

Circuit Court for Montgomery County  
Case No. C-15-FM-25-808063

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 1676

September Term, 2025

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ROBERT SIMMONS

v.

TATYANA SIMMONS

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Reed,  
Shaw,  
Kenney, James  
(Senior Judge, Specially Assigned)

JJ.

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Opinion by Shaw, J.

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Filed: June 1, 2026

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

This appeal arises from the entry of a Protective Order by the Circuit Court for Montgomery County. Appellee Tatyana Simmons, the mother of A.S., a minor child, filed a petition for a Protective Order in the District Court for Montgomery County, against Appellant Robert Simmons, the father of A.S., alleging that Appellant abused A.S. Appellee was granted a temporary protective order, and the case was transferred to the Circuit Court for Montgomery County because of a pending family court matter involving the parties. Appellant failed to appear for the Final Protective Order hearing on April 21, 2025, and following Appellee’s testimony, the court found that Appellant had abused A.S. The court issued a Final Protective Order, which required Appellant to not abuse, threaten to abuse, and/or harass the minor child A.S., and that Appellant not contact the parties by any means.

On April 24, 2025, Appellant filed a Motion for Reconsideration, alleging that he mistakenly believed the protective order hearing was scheduled to take place at 1:30 PM during a separate hearing for a family court case (Case No. 166431-FL), that the parties were involved in. He stated that he failed to appear due to miscommunication and clerical inconsistencies in multiple written and email notices received. The court denied Appellant’s motion, and Appellant filed this appeal on October 7, 2025. He presents three questions for our review:

1. Whether the trial court violated due process by proceeding with a hearing despite conflicting docket entries and notices regarding the hearing time and case number?
2. Whether the trial court abused its discretion by denying Appellant any opportunity to appear – remotely or otherwise—and proceeding in his absence?

3. Whether orders entered without meaningful opportunity to be heard must be vacated where the errors are apparent from the record?

We hold that the court did not err or abuse its discretion and we affirm the judgment.

### **BACKGROUND**

Appellant Robert Simmons and Appellee Tatyana Simmons are the parents of two children, F. S., who is emancipated by reason of age, and a minor child, A.S. Prior to April 2021, the parties shared legal custody of the children with joint residential custody on a week on/week off basis and Appellee had tie-breaking authority. In April, 2021, the Circuit Court for Montgomery County entered a modified custody order, in Case No. 166431-FL, which stated:

By agreement of the parties on the record, Mother will do the driving every Tuesday for pick-ups and drop-offs. Father must be present in the lobby of his building at the pick-up and drop-off times. The children are not to be left unattended in the lobby. Mother will remain in the care during these transitions

[ . . . ]

[a]nd it is further ordered that legal custody shall be modified such that **Plaintiff/Mother, Tatyana Simmons, shall be granted sole legal custody of the parties' minor children. . .**

(emphasis added).

In November 2022, a Final Protective Order was entered against Appellant, on behalf of A.S. The court found mental and physical abuse, and the order was in place for one year. The circuit court, in Case No. 166431-FL, granted Appellee sole residential custody of A.S. in November 2023. Appellant appealed that decision, and this Court remanded the case to the circuit court on the issue of access. A hearing was held in

September 2024, and Appellant was granted supervised therapeutic access only. Appellant later filed a Motion to Dismiss in that case.

In March 2025, Appellee filed a petition in the District Court for Montgomery County for a Protective Order against Appellant, on behalf of A.S. A hearing was held on March 17, 2025, both parties were present and a Temporary Protective Order was granted. At the hearing, the parties agreed to a final protective hearing to be held on April 21, 2025, at 9:30 a.m. The case was transferred to the Circuit Court for Montgomery County because of the pending family court case (Case No. 166431-FL), and it was assigned case number: C-15-FM-808063. A “Notice of Hearing Date” document provided the parties with the date and time of the hearing, and the information was also printed on the Temporary Protective Order that the parties received. Separately, the parties were notified of a hearing on Appellee’s Motion to Dismiss in the family court case, Case No. 166431-FL. The date set for the Motion to Dismiss hearing was April 21, 2025, at 1:30 p.m. A hearing notice was provided to both parties.

On April 21, 2025, Appellee, counsel for Appellee, and the minor child, A.S., appeared at 9:30 a.m. for the Final Protective Order hearing. Appellant did not appear. The court records contain no documentation that Appellant notified the court that he would not be able to attend, nor were there any notations or requests by him to attend the hearing remotely. Counsel for Appellee, when asked about Appellant’s whereabouts, stated to the court that Appellant was aware of the date and time of the hearing because “he chose the date. He knew the time.”

The court proceeded to hear testimony from Appellee and A.S., and the court ultimately issued a Final Protective Order, after a finding of abuse by Appellant. The order stated, in pertinent part, “[t]hat the above named respondent SHALL NOT abuse, threaten to abuse, and/or harass the protected person(s). That the above named respondent SHALL NOT contact the protected parties by any means, except as stated in this order.” The order was entered by the courtroom clerk. At 1:30 PM that day, Appellant appeared for the family court hearing. According to counsel for Appellee, during that hearing, Appellant “did not inquire about the Protective Order, made no attempt to enter any evidence regarding the incident leading to the request for a Protective Order nor mentioned any confusion over the setting of the hearing.”

Three days later, Appellant filed a Motion for Reconsideration of the Final Protective Order, citing Maryland Rule 2-534 and Family Law Article §§ 4-501 – 4-512. He stated that he “mistakenly believ[ed] the matter was scheduled for the afternoon session. [Appellant] inadvertently failed to appear at the 9:30 a.m. hearing, which was the correct time, due to miscommunication and clerical inconsistencies in multiple written and email notices received.” The court denied Appellant’s Motion for Reconsideration on September 9, 2025, and the court’s order was entered on September 16, 2025. Appellant filed this timely appeal on October 7, 2025.

### **STANDARD OF REVIEW**

This court’s standard of review in protective order cases is whether the circuit court abused its discretion. *See Tanis v. Crocker*, 110 Md. App. 559, 573 (1996) (“we review the

trial court’s decision to grant [a] motion for protective order only to determine whether the trial court abused its discretion when it rendered its decision”) (citation omitted). 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 principles.’” *Alexander v. Alexander*, 252 Md. App. 1, 17 (2021) (citation modified).

Matters related to due process are reviewed *de novo*. *In re Special Investigation Misc.* 1064 Md. 528, 545-46 (2021). We review the lower court’s findings of facts under the “clearly erroneous” standard. *C.M. v. J.M.*, 258 Md. App. 40, 58 (2023) (citing Md. Rule 8-131(c)).

## DISCUSSION

Maryland Rule 2-534 governs Motions to Alter or Amend a Judgment and provides that, if a party files certain timely post-judgment motions within 10 days after the judgment, such as a Motion to Alter or Amend a Judgment, as Appellant did here, the thirty-day appeal period is tolled. It begins anew thirty days after the court disposes of or the party withdraws the motion. Md. Rule 8-202(c). Pursuant to Maryland Rule 2-534 and 8-202(c), Appellant had 30 days after September 16, 2025, to note a timely appeal. The circuit court denied Appellant’s motion on September 9, 2025, and the court’s order was entered on September 16, 2025. Appellant filed this appeal on October 7, 2025.

Appellant argues the court denied him the opportunity to appear for the protective order hearing and then entered adverse orders in his absence. Appellant contends the court should not have proceeded with the scheduled hearing, given that there were “unresolved

discrepancies in docket entries and notices identifying the hearing time and governing case number.” Appellant contends that “due process requires reliable notice and a meaningful opportunity to be heard,” and thus, the Final Protective Order should be vacated with a remand for proceedings “conducted in accordance with fundamental fairness.”

Appellee argues that there was no error by the court because Appellant had adequate notice of the hearing and failed to appear because of his lack of due diligence. According to Appellee, Appellant, at the Temporary Protective Order hearing, chose the date for the Final Protective Order hearing as that date fit his schedule, and the court accommodated him. Appellee argues that if this Court considers whether Appellant’s due process rights were violated, we must balance those rights “against the rights of the child to not be abused by the Appellant again.”

We note that in denying Appellant’s Motion for Reconsideration, the court recounted the following factual findings:

“Defendant’s Motion for Reconsideration of the April 21, 2025 Order Granting a Permanent Protective Order” (Filed 04/24/2025) be, and the same hereby is, **DENIED**, because (1) Respondent failed to appear at 9:30 AM on April 21, 2025 for the final protective order hearing, despite the hearing date and time having been scheduled in the District Court on March 17, 2025, with Respondent in attendance and at Respondent's request, (2) on April 7, 2025, the Circuit Court Clerk sent notice of the hearing date and time to Respondent's address of record, (3) Respondent admits "full responsibility" for "a systemic issue in proper notice delivery," (4) Respondent alleges that he appeared on *both* the wrong date *and* at the wrong time (April 22, 2025 at 1:30 PM), (5) Respondent admits that he has created confusion by "inconsistencies in how [he] responded to multiple motions," (6) the email from the Court staff about hearing on matter for 1:30 PM on April 21, 2025 (Ex. 1) was for motion to dismiss pending in the Parties' family law action, not in the instant protective order action, and (7) Respondent's failure to appear seems to be the direct result of his inability to keep track of his

voluminous filings and hearing dates scheduled in the family law case between the Parties, and not any error on the Court's part.

Based on this record, we conclude that Appellant was not denied the opportunity to appear and Appellant was properly given notice of the proceedings. Appellant's arguments, on appeal, have clearly misstated the record in this case, as well as his own admissions. Because Appellant specifically agreed to the date and time of the hearing and he did not appear, we conclude that he did have a meaningful opportunity to be heard. He simply failed to avail himself of that opportunity. We, further, hold that the court did not violate his due process rights, nor did the court deny him a meaningful opportunity to be heard. As to the second question, the record reflects that Appellant did not request to appear remotely or otherwise advise the court of his inability to appear in person. We hold that the court did not deny Appellant the opportunity to "appear remotely or otherwise." In sum, the court did not err or abuse its discretion, and the judgment of the court is affirmed.

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