

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1646

September Term, 2025

K.J.

v.

P.H., *et al.*

Shaw,
Ripken,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.

Filed: June 29, 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 K.J. (“Mother”) and Appellee P.H. (“Father”) are the unmarried parents of a minor child, K., who was born in 2019.¹ In 2025, following a hearing, the Circuit Court for Anne Arundel County awarded custody of the minor child to his grandparents, established a visitation schedule for Mother, and granted Father supervised access. Mother timely noted this appeal and presents eight questions for our review, which we have consolidated into two:²

1. Did the trial court err or abuse its discretion in finding that Mother was unfit to have custody of the child?
2. Did the trial court err or abuse its discretion in finding that it was in the child’s best interest for Grandparents to have custody?

¹ We refer to the parties and the minor child by their initials to protect their privacy.

² Mother presents her questions as follows:

- I. Did the trial court err in its finding that the Appellee Third Party was entitled to request custody of the minor child?
 - a. Did the trial court err in its determination that the Appellee Third Party did not qualify to be a *de facto* parent of the minor child?
 - b. Did the trial court err in its determination that exceptional circumstances exist in this custody matter?
 - c. Did the trial court err in its determination that the Appellant was unfit to retain custody of the minor child?
 - i. Did the trial court abuse its discretion in its reliance on the Appellant’s protective order filings for its parental unfitness analysis?
 - ii. Did the trial court abuse its discretion in relying on evidence of the Appellant’s mental health despite a lack of foundation or qualification of said evidence?
- II. Did the trial court err by failing to understand the significant facts of the case relevant to the best interest analysis?
- III. Did the trial court err in awarding custody to the Appellee despite their inability to protect the minor child from abuse?

For reasons that follow, we conclude that the circuit court did not err in its unfitness and best interest analyses, and we affirm the judgment of the court.³ As a result, we decline to address the court’s findings regarding exceptional circumstances.

BACKGROUND

Mother and Father met in 2018 in Arlington County, Virginia and welcomed a child, K., in May of 2019. Due to concerns surrounding Mother’s mental health, the Arlington County Department of Human Services assumed custody of K. shortly after his birth and placed him in the care of unrelated foster parents, where he remained until March of 2020.⁴ In March of 2020, K. was placed in the care of Grandparents, who resided in Snohomish County, Washington. That August, custody of K. was awarded to Father, who was residing with Grandparents in their home in Washington at the time.

K. resided with Father and Grandparents until June of 2022, when Father and his then-wife moved out of Grandparents’ home into their own home in Grays Harbor County, Washington. In July of 2022, Father physically assaulted K., who was then three years old, and the Washington State Department of Youth, Children, and Family Services removed K. from Father’s care and placed him into foster care with Grandparents. In November of

³ The trial court here found that Grandparents were not K.’s *de facto* parents, despite their argument to the contrary during trial. Grandparents suggest that Mother’s discussion of *de facto* parenthood in her brief, in which she argues in support of the trial court’s finding, queues the issue up for our review. Grandparents did not file a cross-appeal, however, regarding the court’s denial of *de facto* parenthood. As such, we will not address the issue.

⁴ Father’s paternity was not yet established when K. was born because, at that time, Mother was married to another man.

2022, the Superior Court of Washington placed K. in Mother’s care in Anne Arundel County, Maryland, where he remained until the custody hearing in this case.

In June of 2024, Father filed a Motion to Modify Custody in the Circuit Court for Anne Arundel County. He alleged that Mother had been uncooperative in establishing a regular and consistent schedule for his access with K. Father asserted that he was “a fit and proper parent to have custody of the Minor Child and/or be awarded substantial parenting time and access with the Minor Child[,]” and requested that the court enter a residential custody order and award legal custody in accordance with K.’s best interests. Mother filed a Counter-Motion to modify custody in which she alleged that Father had shown no interest in a relationship with K., and that it was in K.’s best interest to remain in her physical and legal custody.

A *pendente lite* hearing was held on October 25, 2024, before a magistrate. At the conclusion of the hearing, the magistrate recommended that K. remain in Mother’s custody, but that Father have access supervised by Grandparents. Mother filed timely exceptions to the magistrate’s recommendations, and a hearing was set for January of 2025.

In November of 2024, Grandparents moved to intervene and filed a Petition to Modify Custody/Access in which they asserted that they were K.’s *de facto* parents because of their involvement in his life and their concerns about Mother’s mental health. Grandparents alleged that Mother would be noncompliant with any *pendente lite* access order, saying that, “[t]he testimony and evidence presented to the Court on October 25, 2024, demonstrated that Mother will do anything to prevent the Paternal Grandparents and Father from maintaining their relationship with the Minor Child.” Grandparents requested

that the court award them primary physical custody of K., with reasonable access for both parents, and sole legal custody or, in the alternative, tie-breaking authority. The court granted their motion to intervene later that month.

Following a hearing on January 21, 2025, the court denied Mother's exceptions to the magistrate's custody and access recommendations and affirmed the magistrate's access schedule. Father had supervised visits with K. in February and March of 2025, after which, on March 12, 2025, Mother filed a petition for a protective order in the District Court of Maryland for Anne Arundel County. Mother alleged that Father had again physically abused K. during those visits and that Grandparents had failed to protect K. from abuse.

The custody hearing was held from August 19 to August 27 of 2025. The court heard testimony from Mother, Father, and Grandparents, as well as from several other family members including Mother's husband, Father's sister, and Grandmother's uncle. The court also heard from Aria Schrader, K.'s therapist, and Shannon Durieu, a licensed clinical social worker employed by the Custody Evaluation Unit of the Circuit Court for Anne Arundel County. The judge spoke to K. privately in chambers as well.

Ms. Durieu testified regarding her two custody evaluations and both evaluation reports were entered into evidence.⁵ Ms. Durieu reported that, when she completed her first evaluation, she had recommended that Mother and Father share joint legal custody of K.; that Mother have primary physical custody; that Father and Grandparents have

⁵ Ms. Durieu's first custody evaluation report was filed on January 10, 2025. The Circuit Court ordered her to update it on March 12, 2025, and she filed her amended report on August 4, 2025.

visitation; that Mother engage in consistent psychotherapy; and that K. also be enrolled in mental health treatment. Ms. Durieu testified that, by the time of her second evaluation, she had developed a serious concern that Mother would “act as a barrier in [K.] developing a meaningful relationship with his father and grandparents.” She then amended her recommendation to Grandparents having sole legal and primary physical custody, with Mother having visitation.

At the conclusion of the hearing, the judge found that Grandparents were not *de facto* parents, but that Mother and Father were both unfit parents and that exceptional circumstances existed. The judge awarded custody of K. to Grandparents. At a hearing held on September 3, 2025, the judge put his findings of fact on the record. On October 27, 2025, a custody order awarding Grandparents sole physical and legal custody was entered. The order included an access schedule for Mother and granted Father two days per month of supervised access beginning in December. Mother timely noted her appeal.

STANDARD OF REVIEW

“We review a court’s child custody determinations utilizing three interrelated standards of review.” *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). Our Supreme Court described the three interrelated standards as follows:

[W]e point out three distinct aspects of review in child custody disputes. When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court’s] decision should be disturbed only if there has been a clear abuse of discretion.

In re Yve S., 373 Md. at 586 (emphasis omitted).

Generally, “[a] trial court’s findings are ‘not clearly erroneous if there is competent or material evidence in the record to support the court’s conclusion.’” *Azizova v. Suleymanov*, 243 Md. App. 340, 372 (2019) (quoting *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996)). Moreover, in reviewing matters of law, we “review without deference” the trial court’s “[l]egal conclusions of unfitness and exceptional circumstances[.]” *In re Adoption/Guardianship of C.E.*, 464 Md. 26, 47 (2019); *In re Z.F.*, 266 Md. App. 444, 474 (2025).

A trial court is vested with broad discretion “because only [the trial court] sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; [the trial court] is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best promote the welfare of the minor.” *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012) (quoting *In re Yve S.*, 373 Md. at 586). “We will only disturb a decision made within the discretion of the trial court ‘where it is apparent that some serious error or abuse of discretion or autocratic action has occurred.’” *J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 247 (2021) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)). An abuse of discretion occurs “where no reasonable person would take the view adopted by the [trial] court,” or “when the court acts without reference to any guiding rules or principles[.]” *In re Adoption/Guardianship No. 3598*, 347 Md. at 312 (internal quotations omitted).

DISCUSSION

It is well established that, “[p]arents have a fundamental right to direct and control the upbringing of their children.” *In re Victoria C.*, 437 Md. 567, 589 (2014). The Supreme Court of the United States has recognized that the Due Process Clause of the Fourteenth Amendment “protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 66 (2000). “Maryland courts, in turn, have ‘consistently echoed the Supreme Court, declaring a parent’s liberty interest in raising a child a fundamental one that cannot be taken away unless clearly justified.’” *Basciano v. Foster*, 256 Md. App. 107, 131 (2022) (quoting *In re Yve S.*, 373 Md. at 566). This interest is balanced against “children’s ‘indefeasible right to have their best interests fully considered’ in child custody cases.” *Id.* (quoting *A.A. v. Ab.D.*, 246 Md. App. 418, 422 (2020)).

In custody determinations, the test “begins and ends with what is in the best interest of the child.” *Azizova*, 243 Md. App. at 347. “It is the central consideration,” and when applied, the best interest standard “‘does not ignore the interests of the parents and their importance to the child’ as ‘in almost all cases, it is in the best interests of the child to have reasonable maximum opportunity to develop a close and loving relationship with each parent.’” *Basciano*, 256 Md. App. at 131 (citations omitted). “[T]he law recognizes a rebuttable presumption that the child’s best interests will best be served by custody in a biological parent, over a third party[.]” *Karen P. v. Christopher J.B.*, 163 Md. App. 250, 265 (2005). This presumption stems “from the judicially accepted belief that, ‘the affection of a parent for a child is as strong and potent as any that springs from human relations and

leads to a desire and efforts to care properly for and raise the child, which are greater than another would be likely to display.’” *Id.* (quoting *Melton v. Connolly*, 219 Md. 184, 188 (1959)). In child custody disputes between two fit parents,

the parents commence as presumptive equals and a trial court undertakes a balancing of each parent’s relative merits to serve as the primary custodial parent; the child’s best interests tips the scale in favor of an award of custody to one parent or the other. Where the dispute is between a fit parent and a third party, however, both parties do not begin on equal footing in respect to rights to “care, custody, and control” of the children. The parent is asserting a fundamental constitutional right. The third party is not. A private party has no fundamental constitutional right to raise the children of others.

McDermott v. Dougherty, 385 Md. 320, 353 (2005).

To rebut the presumption in favor of custody in a biological parent, a third party must show “that the parents are either unfit or there are exceptional circumstances that would make custody with the parent detrimental to the best interests of the child.” *Burak v. Burak*, 455 Md. 564, 624 (2017); *Karen P.*, 163 Md. App. at 265; *McDermott*, 385 Md. at 357, 374–75.

When tasked with determining either parental unfitness or if exceptional circumstances exist, a trial court must consider certain factors and make factual findings as to those factors. As to parental unfitness, the Supreme Court of Maryland has explained:

We conclude that a court, in determining whether a parent is unfit, may consider whether: (1) the parent has neglected the child by manifesting such indifference to the child’s welfare that it reflects a lack of intent or an inability to discharge his or her parental duties; (2) the parent has abandoned the child; (3) there is evidence that the parent inflicted or allowed another person to inflict physical or mental injury on the child, including, but not limited to physical, sexual, or emotional abuse; (4) the parent suffers from an emotional or mental illness that has a detrimental impact on the parent’s ability to care and provide for the child; (5) the parent otherwise demonstrates a renunciation of his or her duties to care and provide for the child; and (6) the parent has engaged in behavior or conduct that is detrimental to the child’s welfare.

Burak, 455 Md. at 648. The Court went on to specify that “neglect” for the purposes of a finding of unfitness “means that the parent is either unable or unwilling to provide for the child’s ordinary comfort or for the child’s intellectual and moral development.” *Id.*

“If the court does not find either unfitness or exceptional circumstances, the ‘presumption remains, and custody must be awarded to the biological parents (or parent). If the court makes either such finding (parental unfitness or exceptional circumstances), the presumption is rebutted and the court then must resolve the custody dispute by applying the best interest of the child standard.’” *B.G. v. M.R.*, 165 Md. App. 532, 546 (2005) (quoting *Karen P.*, 163 Md. App. at 265).

When awarding custody, “the power of the court is very broad so that it may accomplish the paramount purpose of securing the welfare and promoting the best interest of the child.” *Taylor v. Taylor*, 306 Md. 290, 301–02 (1986). Thus, “it is within the sound discretion of the [trial court] to award custody according to the exigencies of each case, and . . . a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion.” *In re Yve S.*, 373 Md. at 585–86 (quoting *Davis v. Davis*, 280 Md. 119, 125 (1977)).

The court must consider and weigh the various custody factors, set out by this Court and the Supreme Court of Maryland respectively in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1978) and *Taylor v. Taylor*, 306 Md. 290 (1986).⁶

⁶ On May 13, 2025, the Governor approved Senate Bill 548, which created a statutory list of factors for courts to consider when determining legal and physical custody in certain

In *Sanders*, we set forth a list of non-exhaustive criteria trial courts consider in making custody determinations:

1. fitness of the parents;
2. character and reputation of the parties;
3. desire of the natural parents and agreements between the parties;
4. potentiality of maintaining natural family relations;
5. preference of the child;
6. material opportunities affecting the future life of the child;
7. age, health and sex of the child;
8. residences of parents and opportunity for visitation;
9. length of separation from the natural parents; and
10. prior voluntary abandonment or surrender.

38 Md. App. at 420 (internal citations omitted). In *Taylor*, our Supreme Court provided a list of additional, still non-exhaustive, factors, many of which overlap with the *Sanders* factors:

1. capacity of the parents to communicate and to reach shared decisions affecting the child’s welfare;
2. willingness of parents to share custody;
3. fitness of parents;
4. relationship established between the child and each parent;
5. preference of the child;
6. potential disruption of child’s school and social life;
7. geographic proximity of parental homes;
8. demands of parental employment;
9. age and number of children;
10. sincerity of parents’ request;
11. financial status of the parents;
12. impact on state or federal assistance;
13. benefit to parents; and
14. other factors.

306 Md. at 303–11. “[N]o one factor serves as a prerequisite to a custody award.” *Santo v. Santo*, 448 Md. 620, 629 (2016). The trial court “should examine the totality of the situation in the alternative environments and avoid focusing on any single factor” to the

child custody proceedings. 2025 Md. Laws Ch. 484. This law did not go into effect until October 1, 2025, *id.*, and therefore was not in effect during the proceedings in the instant case.

exclusion of all others. *Best v. Best*, 93 Md. App. 644, 656 (1992).

I. The trial court did not err or abuse its discretion in its unfitness analysis.

Mother argues that the court erred in its findings regarding her mental health. Mother contends that evidence regarding her mental health diagnosis was “invalid.” Mother further argues that the court improperly relied on her filings to obtain domestic violence protective orders as evidence of her unfitness.

Mother’s first argument has not been preserved for our review. “Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]” Maryland Rule 8-131(a). “The primary purpose of Rule 8-131(a) is to ensure fairness for all parties in a case and to promote the orderly administration of law.” *In re I.Q.*, 264 Md. App. 265, 327 (2025) (citation omitted); *Hosain v. Malik*, 108 Md. App. 284, 296 (1996). Therefore, to ensure fairness amongst the parties, “counsel [must] bring the position of their client to the attention of the lower court at the trial so that the trial court can pass upon, and possibly correct any errors in the proceedings.” *In re I.Q.*, 264 Md. App. at 327.

Before this Court, Mother argues that the evidence relating to her diagnosis came from Ms. Durieu, a custody evaluator, who was not qualified to give expert testimony as to her mental health diagnosis. Mother’s counsel, however, made no objection to the court’s acceptance of Ms. Durieu as an expert witness at trial;⁷ nor did counsel object to

⁷ In her brief, Mother states that Ms. Durieu was qualified as a social worker and was an expert “only insofar as making custody determinations[.]” which is incorrect. The court accepted, without objection, Ms. Durieu as “an expert as a custody evaluator” and “as an expert as a clinical therapist.” Ms. Durieu testified that, as a custody evaluator, she has

Ms. Durieu’s testimony concerning her review of Mother’s two prior psychological evaluations, or the admission of her custody evaluation reports—which contained summaries of Mother’s two psychological evaluations and her diagnoses. When given an opportunity to voir dire, Mother’s counsel explicitly conceded Ms. Durieu’s qualifications:

THE COURT: Okay. Counsel, do you wish to do any voir dire?

[MOTHER’S COUNSEL]: No, I have plenty of questions so far as it relates to the specific facts of this case. But in regards to her qualifications, I don’t.

On this record, we hold that because no timely objection was made in the trial court to Ms. Durieu’s qualifications or testimony, this issue is unpreserved, and we decline to exercise our discretion to address it. *See In re J.R.*, 246 Md. App. 707, 755 (2020) (quoting *Robinson v. State*, 410 Md. 91, 103–04 (2009) (“[s]uch prerogative to review an unpreserved claim of error . . . is to be rarely exercised and only when doing so furthers, rather than undermines, the purposes of the rule.”)).⁸

Ms. Durieu, the custody evaluator, testified as to Mother’s mental health, Mother’s history with domestic violence, and the protective orders that she had filed. Ms. Durieu explained that, as part of her investigation, she reviewed a psychological evaluation report

been trained to interpret psychological evaluations and that making mental health diagnoses is part of her role as a clinical therapist.

⁸ Mother further argues that “[u]nder the Maryland Family Law code § 9-107, a mental impairment, in a custody or visitation proceeding is only relevant insofar as the court finds, based on evidence in the record, that the disability affects the best interest of the child.” Mother’s reliance on this statute is misplaced. Section 9-107 of the Family Law Article of the Maryland Code (2009, 2019 Repl. Vol.) concerns a parent with a disability, which the law defines as a physical or mental impairment that “substantially limits one or more of an individual’s major life activities[.]” At no point in the instant case has any party alleged that Mother is disabled.

prepared by another clinician, Dr. Tebor. She summarized Dr. Tebor's conclusions about Mother's mental health as follows:

- A. Dr. Tebor concluded that—well, she provided a diagnosis of borderline personality disorder; recommended that [Mother] engage in individual therapy, participate in a psychiatric evaluation, and determine whether medication would be beneficial, especially to address symptoms of emotional dysregulation. At the time, she was having supervised visits with [K.]. So, have continued closely supervised visits with [K.].

Her synopsis was that mom's narratives frequently conflicted with records. She presented as guarded, belligerent, hostile, erratic, emotionally unpredictable; that this is likely a pattern repeated throughout her life, and that she consistently presented herself as a victim when she was actively the aggressor.

Her personality measures reflected significant personality dysfunction and unstable interpersonal relationships characterized by manipulation and turbulence. Her parenting questionnaire reflected a nurturing, non abusive parenting philosophy; that she had adequate intellectual understanding of appropriate parenting practices.

During the parent/child observation at the time, though her—it was ordered, the—the attachment style was described as preoccupied, which is an anxious based attachment styled. She described this as, while [Mother] attempted to present attentive, she was not able to control her questions, demands, and threats to respond to her baby with genuine affection, delight, and nurturance.

- Q. Okay.

- A. Her prognosis was guarded due to ongoing acknowledged and untreated psychological challenges. These challenges include emotional lability, impulsivity, and a history of threats to her unborn child. These difficulties appear lifelong, chronic, and slow to change, even with focused interventions.

She noted that while personality disorders do not necessarily preclude safe parenting, [Mother's] insight, judgment, and self-control are minimal. In order to reduce the risk of—level of risk, [Mother] needs to identify and take responsibility for her problem behaviors and actively do things differently.

Ms. Durieu explained the typical traits and behavior patterns associated with borderline personality disorder. She stated that Mother exhibited some of those behaviors, but that

Mother did not acknowledge having borderline personality disorder. Ms. Durieu noted that she did not find Mother to be credible about her current family life.

Q. What are the traits that you will find in somebody with [borderline personality disorder?]

A. So, traits, not always do you meet them all, but you often will see a pervasive pattern of instability in interpersonal relationships, self-image and affects, and marked—marked impulsivity. One of the staples of borderline personality disorder is there are frantic efforts to avoid real or imagined abandonment. Abandonment is a big, big part of BPD. A pattern of unstable and intense interpersonal relationships. Inappropriate and intense anger or difficulty controlling anger, chronic feelings of emptiness. There's a lot of mood instability.

Q. Okay. And these behaviors that you're describing—these traits that you're describing, are they—is that what Dr. Tebor found, based upon your analysis of Dr. Tebor's report?

A. She found many traits and behaviors consistent with BPD, yes.

Q. What are the patterns that you're seeing?

A. I am concerned with—and this is just off of documentation, I have not spoken to [Mother] since our first—since the first round of the evaluation. But this speaks more to the frantic efforts to avoid a perception of abandonment, in my opinion. So, the constant protective orders, filing these protective orders to avoid contact between [K.] and his paternal family members could be—could be part of those frantic efforts.

Q. Okay. And you say—you said that she's not acknowledged that she has borderline personality disorder.

A. Not with me or in documentation, no.

Q. Okay. Are there other areas of your investigation that you have found that either she has not acknowledged certain things, or has not been candid with you about certain things?

A. Yes.

Q. And what areas has she not been candid with you?

- A. She—she was not candid with me about—or candid isn't the correct term. She was very evasive or vague, circumvented about all of the details surrounding the initial removal of [K.]. She was—she—she was very vague on those things, or wouldn't acknowledge any of those problem behavior systems.

Additionally, I was concerned—there was some allegations of domestic violence occurring in [Mother's] home. She was not credible in how she discussed how her family life is.

- Q. Okay. And where was—what wasn't she credible about?

- A. She was not credible—she explained—she initially denied there was any domestic violence in the home. I discussed—or domestic violence incidents between her and [her husband]. I was made aware that there were protective order filings.

- Q. Okay. Does that concern you?

- A. It does.

- Q. Why?

- A. It concerns me that—for various reasons. One, these protective orders are very reminiscent of an established pattern of behaviors and protective orders across multiple relationships with [Mother]. So, this pattern of behavior is continuous, as of recent documented a year and a half ago.

Two, I am concerned that this—what is occurring in the home, because it's very unlikely, in my professional experience, that this sort of dynamic has completely resolved, especially without therapeutic treatment.

On cross examination, Ms. Durieu was asked why she changed her recommendation from awarding physical custody to Mother to awarding physical custody to Grandparents.

- Q. And in your updated evaluation, you recommended that the minor child be basically taken from his current situation where he has friends, extracurriculars, a loving house, and uproot across the country, over 1,000 miles. I don't know the exact distance between Washington and Maryland, but—and to be given, I guess, to his grandparents, right?

- A. Yes. I did not make that recommendation lightly.
- Q. Okay. And that's different than your—your prior recommendation that stated that [Mother] should have primary custody.
- A. Yes. I had all these concerns in the first evaluation. However, as I stated earlier, I was giving [Mother]—or I was hoping [Mother] would have the benefit of the doubt and things would have unfolded differently.
- Q. And what really bad things did she do, in your mind, between the first and the second evaluation to make you have the change of opinion?
- A. In my opinion, the active placing barriers in place so that [K.] does not have a relationship with his paternal family members.
- Q. Could you give me an example of that?
- A. Frequently filing protective orders to, in my opinion, preclude visits from happening. The constant allegations.
- Q. And you don't believe that the CPS report that found—indicated in Washington that abuse is credible and that couldn't have been the reason for why she filed these protective orders?
- A. I don't—I never said that it wasn't credible. I question it.

- Q. What is your opinion of a child being repeatedly exposed to police investigations, CPS investigations, doctors regarding alleged injuries, if all of that is false?
- A. My opinion on that is it's obviously not a good thing for a child to be exposed to all of that. It also—my opinion on that is also it makes it much more difficult to differentiate what is the truth and what is not because a child is getting repeatedly questioned. And the likelihood of stories changing or a child feeling as though they're not giving the correct answer could change.

In making his factual findings regarding Mother's unfitness, the judge relied on Ms. Durieu's testimony, referencing Mother's mental health, the domestic violence, and the protective order filings. He stated:

With regards to Mom, you know, it wasn't necessarily a direct renunciation [of parental duties], but unfortunately, his first couple years of his life, due

to Mom's inability to address things that needed to be addressed with regards to her own mental health, with regards to her relationship and people that she would be involved with, that—that was a constructive renunciation of parental duties during that first couple years.

With regards to Mom, the borderline personality disorder which has been diagnosed and that there was testimony to, and also the failure by Mom to appropriately address and be in appropriate treatment to make sure that that doesn't adversely effect [K.] is absolutely part of my ruling for unfitness, and how it just carries over to [K.]. [K.] now, I find that [K.] has now figured out that, you know, he can involve others, he can involve CPS, he can involve potentially law enforcement, and that has been brought about by Mom's dislike for Dad.

Now, you know, therefore, we get to, you know, the mental indifference to [K.'s] welfare by Mom. Mom has let, you know, the anger towards Dad or the anger towards others, . . . is in the history of [K.'s] existence. So when from the time he was, you know, he existed within, you know, when Mom was pregnant, there was absolute conflict between herself and her then husband. There was conflict between herself and the plaintiff, [Father]. Then—and that conflict with regards to [Father] was ongoing.

Then her marriage ended to her husband of 2019. Then she was involved with a Mr. [R.], and there was conflict there. And when I say conflict, conflict that rose to the level of law enforcement involvement, and rose to the level of court involvement. I believe that was Mr. [R.]. And then with regards to her current husband, Mr. [J.], there was also conflict and a DV involving him. He, Mr. [J.], took the fifth, so we didn't find more information from him. But it's certainly within—all this—much of this the Court is aware of because of the two custody reports. There's that.

All of this creates an unfit situation for [K.], a child. There's lots of studies out there and information that a child seeing domestic violence is, just seeing it, can be as bad as experiencing it. And so this child is aware and feels that—has felt the tension of domestic violence or has received the domestic violence against him. And this has been brought about by both biological parents.

Mother argues that it was inappropriate for the court to rely on her multiple protective order filings against Father and Grandparents as evidence of unfitness. Mother argues that her repeated protective order filings were appropriate and “legitimate” because K. continued

to report abuse by Father in February and March of 2025.

During her testimony, Ms. Durieu opined that Mother’s decision to continue to file protective orders was motivated by a desire to preclude K. from having visits with Father and Grandparents. Based on the court’s findings, it is clear that the court found Ms. Durieu’s opinion credible. The judge stated that the numerous protective orders in this case were “concerning” and explained: “I’m concerned with an overexposure overall to police, to social workers, to hospitals. I mean, I don’t necessarily put a huge amount because there’s been some moments where it was appropriate, but there’s some moments that’s not.” As previously noted, we defer to a trial judge’s credibility findings. *See Clarke v. Gibson*, 492 Md. 557, 589 (2025) (noting that appellate courts “defer to the trial court’s credibility determinations because the [trial] court has had the opportunity to observe and assess witness behavior during proceedings”). Here, we discern no abuse of discretion in the court’s determination that the continued exposure to protective order-related proceedings was detrimental to K.’s emotional welfare, thereby contributing to Mother’s unfitness.

Regarding Father, the court found him to be unfit, relying heavily on his 2022 physical assault of K. The judge found “[a]bsolutely father inflicted [] physical abuse.” The court found that physically abusing K. constituted behavior or conduct that was detrimental to K.’s welfare and a renunciation of Father’s parental duties. The court found that, “with regards to [Father], anger and ability to control one’s anger absolutely

detrimentally impacted [K.].”⁹ The court also found that, although there was abuse in 2022, “the overall findings regarding 2025 abuse are in conflict. And the evidence is in conflict whether there has been any ongoing physical abuse of [K.] by father.”

Based on our review, the court’s factual findings as to Mother’s unfitness were supported by material evidence in the record, and, as such, the trial judge did not err or abuse his discretion in determining that Mother and Father were unfit to have custody of K. Because the court found parental unfitness, the presumption in favor of custody in a biological parent was successfully rebutted here and the court was correct to then apply the custody factors to determine if it was in K.’s best interest to be placed in Grandparents’ custody. *See B.G.*, 165 Md. App. at 546.

II. The trial court did not err in its analysis of the custody factors.

After determining that Mother and Father were unfit, the court moved on to address the custody factors, saying:

Now I move on to, even though I think a lot of these things sort of then overlap into the Montgomery, I mean the Montgomery County vs. [Sanders], and the Taylor vs. Taylor factors. So when I speak to those factors, I’m going to speak to both.

Beginning with the *Taylor* factors, the court found: (1) that Grandfather had the best ability to facilitate communication between the parties; (2) that Mother was not willing to share custody with Father or Grandparents, but that Grandparents and Father were open to Mother being involved; (3) that both parents were unfit; (4) that K.’s relationship with Mother was “enmeshed,” and that their closeness was possibly unhealthy, and that K. was

⁹ Father does not challenge the court’s determination that he was unfit to have custody of K.

too fearful of Father to have a close relationship; (5) that K. would say that he preferred to live with Mother if asked, but that there was “other influence[s] that are effecting his ability to express what I would consider a true preference regarding his grandparents[;]” (6) that living with his Grandparents would be a large disruption to K.’s school and social life; (7) that the geographic proximity between Mother’s home in Maryland and Grandparents’ home in Washington “might be almost as far as you can go within the continental U.S.[;]” (8) that Mother did not work, that Father had reasonable work hours, and that Grandparents were school teachers; (9) that K. was a six year-old boy in good health with some ADHD issues; (10) that both parents and Grandparents were sincere in their requests for custody and sincere in their desire for what’s best for K.; (11) that Mother did not have an income but was able to provide everything that K. needs, that Father earned approximately \$45,000 per year, and that Grandparents had “sufficient means” and a home to provide care; (12) that the impact of assistance, federal or otherwise, was not significant for any party; and (13) that the parties would have “some benefits” from having custody.

The court then moved on to the remaining *Sanders* factors and found: (1) that Father’s character had suffered as a result of the 2022 abuse incident and that Mother’s character had also suffered as a result of her failure to recognize her own limitations; (2) that there had been no agreement between the parents; (3) that Mother had made it particularly difficult for K. to maintain family relations with Father and Grandparents; (4) that Grandparents could provide “sufficient material opportunities” for K.; (5) that K. had been separated from each of the parties at different times in his life, but that he had been with his Mother and separated from Father and Grandparents since November of 2022; and

(6) that there was constructive abandonment by Father following the abuse incident in 2022.

With respect to “other factors,” the court found that Mother and Father both had limitations in their ability to act upon K.’s needs, and that both Mother and Father had exposed K. to domestic violence. The court further found that Mother had engaged in vexatious litigation, saying: “Well, I find Mom has filed DVs that were frivolous or vexatious, if for no other reason, filing them in places that they did not—did not need to be filed or not timely filing them that resulted in frivolous and vexatious litigation.”

Like the court’s findings as to unfitness, we discern no clear error in any of the above-referenced findings. Each of the judge’s findings were supported by competent evidence in the record. Based on these findings, the court ultimately concluded that it was in K.’s best interest to be placed in Grandparents’ custody: “In particular I find that [K.] needs stability. And I think the most stable place right now is the [Grandparents].”

Despite this, Mother contends that “[t]he trial court’s weighing of the custody factors was such a stark contrast to the reality of The Minor Child and the Appellant’s life that one could only describe their final custody determination as an abuse of discretion. Specifically in its assessment of the child custody factors, the court found that most of the factors weighed against the Appellant despite clear, undeniable evidence to the contrary on many factors.” We disagree.

As we have explained, the trial court’s factual findings are entitled to our deference because the trial court “is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what disposition will best

promote the welfare of the minor.” *In re Yve S.*, 373 Md. at 586. We will not make our “own determination as to the child’s best interest; the trial court’s decision governs, unless the factual findings made by the lower court are clearly erroneous or there is a clear showing of an abuse of discretion.” *Gordon v. Gordon*, 174 Md. App. 583, 637–38 (2007). The trial judge’s findings here were supported by “sufficient material evidence” in the record, *Lemley*, 109 Md. App. at 628, and the judge engaged in a “thorough, thoughtful and well-reasoned analysis” which we will not disturb on appeal. *See Azizova*, 243 Md. App. at 347.

As part of her argument, Mother claims that the trial court did not consider that Grandparents failed to protect K. from Father’s abuse while K. was in their care in 2025. This argument was made repeatedly throughout trial and, as we have previously noted, the court found that Mother’s accusations of abuse in 2025 were not credible. The judge stated that the overall findings regarding 2025 abuse were “in conflict” and, when discussing the stability in Grandparents’ home, said, “I also note, with all the things that Mom said, there was actually very little documentation to support many of Mom’s statements.” We will not disturb the trial court’s negative credibility finding on this issue. *See Rawlings v. Rawlings*, 362 Md. 535, 563 n.26 (2001) (“The credibility of a witness is a matter for the trier of fact to determine.”).

In sum, the trial court did not err or abuse its discretion in determining that Mother and Father were unfit, and that it was in K.’s best interest that custody be awarded to Grandparents.

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