

Circuit Court for Anne Arundel County
Case No. C-02-FM-21-003394

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND*

No. 1318

September Term, 2025

TIFFANY ANN PAINTER

v.

APOSTOLOS KALOGRITSAS

Berger,
Leahy,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: April 17, 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).

This case is about whether a circuit court properly modified a child custody order after finding that a phased visitation schedule had collapsed and the Father had not seen his daughter for more than a year. Apostolos Kalogritsas (“Father”) and Tiffany Ann Painter (“Mother”) are the unmarried parents of one child, Z.K. After extensive litigation, the Circuit Court for Anne Arundel County entered a Second Amended Custody Order, granting Mother sole legal and physical custody with phased visitation for Father.

In March 2024, Father filed a motion to enforce the custody order, which the circuit court treated as a motion to modify custody. After a six-day bench trial, the circuit court found a material change in circumstances, modified the custody arrangement, continued Mother’s sole legal custody with additional conditions, and established a new visitation schedule granting Father shared physical custody.

Mother noted this timely appeal and presents five questions,¹ which we have consolidated and reordered as follows:

¹ Appellant phrased the questions presented as follows:

- I. Did the Court err in concluding that a material change in circumstances justifying a modification occurred?
- II. Was the Court clearly erroneous by failing to admit into evidence documents offered by Appellant?
- III. Did the Court abuse its discretion by having ex parte communication with another member of the bench who conducted the underlying Order which is the subject of the requested modification?

(continued)

1. Whether the circuit court erred in finding a material change in circumstances justifying modification of the custody order.
2. Whether the circuit court abused its discretion in its evidentiary rulings, including declining to admit certain documents offered by Mother.
3. Whether the circuit court abused its discretion by communicating with another judge, the author of the operative order, regarding the order’s interpretation.
4. Whether the circuit court exhibited bias against Mother and her counsel, or provided excessive accommodations to the self-represented Father, thereby depriving Mother of a fair trial.

For the following reasons, we shall affirm the judgment of the circuit court.

BACKGROUND

Mother and Father had a romantic relationship but never married. Their child, Z.K., was seven years old at the time of the trial. Mother worked as a licensed MRI technologist, while Father worked intermittently, most recently as a truck driver.

In April 2023, the circuit court entered a custody order granting Mother sole legal custody and establishing a four-phase graduated visitation schedule for Father. The first

-
- IV. Did the Court abuse its discretion by exhibiting bias towards Appellant and her counsel preventing a fair trial?
 - V. Did the Court abuse its discretion by being unfair by providing an inappropriate “right to be heard” as set forth in MRP 18-102.6 and comment (ii)?

two phases each lasted twelve weeks with progressively longer visits. Advancement required “successful completion” of the earlier phases.

In June 2023, the circuit court entered an Amended Custody Order retaining the same phased structure and the same “successful completion” language. In August 2023, the court entered an order confirming that Father had completed Phase One. Both parties then began Phase Three, unsupervised overnight visits, in approximately October 2023, apparently agreeing that the earlier phases were complete.

After a three-judge panel directed clarification of the meaning of “successful completion,” the circuit court entered a Second Amended Custody Order in February 2024. Mother took the position that the new order required Father to restart Phase One. Father disagreed.

The court-appointed custody evaluator, Terri Ann Harger, testified that both parties were “entrenched . . . on defense” during the litigation. Ms. Harger filed her custody evaluation in October 2024. Z.K. told Ms. Harger that she “really wanted to see her father” and was “frustrated with her mother” about the visitation restrictions. Z.K. expressed hope that her mother would “permit her father to visit with her.”

Ms. Harger recommended a progressive visitation schedule, allowing for Father’s every-other-weekend access within approximately eight weeks. She identified no current safety concerns regarding the parents.

The court found that the custody order had ceased to function and that “[t]he discourse itself, the inability to reach a resolution, meets the requirements of *Wagner v. Wagner*[, 109 Md. App. 1 (1996)]” to warrant custody modification. The court continued

Mother’s sole legal custody with conditions, including mandatory use of the co-parenting communication platform, Our Family Wizard. Finally, the court established a detailed visitation schedule granting Father shared physical custody.

DISCUSSION

I. Material Change in Circumstances

Mother contends that Father chose not to see Z.K. for more than a year, the child was stable and thriving during that period, and a parent’s voluntary absence does not constitute a material change in circumstances warranting modification.

This court reviews child custody determinations using three interrelated standards of review. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012). First, when an appellate court scrutinizes factual findings, the clearly erroneous standard applies. *In re Yve S.*, 373 Md. 551, 586 (2003). Second, if it appears that the trial 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. *Id.* Finally, when the appellate court views the ultimate conclusion of the trial court, if that conclusion was “founded upon sound legal principles and based upon factual findings that are not clearly erroneous,” the trial court’s decision should be disturbed only “if there has been a clear abuse of discretion.” *Id.*

The Supreme Court of Maryland and this Court have held repeatedly that in any child custody case, the paramount concern is the best interest of the child. *E.g.*, *Taylor v. Taylor*, 306 Md. 290, 303 (1986). Section 9-201 of the Family Law Article (“FL”) lists sixteen factors for a court to consider when making a custody decision to ensure that the

decision is in the child’s best interest.² The statute also requires the court to “articulate its findings of fact on the record or in a written opinion, including [its] consideration” of the

² Notably, the Act creating this statute took effect on October 1, 2025. Although Father’s motion to enforce the custody order was filed before the Act took effect, the trial court and we have previously reviewed custody decisions to make certain that the decision is in the child’s best interest. These “best interest” factors are:

- (1) stability and the foreseeable health and welfare of the child;
- (2) frequent, regular, and continuing contact with parents who can act in the child’s best interest;
- (3) whether and how parents who do not live together will share the rights and responsibilities of raising the child;
- (4) the child’s relationship with each parent, any siblings, other relatives, and individuals who are or may become important in the child’s life;
- (5) the child’s physical and emotional security and protection from exposure to conflict and violence;
- (6) the child’s developmental needs, including physical safety, emotional security, positive self-image, interpersonal skills, and intellectual and cognitive growth;
- (7) the day-to-day needs of the child, including education, socialization, culture and religion, food, shelter, clothing, and mental and physical health;
- (8) how to:
 - (i) place the child’s needs above the parents’ needs;
 - (ii) protect the child from the negative effects of any conflict between the parents; and

(continued)

“best interest” factors “and any other factor that the court considered.” FL § 9-201(b). After the circuit court enters a child custody order, it may modify that order if it “determines that there has been a material change in circumstances since the issuance of the order that relates

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

(9) the age of the child;

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

(11) any prior court orders or agreements;

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

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

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

(i) how they communicate with each other;

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

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

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

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

FL § 9-201(a).

to the needs of the child or the ability of the parents to meet those needs and that modifying the order is in the best interest of the child.” FL § 9-202(a).

The analysis requires a two-step analysis on a motion to modify custody. *Wagner*, 109 Md. App. at 28. *First*, the court must determine if a material change in circumstances has occurred since the issuance of the custody order to be modified. *Id.* at 28. To be material, the alleged change in circumstances must affect the child’s welfare. *Id.* at 28, 33. Without a material change in circumstances, “there can be no modification of custody,” and the inquiry ends. *Id.* at 29. This threshold requirement helps prevent needless instability in the child’s life and to prevent “litigious or disappointed parent[s]” from “relitigat[ing] questions of custody endlessly upon the same facts.” *McCready v. McCready*, 323 Md. 476, 481 (1991).

Second, “[i]f a material change of circumstance is found to exist . . . the court, in resolving the custody issue, considers the best interest of the child as if it were an original custody proceeding.” *Wagner*, 109 Md. App. at 28. In other words, the court must decide whether a modification of custody is in the child’s best interest based on the changed circumstances, and the court must do so by considering the FL § 9-201(a) factors on the record or in a written opinion. FL §§ 9-201(b), 9-202(a). The party seeking a change in custody bears the burden of demonstrating both a sufficient change in circumstances and that a change in custody would be in the best interest of the child. *Wagner*, 109 Md. App. at 30–31.

Here, Father did not see Z.K. for more than a year. No part of the order was being exercised. The custody evaluator testified that Z.K. “really wanted to see her father.” She

warned that the child was reaching an age where she could conclude “perhaps my father isn’t so interested in me.”

The circuit court found that the custody order had ceased to function entirely. Both parties bore responsibility for the breakdown. Mother insisted that the Second Amended Order required Father to restart Phase One supervised visitation, a position the trial court properly rejected. Father did not attend Z.K.’s extracurricular events even when they took place near his home. The evaluator described both parties as “entrenched . . . on defense.”

Mother characterizes the separation as Father’s voluntary choice. The court, however, expressly made “no finding of voluntary abandonment or surrender of custody.” It found fault on both sides and concluded that “[t]he discourse itself, the inability to reach a resolution, meets the requirements of *Wagner v. Wagner* that the current situation is not appropriate.” That ruling, grounded in the trial record and credibility assessments, is not erroneous.

For all these reasons, the circuit court did not err in finding a material change in circumstances warranting modification.

II. Evidentiary Rulings

Mother contends the court erred by excluding the following from evidence at trial: Father’s unanswered responses to interrogatories, a trial subpoena, and a 2022 temporary emergency custody order. Mother sought to admit Father’s incomplete discovery responses to show what he failed to disclose, but the court declined to admit them. Mother asked the court to take judicial notice of the 2022 emergency custody order, but the court

declined, stating the relevant inquiry was whether the current custody order was functioning.

Decisions regarding the admissibility of evidence are generally left to the sound discretion of the trial court. *Blitzer v. Breski*, 259 Md. App. 257, 279 (2023). In relation to relevance of evidence, appellate review of a trial court’s decision to admit evidence “involves a two-step analysis.” *Akers v. State*, 490 Md. 1, 24 (2025). The first step requires a determination of whether the evidence is relevant, “which is a conclusion of law that we review de novo.” *Id.* If the evidence admitted is relevant, the second step requires a determination of whether the probative value of the evidence is outweighed by the danger of unfair prejudice. *Id.* at 25. This second step is subject to an abuse of discretion standard. *Id.*

Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Md. Rule 5-401. All relevant evidence is generally admissible. Md. Rule 5-402. However, relevant evidence may be excluded “if its probative value is substantially outweighed by the danger of unfair prejudice[.]” Md. Rule 5-403.

Here, Father’s unanswered interrogatories and the trial subpoena were not probative of any fact relevant to the motion for modification. The unanswered discovery materials at issue were irrelevant to Z.K.’s welfare under the custody order.

As for the 2022 emergency custody order, Mother asked the court to take judicial notice of it. The court declined, explaining that it already had “the factual history set forth in the three-judge panel” and that the question before it was whether the current order was

working, not what had happened years earlier. That ruling was within the court’s discretion. The emergency order addressed concerns that predated the operative order by more than a year. The court’s focus on post-order conditions was consistent with the modification framework, which examines changes since the last order.

Mother has not demonstrated prejudice from any of these rulings. The material-change ruling was based on the following: the custody order was not functioning, Father had not seen Z.K. for more than a year, and the custody evaluator confirmed the harmful impact on the child. No excluded document would have altered that conclusion.

III. Communication with the Author of the Operative Order

Mother contends that the trial court improperly communicated with the judge who authored the operative Order about that Order’s meaning. The trial court stated that it had spoken with the authoring judge, who “never intended” Mother’s interpretation of the order, and that the Order was “a cut and paste” the trial court knew “firsthand.” The court also read the transcript of the authoring judge’s ruling.

Maryland Rule 18-102.9(a)(4) permits a judge to “consult with . . . other judges, provided the judge does not decide a case based on adjudicative facts that are not made part of the record.” The communication here concerned the meaning of “successful completion” in the operative Order, which is a legal question.

In any event, the communication was harmless. The material change finding did not depend on the authoring judge’s intent. It hinged on facts developed during the trial, including Father’s lack of visitation for more than a year and the custody evaluator’s testimony about the resulting harm to Z.K.

IV. Fairness of the Trial

Mother contends that the trial court exhibited bias against her and her counsel and provided excessive accommodations to the self-represented Father. Judicial bias warranting reversal requires “deep-seated favoritism or antagonism that would make fair judgment impossible.” *Liteky v. United States*, 510 U.S. 540, 555 (1994). Adverse rulings, sharp language, and impatience do not qualify. *Id.* at 555-56.

Mother points to remarks the trial court made before any testimony was taken, including characterizing the three-judge panel review as “kind of silly” because of the clarity of the order under review and stating that the threshold for modification appeared easy to determine solely based on the court’s file. Even assuming these remarks were critical or disapproving, they do not establish bias in any way. The court conducted a six-day trial and issued a detailed opinion, which included findings favorable to Mother and continued her sole legal custody. The court admonished Father at times and sustained objections against him.

In addition, the court can permit reasonable accommodations for self-represented litigants that do not confer an unfair advantage. Md. Rule 18-102.6, cmt. 2. Mother identifies no instance when the court’s accommodations affected the outcome.

In sum, the court did not exhibit bias against her and her counsel. Nor did the court provide excessive accommodations to Father as a self-represented litigant.

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