Circuit Court for Cecil County
Case No. C-07-FM-22-000608

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1336

September Term, 2024

ADAM JOEL SWANSON

v.

MARYKATHERINE WEAVER

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: June 25, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant Adam Joel Swanson ("Father"), pro se, appeals from multiple orders entered by the Circuit Court for Cecil County pertaining to custody and access of the two minor children he shares with appellee MaryKatherine Weaver ("Mother"). He raises twenty-two issues for our consideration on appeal. However, as explained below, the only issues properly before us stem from the order entered on August 8, 2024, which arose from Mother's motion to modify legal custody of and access to the children. For the reasons that follow, we shall affirm the judgment of the circuit court.

BACKGROUND

Mother and Father are the parents of three children, two of whom (L. and N.) are the subject of this appeal.[1] The parties, who never married, ended their relationship in January 2021. Mother's concerns about Father centered around his drug use.

I.

MOTHER'S COMPLAINT FOR CUSTODY

On September 12, 2022, Mother filed a complaint seeking primary physical and sole legal custody of the minor children. Father filed a counter-complaint for custody, seeking shared physical and joint legal custody. In her answer to Father's counter-complaint, Mother requested, among other things, that the court order the parties to participate in drug testing, including a hair follicle test.

[1] The third child reached the age of 18 before Mother filed her complaint for custody and is therefore not implicated in this appeal.

A.

Scheduling Conference (December 13, 2022) and Scheduling Order (December 14, 2022)

The court held a scheduling conference on December 13, 2022. The next day, the court entered a scheduling order that required both parties to submit to a hair follicle analysis to test for the presence of drugs and alcohol. The testing took place in January 2023; Mother tested negative, while Father tested positive for methamphetamines.

The court scheduled a *pendente lite* hearing for February 3, 2023.

B.

Agreement at the *Pendente Lite* Hearing (February 3, 2023)

During the *pendente lite* hearing on February 3, 2023, the parties reached a temporary agreement that was memorialized in a court order. According to this order, the court awarded Mother primary physical custody of the minor children and joint legal custody to Mother and Father. The order set forth Father's visitation schedule, required Father to submit to random urinalysis at least once a month through the court's Family Support Services, and prohibited the parties from using illicit drugs while the children were in their care or within twenty-four hours prior to such time.

The court scheduled the merits hearing for May 23, 2023.

C.

Agreement at the Merits Hearing (May 23, 2023) and Order (July 12, 2023)

The parties appeared at the merits hearing on May 23, 2023. A few days prior, Father submitted to a drug test and tested positive for amphetamines. At the hearing, the parties

reached an agreement on terms that were consistent with those outlined in the *pendente lite* order. The parties placed this agreement on the record.

On July 12, 2023, the court entered an order based on the parties' agreement. The court awarded Mother primary physical custody of the minor children and joint legal custody to Mother and Father. The order set forth Father's visitation schedule and required the parties to submit to random urinalysis once a month through Family Support Services. It prohibited either parent from using drugs within twenty-four hours prior to having the children in their care. If either parent tested positive on a urinalysis, they would forfeit the next scheduled weekend visitation.

The order also required both Father and L. to participate in reunification counseling and therapeutic visitation once a month, as scheduled through Family Support Services. The parties requested that the court schedule a review hearing after these therapeutic sessions to determine if any adjustments to the terms were necessary. The court ordered that a review hearing be set within six months.

Father did not appeal from the July 12, 2023 order that resolved the parties' respective complaint and counter-complaint.

D.

Further Drug Testing

Family Support Services managed the drug testing for both parties. On July 20, 2023, the Family Support Services Coordinator issued a letter to inform them about the logistics of the random drug testing. The letter stated that the parties would receive a call regarding the drug testing and must report to the Family Services Office in the circuit court

within 48 hours, during office hours between 8:30 a.m. and 4:00 p.m. Additionally, the letter warned that if either party failed to comply with the instruction to report for random screenings, the test result would be considered an automatic positive.

Testing was conducted from Monday to Thursday during the specified hours, but not on Fridays, as the staff were in court on those days. Family Support Services called the parties to submit to drug testing on the dates set forth below. There were no concerns regarding Mother, as she appeared within 48 hours each time she was called and tested negative each time. However, the results for Father were as follows:

For the call on August 30, 2023, Father did not appear until September 7, 2023, and he tested negative.

For the call on September 11, 2023, Father did not appear for the test. For the call on September 25, 2023, Father appeared on September 27, and he tested negative.

For the call on October 24, 2023, Father appeared on October 26, but the sample of urine he provided had a low temperature, indicating that it did not come from his body. Staff requested to check Father for contraband, but he refused. He was asked to appear later that day for testing; when he did, the temperature of his sample was still low, and he refused to allow staff to observe the sample collection of urine.

For the call on November 27, 2023, Father did not appear.

E.

Status Conference (December 7, 2023)

On December 7, 2023, the court held a status conference. The hearing notes from the status conference indicated that Father submitted to a urinalysis screening during the

conference. The screening report, issued days later, showed that he tested positive for amphetamines and marijuana. The court scheduled a review hearing for December 26.[2]

Following the status conference, Family Support Services requested that Father participate in random urinalysis testing on December 18; however, he failed to appear for this test.

II.

MOTHER'S MOTION TO MODIFY LEGAL CUSTODY AND ACCESS

On December 19, 2023, Mother filed a motion to modify legal custody and visitation, citing a material change in circumstances. Among other concerns, she claimed that Father continued to test positive for methamphetamines. In her view, unsupervised visitation between Father and the children was no longer in the children's best interest. Therefore, she requested that Father's visitation be supervised. Additionally, Mother sought sole legal custody.

The court scheduled a *pendente lite* hearing for May 13, 2024, and the merits hearing for August 6, 2024.

A.

Agreement at the Review Hearing (December 26 and 28, 2023)

In the meantime, the court held a review hearing on December 26, 2023. During the hearing, Father submitted to a drug test, which returned positive results for amphetamines,

[2] On appeal, Father asserts that he did not test positive on December 7, 2023. However, the record includes a screening report dated December 14, which indicates that a specimen was collected on December 7 and that it showed a positive result.

methamphetamines, and marijuana. In response, Mother requested that Father's visitation either be supervised or suspended until he tested negative and entered a drug treatment program.

The court wanted to proceed with an evidentiary hearing on Mother's request, given concerns about Father's drug use and his positive tests on December 7 and 26. After discussions about scheduling the evidentiary hearing, Father's counsel ultimately agreed to postpone it to December 28.

At the December 28 hearing, however, no evidence was introduced. Instead, Father voluntarily agreed on the record to suspend his visitation with the children until he entered a substance abuse program. Later, Father decided that entering a rehabilitation program was not feasible due to costs and his work schedule, and he did not pursue a program.

On December 29, the court issued an order memorializing the parties' agreement to suspend Father's visitation pending the outcome of a substance abuse evaluation and further order of the court.

B.

Agreement at the *Pendente Lite* Hearing (May 13, 2024)

During the *pendente lite* hearing on May 13, 2024, Father submitted to another drug test, which came back positive for marijuana. The parties agreed to the entry of an order that would award Mother primary physical custody and joint legal custody to Mother and Father. Under this agreement, Father would have supervised visitation, with the understanding that L. might choose not to attend the visitations. The parties would be

responsible for any costs associated with the supervised visitations, as agreed upon. The court entered an order in line with the parties' agreement.

C.

Merits Hearing on Modification (August 6, 2024) and Order (August 8, 2024)

The custody modification hearing occurred on August 6, 2024. Both parties attended with counsel, and the court-appointed Best Interest Attorney ("BIA") was present on behalf of the children. The court heard testimony from various witnesses and admitted evidence of the parties' communications, prior orders based on the parties' agreements, Father's previously ordered psychological evaluation, and other documents related to visitation.

The court's Family Support Services coordinator testified that in the last year, Father had not appeared for his court-ordered random drug testing on various occasions, had tested positive,[3] had once had his urine sample rejected due to being too low in temperature, and, after the rejection, had refused to retest with supervision.

The supervisor of the visitation between Father and N. reported that, while the visits themselves went smoothly, Father was confrontational about the payment for the supervised visits. Initially, the cost was $40 per hour, but it later increased to $50 per hour. Due to these ongoing issues, the supervisor informed Father that her agency could no longer provide supervision services.

Mother testified that L. does not have a relationship with Father and is not interested in visiting him. She stated, "he simply doesn't like to talk to his father and he is done

[3] The coordinator testified about the positive test from December 26, 2023, but did not mention the test result from December 7.

texting him." Regarding N., Mother monitored his FaceTime calls with Father because she was concerned that Father inappropriately discussed adult topics, such as custody, with the child. Although Father had requested to be informed about the children's doctor's appointments and school activities, he showed no interest in the outcomes of those appointments or activities after they occurred.

Mother recounted an incident at N.'s baseball game when Father attempted to exercise his access time with N., but Mother refused to allow it because Father had not provided a negative urinalysis result. This dispute escalated into a physical altercation involving Mother's boyfriend and Father, which prompted a call to the police. Mother's boyfriend was charged with assault, but the case was eventually dropped.

Due to Father's substance abuse issues, Mother felt the children would not be safe with him outside of supervised visitation. Mother therefore requested the continuation of supervised visitation and monitored phone calls.

During the lunch break, the court ordered Father to undergo a drug test, which returned a positive result for marijuana. Although he possesses a medical card for marijuana, he did not specify the medical condition for which he obtained it. When presented with his psychological evaluation, in which he stated that he had obtained the card for treatment of anorexia, Father claimed that the evaluator had misstated his comments.

Father acknowledged his past use of methamphetamines but stated that he no longer used the substance. He had not participated in any rehabilitation program, but he was in counseling.

Regarding his missed random drug tests, Father explained that he was out of state when he received the notification for the first test and could not return to Maryland within the required 48-hour timeframe. He claimed that work obligations made it impossible for him to appear for some of the other tests. Consequently, he sought testing alternatives outside the court system and discovered a facility called MedExpress. However, he was informed by Family Support Services that he was required to appear at the courthouse for testing, as the MedExpress results "do[ ] not count." As a result of these missed tests, Mother had deprived him of visitation for more than the one weekend specified in the consent custody order.

Father agreed to participate in random drug testing; however, he stated that getting to the courthouse would be challenging due to his work schedule. He suggested that an alternative testing facility, like MedExpress, would be acceptable as long as it did not interfere with his work hours. The MedExpress location in Middletown, Delaware, would be ideal for him because it was close to his workplace.

Regarding a treatment program, Father expressed his willingness to participate but stated that he could not afford the costs or the time away from work to attend.

Despite the agreed-upon *pendente lite* order then in effect that mandated supervised visitation, Father claimed he had not consented to supervision. He did not see any reason why he could not have unsupervised visitation and requested to reinstate the previous visitation schedule of two out of every three weekends with the children. Additionally, he asked for a holiday/vacation visitation schedule to be included in the court's order.

At the conclusion of the hearing, the court discussed the required factors in considering a custody award, pursuant to *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977), and *Taylor v. Taylor*, 306 Md. 290 (1986), finding that: (1) Mother is a fit parent, but the court was doubtful about Father's fitness, given his continued drug use, his apparent lack of honesty, and his tendency to blame others for his problems; (2) there were no concerns about the character and reputation of either parent; (3) both parties were sincere in their requests for custody; (4) the court had entered three orders regarding custody, all by agreement between the parties, and all of which had addressed Father's drug use; (5) both parties seemed willing to share custody, although Mother had concerns about Father having unsupervised visitation because of his drug usage; (6) there was no evidence presented about the maintenance of the children's relationships with each parent, sibling, or other person; (7) there was no evidence presented of either parent having other children; (8) there was no evidence presented of the children's preferences, other than the BIA's general assertion that N. wanted to spend time with Father; (9) Mother and Father appeared to have the capacity to communicate and reach shared decisions about the children's welfare; (10) the evidence regarding geographical proximity was that the parents lived about twenty minutes away from each other; (11) there was no negative evidence presented about either parent's financial status, except for Father's drug use, which costs money; and (12) as to the age, health, and sex of the children, L. was 16 and N. was 9, both male.

According to the court, "the elephant in the room" remained Father's admitted drug use, which likely impacted his parenting skills. The court also expressed concern that,

although Father had voluntarily given up visitation with the children in December 2023 to enter some type of substance abuse program, he had not done so.

The court entered a custody and visitation order on August 8, 2024. The court did not modify legal custody as Mother requested. Instead, it upheld the existing order that granted Mother and Father joint legal custody of the minor children. Mother retained sole physical custody as previously awarded in the order dated July 12, 2023.

The court granted Mother's modification request to have Father's visitation supervised. The court ordered that supervised visitation must be conducted through Family Support Services, with Father responsible for the costs associated with this supervision. The court did not establish any provisions for an access schedule for holidays or vacations.

The order required Father to submit to random weekly drug testing at MedExpress in Middletown, Delaware (which Father had chosen, as it was close to his employment), undergo a drug and alcohol evaluation within thirty days, and follow the treatment plan recommendations set forth therein.

The order also provided that the parties shall have access to the children's records, permitted Father to attend their school activities and have supervised video contact with the children at least once per week, required the parties to communicate regarding their appointments and activities, and required Mother to utilize the AppClose application for the children's schedules.

Father, pro se, noted his appeal on September 5, 2024, and filed an informal brief. We shall include additional facts as necessary in the discussion.

DISCUSSION

In his informal brief, Father indicated that he was appealing from various decisions or orders related to the scheduling hearing on December 13, 2022, the consent custody order entered May 23, 2023, the review hearing on December 26 and 28, 2023, the consent *pendente lite* order entered May 13, 2024, and the custody order entered on August 8, 2024. He itemizes twenty-two issues, which we organize into three categories: (I) issues regarding the complaint/counter-complaint and resulting July 12, 2023 judgment; (II) issues regarding Mother's custody modification request and resulting August 8, 2024 judgment; and (III) other issues.

I.

ISSUES REGARDING MOTHER'S COMPLAINT AND RESULTING JULY 12, 2023 JUDGMENT

Issue 1

Father first contends that there was no argument or evidence presented at the December 13, 2022 scheduling conference that established cause for the court to order him to undergo a hair follicle test for drug use.

The issue is not properly before us. This issue arose out of the parties' complaint and counter-complaint, which were resolved by agreement embodied in an order entered on July 12, 2023, from which Father did not appeal. *See* Md. Rule 8-202(a) (providing that a notice of appeal must be filed "within 30 days after entry of the judgment or order from which the appeal is taken").

In addition, Father submitted to the hair follicle test in January 2023. Therefore, this issue is moot, as there is no remedy we could provide Father, and we cannot undo a test that has already occurred and been submitted to the court. *See Suter v. Stuckey*, 402 Md. 211, 219 (2007) ("A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant."); *La Valle v. La Valle*, 432 Md. 343, 352 (2013) (explaining that "appellate courts do not sit to give opinions on abstract propositions or moot questions" (citation omitted and cleaned up)).[4]

Issue 2

Father argues that the court's order from July 12, 2023, following the hearing on May 23, 2023, does not align with what was stated on the record during that hearing. He asserts that he informed his attorney in writing that he felt "pressured to agree to the order[.]" Moreover, he notes that the order did not specify the location and hours of operation for the court's drug testing facility, which he considers to be of "major concern."

As stated above, Father did not note an appeal from the July 12, 2023 order, which resolved the parties' respective complaint and counter-complaint for custody. Consequently, this issue is not properly before us on appeal. *See* Md. Rule 8-202(a).

[4] Even if the issue were properly before us, Father failed to provide this Court with a transcript of the status conference. In *Kovacs v. Kovacs*, 98 Md. App. 289, 303 (1993), this Court held that the party asserting error has the burden to show "by the record" that an error occurred. "Mere allegations and arguments . . . , unsubstantiated by the record, are insufficient to meet that burden." *Id.* Moreover, "[t]he failure to provide the court with a transcript warrants summary rejection of the claim of error." *Id.*

Issue 3

Father contends that during the hearing on May 23, 2023, the court agreed to revisit the issue of reunification counseling and therapeutic visitation sessions for L. However, he asserts that the court did not enforce these therapy sessions or engage in any follow-up discussions regarding the matter. To the extent that Father might have had a legitimate argument about the court-ordered counseling and therapy sessions not taking place in 2023, the appropriate course of action would have been for him to file a motion with the circuit court. His failure to do so does not constitute an error on the part of the court.

II.

ISSUES REGARDING MOTHER'S PETITION FOR CUSTODY MODIFICATION AND RESULTING AUGUST 8, 2024 JUDGMENT

Issue 4

Father's fourth issue relates to an assault he allegedly suffered at the hands of Mother's boyfriend at one of N.'s baseball games. He claims that, at the August 6, 2024 modification hearing, the court did not take the assault into consideration in determining whether "additional services[,] such as a home study," were necessary for the children's safety and well-being. He also claims that the incident "coincides with visitation being withheld" by Mother.

Initially, we note that Father never asked for additional services, such as a home study, in response to the incident that occurred at the baseball game, and thus, the claim is not preserved. *See* Md. Rule 8-131(a). To the extent he argues that the court did not consider the incident in deciding to change visitation to supervised, the argument lacks

merit. It is clear from the record that the court heard testimony about the altercation at the baseball game. In rendering its ruling, the court noted that it had "listened to the parties" and to the evidence as it applies to the pertinent *Sanders* and *Taylor* factors.

A trial court need not mention every piece of evidence or address every conceivable argument to demonstrate that it has conducted the appropriate analysis. *See Viamonte v. Viamonte*, 131 Md. App. 151, 161 (2000) (explaining that when making a custody decision, the trial court does not always need to make an "isolated finding" on the specific concerns of each party; instead, this Court "simply required that all inferences upon which the custody decision is based must have factual support in the record"); *Thomas v. City of Annapolis*, 113 Md. App. 440, 450 (1997) (explaining that the trial court is "not required to set out in detail each and every step of [its] thought process").

A fair reading of the court's oral ruling demonstrates that the court, as it expressly stated, considered the testimony and other evidence when assessing the relevant factors. It was apparent from the court's ruling that its primary concern about Father's visitation was his drug use, and it appeared to give little to no weight to the altercation that occurred at the baseball game in changing his access to supervised visitation. Based on the court's remarks about drug use being the "elephant in the room" and other findings made on the record, we can presume that the court did consider the evidence of the altercation and gave it the weight it deserved when deciding to change Father's visitation to supervised.

Issues 5 and 6

In his fifth issue, Father claims that after the review hearing on December 26, 2023, the court decided to conduct an evidentiary hearing just two days later, without giving him proper notice or sufficient time to prepare.

In his related sixth issue, Father complains that the short notice for the evidentiary hearing limited his ability to procure evidence of the reasons for his failed efforts to comply with the court's order requiring monthly random drug testing. That evidence, he continues, would have been used to show that the positive drug tests were "isolated incidents rather than habitual use as pursued by the court."

The claims lack merit. At the beginning of the hearing on December 26, 2023, the court asked Mother's attorney whether Mother was requesting a drug test for Father during the proceeding. Counsel replied that it "doesn't matter to us" because Father had previously tested positive and had then failed to appear for testing on December 18. Father's attorney responded that Father was ready and willing to take a test but argued that the reasons for any missed testing dates should be addressed at the merits hearing regarding the modification request, rather than at the review hearing.

The court ordered Father to submit to a drug test during the hearing, which subsequently returned positive results for amphetamines, methamphetamines, and THC. Mother's attorney then requested a modification of the existing order to ensure the children's safety, seeking either supervised visitation or no visitation until Father provided a clean urinalysis and attended a drug treatment program.

Father's attorney contended that he had not yet had the opportunity to authenticate the previous drug testing results and argued that the court could not hold an evidentiary hearing without adequate notice.

The court expressed concern that waiting to resolve the issue until the next scheduled hearing would not be in the children's best interest, especially given Father's continual drug use. The court acknowledged Father's attorney's position but ultimately offered both parties the option to continue the hearing that day or postpone it until December 28.

After a brief recess, Father's attorney informed the court that Father agreed to research rehabilitation and treatment programs and requested to return in two days to explore available options. As a result, the court continued the hearing until December 28. At that time, Father voluntarily agreed to suspend visitation pending the outcome of a rehabilitation evaluation and treatment.

This decision was based on Father's recent drug use and the necessity for him to achieve sobriety before resuming visits with the children. In getting what he asked for, Father cannot now complain about any aspect of the court's decision to continue the hearing. *See Klauenberg v. State*, 355 Md. 528, 545 (1999) ("Because he received the remedy for which he asked, appellant has no grounds for appeal.").

Issue 7

Father next challenges the psychological report admitted into evidence at the August 8, 2024 modification hearing because: (1) he was given no opportunity to agree or disagree with the assignment of a Delaware-based evaluator to his Maryland case; (2) he missed his

son's baseball game to complete the evaluation; (3) had he been aware the evaluation, which he claimed was inaccurate, would be submitted to the court as an exhibit, he would have objected to its admission; and (4) his fee waiver was denied because he had already paid for the evaluation.

All these objections could have been made to the court at the hearing, but they were not. Therefore, they cannot be raised for the first time now. *See* Md. Rule 8-131(a).

Issue 8

Father's eighth issue relates to the *pendente lite* hearing on May 13, 2024. However, the claim of error is unclear in his brief. It seems that his complaint focuses on the court's explanation regarding its inability to provide services such as a parent coordinator, community-supervised visitation, or a fee waiver for the ordered services. We are unable to discern any error on the part of the court in merely advising Father that certain services were not offered directly by the court. The requirement for Father to find these services within the community and to pay for them does not constitute a basis for any finding of error or abuse of discretion in the court's order regarding those services.

Issue 9

Father complains about the provider of his supervised visitation, who rented space in a building owned by the attorney representing Mother. He believes this arrangement created a conflict of interest. Additionally, he states that the visitation supervisor, who testified on August 6, 2024, did not personally supervise his visits with N.; instead, she assigned another person to do so. In his view, the visitation supervisor should not have been allowed to assign another supervisor without his consent or to provide her opinion on

what type of visitation would be in N.'s best interest. Furthermore, Father complains that payment for supervised visitation is only accepted in cash or via CashApp and that he was not informed of a fee increase that occurred after two visits.

During the modification hearing on August 6, 2024, Father did not express any concerns regarding a potential conflict of interest that the visitation supervisor might have. Therefore, he has forfeited his right to raise this issue for the first time on appeal. *See* Md. Rule 8-131(a). During the hearing, Father did testify that he was surprised that the visitation supervisor did not personally supervise his three visits with N. and to the fact that the rate for visitation supervision increased without notice. He did not, however, object to the visitation supervisor's testimony, and any disagreement he might have with visitation supervision or its related fees would best have been handled in a motion to the circuit court and is not the proper subject of an appeal.

Issue 10

Father avers that the court erred in awarding Mother sole physical custody of the children following the modification hearing on August 6, 2024, without adequately explaining or supporting this decision. He argues that the court failed to consider favorable evidence regarding his fitness as a parent, such as negative drug tests. Additionally, he claims that the court did not take into account his financial situation, the nature of his employment, or the challenges he faces in taking time off from work.

Father overlooks that the hearing addressed Mother's request to modify the July 12, 2023 order. This request sought sole legal custody for Mother and to make Father's visitation supervised. However, Mother's request did not challenge the award of sole

physical custody that both parties had agreed to in the July 12, 2023 order. Furthermore, Father did not ask to modify that order regarding sole physical custody. Thus, the August 6, 2024 hearing focused on Mother's request for sole *legal* custody, a request the court ultimately did not grant after reviewing the pertinent *Sanders* and *Taylor* factors.

Regarding the court's evaluation of evidence concerning his parental fitness and financial situation, the court reviewed the evidence presented and considered it in making the following findings:

> And the first factor is the fitness of the parent. I don't have any problem with finding that . . . Mom is a fit parent. I have questions with regard to Dad, specifically, his continued drug usage and his credibility or honesty. When it comes to being pinned down on certain things, his testimony changes quickly, and you know, he blames others. [He claimed that the information reported by] the psychiatrist . . . is wrong.
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> * * *
>
> The financial status of the parents. I really didn't hear anything negative of [sic] that. The only concern the [c]ourt has is that . . . the drug usage has been the issue from day one, but he can't do it because it is going to cost him some money. And he can't do it, you know. And again, I would hope that a parent would put their children first, and what is in their best interest, and somehow, make ends meet.

As stated earlier, the court indicated that it had listened to the parties involved and considered the evidence in light of various factors. Here, Father's arguments relate to the weight of the evidence and the inferences that should be drawn from it. However, the court was not required to give more weight to certain facts presented by Father over other relevant facts. In addition, it is not the function of this Court to retry the case or reweigh the evidence. *See Kremen v. Md. Auto. Ins. Fund*, 363 Md. 663, 682 (2001).

Issues 11, 12, and 13

Father challenges the "enforcement" of the provision of the court's August 8, 2024 order that granted the parties joint legal custody. He says that he has difficulty obtaining information about the children from Mother and receives little detail in her responses to his inquiries on AppClose about the children's medical appointments, school calendars, and extracurricular activities. However, enforcement issues stemming from this order do not present any actionable error or abuse of discretion in the entry of the court's August 8, 2024 order.

Issue 14

Father contests the provision in the August 8, 2024 order that requires him to pay for supervised visitation. He complains about the "[i]nability of the court to provide services and ordering services for which [it] cannot provide financial aid," such as community supervised visitation. In addition, Father argues that he did not agree to this arrangement and cannot afford the service. However, Father did not raise this issue during the hearing on August 6, 2024; his testimony about his financial difficulties was related to a treatment program. Therefore, he cannot raise this claim of error for the first time on appeal. *See* Md. Rule 8-131(a).

Issue 15

Father disputes the requirement in the August 8, 2024 order mandating that he undergo a drug and alcohol evaluation and follow any recommendations that arise from it. He claims, without pointing to any evidence in the record, that he had all negative drug

tests in court in 2024. He argues that the court did not sufficiently demonstrate the necessity for him to complete a drug and alcohol evaluation as a condition for visiting his children.

First, we point out that the court's order did not stipulate that Father's drug and alcohol evaluation was a prerequisite for his visitation with the children. The order allowed Father to have supervised visitation without any conditions, other than the requirement that he arrange the visits through Family Support Services and pay for them.

Second, we find no error or abuse of discretion in the court's order of a drug and alcohol evaluation. Father never disputed his history of drug use, and his counsel acknowledged this issue during closing arguments, stating, "[w]e can't just disregard the drug issue, that is the elephant in the room." The court also recognized Father's ongoing drug use—evidenced by positive tests for amphetamines, methamphetamines, and marijuana—as "the elephant in the room." Furthermore, Father voluntarily gave up visitation with the children in December 2023 to engage in drug rehabilitation, which, despite his subsequent decision not to enter a program, demonstrates his acknowledgment of a drug problem. Therefore, we cannot say the court abused its discretion by ordering Father to undergo a drug evaluation and to comply with the recommended treatment plan as part of its custody and visitation ruling.

Issue 16

Father challenges the requirement in the August 8, 2024 order that he undergo random weekly drug testing through MedExpress, with Family Court Services being involved in the process. He argues that after the hearing, he learned that the Delaware

MedExpress no longer conducts drug testing, and he adds that the court has not granted him a fee waiver for this testing.

First, it was Father who suggested that specific MedExpress location as an option at the August 6, 2024 hearing, apparently without adequately researching its feasibility for drug testing. Since the court relied on Father's request for testing at that location, we cannot say that the court erred by including this provision in the order.

Second, as with various concerns raised by Father, this issue that arose after the hearing is best addressed by filing a petition or motion to the circuit court and is not appropriately brought before us in this appeal.

Issue 17

Next, Father contests the provision in the August 8, 2024 order that grants him video contact with the minor children at least once a week, under supervision agreed upon by both parties. Father claims that the terms of this provision are "vague." He also notes that he and Mother cannot reach an agreement regarding the required supervision for the video calls and that N. is only available for video communication on Sunday evenings.

To the extent that Father claims that this provision was an abuse of discretion, we disagree. The court was well within its discretion to structure the order regarding video calls in a way that allowed for supervision while also accommodating the schedules of both the parties and the children.

Regarding the challenges in enforcing the provision, such enforcement issues should be addressed through a petition or motion to the circuit court and are not appropriate for consideration in this appeal.

Issue 18

Father also takes issue with the provision in the August 8, 2024 order that prohibits both parties from discussing the custody case or speaking about each other in a derogatory manner in the presence of the children. While Father agrees with this provision, he argues that it is one-sided and cannot be enforced. He explains that his communication with the children is monitored by Mother or others, whereas Mother is not held accountable for her remarks to the children. He fears that this situation will lead to parental alienation.

To the extent that Father claims that this provision was an abuse of discretion, we disagree. The court was well within its discretion in structuring the order as it did, based on evidence presented at trial. Mother's testimony established that Father has engaged in inappropriate discussions with the youngest child about "adult issues" that she believed an eight-year-old should not be aware of.

Like other issues raised by Father, any post-hearing enforcement problems should be addressed through a petition or motion to the circuit court and are not appropriate for consideration in this appeal.

Issue 19

Father claims that the August 8, 2024 order omitted elements contained in the July 12, 2023 order, which Father claims remained in the best interest of the children. However, Father made no suggestion to the court during the August 6, 2024 hearing that he sought to retain those conditions, such as requiring each parent to respond to the other's communications within twenty-four hours or having the children engage in reunification

counseling/therapeutic visitation. That he did not do so renders the issue unappealable. *See* Md. Rule 8-131(a).

Issue 20

Father argues that the court erred by failing to include in the August 8, 2024 order any provision relating to access to the children during holidays, vacations, birthdays, school breaks, or long weekends. We disagree.

The court ordered that Father's supervised visitation must be coordinated through the court's Family Support Services and that he is responsible for the associated costs. While the order did not provide a specific schedule for short-term visits, such as birthdays, it also did not prohibit these visitations. Instead, it required that Father's visitation must be supervised and arranged through Family Support Services.

Regarding longer-term access, such as for holidays and vacations, the court implicitly determined that establishing a visitation schedule was not appropriate under the circumstances. During closing arguments, the BIA noted that if the court were to order supervised visitation through a third party, establishing a holiday and vacation schedule would be challenging. Ultimately, the court ordered that visitation be supervised by Family Support Services and appeared to recognize the practical challenges of establishing a holiday and vacation access schedule. The court did not abuse its discretion by omitting a specific access schedule for these occasions.

III.

OTHER ISSUES

Issue 21

Father expresses concern regarding the role and responsibilities of the BIA. He argues that during both of his conversations with the BIA, he was not given the opportunity to have his attorney present. Additionally, Father claims that the BIA had discussions with Mother and the children without his knowledge, which he believes violates his joint legal custody rights. He also points out that the BIA failed to enforce therapy for the children in the past.

If Father deemed the BIA to be acting outside the children's best interest in communicating with him or Mother or the children, or in failing to take action, the burden was on him to notify the court before it dismissed the BIA at the closure of the case. Father did not do so and therefore has not preserved this issue for appeal. *See* Md. Rule 8-131(a).

Issue 22

Finally, Father claims, with no support whatsoever, that the Family Support Services department in Cecil County is small and will not be unbiased in its treatment of him. As with other issues on appeal, Father did not raise this concern with the circuit court and may not raise it for the first time now. *See* Md. Rule 8-131(a).[5]

[5] Moreover, it is Father's responsibility to provide legal and factual support for any allegation of error. Our courts have consistently held that "if a point germane to the appeal is not adequately raised in a party's brief, the court may, and ordinarily should, decline to address it." *DiPino v. Davis*, 354 Md. 18, 56 (1999); *see also* Md. Rule 8-504(a)(4) (requiring a "clear concise statement of the facts material to a determination of the (continued)

JUDGMENT ENTERED ON AUGUST 8, 2024 BY THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.

questions presented"). Because Father offers no factual support for this allegation, we would not consider it in any event.