

Circuit Court for Queen Anne's County
Case No. C-17-FM-20-000286

CHILD ACCESS

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1615

September Term, 2025

Ja. M.

v.

Jo. M.

Leahy,
Albright,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: May 22, 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).

Appellant, Ja. M. (“Father”), and appellee, Jo. M. (“Mother”), are the divorced parents of three minor children (collectively, “the Children”).¹ In this appeal, Father challenges an order issued by the Circuit Court for Queen Anne’s County that (1) denied Father’s request for an order modifying child custody; (2) increased the amount of Father’s child support obligation; (3) held Father in contempt for violating orders related to custody and support; and (4) ordered Father to pay Mother’s attorney’s fees in the amount of \$10,000.00. Father presents five questions for our review, which we have reordered and in some cases rephrased:²

1. Did the trial court abuse its discretion in denying Father’s motion to modify custody upon a finding that there was no material change in circumstances that affects the welfare of the minor children?

¹ For the parties’ privacy, and that of the Children, we refer to the parties and witnesses by abbreviated names and initials, and/or their relationship to the Children. We intend no disrespect. The initials we shall use for the Children are not their actual initials.

² Father phrased his questions as follows:

1. Did the trial court abuse its discretion in denying Father’s motion to modify custody upon a finding that there was no material change in circumstances that affects the welfare of the minor children?
2. Did the trial court abuse its discretion in orders specifically related to the contempt issues?
3. Did the trial court abuse its discretion in finding that [Father’s] income is \$150,000.00 for the purpose of calculating child support and finding the resulting arrears amount?
4. Did the trial court err by awarding [Mother] attorney’s fees?
5. Was [Father] deprived of his right to a fair and impartial trial because of the trial court’s apparent bias against him?

2. Did the trial court err in calculating Father’s income for purposes of calculating his child support obligation?
3. Is the court’s order pertaining to contempt issues invalid for failure to include appropriate purge and sanction provisions?
4. Did the trial court abuse its discretion in awarding Mother attorney’s fees?
5. Does the record demonstrate that the court was biased against Father such that Father was deprived of a fair and impartial trial?

For the reasons set forth below, we shall vacate the orders holding Father in contempt but shall otherwise affirm the judgment of the circuit court.

BACKGROUND

The parties were married in 2016. Under the terms of the parties’ judgment of divorce, which was entered on February 1, 2022, Mother was granted primary physical custody of the Children, A., B., and C., who were then four years old, two years old, and seven months old, respectively. Father was granted access to the Children every other weekend, from Friday evening to Monday morning; for two weeks in the summer; and on certain holidays, pursuant to a schedule. The parties were granted joint legal custody with Mother having tie-breaking authority. Father was ordered to pay Mother child support in the amount of \$4,650.00 per month. Father was also ordered to pay any outstanding balance for daycare expenses through January 2022, after which time Mother was to be responsible for payment of daycare expenses.

Father noted an appeal from the judgment of divorce in which he raised several issues, including a challenge to the award of primary physical custody to Mother. In an unreported opinion, this Court affirmed, holding that there was extensive support in the

record for the five factual findings on which the trial court based its custody decision, specifically:

(1) concerns over Father’s drinking, (2) Father’s reluctance to provide any support for the parties’ third child, (3) the parties’ failed communications with respect to the [C]hildren’s healthcare . . . , (4) Father’s inability to take the [C]hildren to daycare due to his work schedule, and (5) Father’s failure to make childcare and mortgage payments.

Proceedings Following First Appeal

Following the disposition of the first appeal, but before the filing of the motions and rulings that are the subject of this appeal, the parties engaged in further litigation. Mother filed a petition for an order holding Father in contempt for failure to pay child support and failure to pay outstanding daycare expenses. Father filed a petition to modify custody and child support. Mother filed a counter petition to modify custody.

An evidentiary hearing was held before a magistrate in December of 2023. The magistrate recommended denial of the parties’ respective petitions for modification of custody upon a finding that there had been no material change in circumstances. With respect to child support, the magistrate found that Father had left his previous employment and started his own business, and that his salary had decreased by over \$80,000.00 per year, while Mother’s income had increased by approximately \$12,000.00. The magistrate recommended that Father’s monthly child support obligation be decreased, from \$4,650.00 to \$1,952.00.

Regarding Mother’s petitions for contempt, the magistrate determined that Father had a child support arrearage of \$37,233.24. The magistrate found that Father did not meet his burden of demonstrating that he never had the ability to pay more than the

amount paid, but recommended against a finding of contempt, stating that to do so would “garner[] little advantage” for Mother. The magistrate expressed hope that the recommended decrease in Father’s child support obligation would “increase the likelihood that [Father] actually pays support[.]” The magistrate found that Father failed to pay outstanding daycare expenses in the amount of \$3,491.00, but recommended against a finding of contempt.

On May 6, 2024, consistent with the magistrate’s recommendations, the court entered an order granting Father’s motion to modify child support and denying the petitions to modify custody and for orders of contempt.³ The order required Father to pay child support arrears at a rate of twenty-five percent of the basic rate per month, until the arrearage is paid in full.

Motions and Rulings at Issue in This Appeal

On September 23, 2024, Father filed a second petition to modify child support. Mother filed a counter-petition for modification of support and a petition for an order holding Father in contempt of court for (1) failing to pay the full amount of his child support obligation; (2) failing to return the Children to her custody on Christmas Eve 2024, as provided in the existing custody order; and (3) failing to pay outstanding daycare expenses. Father then filed a motion to modify custody, in which he sought primary physical custody of the Children.

³ Father filed exceptions to the magistrate’s recommendations, but the exceptions were vacated by the court because Father failed to file a transcript of the hearing before the magistrate.

A one-day trial was held on August 6, 2025. The parties, who were both represented by counsel, introduced testimony and other evidence through three witnesses: Mother, Father, and Father’s wife (“Stepmother”). At the time of trial, the Children were seven, six, and four years old. Father and Stepmother had been married for three years and were the parents of a fourteen-month-old child.

On August 28, 2025, the court entered a memorandum opinion and order. The court denied Father’s request for an order modifying custody upon a finding that there had been no change in material circumstances that affected the welfare of the children. The court granted Mother’s petition to modify child support and ordered that Father’s child support obligation be increased, from \$1,952.00 to \$2,697.00. The court also found Father in contempt of two court orders. Finally, the court ordered Father to pay Mother \$10,000.00 in attorney’s fees.

Father timely noted this appeal. Additional facts will be supplied as necessary.

DISCUSSION

I. The court did not abuse its discretion in denying Father’s motion for modification of custody.

A. Additional Facts

Father’s Evidence Regarding Custody

Father stated that he was concerned about Mother having primary physical custody due to the Children’s “behavior [and] academics.” That concern apparently did not extend to the oldest child, A., whom Father said “has flourished” and is “extremely smart.” Father described A.’s behavior as “fantastic” and said that he “does great in school.” The youngest child, “C.” was not yet in school but was about to enter pre-kindergarten. Father was “nervous” about it because of C.’s behavior. Father said that C.’s “follows” his older siblings and “chooses who he wants to listen to.” Father testified that C. “listens” to him and Stepmother, but “doesn’t listen” to Mother because she is “soft-spoken[.]” Father said that C. had hit and kicked Mother.

Father’s testimony focused primarily on the middle child, “B.”, whom Father described as “a very happy kid[.]” who has a “couple of behaviors” that “are a little negative.” Father explained that he filed for modification of child custody in January of 2025 because B., who was then in kindergarten, was having “behavioral” and “academic” issues. According to Father, Mother was “oblivious to it.”

B. had been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) in the fall of 2024. At a parent/teacher conference in March of 2025, which both Mother and

Father attended, the possibility of retaining B. in kindergarten for another year was discussed.

In May of 2024, B. was evaluated by the school to determine his levels of performance in reading and mathematics, for the purpose of determining if he qualified for special education services. According to a report of the evaluation, B.'s kindergarten teacher expressed concerns that B. was “behind other children of the same age and unable to do many of the tasks required of their age[.]” The evaluation revealed some weaknesses, but B.'s “overall performance on a broad range of developmental tasks indicated average in both subjects.” The report contained a recommendation that B. have additional help in the classroom and at home.

At Mother's request, Stepmother, who works in the school system, began tutoring B. after school twice a week and attending meetings at his school to provide input regarding B.'s education plan. Stepmother also provided Father and Mother with “resources” for them to work with B. Father testified that B.'s per performance in reading and math improved during the last trimester of the 2024–25 academic year. Ultimately, it was decided that B. would be retained in kindergarten for the 2025–26 academic year.

Father said that B. needs to be “segregate[d] . . . in his own space . . . [so] he can focus without” being distracted by his siblings. Father said that he was able to do that because there are two adults at his house. According to Father, Mother does not “do things academically” with the Children.

Father testified that the Children “behave really, really badly” and “aren't disciplined” when they are with Mother. When asked for an example, Father said that, in

the preceding year, B. “threw a fit” upon returning home from a shopping trip with Mother because Mother did not buy him a toy. Mother placed a video call to Father and said he “needed to talk” to B. because she “couldn’t handle it.”

Father also claimed that the Children were “missing out on opportunities” because of the current custody schedule. When asked to explain, he said:

[The Children] miss out on birthday parties, events, things like that. The ability to be kids. My life revolves around kids, and not just when the [Children] are in my care. I don’t want them to miss out on milestones and things with their sister. I don’t want them to have to miss out on Thanksgiving, on Christmas, on 4th [of] July, like all of that.

Father “frequently” asks Mother for extra time with the Children in addition to his court-ordered time. He said, “there’s a lot of . . . events and just things I want the [Children] to be involved in, and [that] they want to be involved in that they’re not able to do because it’s not my court ordered time.” Mother agrees to his requests for extra time with the Children “[i]f it’s convenient for her.”

Father introduced evidence regarding his use of alcohol and his work schedule: two factors that had influenced the original award of primary custody to Mother. Stepmother testified that Father drinks alcohol “occasionally,” but said that his drinking did not concern her and did not affect his relationship with the Children. Father testified that his current job is “very flexible” in that it allows him to set his own schedule.

Stepmother testified that her relationship with Mother was “decent.” They regularly attend family events together without issue and were able to talk “amicably.” Mother asked Stepmother to share the resources she used to tutor B. so that they would “be on the same page[.]” According to Stepmother, she and Mother “co-parent . . . as a

. . . stepmom/mom relationship pretty well.” Stepmother described the relationship between Mother and Father as “decent.”

Mother’s Evidence Regarding Custody

Mother testified that she creates opportunities for the children to have a good relationship with Father because “it’s important.” She estimated that she had given Father twenty additional days of parenting time in the prior nine-month period. She conceded that she sometimes denied Father’s requests to take the children during her parenting time, but said she had given Father “a lot of extra time” when doing so did not interfere with plans she had already made.

Mother testified that “generally speaking,” she and Father share information concerning the Children. She said their ability to make shared decisions had improved, especially those related to educational and medical issues. According to Mother, she, Father, and Stepmother were able to be cordial when they gathered with the Children for birthdays, school events, and holidays. Mother credited Stepmother for being “helpful” in tutoring B.

Mother introduced behavioral awards that A. and B. had received at school in January of 2024. Upon questioning by Father’s attorney, Mother agreed that she calls Father when the Children have behavioral issues while they are at her house. She disagreed, however, with counsel’s suggestion that she asks Father to “step in” because she cannot “handle the situation.” Mother said, “It’s not that I can’t do it, I ask [Father] to co- parent with me. . . . It’s a situation that both parents need to be made aware of. And it’s not only me letting [Father] know what’s going on in my house, but also making sure

the [Children] know that both parents are involved.” When counsel asked Mother whether the Children “get so unruly” in her custody that she asks Father to pick them up and take them to his house, Mother stated that, on one occasion she and Father agreed that B. and C. who were “pick[ing] at each other[,]” “need[ed] to be separated[.]”

The Court’s Ruling

In denying Father’s petition to modify custody, the court found that Father did not introduce evidence of a material change of circumstances sufficient to require a modification of custody. The court noted that Father’s testimony regarding his concerns about the Children’s academics and behavior was focused solely on B., who had been diagnosed with ADHD. The court found that Father failed to introduce evidence that Mother had abused her tie-breaking authority, stating “[c]ontrary to Father’s assertions, the parties co-parent extremely well and Mother, as primary custodian with tie-breaking authority, has included and respected Father’s input and participation in decisions related to the [C]hildren.”

B. Parties’ Contentions

Father asserts that the court abused its discretion in denying his motion to modify custody because the evidence he produced compelled a finding of a material change in circumstances. Mother maintains that Father failed to introduce any evidence to support a finding of a material change in circumstances. We agree with Mother.

C. Standard of Review

The scope of appellate review for a trial court’s decision on a motion for modification of custody is narrow. *McCready v. McCready*, 323 Md. 476, 484 (1991).

The appellate court “will not set aside factual findings made by the [trial court] unless clearly erroneous, and . . . will not interfere with a decision regarding custody that is founded upon sound legal principles unless there is a clear showing that the [trial court] abused [its] discretion.” *Id.*

A trial court’s finding “is not clearly erroneous if there is competent or material evidence in the record to support the court’s conclusion.” *In re M.H.*, 252 Md. App. 29, 45 (2021) (quoting *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996)). In reviewing the court’s findings, “all evidence contained in an appellate record must be viewed in the light most favorable to the prevailing party below.” *Lemley*, 109 Md. App. at 628.

D. Analysis

“The guiding principle of any child custody decision, whether it be an original award of custody or a modification thereof, is the protection of the welfare and best interests of the child.” *Wagner v. Wagner*, 109 Md. App. 1, 29 (1996) (cleaned up). A final custody order may be modified only “when changes so warrant to protect the best interest of the child.” *McCready*, 323 Md. at 481. The rule that a custody award may not be modified absent a material change in circumstances is “intended to preserve stability for the child and to prevent relitigation of the same issues.” *McMahon v. Piazze*, 162 Md. App. 588, 596 (2005).

In the context of modification of custody, “the term ‘material’ relates to a change that may affect the welfare of a child.” *Wagner*, 109 Md. App. at 28. *Accord Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012) (“A material change of circumstances is a change in circumstances that affects the welfare of the child.”). “If . . . in respect to the

previously known circumstance the evidence of change is *not strong enough*, i.e., either no change or the change itself does not relate to the child’s welfare . . . there can be no consideration given to a modification of custody.” *Wagner*, 109 Md. at 29. As this Court has stated, “when all goes well with children, stability, not change, is in their best interests.” *Levitt v. Levitt*, 79 Md. App. 394, 398 (1989) (cleaned up).

In support of his claim that the evidence at trial did not support the court’s conclusion that there was no material change in circumstances, Father points to evidence introduced in his case tending to show (1) he now had a more flexible work schedule and a “stable and consistent” household; (2) his use of alcohol was no longer a concern; (3) he provided the Children with “extra-curricular activities [and] trips”; (4) the Children enjoyed a close bond with their half-sister; (5) he and Stepmother were able to provide “one-on-one” educational assistance for B.; and (6) Mother “regularly relinquishes her custodial time” to Father with “little advanced notice.” Father points to no evidence, however, tending to show that such changes were “material,” that is, that they affected or potentially affected the Children’s welfare. On the contrary, viewed in the light most favorable to Mother, as the prevailing party, the evidence tended to show that the Children were doing well under the existing custody order. In Father’s words, A. was “flourish[ing]” and B. was a “very happy kid[.]” B. was receiving academic support in both homes. There was no evidence of serious behavioral issues affecting any of the Children. They participated in various extracurricular activities in both homes, and frequently experienced school events, restaurant meals and family celebrations where both Mother and Father were present and cordial to each other.

Based on our review of the record, we are satisfied that the court’s determination that there was no material change in circumstances was supported by the evidence. The court did not abuse its discretion in denying Father’s motion to modify custody.

II. The court did not err in calculating Father’s income.

A. *Additional Facts*

Initial Support Order and First Modification

The original order for child support, included in the judgment of divorce dated February 2, 2022, required Father to pay Mother child support in the amount of \$4,650.00 per month. The order was based on a finding that Father earned \$10,077.00 per month, or \$120,924.00 annually.

Following the evidentiary hearing on Father’s first motion for modification of child support, a magistrate found that Father was terminated from his employment in August of 2023 and started his own residential construction business two months later. The magistrate further found that Father paid himself a salary of twenty dollars per hour for 40 hours per week, resulting in monthly earnings of \$3,466.67 per month, or approximately \$41,600.00 annually. The magistrate recommended that Father’s child support obligation be decreased to \$1,952.00 effective October 1, 2023. On May 6, 2024, the court entered an order to that effect.

Second Petition for Modification of Support

Four months later, Father filed a second petition for modification of child support, the one at issue in this appeal, in which he sought a decrease to account for health insurance premiums and for daycare expenses Mother no longer paid because she had

begun receiving financial assistance. Along with his petition, Father filed a financial statement, in which he claimed gross yearly income of \$41,492.00.

Mother filed a counter-petition to modify child support, in which she alleged that Father had failed to disclose all of his businesses or his actual income. Mother alleged that Father's income was in excess of \$212,000.00.

During discovery, Mother obtained financial records from Father's businesses. The week before the hearing, Father filed an updated financial statement in which he represented his gross annual income was \$98,244.00.

Evidence Adduced at Trial

At trial, Mother sought to prove that Father was manipulating his reported income to avoid paying child support. Mother elicited evidence demonstrating that, in October of 2023, Father established two business entities: a limited liability corporation ("the LLC"), and an S-corporation which "manages the money" of the LLC and is "used for payroll purposes" ("the management company"). The only people on the payroll are Father and Stepmother.

Father is the sole member of the LLC, which acts as a subcontractor for Wells Home Improvement ("Wells"), a company that is owned by Father's best friend. Father solicits contracts and prepares customer proposals for Wells, which he signs as a customer representative for Wells. Father goes to Wells's office each day, wears a Wells uniform to work, and attends employee training and other employee functions held by Wells. Father denied, however, that he is employed by Wells.

The LLC’s revenue is comprised mainly of payments from Wells. In 2024, Wells paid the LLC \$211,965.79. That same year, according to Father’s W-2 form, Father paid himself \$23,600.00. In the first six months of 2025, the LLC was paid \$86,637.66. At the time of trial, in August of 2025, Father was paying himself a salary of \$800.00 a week, or \$41,600.00 annually.

When he was asked how he decided on the amount of his salary from the LLC, Father said that he came up with a figure that he “would be able to pay” and still be able to pay company expenses. Father introduced into evidence profit and loss statements of the LLC, which were prepared by an accountant based solely on the LLC’s bank statements, which indicated total expenses of \$129,406.31 in 2024, and \$42,777.01 for the first half of 2025. Father did not introduce any other documentation of expenses incurred by the LLC, such as receipts, invoices, or tax returns.

Father acknowledged on direct examination that he also receives personal benefits from the expenses that are paid through the LLC, such as use of his company vehicle, cell phone service, home utilities, storage facility rental, and health insurance. In his written closing argument, Father maintained that his total income, including the value of personal benefits received through the LLC, was \$98,244.00.⁴

⁴ For purposes of calculating child support, “actual income” includes “expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent’s personal living expenses.” Md. Code (1984, 2019 Repl. Vol.), Family Law Article (“FL”) § 12-201(b)(3)(xvi).

Stepmother “run[s] payroll” of the LLC through the management company, a function which takes her approximately twenty minutes to perform. Stepmother is paid \$1,000 biweekly to run payroll and perform administrative duties such as picking up checks and calling customers.

Father denied that he used business funds for personal reasons. On cross-examination, Mother introduced monthly statements for bank accounts titled in the name of the LLC and the management company. Upon further questioning, Father admitted that he used business funds for non-business-related purchases shown on the statements, including groceries, movie tickets, video streaming service, vacations, and activities with the Children. Father claimed to have no knowledge of electronic withdrawals of business funds to a 401K account.

Father admitted that he used LLC funds to purchase tickets to sporting events, but claimed he gave them away to “customers and realtors [he] tried to work through.” Mother introduced into evidence posts from Father’s social media account which included photos of Father and Stepmother at football and hockey games, and a post from September 2024, in which Father offered for sale two “club-level” tickets to several Washington Commanders football games for around \$415 each. Mother also introduced social media posts that showed Father parasailing, boating, and with the Children at a theme park in Florida. Father claimed that he did not pay for those activities.

In her written closing argument, Mother asserted that it was clear that Father was “utilizing his business account as his personal bank account,” and had failed to provide sufficient proof of his legitimate business expenses. Mother argued that, without such

proof, Father’s actual income should be determined by averaging the net income of the LLC, which, according to Mother, was \$209,451.04 in 2024, and was projected to be \$137,255.06 in 2025. Mother submitted that Father’s actual income was \$173,353.05.

Father also suggested to the court that his actual income should be calculated by averaging his 2024 and year-to-date 2025 income, which, Father argued, consisted of the salary he paid himself and half of certain expenses paid by the LLC that also provided him with personal benefits, such as health insurance, truck lease payments, and meals. According to Father, the resulting figure was \$98,244.00.

Ruling of the Court

The court did not accept Father’s claim that his actual income was \$98,244.00, stating that was “somewhat of a financial fiction.” The court determined that Father was working exclusively for Wells, and “running his payments through his businesses.” The court further found that Father intentionally set his wage to a reduced amount to avoid child support obligations, and was utilizing funds in his business account to pay for personal expenditures. Rounding off the figures suggested by Mother, the court found that the LLC had net income of \$209,000.00 in 2024 and a projected net income of \$137,000.00 for 2025. Based on that finding, the court concluded that Father’s actual annual income was \$150,000.00. After applying the child support guidelines, the court determined that Father’s child support was \$2,697.00 per month.

a. Parties’ Contentions

Father contends that the trial court’s finding that his income was \$150,000.00 was “arbitrary.”⁵ Mother maintains that the court’s finding was supported by the evidence, including bank records of the LLC and 2024 and 2025 profit and loss statements.

b. Standard of Review

“[A] trial court may modify a party’s child support obligation if a material change in circumstances has occurred which justifies a modification.” *Ley v. Forman*, 144 Md. App. 658, 665 (2002). “Whether to grant a modification rests within the sound discretion of the trial court and will not be disturbed unless that discretion was arbitrarily used or the judgment was clearly wrong.” *Id.*

c. Legal Framework

In an action to establish or modify an order for child support, the trial court utilizes child support guidelines⁶ that calculate a child support obligation “proportionately between the parents in relation to their ‘adjusted actual incomes.’” *Petrini v. Petrini*, 336

⁵ In the section of Father’s brief addressing the court’s finding with respect to his income, Father presents a separate issue, claiming that the court erred in failing to adjust the amount of his child support arrearage to account for credit for daycare expenses that Mother did not incur. We decline to address this contention as it was not included in Father’s statement of the questions presented for review. *See* Md. Rule 8-504(a)(3) (a parties’ brief must include “[a] statement of the questions presented, separately numbered.”). *See also Peterson v. Evapco, Inc.*, 238 Md. App. 1, 62, (2018) (“[C]onfining litigants to the issues set forth in the ‘Questions Presented’ segment of their brief ensures that the issues presented are obvious to all parties and th[is] Court.” (cleaned up)).

⁶ In Maryland, the Child Support Guidelines are codified in §§ 12-201 through 12-204 of the Family Law Article.

Md. 453, 461 (1994). “The amount of actual income that drives the specific amount of the [child] support award under the guidelines is a factual finding that is required in every case.” *Walker v. Grow*, 170 Md. App. 255, 284 (2006). The term “[a]ctual income” means income from any source.” FL § 12-201(b)(1). “In making an actual income determination, ‘[t]he court **must verify** the parents’ income statements ‘with documentation of both current and past actual income.’” *Walker*, 170 Md. App. at 269 (quoting Md. Code (1991, 2012 Repl. Vol.), § 12–203(b)(1) of the Family Law Article) (emphasis added). “[S]uitable documentation of actual income includes pay stubs, employer statements otherwise admissible under the rules of evidence, or receipts and expenses if self-employed, and copies of each parent’s 3 most recent tax returns.” FL § 12-203(b)(2)(i).

The General Assembly has “afforded trial courts the latitude to consider all the relevant circumstances in a particular case before making any determination about what should be considered in calculating a parent’s support obligation.” *Petrini*, 336 Md. at 463. Relevant here, an additional factor that the court should assess when considering an original award of child support or a modification thereto is “the fact that a parent’s take-home income may not accurately reflect his or her actual standard of living[.]” *Sczudlo v. Berry*, 129 Md. App. 529, 539 (1999). *See also Walker*, 170 Md. App. at 281 (stating that, in determining a parent’s actual income, the court “must take special care to ensure that the parent is not utilizing [a business entity] to manipulate his or her income to avoid child support obligations”).

d. Analysis

We perceive no clear error in the court’s finding regarding Father’s income. “For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, “actual income” means gross receipts minus ordinary and necessary expenses required to produce income.” *Walker*, 170 Md. App. at 267–68 (quoting FL § 12-201(b)(2)). Father’s evidence demonstrated that the LLC had gross income of \$215,729.79 in 2024, and \$86,637.66 in the first six months of 2025. Mother conceded, and the court apparently accepted, that the gross income should be reduced by amount claimed for the cost of goods sold, which, as Father claimed, resulted in net income of \$205,600.27 in 2024, and \$62,696.96 for the first six months of 2025. Using the averaging approach urged by both parties results in income of \$14,905.40 per month over the eighteen month period, resulting in annual net income of \$178,864.80.⁷

Although Father claimed the LLC incurred expenses of over \$129,000.00 in 2024 and \$42,000.00 in 2025, the court evidently did not give much credit to that evidence, a decision it was free to make. *See Walker*, 170 Md. App. at 275 (“The trier of fact may believe or disbelieve, accredit or disregard, any evidence introduced.”). Father, who bore the burden of demonstrating that income from his business was not available for child

⁷ This is not to say that “averaging” would always be the appropriate way of determining a party’s actual income under FL § 12-201(b). Below, both parties urged the court to “average” Father’s 2024 and 2025 net income for the purpose of determining his “actual income.” Here, they do not contend that that approach was inappropriate.

support,⁸ offered no supporting documentation—other than profit and loss statements based solely on information in the LLC’s bank statements. Moreover, evidence that Father used funds in the LLC account for personal purposes was compelling and, for the most part, unchallenged.

Mother conceded that banking statements of the LLC were “occasionally peppered with expenses that could be considered legitimate business expenses,” but, argued that, because Father failed to provide supporting documentation, it was “just as likely” that they were not. In determining that Father’s income was \$150,000.00, rather \$173,353.05, as Mother proposed, the court apparently gave Father the benefit of the doubt with respect to a portion of the claimed expenses. Under the facts of this case, we find no clear error in the court’s finding that Father’s actual income was \$150,000.00.

III. The provisions of the court’s order holding Father in contempt are invalid.

a. *Additional Facts*

Mother alleged in her petition that Father was in contempt for (1) failing to return the Children to her care on Christmas Eve 2024; (2) failing to comply with the order to pay unpaid daycare expenses; and (3) failing to pay the full amount of his child support obligation, resulting in an arrearage of \$47,443.76.

The court granted Mother’s petition for an order holding Father in contempt of the holiday access schedule for Christmas Eve 2024. To purge the contempt, Father was

⁸ *See Walker*, 170 Md. App. at 281 (where a parent attempts to exclude pass-through income in the assessment of that parent’s child support obligation, “[t]he burden is on the parent seeking to exclude [business] income from actual income to persuade the court that the [business] income is not available for child support purposes”).

required to “arrange with Mother make-up time and . . . strictly follow the holiday access schedule all years going forward[.]”

The court also found Father in contempt of the order for child support, stating:

Father also utilizes the business bank account to pay for transportation, meals out, and expensive gifts for the children instead of paying his **full** child support. Because the child support is being collected by the Bureau [of child support enforcement] via a wage lien, the [c]ourt finds that . . . Father has intentionally set his wage to a reduced amount to prevent a **full** payment of monthly child support, accumulating an arrearage of \$47,433.76 as of August 6, 2025. . . . Further, Father has intentionally created his business structure to pay his wife a salary for very little business work to filter money into his household. It is deceitful, willful and contemptuous.

To purge the contempt, Father was required to pay ten percent of the arrearage within 30 days, and to “adjust his payroll to enable full payment of his monthly child support obligation going forward[.]”

The court did not express a finding that Father was in contempt for failing to pay the outstanding daycare balance, but noted that the May 6, 2024, order did not specify a date by which the payment had to be made. The court ordered:

Father shall have 60 days to pay to . . . Mother the sum of \$3,491.00 for the daycare balance. This is now an Order that is definite, certain and specific about what is to occur with this payment. Failure to pay could result in a further contempt proceeding where one potential sanction, among others, could be the payment of attorney’s fees.

b. *Parties’ Contentions*

Father contends that the provisions of the trial court’s order related to the contempt issues are “impermissible and not allowable by law.” According to Father, the order regarding the missed custodial time “did not have a sanction, did not have an appropriate purge provision, and was not intended to coerce future compliance[.]” but

was intended to “punish” Father for his past conduct.” Father further argues that the order regarding failure to pay child support is impermissible because it is “devoid of a permissible sanction” and the purge provision does not set forth a “definite and specific” action which Father must do to purge the contempt.⁹

Mother maintains that the purge provision of the court’s order are valid. Mother does not address the lack of sanction.

c. *Legal Framework*

“[T]he purpose of civil contempt is to coerce present or future compliance with a court order, whereas imposing a sanction for past misconduct is the function of criminal contempt[.]” *Dodson v. Dodson*, 380 Md. 438, 448 (2004). “The coercive mechanism of an order of constructive civil contempt is the imposition of a sanction that the contemnor is able to avoid by taking some definite, specified action of which the contemnor is reasonably capable.” *Breona C. v. Rodney D.*, 253 Md. App. 67, 74 (2021). Accordingly, an order holding a person in constructive civil contempt is not valid unless it:

- (1) imposes a sanction; (2) includes a purge provision that gives the contemnor the opportunity to avoid the sanction by taking a definite, specific action of which the contemnor is reasonably capable; and (3) is designed to coerce the contemnor’s future compliance with a valid legal requirement rather than to punish the contemnor for past, completed conduct.

⁹ Father further asserts that the court’s order directing Father to pay Mother \$3,491.00 for daycare expenses was impermissible because it did not include a sanction. As the court did not find that Father was in contempt of the prior order, no sanction was required.

Father also claims that court improperly ordered that the payment be made to Mother, rather than the daycare provider. Because Father did not raise this argument in the trial court, it was not preserved for appellate review, and we decline to address it. *See* Md. Rule 8-131(a).

Id. “[T]o serve the coercive purpose of civil contempt, the sanction must be distinct from the purge provision and the valid legal requirement the court seeks to enforce.” *Id.* “If the sanction imposed is a requirement to take the very action the court says will purge the contempt, then undertaking the purge action necessarily completes, rather than avoids, the sanction.” *Id.* (citing *Kowalczyk v. Bresler*, 231 Md. App. 209, 211 (2016)). “And if the sanction imposed is to act in accord with the same legal requirement with which the court seeks to coerce compliance, there is no coercive mechanism at all. Instead, there is just a second order directing compliance with an existing order.” *Id.*

d. Standard of Review

“Generally, an appellate court will not ‘disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed.’” *Sayed A. v. Susan A.*, 265 Md. App. 40, 69–70 (2025) (quoting *Kowalczyk*, 231 Md. App. at 209). “However, ‘where the order involves an interpretation and application of statutory and case law, we must determine whether the circuit court’s conclusions are “legally correct” under a de novo standard of review.’” *Id.* (quoting *Kowalczyk*, 231 Md. App. at 209).

e. Analysis

With respect to Mother’s petition for an order holding Father in contempt for failing to return the Children to her custody, the court’s order states: “Father is found to be in contempt of the holiday access schedule for Christmas Eve 2024 and to purge his contempt he shall arrange with Mother make-up time and will strictly follow the holiday

access schedule all years going forward[.]” We agree with Father that this provision of the court’s order must be reversed because it lacks valid sanction and purge provisions.

Our decision is guided by *Breona C., supra*, in which the mother of a minor child was held in constructive civil contempt for violating a custody order by failing to return the child to her father as required by the terms of a custody order. *Breona C.*, 253 Md. App. at 72. The written contempt order did not identify a sanction, but provided that the mother “may purge this contempt by strictly following and complying with the ongoing” custody order. *Id.* We reversed the contempt order because (1) the order lacked a valid sanction, such as a fine, a period of incarceration, or other penalty; (2) the perpetual obligation to comply with the custody order was not a valid purge provision because it did not permit the mother to “avoid a defined sanction by engaging in specific conduct[;]” and (3) the order was not designed to compel future compliance, as the order was based solely on a finding of “past, completed contempt” and there was no evidence of ongoing non-compliance. *Id.* at 75–76.

Here, as in *Breona C.*, the order holding Father in contempt of the custody order did not impose a sanction. Moreover, the purge requirement to “strictly follow the holiday access schedule all years going forward” did not permit Father to avoid a defined sanction by engaging in specific conduct and thereby exonerate himself of the contempt charge, nor is the requirement for Father to arrange “make-up time” with Mother specific or definite enough to advise Father what he must do to purge the contempt. Furthermore, the order was not designed to compel future compliance as it was based on a singular,

completed act of contempt.¹⁰ Consequently, we shall vacate the order holding Father in contempt of the provisions of the custody order relating to holiday access.

Similarly, the order holding Father in contempt for failing to pay child support pursuant to the court’s prior orders contains no sanction, only a purge provision.¹¹

Accordingly, that order must also be vacated.

IV. The court did not err in awarding attorney’s fees to Mother.

a. Additional Facts

Mother asked the court to award attorney’s fees in the amount of \$22,667.19. The court granted the request in part and ordered Father to pay \$10,000.00 in attorney’s fees, stating:

This matter began with Father’s Petition to Modify Child Support, which was brought in bad faith, after receiving a decrease in 2024. Father’s income far exceeds the amount determined by the Magistrate in 2024. Mother was forced to hire counsel to defend against a reduction when Father wasn’t even paying his current obligation. The Court believes the Petition to Modify Custody was also in bad faith when the allegations in the original petition were barely argued at trial.

¹⁰ We have recognized that an order of constructive civil contempt could possibly be issued where a party engages in a pattern of contemptuous conduct that “could reasonably be found to be ongoing at the time of a contempt hearing even if the putative contemnor is not technically out of compliance with the order at the moment of the hearing.” *Breona C.*, 253 Md. App. at 76 n.6. That is not the case here.

¹¹ Because we conclude that the contempt order related to child support must be vacated for lack of a sanction, we need not resolve the issue of whether the purge provision requiring Father to adjust his payroll to enable full payment of his monthly child support obligation going forward” was valid. We note, however, that Maryland Rule 15-207(e)(4) provides: “If the contemnor does not have the present ability to purge the contempt, the order may include directions that the contemnor make specified payments on the arrearage at future times and perform specified acts to enable the contemnor to comply with the direction to make payments.”

The court found that Father had the ability to pay attorney’s fees, while Mother did not.

b. Parties’ Contentions

Father asserts that the trial court erred in awarding Mother attorney’s fees in the amount of \$10,000. He claims that the evidence did not support the court’s findings with respect to his income and lack of justification for filing for modification of custody and support. Mother claims that the court acted within its discretion in granting attorney’s fees.

c. Standard of Review

“[T]he trial court is vested with wide discretion in deciding whether to award counsel fees and, if so, in what amount.” *Malin v. Mininberg*, 153 Md. App. 358, 435–36 (2003) (cleaned up). An award of attorney’s fees in family law cases is reviewed under an abuse of discretion standard. *Sang Ho Na v. Gillespie*, 234 Md. App. 742, 756 (2017). To determine whether a court abused its discretion in awarding attorney’s fees, “we examine the court’s application of the statutory factors to the unique facts of the case.” *Id.* “If the court gives proper consideration to the statutory factors and the circumstances of the case, an award of attorney’s fees will not be reversed unless a court’s discretion was exercised arbitrarily or the judgment was clearly wrong.” *Henriquez v. Henriquez*, 185 Md. App. 465, 476 (2009) (cleaned up).

d. Analysis

In an action concerning custody, support, or visitation of a child of the parties, the trial court “may award to either party the costs and counsel fees that are just and proper under all the circumstances.” FL § 12-103(a). The statutory factors the court must

consider before making such an award are “(1) the financial status of each party; (2) the needs of each party; and (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding.” FL § 12-103(b).

By taking into account the parties’ justifications for bringing and defending their respective claims as well as the parties’ relative financial statuses and needs, the court considered each factor under FL § 12-103(b). We perceive no clear error in the court’s findings with respect to these factors. Consequently, we cannot say that the court abused its discretion in granting, in part, Mother’s request for an award of attorney’s fees.

V. Father was not deprived of his right to a fair and impartial trial.

a. Additional Facts

The day before trial, Father filed a motion for recusal of the judge assigned to hear the case. Father alleged that he had consulted with the judge regarding representation for the initial divorce, when the judge was still a practicing attorney. Father disagreed with the recommendations provided. After being appointed to the bench, the judge presided over the initial divorce trial in 2022, without objection. Father argued that, in granting Mother primary physical custody, the judge was “punish[ing]” Father “for his failure to follow his recommendations,” and that there was “a true question regarding the judge’s impartiality.” The judge denied the motion to recuse, stating that Father had failed to set forth grounds that warranted recusal.

b. Parties’ Contentions

Father claims that the court was biased against him and that he was deprived of a fair trial as result. In support of his claim, Father points to one adverse evidentiary ruling,

and one favorable evidentiary ruling that was followed by the comment, “whether or not [the court] believe[s] it or not is another question.” Father further claims that the court demonstrated impartiality with “body language and tone[,]” and by ignoring “glaring issues” regarding Mother’s credibility. Mother contends that Father has not pointed to any evidence that the trial court was biased.

c. Standard of Review

“When a litigant claims that a trial judge is biased or prejudiced, or lacks impartiality, and that claim is preserved, we use an objective standard to review such claims.” *Harford Mem’l Hosp., Inc. v. Jones*, 264 Md. App. 520, 547, *cert. denied*, 490 Md. 640 (2025). “[W]e ask ‘whether a reasonable member of the public knowing all the circumstances would be led to the conclusion that the judge’s impartiality might reasonably be questioned.’” *Id.* (quoting *Reed v. Baltimore Life Ins. Co.*, 127 Md. App. 536, 554 (1999)). “[O]ur task on direct appeal is not to adjudicate judicial misconduct,” instead, “our inquiry is limited to what impact, if any, the trial judge’s alleged conduct had on the appellant’s ability to obtain a fair trial.” *Id.* (cleaned up).

d. Analysis

Father’s arguments primarily stem from adverse final decisions made by the trial court against him, not from true allegations of bias or lack of impartiality. Because “adverse rulings or decisions made by [the circuit court] in a judicial setting” are not “impermissible judicial conduct[,]” Father’s complaints do not constitute impermissible bias or amount to a lack of impartiality or fairness. *See S. Easton Neighborhood Ass’n*,

Inc. v. Town of Easton, 387 Md. 468, 501 (2005). We decline to hold that Father was deprived of a fair and impartial trial because of bias on the part of the trial court.

THE PROVISIONS OF THE ORDER OF CIRCUIT COURT FOR QUEEN ANNE’S COUNTY DATED AUGUST 28, 2025 HOLDING APPELLANT IN CONTEMPT ARE REVERSED. ORDER IS OTHERWISE AFFIRMED. CASE REMANDED WITH INSTRUCTIONS TO VACATE THE ORDER AND ENTER A NEW ORDER CONSISTENT WITH THIS OPINION.

FOUR FIFTHS OF COSTS TO BE PAID BY APPELLANT. ONE FIFTH OF COSTS TO BE PAID BY APPELLEE.