assessment for an abuse of discretion. *Id.* at 449.

Analysis

Initially, we observe that the court’s sanction was permissible under the Maryland Rules and was not disproportionate to Mother’s violation. Discovery sanctions are “intended to relieve the surprise or prejudice a party suffers when [their] opponent fails to abide by the discovery rules.” *Watson v. Timberlake*, 251 Md. App. 420, 437 (2021). Mother did not designate Dr. Hasson as an expert witness until just over three weeks before trial, leaving Father with no time to depose her. Moreover, Mother did not initially disclose

the substance of findings and opinions to which Dr. Hasson was expected to testify, making it impossible for Father to meaningfully prepare to examine her.

The record reflects that the trial court took an initial proffer of the proposed evidence during the February 13, 2025, status conference and a more thorough proffer at the March 4, 2025, hearing.⁷ The record also makes clear that the court remained conscious of its responsibility to balance the prejudice to Father for Mother’s discovery failure against the best interests of the children—with the latter being the court’s “main focus”—when considering the appropriate sanction. The court ultimately determined that Dr. Hasson would not assist it in its determination of the children’s best interests. Dr. Hasson had never met with the children, and she met with Mother only once and did not perform an evaluation of her. The court also noted that the testing limitations indicated by Dr. Hasson were already noted by the court-appointed evaluator in his report.

Further, the court imposed a limited sanction designed to ensure that it remained as well-informed as possible as to the children’s best interests. The court did not completely exclude Dr. Hasson as a witness and made clear that she could still testify about her interactions with Mother and reasons behind the letter she sent to the court. That letter was admitted into evidence by the parties’ agreement, but Mother chose not to have Dr. Hasson testify.

⁷ At various points throughout trial, the court also took proffers for several of Mother’s other proposed witnesses. Of these, only Mother’s neighbor was excluded entirely from testifying because Mother compounded her discovery failure when she arguably violated the rule on witnesses by texting the witness during trial, *see* Md. Rule 5-615, and then attempted to conceal her violation by improperly redacting the texts in her supplemental discovery disclosure.

We conclude that the circuit court limited Dr. Hasson’s testimony only after determining that it would not be useful in determining the children’s best interests. The sanction was permissible under the Maryland Rules and was proportionate to Mother’s violation. Moreover, the evidence that Mother wanted to present through Dr. Hasson—*i.e.*, the limitations of performing a psychological evaluation on non-native English speakers—was still entered into evidence through Dr. Hasson’s letter and was accounted for in the court-ordered evaluator’s report. The court did not err or abuse its discretion.

II.

Mother next contends that the court erred in its custody decision.

First, Mother takes issue with the court’s consideration of certain evidence. She argues that the court should not have dismissed the recommendation of the court-appointed custody evaluator “without explanation[.]” Conversely, she argues that the court should not have relied on the BIA’s position because the BIA did not perform an independent investigation. Further, Mother contends that the court “misappl[ied] domestic-violence evidence [by] treating trauma-related responses as parental unfitness” and that it “minimiz[ed] evidence of Father’s violence[.]”

Second, Mother takes issue with the restrictions the court placed on visitation. She argues that the court should not have “impos[ed] indefinite supervised visitation and severe communication restrictions without applying the least-restrictive-alternative principle[.]” Relatedly, she contends that the access and communication arrangements are “incompatible” with V.’s non-verbal autism.

Lastly, Mother argues that the court did not sufficiently explain the reasoning behind its decision.

None of these arguments has merit.

Legal Framework

“In all custody and visitation determinations, the best interest of the child is the overarching consideration[.]” *Michael Gerald D. v. Roseann B.*, 220 Md. App. 669, 680 (2014) (cleaned up), and in our review, “is always determinative[.]” *Santo v. Santo*, 448 Md. 620, 626 (2016) (cleaned up). For custody determinations, given the “unique character of each case” and “the subjective nature of the evaluations and decisions that must be made[.]” *id.* at 629 (cleaned up), Maryland courts have identified the *Taylor* and *Sanders* factors as the primary, yet non-exclusive, factors a court should consider in weighing the advantages and disadvantages of alternative environments, without focusing on any single factor.⁸ *Sanders*, 38 Md. App. at 420–21. Indeed, “*none* of the major factors in a custody

⁸ In *Sanders*, we set out the following non-exclusive factors for a circuit court to consider in child custody determinations: (1) fitness of the parents; (2) character and reputation of the parties; (3) desire of the natural parents and agreements between the parties; (4) the ability to maintain 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 parents and opportunity for visitation; (9) length of separation from the natural parents; and (10) prior voluntary abandonment or surrender. *Sanders*, 38 Md. App. at 420.

In *Taylor*, the Supreme Court of Maryland considered the following factors as relevant in making joint custody determinations, several of which overlap with those laid out in *Sanders*: (1) capacity of the parents to communicate and to reach shared decisions affecting the child’s welfare; (2) willingness of parents to share custody; (3) fitness of the 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;

(continued...)

case has talismanic qualities, and no single list of criteria will satisfy the demands of every case.” *Santo*, 448 Md. at 630 (cleaned up). Instead, the court examines “the totality of the situation in the alternative environments[.]” *Best v. Best*, 93 Md. App. 644, 656 (1992). The test ultimately “begins and ends with what is in the best interest of the child.” *Azizova v. Suleymanov*, 243 Md. App. 340, 347 (2019).

Beyond the *Taylor/Sanders* factors, under FL § 9-101, when a circuit court is “faced with a history of child abuse or neglect by a party seeking custody or visitation,” it must “give specific attention to the safety and well-being of the child in determining where the child’s best interest lies[.]” *In re Adoption No. 12612*, 353 Md. 209, 238 (1999). If the court finds “evidence of abuse” or neglect, it must “deny custody or unsupervised visitation unless the court makes a specific finding that there is no likelihood of further child abuse or neglect.” *In re Mark M.*, 365 Md. 687, 706 (2001) (emphasis omitted).

Although parents have a fundamental right to raise their own child, “the best interests of the child may take precedence over the parent’s liberty interest in the course of a custody, visitation, or adoption dispute.” *Boswell v. Boswell*, 352 Md. 204, 219 (1998). To be sure, “as a general rule, a parent, who is not granted custody, will be given a right to liberal visitation with [their] child at reasonable times and under reasonable conditions[.]” *Michael Gerald D.*, 220 Md. App. at 680 (cleaned up). But “this right is not absolute, and

(10) sincerity of parents’ requests; (11) financial status of the parents; (12) impact on state or federal assistance; (13) benefit to parents; and (14) other factors. *Taylor*, 306 Md. at 304–11.

when the child’s health or welfare is at stake visitation may be restricted or even denied.”

Id. (cleaned up).

The Circuit Court’s Decision

We first summarize the circuit court’s findings for each of the *Taylor/Sanders* factors:

- ***Fitness of the parents:*** Father was fit to have legal and physical custody of the children because, although he had physically abused Mother on at least two occasions and used corporal punishment against I. and M., Father acknowledged his parenting deficiencies and had taken steps to remedy them. On the other hand, Mother was not fit to have custody because, although she had taken some steps to improve her parenting, such as taking classes on autism, unlike Father, these classes were not sufficient to assure the court that Mother could safely parent all of the children in an unsupervised setting, and, more importantly, Mother still denied any responsibility for the injuries that the children received in her care;
- ***Character and reputation of the parties:*** no negative evidence presented;
- ***Desire of the natural parents and agreements between the parties:*** Father sought sole legal and primary physical custody, and Mother sought primary physical custody and joint legal custody with tie-breaking authority;
- ***Potentiality of maintaining natural family relations:*** most of both parties’ family members live in Algeria, so it would be “easy to fashion an order” allowing for video contact but not for the maintenance of in-person contact unless the family members visit the United States;
- ***Preference of the children:*** the children are young and have made inconsistent statements about their preferences, but they ultimately wish to be with both parents for significant time;
- ***Material opportunities affecting the future life of the children:*** both parties are employed and able to support the children, though Father’s income is higher than Mother’s;
- ***Age, health, and sex of the children:*** I. is ten; M. is eight; and V. is five. The children are all physically healthy, but V. has been diagnosed with autism;

- ***Geographic proximity of parental homes:*** the parties live close enough to allow for frequent access;
- ***Length of separation from the natural parents:*** the children have not been separated from either parent, though Mother has had only supervised access with them for almost two years;
- ***Capacity of parents to communicate:*** the parties cannot communicate and reach shared decisions affecting the children’s welfare because Mother “cannot or will not engage in a good faith give and take of information and options”;
- ***Willingness of parents to share custody:*** Mother stated that she is willing to share custody, but Father is not;
- ***Relationship established between child and each parent:*** the children have strong bonds with both parents;
- ***Potential disruption of child’s social and school life:*** the court’s order would not disrupt the children’s social or school lives;
- ***Demands of parental employment:*** both parties are employed but capable of working their employment responsibilities around their childcare responsibilities;
- ***Sincerity of parents’ request:*** both parties’ requests were sincere;
- ***Impact on state or federal assistance, and benefit to parents:*** not applicable.

After addressing these factors, the court made additional findings concerning evidence of abuse and neglect. The court found that Father had abused Mother on at least two occasions, but it found no credible evidence that he abused the children. On the other hand, the court found, by a preponderance of the evidence, that Mother had neglected the children and that they “suffered significant injuries as a result of this neglect.” Under the

circumstances, the court could not find that there was no likelihood of further neglect without supervised access.

Standard of Review

Our appellate courts “practice a limited review of a trial court’s decision concerning a custody award.” *Wagner v. Wagner*, 109 Md. App. 1, 39 (1996). This practice involves three interrelated standards of review. *In re Yve S.*, 373 Md. 551, 586 (2003). *First*, factual findings are reviewed for clear error. *In re R.S.*, 470 Md. 380, 397 (2020). *Second*, we review whether the court erred as a matter of law without deference, under a *de novo* standard of review. *Id.* *Finally*, ultimate conclusions of the court, “when based upon sound legal principles and factual findings that are not clearly erroneous, will stand, unless there has been a clear abuse of discretion.” *Id.* (cleaned up).

Findings of fact are not clearly erroneous “[i]f there is any competent material evidence” to support them. *Fantasy Valley Resort, Inc. v. Gaylord Fuel Corp.*, 92 Md. App. 267, 275 (1992). Further, “[t]he burden of demonstrating that a court committed clear error falls upon the appealing party.” *Christian v. Maternal-Fetal Med. Assocs. of Md., LLC*, 459 Md. 1, 21 (2018). Moreover, an abuse of discretion occurs where “no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles.” *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (cleaned up).

Analysis

A. Custody Evaluator’s Recommendation

Stephanie Hesse was the court-appointed custody evaluator. The court called her as its own witness and accepted her as an expert in custody evaluation. The court also admitted into evidence both Hesse’s report and the custody file. Hesse recommended that the parties have joint legal custody with tie-breaking authority to Mother “[p]rimarily because of [the] power imbalance between the parties.” For physical custody, she recommended a ramp-up schedule that eventually would allow Mother shared physical custody.

On appeal, Mother challenges the court’s rejection of Hesse’s recommendations. She contends Hesse’s opinion should have been given more weight because of her role as the court-appointed custody evaluator. Mother cites no authority requiring the trial court to credit Hesse’s opinion simply because she was the court-designated custody evaluator.⁹ Mother also ignores that Hesse’s opinion was undercut by other evidence, including the custody file itself.

Generally, a “trial judge need not accept the testimony of any expert.” *Quinn v. Quinn*, 83 Md. App. 460, 470 (1990). “An expert’s opinion has no greater probative value than the soundness of the reasons given for the opinion.” *Goicochea v. Goicochea*, 256 Md. App. 329, 354 (2022) (cleaned up). Further, “[w]here there are two experts, the trier of fact must evaluate the testimony of both of them and decide which opinion, if any, to accept.” *Id.* (cleaned up).

⁹ *But see supra* note 3.

Here, the court noted that the reliability of Hesse’s opinion was diminished because she “did not have access to any information about this case after November 9, 2024, the date of her report[.]” The court also observed that Hesse did not witness Mother’s testimony at trial where she testified untruthfully about the children’s injuries and other matters. Consequently, the court determined that Hesse’s findings that depended on Mother’s credibility could not be relied upon.

The court also found that some of Hesse’s findings were contradicted by the evidence. For example, Hesse stated that Father was not adequately meeting the children’s medical needs and had not sought education about autism or caring for children with special needs. The medical and school records in the custody file, however, indicated that Father was obtaining appropriate necessary medical care for the children. The court also credited testimony from Father and other witnesses that not only did Father seek education regarding V.’s autism, but he was also the driving force behind V.’s evaluation, diagnosis, and ABA therapy.

As for Hesse’s perceived imbalance of power between Father and Mother, the court acknowledged that “[t]hat may have been true for language and financial reasons when [Mother] first came to the United States, but by 2022, . . . [Mother] had financial and physical independence.” Indeed, the court noted that the communications between the parties admitted into evidence at trial indicated no such power imbalance in favor of Father. If anything, they showed that Mother was more aggressive. This conclusion was also consistent with testimony from Elizabeth Petrolle, the parties’ former marriage therapist, who described Mother as “very strong-willed” and “rigid and inflexible in her thinking,”

while Father is “calm and easygoing, sometimes to the point of being a pushover.” The court expressly credited Petrolle’s perception of the parties over that of other witnesses because only she had real-time communications with them.

The court recognized that Hesse’s evaluation was “limited in its breadth and scope due to the resources and caseload of the evaluator and the inability to review evidence after the date of the report.” In other words, the court received more evidence and had more time to review that evidence than did Hesse. The court was “entitled to weigh [Hesse’s evaluation] along with contradictory testimony and its own observations.” *Yve S.*, 373 Md. at 609 (cleaned up). Its decision to reject her recommendations was reasonable, logical, and explained in detail. *See Goicochea*, 256 Md. App. at 355. Thus, the court was not clearly erroneous in relying on other evidence that contradicted Hesse’s opinion.

B. BIA’s Position

Mother next contends that the court should not have given any weight to the BIA’s position because the BIA did not perform an independent investigation. We see no error.

Generally, there are three roles that a BIA can fulfill: “the waiver role (to decide whether to waive the patient-psychiatrist privilege for the child); the guardian ad litem role (attorney for the child); and the role of investigator (an investigative report to the court by counsel, social worker, psychiatrist, psychologist, or trained investigator with or without recommendations).” *Leary v. Leary*, 97 Md. App. 26, 40 (1993) (cleaned up), *abrogated on other grounds by Fox v. Wills*, 390 Md. 620 (2006). “The extent of the task assigned to the child’s counsel is dictated by the court.” *Miller v. Bosley*, 113 Md. App. 381, 400 (1997).

The order appointing the BIA here designated her to fulfill both the waiver role and the guardian ad litem role. Among other things, it also required the BIA to “ensure that the child(ren)’s position [was] made part of the record whether or not different from the position the [BIA] advocate[d.]” Although the appointment order authorized the BIA to conduct discovery, nothing suggested that she was to fulfill the role of investigator. Indeed, the order expressly forbade her from “fil[ing] a written report with the [c]ourt[.]” Accordingly, the court was not clearly erroneous in relying on the BIA’s position even though she did not perform an independent investigation.¹⁰

C. Fitness of Parents

Mother next contends that the court improperly considered her “trauma-related responses as [evidence of] parental unfitness[.]” In assessing Mother’s parental fitness, the circuit court found that she had “obstructed proper medical care for the Minor Children on several occasions.” The court also found that Mother “allowed the Minor Children to sustain significant injuries while they were in her care” and that she “insisted[] that the Minor Children sleep in conditions that were at best unsanitary.” Mother does not dispute that the court’s findings were supported by competent material evidence and stresses that she “does not ask this Court to reweigh the evidence.” Rather, she contends that the court should not have considered that evidence in the first place when analyzing this factor. In Mother’s view, evidence that is “consistent with the experiences of individuals who have

¹⁰ In any event, the circuit court does not appear to have given significant weight to the BIA’s position. Although the court noted the BIA’s recommendation alongside the parties’ positions, it did not factor into the court’s analysis of the relevant custody and visitation factors.

endured intimate-partner violence . . . should not be treated as evidence that [they] pose[] a risk to the children.” We are not persuaded.

The court here acknowledged that some of Mother’s actions may have stemmed from her trauma, but it concluded that this was “relevant . . . only to the extent that it allow[ed] [Mother] to get proper treatment to address her parenting deficits.” This reasoning is consistent with our holding in *Gizzo v. Gerstman*, 245 Md. App. 168, 202–04 (2020). There, we affirmed a circuit court’s conclusion that a mother was fit to have custody despite having been previously convicted of neglecting her child. *Id.* at 202–03. The court had credited the mother’s testimony that she had “worked to overcome her mental health challenges and other challenges” and found that “there was no evidence presented regarding any current issues with her parenting ability.” *Id.* at 202–03 (cleaned up). We “s[aw] nothing unreasonable in the court’s conclusion that [the] [m]other had sufficiently demonstrated her fitness as a parent during the three years that followed her conviction for neglect.” *Id.* at 204.

Here, in contrast, the court found that, although Mother “has taken some steps to improve her parenting, such as taking classes on autism[,] [t]hose classes . . . [were] not sufficient to assure the [c]ourt that [Mother] c[ould] safely parent all of the Minor Children in an unsupervised setting.” Moreover, the therapy Mother was receiving was not “the therapy that ha[d] been recommended.” But “[t]he most concerning evidence that the [c]ourt received was [Mother’s] denial of any responsibility for the injuries the Minor Children received and her attempts to blame [Father] for the injuries.” Indeed, the court noted that Mother still “denies any deficits and takes no accountability for the [children’s]

injuries.” In other words, unlike in *Gizzo*, there was evidence of current issues with Mother’s parenting ability, and she had not sufficiently worked to overcome her deficiencies.

As the circuit court reasoned, even if Mother’s actions were the result of her trauma, that is relevant only to the extent it allows her to get proper treatment to address her parenting deficiencies. Indeed, the court acknowledged Hesse’s expert testimony that experiencing domestic violence is “something to take into consideration because it can impact a party’s ability to parent.” Put simply, the court was not required to excuse Mother’s conduct merely because it may have been related to her own trauma. And in any event, Mother’s past neglect of the children was not the basis for the court’s conclusion that she was unfit to have custody. Rather, the court was concerned about her continued refusal to acknowledge her deficiencies or accept any responsibility for the children’s injuries and her failure to take appropriate steps to ensure they would not be injured again under her care. Overall, the court made a reasonable conclusion that, given the lack of evidence showing any attempt to address her deficiencies, there was insufficient evidence to assure the court that Mother was fit to have custody of the children at this time.

D. Evidence of Abuse

The circuit court found that Father physically abused Mother on at least two occasions. On appeal, Mother contends that the court did not sufficiently consider this

“evidence of Father’s violence” against her.¹¹ In essence, she argues that the protective order she had against Father should have been given more weight in the court’s custody determination. This argument reflects a misunderstanding of the court’s statutory obligation.

To be sure, FL § 9-101.1 requires “the court, when it receives evidence of a party’s history of violence against certain household members, to give due consideration to such violence in determining what is in a child’s best interest.” *Gizzo*, 245 Md. App. at 199 (cleaned up). But the statute “does not scrap the overall best interest of the child standard in favor of another single, alternative standard[.]” *In re Adoption No. 12612*, 353 Md. at 238.

Here, the court recognized that FL § 9-101.1(c) required it to fashion its order to “safeguard against further abuse of [Mother] by [Father].” But because the protective order was already in place, the court concluded that additional protective arrangements were

¹¹ In her principal brief, Mother claims that “[t]he court’s analysis conflicts with the trauma-informed principles mandated by [FL] § 9-101.3.” This argument is misplaced. FL § 9-101.3 sets forth a directive for judges to participate in training on domestic violence, child abuse, and implicit bias—it provides nothing about what a court must consider when making a custody determination. The constitutionality of such a training mandate by the legislature has been questioned, *see, e.g.*, Letter from Attorney General Brian E. Frosh to Governor Lawrence J. Hogan, Jr. (dated May 11, 2022) (advising that if such a training program is considered mandatory, it would “improperly intrude[] on the constitutional grant of judicial authority and violate[] the principle of separation of powers in Article 8 of the Maryland Declaration of Rights”). We need not resolve the issue because the statute is irrelevant to whether the court erred in its custody analysis. *See Robinson v. State*, 404 Md. 208, 217–18 (2008) (noting Maryland appellate courts do not decide “constitutional issue[s] unless it is necessary to do so”). In any event, the circuit court acknowledged that it “received evidence of the potential impact of abuse on an intimate partner, and the impact on children of witnessing a parent’s abuse[.]” and expressly “account[ed] for that in reviewing the evidence[.]”

unnecessary at this time because that order—as well as the overall custody schedule—would maintain minimal in-person interactions between the two parents.

Beyond this, FL § 9-101.1 obligated the court only “to give due consideration” to Father’s violence against Mother in determining what was in the children’s best interest and to make a custody arrangement that best protected the children. *Gizzo*, 245 Md. App. at 199 (cleaned up). To that end, although the court found no credible evidence that Father has abused or neglected the children, it noted that he had used corporal punishment in the past. In framing its overall analysis, the court acknowledged expert testimony that if a parent commits “domestic violence toward a spouse, that parent is more at risk for potentially abusing [m]inor [c]hildren, and there is a greater probability that the parent has impaired parenting skills.” Given the history of domestic violence in the family, the court determined that continued use of corporal punishment was not in the children’s best interest and included a provision in the final custody order forbidding both parties from using it. Thus, the court gave due consideration to Father’s violence against Mother, and we find nothing unreasonable about this exercise of discretion.

E. Restrictions on Visitation

Next, Mother argues that the court erred “by imposing indefinite supervised visitation and severe communication restrictions without applying the least-restrictive-alternative principle.” She further contends that the “access and communication arrangements [are] incompatible with [V.’s] non-verbal autism[.]” Again, we are not persuaded.

The “least-restrictive-alternative principle” is not a concept recognized in Maryland custody law.¹² Instead, limitations on visitation are discretionary and need only be “reasonable.” *Boswell*, 352 Md. at 220. *See also Michael Gerald D.*, 220 Md. App. at 686. Moreover, if the court finds reasonable grounds to believe that a child has been neglected by a party and does not find that there is no likelihood of further neglect by that party, “it *must* deny custody or visitation rights to that party except for a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.” *Gizzo*, 245 Md. App. at 193 (cleaned up) (emphasis added). *See also* FL § 9-101.

Here, the court found reasonable grounds to believe that Mother neglected the children and did not find that there was no likelihood of further neglect. As a result, it was required to deny custody and visitation rights to Mother except for supervised visitation. *See* FL § 9-101(b). Although we acknowledge the potential difficulties of remote communication due to V.’s autism, this does not render the restrictions unreasonable.¹³ Indeed, under FL § 9-101, they were mandatory. Moreover, the court ensured that Mother would still have in-person access to V., albeit supervised, and directed that she be permitted to participate in V.’s ABA therapy on her custodial days.

¹² This compounds our suspicions about Mother’s potential use of generative AI in drafting her brief. *See supra* note 3.

¹³ We note, however, that despite what she claims in her brief, Mother did not testify about any specific difficulties she experienced with the remote communication.

Additionally, and contrary to Mother’s argument, the court was not required to announce “a timetable, benchmarks, or conditions for transition to unsupervised access.” “FL § 9-101 does not address the steps that a parent, who is denied visitation with [their] child, may take to regain” unsupervised visitation or custody in the future. *Michael Gerald D.*, 220 Md. App. at 681. “Nor does it affect the parent’s legal right to move to modify a visitation order upon a showing of a material change of circumstances.” *Id.* (cleaned up). Although the court here did not mention what Mother could do to regain unsupervised access, it also did not suggest that, if Mother were to seek unsupervised visitation sometime in the future, it would not consider such a motion. “[G]iven the well-settled legal precept that visitation orders are subject to modification upon a showing of a material change in circumstances, we have no reason to doubt that [Mother] was informed of this possibility by counsel, regardless of whether the court expressly mentioned it in rendering its decision or not.” *Id.* at 682.¹⁴

We see no abuse of discretion in the court’s visitation restrictions.

F. Sufficiency of Explanation

Finally, Mother argues that the court did not adequately “explain the basis for its custody determinations, rendering the order inadequate for appellate review.” The extensive record developed during the life of this litigation offers a clear rejection of that assertion.

¹⁴ Indeed, the circuit court has scheduled regular review hearings and, after one that occurred while this appeal was pending, expanded Mother’s visitation rights to allow for up to one hour of unsupervised access with the children during her court-supervised visitation periods.

Although “[t]rial judges are not obliged to spell out in words every thought and step of logic[,]” *Meek v. Linton*, 245 Md. App. 689, 730 n.6 (2020) (cleaned up), the court here came close. For more than ninety pages of its 102-page memorandum opinion, the court comprehensively detailed the evidence, all the while explaining what it found credible and why. The court then turned to the *Taylor/Sanders* factors and FL § 9-101 and made findings for each, citing relevant evidence and explaining why it gave certain evidence more weight than other, contrary evidence. Although some of the custody factors favored the parties equally, others favored Father, and none favored Mother.

Indeed, we have seldom seen a more meticulous and detailed explanation of the basis for custody determinations. We are satisfied that the court did not “act[] without reference to any guiding rules or principles.” *In re Adoption/Guardianship No. 3598*, 347 Md. at 312 (cleaned up). We find neither error nor abuse of discretion.

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