Circuit Court for Harford County
Case Nos. 12-C-07-000968; C-12-FM-18-000382

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1625

September Term, 2022

M. Z.

v.

M. M.

Tang,
Albright,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: May 23, 2024

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

This appeal[1] concerns the shielding of judicial records related to domestic violence protective orders.[2] Section 4-512 of Maryland's Family Law Article provides two separate shielding procedures: Subsection (d) applies to records for protective order petitions that were denied or dismissed, while Subsection (e) applies to records for petitions that were granted with the respondent's consent.[3] Under both subsections, whether the petitioner objects or consents to shielding is relevant, but even if the petitioner does consent, the court retains discretion over the ultimate decision.

[1] For the parties' privacy, we refer to them by their abbreviated names and use only the initials of their names on the cover page of this opinion. Ms. M. shared Mr. Z.'s last name during their marriage, but her last name now begins with "M." Thus, we have changed the caption of the case to "M. Z. v. M. M." We also refer to the parties' son, a minor at the time of the shielding hearing, as "C." This initial was chosen at random and may or may not correspond to his actual name. We mean no disrespect in abbreviating the names of the parties and of their son.

[2] Fam. Law Section 4-512(a)(4) defines "shielding" as:

> (i) with respect to a record kept in a courthouse, removing the record to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and
>
> (ii) with respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, completely removing all information concerning the proceeding from the public website, including the names of the parties, case numbers, and any reference to the proceeding or any reference to the removal of the proceeding from the public website.

[3] The terms "petitioner" and "respondent" in Section 4-512 are in reference to the initial petition for protective order, not the petition for shielding. We follow this usage throughout this opinion, and thus occasionally refer to Ms. M. as "petitioner" and Mr. Z. as "respondent."

Nonetheless, as we discuss below, the procedures are not entirely the same. This appeal focuses mainly on a dismissed protective order, so Subsection (d).

For protective orders that were denied or dismissed (Subsection (d)), the petitioner's objection to shielding does not, by itself, preclude shielding. Instead, on finding that four predicate requirements[4] are met (none of which is the petitioner's consent), the court "shall" shield "all court records relating to the proceeding"[5] unless it

[4] Section 4-512(d)(3) reads:

> Except as provided in paragraphs (4) and (5) of this subsection, after the hearing, the court shall order the shielding of all court records relating to the proceeding if the court finds:
>
> (i) that the petition was denied or dismissed at the interim, temporary, or final protective order stage of the proceeding;
>
> (ii) that a final protective order or peace order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;
>
> (iii) that the respondent has not been found guilty of a crime arising from abuse against the petitioner; and
>
> (iv) that none of the following are pending at the time of the hearing:
>
> 1. an interim or temporary protective order or peace order issued against the respondent in a proceeding between the petitioner and the respondent; or
>
> 2. a criminal charge against the respondent arising from alleged abuse against the petitioner.

[5] Under the shielding statute, "court record" means "an official record of a court about a proceeding that the clerk of a court or other court personnel keeps." Fam. Law § 4-512(a)(2)(i). Court records include "an index, a docket entry, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment" as well as

finds "good cause" to deny shielding. Whether good cause exists is a question that may be raised by the court on its own motion or on the objection of the petitioner. In determining whether there is good cause to deny shielding, the court must "balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community." Fam. Law § 4-512(d)(4)(ii).

As for protective orders that were entered with the respondent's consent, in order for the court to grant shielding under Subsection (e), the petitioner must consent to respondent's shielding request.[6] If the petitioner does not consent, the court must deny

"any electronic information about a proceeding on the website maintained by the Maryland Judiciary." Fam. Law § 4-512(a)(2)(ii).

[6] Subsections (e)(1)(iv)–(vi) provide:

> (iv) Except as provided in subparagraph (vi) of this paragraph and subject to subparagraph (v) of this paragraph, after the hearing, the court may order the shielding of all court records relating to the proceeding if the court finds:
>
> 1. for cases in which the respondent requests shielding, that the petitioner consents to the shielding;
> 2. that the respondent did not violate the protective order during its term;
> 3. that a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;
> 4. that the respondent has not been found guilty of a crime arising from abuse against the petitioner; and
> 5. that none of the following are pending at the time of the hearing:

the shielding request.[7] Still, even if the petitioner does consent to shielding (and the court finds that four other predicates are met), the court is not required to shield the records.

A. an interim or temporary peace order or protective order issued against the respondent; or

B. a criminal charge against the respondent arising from alleged abuse against an individual.

(v) In determining whether court records should be shielded under this paragraph, the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community.

(vi) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

[7] Under Fam. Law Section 4-512(e)(2), the respondent may refile a shielding request denied due to lack of petitioner's consent one year after the denial. The petitioner's consent to shielding is no longer required for a shielding request so refiled. However, if the petitioner still does not consent to the refiled request, the court must find instead "that it is unlikely that the respondent will commit an act of abuse against the petitioner in the future." Fam. Law. § 4-512(e)(2)(iv)(1)(B). In full, Section 4-512(e)(2) reads:

(i) If the respondent consented to the entry of a protective order under this subtitle, but the petitioner did not consent to shielding at the hearing under paragraph (1) of this subsection, the respondent may refile a written request for shielding after 1 year from the date of the hearing under paragraph (1) of this subsection.

(ii) On the filing of a request for shielding under this paragraph, the court shall schedule a hearing on the request.

(iii) The court shall give notice of the hearing to the other party or the other party's counsel of record.

Instead, the court "may" shield the records "subject to" the same balancing test described above. Fam. Law § 4-512(e)(1)(v).

(iv) Except as provided in subparagraph (vi) of this paragraph and subject to subparagraph (v) of this paragraph, after the hearing, the court may order the shielding of all court records relating to the proceeding if the court finds:

1. A. that the petitioner consents to the shielding; or

B. that the petitioner does not consent to the shielding, but that it is unlikely that the respondent will commit an act of abuse against the petitioner in the future;

2. that the respondent did not violate the protective order during its term;

3. that a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent;

4. that the respondent has not been found guilty of a crime arising from abuse against the petitioner; and

5. that none of the following are pending at the time of the hearing:

A. an interim or temporary peace order or protective order issued against the respondent; or

B. a criminal charge against the respondent arising from alleged abuse against an individual.

(v) In determining whether court records should be shielded under this paragraph, the court shall balance the privacy of the petitioner or the respondent and potential danger of adverse consequences to the petitioner or the respondent against the potential risk of future harm and danger to the petitioner and the community.

(vi) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

In this case, Appellant Mr. Z. petitioned the Circuit Court for Harford County under Section 4-512 to shield the records related to two protective orders. Mr. Z.'s ex-wife, Appellee Ms. M., was the petitioner on both. The first protective order was denied and dismissed in 2007.[8] The second protective order, to which Mr. Z. consented in 2018, was sought by Ms. M. on behalf of the parties' minor son, C. Ms. M. objected to both shielding requests. After an evidentiary hearing, the circuit court denied them. Mr. Z.'s timely appeal followed.

Mr. Z. presents three questions, which we have slightly rephrased:

1. Whether the trial court incorrectly interpreted the statutory phrases "future harm" and "potential danger" when it engaged in its "good cause" balancing test, which was required when Appellee did not consent to shielding of a dismissed protective order.
2. Whether the trial court's decision to deny the petition to shield was an abuse of discretion in light of the testimony that fifteen years had gone by since the protective order was dismissed, the parties led separate lives, only interacted regarding their son, with the Appellant only yelling at the Appellee over the phone during that time, among other evidence.[9]

[8] The Order indicates that Ms. M.'s petition was denied and dismissed. For ease, we will say that it was denied.

[9] Mr. Z. phrased his questions as follows:

1. Whether the trial court incorrectly interpreted the statutory phrases "future harm" and "potential danger" when it engaged in its "good cause" balancing test, which was required when Appellee did not consent to shielding of a dismissed protective order.
2. Whether the trial court's decision to deny the petition to shield was well beyond the center mark of acceptable outcomes in

3. Whether the trial court committed reversible error when it sustained an objection based on Md. Rule 5-408 and thus excluded material and probative impeachment testimony of negotiations about Appellee's willingness to withdraw her opposition to the shielding in exchange for a truck.

For the reasons stated below, we answer "no" to all three questions. We therefore affirm the judgments of the circuit court.

BACKGROUND

We start with some background about the parties and the protective orders and then move to the shielding hearing (and decision) that generated this appeal.

In 2007, Ms. M. petitioned the circuit court for a protective order against Mr. Z. She did so while the parties' divorce case was pending in the same court. In her petition, Ms. M. alleged that Mr. Z. had abused her in various ways. With the circuit court's approval, the parties agreed to the denial and dismissal of Ms. M.'s petition and the "placement" of an agreement in their divorce case.[10]

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light of the testimony that fifteen years had gone by since the protective order was dismissed, the parties led separate lives, only interacted regarding their son, with the Appellant only yelling at the Appellee over the phone during that time, among other evidence.

3. Whether the trial court committed prejudicial error when it incorrectly sustained objection based on Md. Rule 5-408 and thus excluded material and probative impeachment testimony of negotiations about Appellee's willingness to withdraw her opposition to the shielding in exchange for a truck.

[10] Mr. Z. states that the parties' agreement included "non-abuse provisions" similar to those of the Denied PO. However, the terms of the agreement are not in the record.

In 2018, Ms. M. petitioned for protection from Mr. Z. not for herself but on behalf of the parties' minor son, C. Ms. M. alleged that Mr. Z. forced C., then thirteen years old, to smoke marijuana with him. Unlike the 2007 protective order, Mr. Z. consented to the 2018 protective order. Thus, the circuit court issued a final protective order against Mr. Z. that lasted four months. For clarity, we refer to the 2007 protective order as "Denied PO" and the 2018 protective order as "Consent PO."

Under the terms of the Consent PO, Ms. M. was awarded primary physical custody of C.; legal custody was to "remain joint."[11] Thereafter, C. lived with Ms. M. until late 2021, when he temporarily moved in with Mr. Z. He resumed living with Ms. M. around May 2022.

In June 2022, Mr. Z. requested shielding of records related to both protective orders. Ms. M. opposed both requests. After granting Ms. M's request for consolidation, the court, consistent with Section 4-512(d)(1) and Section 4-512(e)(1)(ii), scheduled a hearing on both requests.[12]

[11] This appears to be a reference to the custodial arrangements in the parties' Judgment of Absolute Divorce ("JAD"), which issued in a separate case in 2008. The JAD awarded the parties joint legal custody of C. and shared physical custody upon a specified schedule. Thus, the 2018 Consent PO modified the JAD's physical custody arrangements for C. (shared to primary with Ms. M.) but not the JAD's legal custody award.

[12] Section 4-512(d)(1) provides: "If a petition was denied or dismissed at the interim, temporary, or final protective order stage of a proceeding under this subtitle, on the filing of a written request for shielding under this section, the court shall schedule a hearing on the request." Similarly, Section 4-512(e)(i)(ii) reads: "On the filing of a request for shielding under this paragraph [i.e., Subsection (e)], the court shall schedule a hearing on the request.

At the shielding hearing, the circuit court heard testimony from Mr. Z., Ms. M., and C.[13] Mr. Z. testified that he had had little contact with Ms. M. since their divorce, but that he and C. had a good relationship and did many activities together. Relevant to this appeal, the circuit court prevented Mr. Z. from testifying during direct examination about purported settlement negotiations with Ms. M. Counsel proffered that Mr. Z. would have testified that he and Ms. M. had been discussing a settlement agreement whereby Ms. M. would drop her opposition to shielding in exchange for Mr. Z. returning a truck that he had purchased for C. but later repossessed. On cross-examination, counsel for Ms. M. brought up Mr. Z.'s alcohol use. Mr. Z. confirmed that two years prior, he had entered in-patient rehabilitation for alcohol abuse but admitted that he still drank "occasionally."

Ms. M. testified that she was afraid of Mr. Z. She testified that while she had not had physical contact with him since their divorce, when they spoke on the phone, he often yelled at her and used abusive language. Ms. M. testified that on one call, Mr. Z. threatened her: "I will end your world, you f___ing c__t." According to Ms. M., Mr. Z. made this threat during a phone conversation about paying tuition for C. This conversation took place in the "last few years," but Ms. M. did not provide a date. Elsewhere, Ms. M. identified two occasions within the last year when Mr. Z. had yelled "vulgar obscenities" at her over the phone.

[13] The circuit court also heard brief testimony from Ms. M.'s husband, whose testimony solely concerned an interaction with Mr. Z. about the disputed truck.

C., seventeen years old at the time of the hearing, testified about his experiences while living with Mr. Z. Mr. Z. provided C. with beer and allowed him to drink alcohol and smoke marijuana. Mr. Z. was himself drunk "every day[,]" according to C., even following his stay at the rehabilitation facility. On one occasion, C. observed Mr. Z. attempt to drive while intoxicated.

C. also testified about Mr. Z.'s anger issues. C. testified that he "would get yelled at for anything [Mr. Z.] could come up with." C. described one particularly dramatic dispute during which Mr. Z. threatened to kick C. out of the home. On that occasion, Mr. Z.'s yelling "scared" C., and he subsequently left Mr. Z.'s home to stay with a friend.

Following closing argument, the circuit court denied Mr. Z.'s shielding requests and delivered an oral opinion. The circuit court began by noting that Ms. M. opposed both of Mr. Z.'s shielding requests. Under Section 4-512(e)(1)(iv)(1), the circuit court was therefore obligated to deny Mr. Z.'s request to shield the Consent PO records.

With regard to the Denied PO, the circuit court found "good cause" to deny shielding even though the predicate requirements had been satisfied. The circuit court explained:

> What the Court has heard in this case is that this has continued to be – and when I say "volatile," I don't mean physically volatile. I haven't heard any evidence of recent physical encounters between the parties, but that this has remained a volatile relationship where it's challenging for the parties to communicate. […]
>
> [T]he testimony that we've received from [Mr. Z.] is that he's a business owner; he has concerns that this information being available to the public is a potential harm to his business. I have no doubt that his concerns within that respect are sincere and legitimate. However, I also find that the concerns

> raised by the original petitioners in this case remain legitimate concerns that they have with regard to any future damage that might be concerned. There's a continued volatile relationship between the parties. I don't need to get into the weeds of there could be a very sincere, valid argument as to why [Mr. Z.] may have repossessed, for lack of a better term, the vehicles if payments weren't being paid. It sounds like there have been arguments that have occurred between him and his son with respect to communications which he and his wife may have deemed to be inappropriate that the child viewed as joking but that the parent, stepparent, didn't view as such.
>
> But the Court, in balancing the privacy concerns of [Mr. Z.] with regards to the concerns of [Ms. M.] and [C.] for any future harm, simply falls on the side of the original petitioner, that I do not believe that this is an appropriate matter to be shielded at this time. So I will deny the petition to shield.

A standard form Order followed, listing both case numbers, and memorializing the circuit court's decision. The circuit court noted that Ms. M. "appeared at the hearing and objects to the shielding." After performing the requisite balancing test, the circuit court found good cause to deny shielding based on the "[o]ngoing contentious relationship" between the parties and "[a]llegations of continuing threats."

MR. Z.'S CONTENTIONS

Mr. Z. contends that the circuit court erred in not granting his request to shield the Denied PO records under Section 4-512(d).[14] *First*, he argues that the circuit court incorrectly interpreted the phrase "potential risk of future harm and danger" in the Subsection (d) balancing test. Fam. Law § 4-512(d)(4)(ii). *Second*, he argues that the circuit court abused its discretion in applying that balancing test. *Third*, he argues that the circuit court committed prejudicial error in excluding his testimony about purported

[14] In response to Mr. Z.'s brief, Ms. M. filed a short response indicating that she was electing not to file an appellate brief. She did not appear at oral argument.

settlement negotiations with Ms. M.

We disagree with all of Mr. Z's arguments. After outlining the proper standards of review that apply here, and identifying one question that is not properly before us, we explain why we disagree.

STANDARD OF REVIEW

We review questions of statutory interpretation *de novo*. *Damon v. Robles*, 245 Md. App. 233, 243 (2020). We review a circuit court's discretionary decisions for abuse of discretion. *Sumpter v. Sumpter*, 436 Md. 74, 82 (2013) ("Discretionary trial court matters are much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed when it is apparent that some serious error or abuse of discretion or autocratic action has occurred."). To warrant reversal for abuse of discretion, the circuit court's decision must be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective." *North v. North*, 102 Md. App. 1, 14 (1994). Finally, we review decisions about the admissibility of evidence either under an abuse of discretion standard or *de novo* depending on the specifics of the issue. If the appealed evidentiary ruling involved "discretionary weighing of relevance in relation to other factors[,]" we apply the abuse of discretion standard, but we review *de novo* any evidentiary ruling that "involves a pure legal question." *Hall v. Univ. of Md.*

Med. Sys. Corp., 398 Md. 67, 82 (2007) (quoting *Bern–Shaw Ltd. P'ship v. Mayor of Balt.*, 377 Md. 277, 291 (2003)).

DISCUSSION

I. If Mr. Z. had intended to challenge the denial of shielding of the Consent PO records, we do not address it.

To the extent that Mr. Z. appears to challenge the circuit court's denial of his request to shield the Consent PO records, that challenge is not properly before us because Mr. Z. has presented no question or argument about the circuit court's denial of this request. An appellate brief must include "[a] statement of the questions presented, separately numbered, indicating the legal propositions involved and the questions of fact at issue." Md. Rule 8-504(a)(3). Additionally, a brief must have "[a]rgument in support of the party's position on each issue." Md. Rule 8-504(a)(6). Our Supreme Court has interpreted Rule 8-504 as a requirement that an appellant "articulate and adequately argue all issues the appellant desires the appellate court to consider in the appellant's initial brief." *Oak Crest Village, Inc. v. Murphy*, 379 Md. 229, 241 (2004). Thus, "arguments not presented in a brief or not presented with particularity will not be considered on appeal." *Klauenberg v. State*, 355 Md. 528, 552 (1999). Although we strive to read appellants' briefs generously and we make a good-faith effort to resolve ambiguities and inconsistencies therein, we are not obliged to "delve through the record" or seek out additional legal authority to fill gaps in an appellant's arguments. *Rollins v. Cap. Plaza Assocs., L.P.*, 181 Md. App. 188, 201–02 (2008).

Here, to be sure, Mr. Z.'s brief mentions the circuit court's denial of his request to shield the Consent PO records, but he presents no questions about this decision or arguments about why it is wrong. Plainly read, Mr. Z's first two questions refer only to the Denied (or dismissed) PO.[15] Although the scope of Mr. Z's third question is somewhat less clear, the corresponding section in Mr. Z.'s brief refers to a singular "shielding request" and invokes only the "good cause" provision found in Subsection (d), the provision that applies to the shielding of denied or dismissed protective orders, not consent protective orders.[16] In sum, Mr. Z. has not adequately challenged—much less presented a legal argument with particularity about—the shielding of the Consent PO records.

Even if Mr. Z. had challenged the circuit court's denial of his request to shield the Consent PO records, we would likely have concluded that there is no basis for overturning the circuit court's decision. Before the evidentiary hearing, Ms. M. unequivocally opposed the shielding of both protective orders. She repeated this position at the evidentiary hearing. Under Section 4-512(e)(1)(iv)(1), the petitioner's consent is

[15] The first question refers in the singular to "a *dismissed* protective order[,]" and the second asks "[w]hether the trial court's decision to deny the petition to shield was [an abuse of discretion] in light of the testimony that fifteen years had gone by since the protective order was *dismissed*" (emphasis added).

[16] Specifically, Mr. Z. asserts: "Because Appellee objected to the shielding request, the trial court was required to engage in a 'good cause' balancing test." For consent protective orders, though, a petitioner's objection to shielding would require denial of the shielding request, and thus the court would not reach any balancing test. In any event, the phrase "good cause" appears only in Subsection (d), not Subsection (e).

required to shield a consented-to protective order. While the Consent PO protected C., Ms. M. was the petitioner, and thus her consent to shielding—not C.'s, as Mr. Z. suggests—was required under Section 4-512(e)(1)(iv)(1). That consent was absent here, and thus the circuit court could not have granted Mr. Z.'s request to shield the Consent PO.[17]

II. Section 4-512(d)(4) of the Family Law article does not require a showing of "abuse" in order to find "good cause" to deny shielding.

Mr. Z. first contends that, as a matter of law, the trial court incorrectly interpreted Sections 4-512(d)(4)(ii). Mr. Z. argues that the terms "harm" and "danger" in subsection (ii) must be understood according to the context of the statutory scheme in which they appear. Section 4-512 appears in a subtitle called "Domestic Violence," so Mr. Z. argues that Section 4-512(d)(4)(ii) must be read through the lens of domestic violence. Specifically, Mr. Z. argues for narrowly interpreting both "harm" and "danger" in terms

[17] There is nothing in the record to suggest that C. consented either.

of "abuse" as defined in the Domestic Violence subtitle's definitions section. Fam. Law § 4-501(b)(1).[18]

As noted earlier, we review questions of statutory interpretation *de novo*. *Damon*, 245 Md. App. at 243. When interpreting a statute, our primary objective is to "ascertain the General Assembly's purpose and intent when it enacted the statute." *Berry v. Queen*, 469 Md. 674, 687 (2020). "To ascertain the intent of the General Assembly, our analysis begins with the normal, plain meaning of the language of the statute." *Wheeling v. Selene Finance LP*, 473 Md. 356, 376 (2021). To carry out this analysis, "we read the plain meaning of the statute as a whole, so that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory." *Id*. (internal quotation omitted). When a statutory term is not expressly defined, we often look to dictionary definitions to

[18] Fam. Law Section 4-501(b)(1) defines "abuse" as follows:

"Abuse" means any of the following acts:

(i) an act that causes serious bodily harm;

(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;

(iii) assault in any degree;

(iv) rape or sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment;

(vi) stalking under § 3-802 of the Criminal Law Article; or

(vii) revenge porn under § 3-809 of the Criminal Law Article.

discern the "ordinary and popular meaning of the term." *Vanderpool v. State*, 261 Md. App. 163, 312 A.3d 803, 813 (2024) (cleaned up).[19]

Our inquiry begins with a provision's language, but it does not necessarily end there, as "[t]he meaning of the plainest language is controlled by the context in which it appears." *Brown v. State*, 454 Md. 546, 551 (2017) (quoting *Stickley v. State Farm Fire & Cas. Co.*, 431 Md. 347, 359 (2013)). Ultimately, a provision's plain language "must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim or policy of the Legislature in enacting the statute." *Berry*, 469 Md. at 687 (internal quotations omitted).

The overarching purpose of the analysis of a statute's plain language is "to ascertain whether the statute is ambiguous." *Vanderpool*, 312 A.3d at 813. A statutory provision is ambiguous when its language is "subject to more than one interpretation, or when the terms are ambiguous when it is part of a larger statutory scheme." *Int'l Ass'n of Fire Fighters v. Mayor & City Council of Cumberland*, 407 Md. 1, 9 (2008). To resolve such ambiguity, we look to other evidence of the legislature's intent, including "the statute's legislative history, case law, statutory purpose, as well as the structure of the statute." *Id.* On the other hand, when a provision's language is clear and unambiguous, both in isolation and when read as part of a larger statutory scheme, then "we need not

[19] As of the filing of this opinion, pagination for this Court's recently published opinion in *Vanderpool* is available on Westlaw only with respect to the Atlantic Reporter, not the Maryland Appellate Reports. We therefore cite to both reporters and provide pincites according to the Atlantic Reporter pagination.

look beyond the statute's provisions and our analysis ends." *Brown*, 454 Md. at 551 (2017) (quoting *Phillips v. State*, 451 Md. 180, 196-97 (2017)). When that is the case, we simply "apply the statute as written, without resort to other rules of construction," and "[w]e neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with forced or subtle interpretations that limit or extend its application." *Lockshin v. Semsker*, 412 Md. 257, 275 (2010) (internal quotation omitted). Additionally, when interpreting a statutory provision "we avoid a construction of the statute that is unreasonable, illogical, or inconsistent with common sense." *Bellard v. State*, 452 Md. 467, 481 (2017) (quoting *Wagner v. State*, 445 Md. 404, 419 (2015)).

Here, Mr. Z. does not claim that Section 4-512(d)(4)(ii) is ambiguous either by itself or in the context of its larger statutory scheme. Nor do we see any such ambiguity in the provision. Our task, therefore, is to interpret the legislature's intent by determining the plain meaning of the statutory language.

Title 4, Subtitle 5 of Maryland's Family Law Article (the Domestic Violence subtitle) does not define "harm" or "danger," so to determine the plain meaning of those words we look to their "ordinary and popular meaning[,]" including as defined in dictionaries. *Vanderpool*, 312 A.3d. at 813. Black's Law Dictionary defines "harm" as "[i]njury, loss, damage; material or tangible detriment," and "danger" as "[p]eril;

exposure to harm, loss, pain or other negative result."[20] As a matter of plain meaning, then, both terms are substantially broader than the narrow definition of "abuse" provided in Section 4-501(b)(1). And although Mr. Z. correctly points out that in determining the plain meaning of the terms "harm" and "danger" we may consider Section 4-512's position in a statutory scheme focused on combatting domestic violence, that consideration does not allow us to simply ignore the actual language of Section 4-512(d)(4)(ii).

In effect, Mr. Z. asks us to substitute the word "abuse," as defined in Section 4-501(b)(1), for the words "harm" and "danger" in Section 4-512(d)(4)(ii)'s phrase "potential risk of future harm and danger." But the General Assembly did not use the word "abuse" in Section 4-512(d)(4)(ii); it used the words "harm" and "danger." Had the General Assembly intended for courts to consider more narrowly the potential risk of future "abuse" under the Section 4-512(d)(4)(ii) balancing test, it could have expressly used the word "abuse" in this subsection, as it did elsewhere in Subtitle 5.

There are at least two places in Subtitle 5 where, in legislating remedies for future abuse (i.e., abuse that might occur after the initial protective order), the General Assembly used the words "abuse" or "abusing." *First*, in Section 4-506(c)(1)(ii), the

[20] *Harm*, BLACK'S LAW DICTIONARY (11th ed. 2019); *Danger*, BLACK'S LAW DICTIONARY (11th ed. 2019). Merriam-Webster's definitions are similarly broad. "Harm" is defined as "physical or mental damage; injury[.]" *Harm*, THE MERRIAM-WEBSTER DICTIONARY (2016). "Danger" is defined as "exposure or liability to injury, harm, or evil[.]" *Danger*, THE MERRIAM-WEBSTER DICTIONARY (2016).

General Assembly provided that a court may issue a final protective order "to protect any person eligible for relief from abuse." To do so, the court may order a respondent to "refrain from abusing or threatening to abuse any person eligible for relief[.]" Fam. Law § 4-506(d)(1). *Second*, in Section 4-507(a)(3)(i)(1), the General Assembly provided that a protective order could be extended on finding, during the term of the protective order, "a subsequent act of abuse against a person eligible for relief." From these provisions, it is apparent that when the General Assembly wanted courts to focus on future abuse, it said so directly by using the words "abuse" or "abusing" coupled with forward-looking language. Nothing of the sort appears in Section 4-512(d)(4)(ii) regarding shielding.

Ultimately, if the General Assembly had intended to confine the court's discretion to deny the shielding of denied or dismissed protective order records to instances in which privacy interests (and the danger of adverse consequences) outweighed "the potential risk of future abuse," it could have said so. It did not. Reading Section 4-512(d)(4)(ii) as Mr. Z. suggests would "add…language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute." *Lockshin*, 412 Md. at 275. We decline to read the statute this way.

III. The circuit court did not abuse its discretion in declining to shield the Denied PO records.

At the core of Mr. Z.'s appeal is his contention that the circuit court abused its discretion when it denied his shielding request for the Denied PO records. Mr. Z. argues that the circuit court's decision was an abuse of discretion because it did not logically follow from the evidence. Specifically, he argues that the facts before the circuit court did

not support finding any meaningful "potential risk of future harm and danger to the petitioner or community" on one side of the Section 4-512(d)(4)(ii) balancing test. Without such a finding, the circuit court should not have found good cause to deny the shielding request.

We review the circuit court's weighing of the Section 4-512(d)(4)(ii) factors for abuse of discretion. As discussed above, a decision that fails to meet standards of minimum acceptability—for example, by not "follow[ing] logically from the facts found by the court"—is an abuse of discretion. *North*, 102 Md. App. at 14.

Mr. Z. makes two arguments to support his position. Mr. Z.'s first argument directly applies his legal theory, rejected earlier, that "harm" and "danger" as used in the Section 4-512(d)(4)(ii) balancing test are essentially equivalent to "abuse" as defined in Section 4-501(b)(1). Mr. Z. does not dispute that he threatened to "end [Ms. M.'s] world."[21] But phone conversations do not constitute "abuse," his argument goes, and therefore were not sufficient to support a finding of good cause under the Section 4-512(d)(4)(ii) balancing test. As we discussed above, though, "harm" and "danger" in Section 4-512(d)(4)(ii) are not limited to "abuse." In other words, a showing of "abuse" as defined in Section 4-501(b)(1) is not necessary to establish a "potential risk of future

[21] At the shielding hearing, Mr. Z. did not challenge Ms. M.'s testimony that he made the threat. In his appellate brief, he makes this unprompted admission: "It's not nice to have said, in times gone by, 'I will end your world, you f___ing c__t. You're a b___h.' [] But that was a long past communication from a 'few years' ago over which the Appellee would simply hang up the phone on the Appellant."

harm and danger to the petitioner or community" under Section 4-512(d)(4)(ii). Even if the parties' phone conversations did not constitute "abuse" under Section 4-501(b)(1),[22] so long as they tended to show whether Mr. Z. posed a "potential risk of future harm and danger" (and were otherwise admissible, which is not in dispute), the circuit court was free to consider them when balancing the Section 4-512(d)(4)(ii) factors.

Mr. Z.'s second line of argument focuses more squarely on facts bearing on the "potential risk of future harm and danger" to Ms. M. Mr. Z. points to several facts that he claims make that risk "non-existent or incredibly unlikely,"[23] and thus contends that the circuit court had no factual basis for its finding of good cause. He concludes that the circuit court abused its discretion in denying his shielding request because its finding of good cause did not logically follow from the facts.

[22] This is not to say that verbal threats could never amount to "abuse." Indeed, Section 4-501(b)(1)(ii) defines "abuse" to include "an act that places a person eligible for relief in fear of imminent serious bodily harm[.]" *See also Frazelle-Foster v. Foster*, 250 Md. App. 52, 82 (2021) ("[I]t is clear that the Maryland General Assembly and the courts understand domestic abuse to encompass verbal and psychological abuse in addition to physical violence.").

[23] *First*, Mr. Z. notes the circuit court's finding that since the disposition of the Denied PO he had not been found guilty of a crime involving abuse of Ms. M, and he asserts on that basis that he has not physically harmed Ms. M. in the fifteen years since their divorce. That history, he argues, tends to show that he is not likely to harm Ms. M. in the future. *Second*, Mr. Z. points to C.'s testimony that he has no desire for a future relationship with his father. *Third*, Mr. Z. points out that C. turned 18 shortly after the shielding hearing. He infers that C.'s emancipation means that he and Ms. M. will have little or no need to further interact, and that any risk of future harm to Ms. M. is thereby attenuated. *Fourth*, Mr. Z. testified that he and Ms. M. do not see one another unless they intend to because they do not share social circles or live near one another (according to Mr. Z., the parties' respective homes are about twenty-five minutes apart by car).

We are not persuaded. First, as discussed *supra*, the phrase "potential risk of future harm and danger" is broad. It encompasses a range of harms, not just "abuse" as defined in Section 4-501, and the risk of those harms may be decidedly speculative. To establish that the circuit court's finding of good cause was an abuse of discretion, Mr. Z. would need to show that the circuit court's determination that he posed a "potential risk of future harm and danger" did not logically follow from the facts before it or otherwise failed to meet minimum standards of acceptability. *North*, 102 Md. App. at 14. But the circuit court heard undisputed evidence that, construed fairly, tended to show that Mr. Z. posed such a risk; in particular, Mr. Z. threatened to "end [Ms. M.'s] world." The circuit court's finding that Mr. Z. posed a "potential risk of future harm or danger" to Ms. M. logically followed from that evidence.

Second, Mr. Z.'s argument *only* addresses the potential risk of future harm and danger to Ms. M. Even if we were persuaded by Mr. Z.'s arguments about the potential risk he poses to Ms. M.—and we are not—he does not make any argument about the potential risk he poses to the "community," including his son C., as called for under the Section 4-512(d)(4)(ii) balancing test.[24] Indeed, in performing the balancing test, the circuit court expressly stated that it weighed the concerns of both Ms. M. and C. for any

[24] We note that the circuit court also had evidence before it that, construed fairly, could support the conclusion that Mr. Z. posed a "potential risk of future harm and danger" to the broader community. For example, C. testified to Mr. Z.'s continuing problems with alcohol, including one occasion on which Mr. Z. tried to drive while intoxicated.

"future harm[.]" The circuit court also expressed concern about Mr. Z.'s abrupt repossession of C.'s truck, which involved an unannounced and uninvited trip to C.'s school, and about C.'s testimony that Mr. Z. often yelled at him for apparently minor infractions. Because Mr. Z.'s argument fails to account for evidence related to C., evidence that the circuit court credited and properly considered in conducting the Section 4-512(d)(4)(ii) balance, we do not agree that the circuit court abused its discretion in finding good cause to deny shielding the Denied PO records.

IV. The circuit court did not commit reversible error in excluding testimony about settlement negotiations.

Mr. Z.'s final argument is that the circuit court committed reversible error when it excluded testimony related to settlement negotiations between the parties. We conclude that even if the circuit court erred in excluding the settlement negotiation evidence (an issue we do not decide), such error does not merit reversal because Mr. Z. has not shown that he was prejudiced by it.

Under Maryland Rule 5-103(a), a trial court's error in admitting or excluding evidence is only reversible when "the party is prejudiced by the ruling." A party trying to establish that it was so prejudiced must show that the error complained of "was likely to have affected the verdict below." *Crane v. Dunn*, 382 Md. 83, 92 (2004). Moreover, "[i]t is not the possibility, but the probability of prejudice which is the object of the appellate inquiry[,]" and "[c]ourts are reluctant to set aside verdicts for errors in the admission or exclusion of evidence unless they cause substantial injustice." *Brown v. Daniel Realty Co.*, 409 Md. 565, 584 (2009) (quoting *Flores v. Bell*, 398 Md. 27, 34 (2007)). Pursuant

to Rule 5-103(a), a party alleging that it was prejudiced by erroneous exclusion of evidence must also have made the substance of the excluded evidence known to the court.[25]

Here, the excluded evidence pertained to alleged settlement negotiations about a pick-up truck that Mr. Z. had purchased for C. and Ms. M.'s objection to shielding:

> [Counsel for Mr. Z]: Most recently, have you ever bought your son a vehicle?
>
> [Mr. Z.]: Yes.
>
> [Counsel for Mr. Z]: Okay. What kind of vehicle?
>
> [Mr. Z.]: I bought him an Audi A4 Quattro that got totaled and then I bought him a Dodge Ram pick-up truck.
>
> [Counsel for Mr. Z]: Okay. And relative to that truck, were there any recent negotiations between you and your ex-wife?
>
> [Counsel for Ms. M.]: Objection, Your Honor. There were settlement discussions between the parties. I do not think it's relevant for this Court to hear.
>
> [Counsel for Mr. Z]: I think it's entirely relevant and I'd like to proffer. I believe that the former petitioner is going to testify that she is afraid for her life regarding her ex-husband. However, I want to offer to the court that she was willing to withdraw her objection --
>
> [Counsel for Ms. M.]: Your Honor --
>
> THE COURT: That's settlement negotiations.
>
> [Counsel for Ms. M] That's settlement negotiations.
>
> THE COURT: It's settlement negotiations; okay? I'll sustain the objection.

[25] If the substance of the evidence was not "apparent from the context within which the evidence was offered[,]" the offering party may make a proffer to that effect. Md. Rule 5-103(a)(2).

> [Counsel for Mr. Z]: May I be heard on that briefly, Your Honor?
>
> THE COURT: Go ahead.
>
> [Counsel for Mr. Z]: Settlement negotiation is designed in tort cases to get people to settle out of court. This isn't a tort case. There's no underlying tort case. I believe the law, that hearsay law is not relevant in this circumstance.

The circuit court sustained Ms. M.'s objection on the basis that Mr. Z.'s testimony would have concerned settlement negotiations, evidence of which is generally inadmissible under Maryland Rule 5-408 to prove "the validity, invalidity, or amount of a civil claim in dispute."

On appeal, Mr. Z. argues that Rule 5-408 is not applicable.[26] He also contends that even if Rule 5-408 did apply, the settlement negotiation evidence was admissible under Subsection (c) of that rule, which allows for admission of otherwise-barred evidence for "another purpose," including showing bias or prejudice of a witness. Under Rule 5-103(a), he continues, the circuit court's erroneous exclusion of the settlement negotiation evidence was reversible error. He asserts that his proffer sufficed to establish the

[26] Mr. Z. makes two equally unavailing arguments. First, he renews his assertion during the shielding hearing that Rule 5-408 only applies in tort cases, and thus was not applicable in the present case. We have found no such rule in Maryland statutes or case law. In fact, Maryland courts have frequently applied Rule 5-408 in non-tort cases. *See, e.g*, *Est. of Castruccio v. Castruccio*, 247 Md. App. 1 (2020) (applying Rule 5-408 in dispute over disposition of estate), *Bittinger v. CSX Transp. Inc.*, 176 Md. App. 262 (2007) (applying Rule 5-408 in action against employer under Federal Employers' Liability Act), *Wolinski v. Browneller*, 115 Md. App. 285 (1997) (overruled on separate grounds by *Koshko v. Haining*, 398 Md. 404 (2007)) (applying Rule 5-408 in custody dispute). Second, he insists that the only possible "civil claim in dispute" for purposes of Rule 5-408 would be a dispute over ownership of the truck. Because there was no such dispute, he concludes, Rule 5-408 is inapposite. This argument fails; the "civil claim in dispute" is Mr. Z.'s shielding petition.

substance of the settlement negotiation evidence and the way in which it would have been used. In his view, Ms. M.'s willingness to drop her objections to shielding in exchange for the return of the truck to C. would have tended to show that, contrary to her testimony, she was not actually afraid of Mr. Z.[27] He concludes that such a showing "was important to [his] case for shielding and for that reason its preclusion was prejudicial."

We perceive no probable prejudice to Mr. Z. from the exclusion of the settlement negotiation evidence, even if, as Mr. Z. contends, that evidence could reasonably have supported the inference that Mr. M. was no longer afraid of Mr. Z. To be sure, "fear of imminent serious bodily harm" is one kind of "abuse" under Section 4-501(b)(1). But, as discussed *supra*, "abuse," or the potential risk of it in the future, is not what the court must weigh in performing Section 4-512(d)(4)(ii)'s balancing test. Instead, the court must look at "the potential risk of future harm and danger to the petitioner and the community." Fam. Law § 4-512(d)(4)(ii). Here, in performing this balancing test, the circuit court found that there was an "ongoing contentious relationship" between the parties and "[a]llegations of continuing threats." Those findings were based on evidence that Mr. Z. continued to have issues with anger and alcohol, had threatened Ms. M. and

[27] Although we refrain from deciding whether the court erred in excluding the evidence under Rule 5-408(a) or whether any of the Rule 5-408(c) exceptions apply, we note that this use of the evidence veers close to the "validity…of a civil claim in dispute"—and thus exclusion under Rule 5-408(a) applies —rather than "another purpose" under 5-408(c) as Mr. Z. claims. Rather than challenging her credibility as a witness, Mr. Z.'s primary purpose in offering the evidence seems to have been to generate substantive evidence—Ms. M.'s alleged lack of fear of Mr. Z.—for the circuit court to weigh in the Section 4-512(d)(4)(ii) balancing test.

yelled vulgar obscenities at her, and continued to have arguments with C. In the face of this evidence, we cannot conclude that exclusion of the settlement negotiation evidence would likely have affected the verdict below or otherwise caused substantial injustice to Mr. Z. *Crane*, 382 Md. at 92; *Brown*, 409 Md. at 584.

CONCLUSION

For the reasons stated above, we affirm the judgments of the circuit court. The circuit court did not err in interpreting, or abuse its discretion in applying, the balancing test in Fam. Law Section 4-512(d)(4)(ii). Nor did it reversibly err in excluding Mr. Z.'s proffered settlement negotiation evidence under Rule 5-408.

JUDGMENTS OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.

The correction notice(s) for this opinion(s) can be found here:

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