Circuit Court for Howard County
Case No. C-13-FM-22-001983

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1816

September Term, 2024

LAUREN ANNE PLATE

v.

JOHN GALLAGHER

Reed,
Shaw,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: August 1, 2025

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

Lauren Anne Plate, the Appellant, and John Gallagher, the Appellee, divorced at the end of 2023 after a marriage where the parties had one minor child. As the divorce was being finalized, the Appellant moved from Howard County, Maryland to Arlington, Virginia. The Appellee filed a motion to modify the parties' physical custody based on the Appellant's move. After a three-day hearing, the circuit court found a material change in circumstances from the Appellant's move and the parties' inability to communicate. The court ordered that the parties share joint legal custody with the Appellee having tie-breaking authorities and that the physical custody schedule would be modified with the Appellee eventually having primary physical custody of the minor child. The Appellant appealed both of those orders.

In bringing her appeal, Appellant presents two questions for appellate review:

I. Whether the circuit court abused its discretion in awarding Appellee tie-breaking authority for legal custody decisions?

II. Whether the circuit court abused its discretion in modifying the physical custody access schedule?[1]

[1] We rephrase the Appellant's questions, which were originally presented as:

I. Whether the trial court abused its discretion in awarding Father tie-breaking authority for legal custody decisions when Father's actions towards mother generated constant conflict, and when father perjured himself about prior medical decisions made for the child?

II. Whether the trial court abused its discretion in awarding an access schedule in which Father has more parenting time during the work/school-week and the exchanges would create more conflict in front of the child rather than less?

For the following reasons, we affirm the judgment of the Circuit Court for Howard County.

FACTUAL & PROCEDURAL BACKGROUND

The Appellant and Appellee married on November 4, 2017. The parties then had a minor child, L.G., in March of 2020. The parties moved to Fulton in Howard County, Maryland from New York City, New York in July of 2020.

On November 2, 2022, the parties executed a Separation and Marital Settlement Agreement ("MSA"). The MSA said the parties would share joint legal custody of L.G. The parties agreed neither parent would relocate from his or her current residence without providing a minimum of thirty days' notice. The parties agreed they would regularly consult with each other about "their child's education, religious training, health and other issues relating to her development and general welfare," including seeking out medical and educational professionals when needed. The parties also agreed to a physical custody schedule of "2-2-5-5."[2] On January 6, 2023, the judgment of absolute divorce was finalized. The judgment incorporated, but did not merge into, the MSA. At the time the MSA was signed the parties lived separately less than a mile apart from each other.

In November of 2022, the Appellant informed the Appellee that she would be moving from Howard County to Arlington, Virginia for work-related reasons. She confirmed her move to Arlington in December 2022 and then moved at the end of the

[2] Under this agreement, the Appellant had custody of the minor child every Monday and Tuesday night, the Appellee had custody of the minor child every Wednesday and Thursday night, and the parties alternated custody every Friday, Saturday, and Sunday night.

month. On December 13, 2022, after learning about this move, the Appellee filed a motion to modify the physical custody agreement. The Appellee argued that the Appellant's move to Arlington, Virginia would result in a material change of circumstances.

On June 14, 2023, the Appellee renewed his motion to modify physical custody, making the same argument that the Appellant's move was a material change. The Appellee requested primary physical custody of the minor child.

The Appellant responded on July 11, 2023, arguing the physical custody schedule from the MSA could be maintained with a slight modification about pick-up times. The Appellant argued that there were no material changes in circumstance, but that if the court found there were, then her custodial time with the minor child should be increased.

The Appellant then filed an amended counterclaim on January 22, 2024. The Appellant said that the Appellee had become increasingly hostile and can no longer co-parent on important issues. The Appellant requested that the parties continue to have joint legal custody, but for the Appellant to be granted tie-breaking authority. The next day, the Appellee also amended his motion, arguing a similar breakdown in communication between the parties. The Appellee requested sole legal custody or to have tiebreaker authority and requested primary physical custody.

This case was heard by the Honorable Quincy L. Coleman over a three-day hearing from July 30 to August 1, 2024. At the hearing, both parties testified to conflicts they had with the other party since the MSA was signed. The parties shared communications between them that were hostile, along with detailing specific instances of conflict over issues like religion and schooling. The Appellee's mother, the Appellant's then-boyfriend,

and L.G.'s preschool teacher also testified to the relationship between the parties.

Judge Coleman issued a memorandum opinion in this case on November 6, 2024. Judge Coleman found a material change in circumstances from the Appellant's move to Arlington, Virginia and the parties' inability to communicate effectively. The court ordered that the parties should have joint legal custody, and the Appellee should have tie-breaking authority. Regarding L.G.'s physical custody, the court modified the schedule to a 4-3 schedule in favor of the Appellee,[3] and then the Appellee would get primary physical custody when L.G. begins kindergarten. The Appellant timely appealed this ruling on November 13, 2024.

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)). We have previously described these standards as follows:

> 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.

Id. (quoting *In re Yve S.*, 373 Md. at 586). We must give "due regard . . . to the opportunity

[3] The 4-3 schedule gave custody to the Appellee from Sunday through Wednesday night, and to the Appellant from Thursday through Saturday night. The parties would exchange L.G. through the child's daycare and by meeting at a diner in Silver Spring as the parties had already been doing.

of the lower court to judge the credibility of the witnesses." *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012) (quoting *In re Yve S.*, 373 Md. at 584). We use the abuse of discretion standard because only the trial court "sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child." *Id.* (quoting *In re Yve S.*, 373 Md. at 586). 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." *Id.* (quoting *In re Yve S.*, 373 Md. at 586).

DISCUSSION

Modification of Legal Custody

On this first issue, the Appellant argues that the circuit court should not have awarded the Appellee tie-breaking authority for legal custody when the Appellant herself should have been awarded tie-breaking authority. The Appellant contends that the Appellee "sought conflict at every opportunity and had no respect for [Appellant's] input whatsoever." The Appellant points to conflicts over L.G.'s faith, flu vaccinations, and schooling as times when the Appellee engaged in improper conflict and miscommunication. The Appellant argues further that she had greater involvement than the Appellee in L.G.'s medical and educational life. Based on the facts the Appellant says were presented at the hearing, the Appellant argues the circuit court abused its discretion in awarding joint legal custody without tie-breaking authority for the Appellant.

The Appellee first notes that the circuit court found the Appellee to be more credible than the Appellant in making its ruling. The Appellee says that the circuit court properly found there was an inability to communicate between the parties and granted tie-breaking

authority to the party that the Appellee argues the circuit court found more credible.

The Family Law Article of the Maryland Code allows equity courts to "direct who shall have the custody or guardianship of a child" and "from time to time, set aside or modify its decree or order concerning the child." Md. Code, Fam. Law § 1-201(c)(1)–(4). As a part of this power, "equity courts have 'plenary authority to determine questions concerning the welfare of children.'" *Conover v. Conover*, 450 Md. 51, 82 (2016) (quoting *Stancill v. Stancill*, 286 Md. 530, 534 (1979)). This power means that awards of custody are not entirely beyond modification and "such an award therefore never achieves quite the degree of finality that accompanies other kinds of judgments." *Kadish*, 254 Md. App. at 503 (quoting *Frase v. Barnhart*, 379 Md. 100, 112 (2003)).

In order to modify child custody, the court must first determine whether there has been a material change in circumstances. *Gillespie*, 206 Md. App. at 171 (citing *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005)). In this context, the term "material" means "a change that may affect the welfare of a child." *Id.* (quoting *Wagner v. Wagner*, 109 Md. App. 1, 28 (1996)). The moving party has the burden "to show that there has been a material change in circumstances since the entry of the final custody order and that it is now in the best interest of the child for custody to be changed." *Id.* at 171–72 (quoting *Sigurdsson v. Nodeen*, 180 Md. App. 326, 344 (2008)). If the court finds a material change in circumstances, then the court "consider[s] the best interests of the child as if the proceedings were one for original custody." *Kadish*, 254 Md. App. at 503–04 (quoting *Gillespie*, 206 Md. App. at 170).

Turning to this case, we first hold that the circuit court had sufficient evidence to

support a finding that a material change of circumstances had occurred. The circuit court pointed out two material changes in circumstances: first, the Appellant moved to Arlington, Virginia and, second, the parties were unable to communicate effectively regarding matters affecting the child's welfare. Under the original agreement both parties lived in Howard County, Maryland. The Appellant's move to Arlington, Virginia was a material change in circumstance because the move meant that there was more time spent transporting the minor child between homes, with the trips taking on average an hour and a half. Every two-week period there would be five trips between Arlington and Howard County, and the Appellee noted "[s]ometimes there's more than that." The Appellee testified that during the exchanges in Silver Spring, Maryland, L.G. would be "sobbing, shrieking, coming in to [the Appellee], [in] hysteria, hyperventilating in some cases." The circuit court, noting that the Appellee "believes the number of exchanges has caused the child to exhibit abnormal behavior," found that the current access schedule had become burdensome for the minor child.

Regarding the inability to communicate, the circuit court detailed numerous examples of issues over which the parties cannot reach a shared decision. The court noted that both parties have accused the other of "creating narratives" in their communications that could be used to benefit themselves in court. The court detailed conflicts over where the parties' child would attend school in the fall of 2025 including issues with the application process, the lack of discussion of the consequences of the Appellant's move, the feasibility of the current access schedule, whether the minor child should have received a flu shot, difficulty in agreeing on how to handle an incident involving blood in the child's

underwear, and what church the child should attend, among other detailed conflicts in the months leading up to the hearing. The circuit court was able to collect ample evidence from the record showing that the parties could no longer communicate effectively with each other. Based on the evidence presented, we find that the circuit court did not abuse its discretion in holding that the parties had a material change in circumstances.

Given that there was a material change in circumstances, the next step for the circuit court was to consider the best interests of the child in order to determine custody. The Appellant takes issue with the circuit court's determinations on both legal and physical custody. The first issue concerns the circuit court's ruling over the legal custody of the parties' minor child.

Custody includes both physical and legal custody. *Taylor v. Taylor*, 306 Md. 290, 296 (1986). Physical custody means "'the right and obligation to provide a home for the child and to make' daily decisions as necessary while the child is under that parent's care and control." *Santo v. Santo*, 448 Md. 620, 625 (2016) (quoting *Taylor*, 306 Md. at 296). "'Legal custody carries with it the right and obligation to make long range decisions' that significantly affect a child's life, such as education or religious training." *Id.* (quoting *Taylor*, 306 Md. at 296). "Joint legal custody means that both parents have an equal voice in making those decisions, and neither parent's rights are superior to the other." *Taylor*, 306 Md. at 296.

Courts have wide discretion in making decisions about the best interests of children. *Id.* at 504–05 (citing *Azizova v. Suleymanov*, 243 Md. App. 340, 345 (2019)). Maryland courts have previously given guidance on the factors a court may consider when making

custody decisions, which include the factors laid out in *Taylor v. Taylor*, 306 Md. 290 (1986):

> (1) capacity of parents to communicate and to reach shared decisions affecting child's welfare; (2) willingness of parents to share custody; (3) fitness of parents; (4) relationship established between child and each parent; (5) preference of child; (6) potential disruption of child's social and school 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 parents; (12) impact on state or federal assistance; and (13) benefit to parents.

J.A.B. v. J.E.D.B., 250 Md. App. 234, 256 (2021) (citing *Taylor*, 306 Md. at 304–11). The first *Taylor* factor, the capacity of parents to communicate and reach shared decisions affecting the child's welfare, is "clearly the most important factor in the determination of whether an award of joint legal custody is appropriate." *Taylor*, 306 Md. at 304; *see also J.A.B.*, 250 Md. App. at 256 (quoting same). As we have stated, "[r]arely, if ever, should joint legal custody be awarded in the absence of a record of mature conduct on the part of the parents evidencing an ability to effectively communicate with each other concerning the best interest of the child." *Taylor*, 306 Md. at 304. If parents cannot make these long-range decisions together because "they are unable to put aside their bitterness for one another, then the child's future could be compromised." *Santo*, 448 Md. at 628. Even if the parents cannot effectively communicate, a court may, "under appropriate circumstances and with careful consideration articulated on the record," grant parents joint legal custody. *Id.* at 646.

Joint legal custody with a tie-breaker "has unquestionably been recognized in Maryland." *Kpetigo v. Kpetigo*, 238 Md. App. 561, 584 (2018) (quoting *Santo*, 448 Md. at

632–33). Tie-breaking authority in a legal custody arrangement "proactively anticipates a post-divorce dispute." *Id.* at 585 (quoting *Shenk v. Shenk*, 159 Md. App. 548, 560 (2004)) (cleaned up). This authority should only be used by its holder "when both 'parties are at an impasse after deliberating in good faith' and by 'requir[ing] a genuine effort by both parties to communicate, as it ensures each has a voice in the decision-making process.'" *Id.* (quoting *Santo*, 448 Md. at 632–33).

In this case, the circuit court weighed the credibility of the parties and analyzed the evidence presented throughout the hearing. The circuit court engaged in the following analysis of the *Taylor* factors, detailed above:

- **Capacity of the parents to communicate and to reach shared decisions affecting the child's welfare:** As described in more detail above, "the parties cannot communicate effectively regarding the child's welfare." The court then spent nearly ten pages detailing all of the difficulties in communication that have arisen.
- **Parent's willingness to share custody:** "[B]oth parties are willing to share custody . . . . [T]hey want the minor child to have a relationship with both of her parents."
- **Fitness of the parents:** "[B]oth parties are fit parents, although evidence was presented that [Appellee] has driven with the child while the child's seatbelt straps were loose."
- **Relationship established between the parents and child:** "[T]he parties each have healthy, loving relationship with the minor child. Both parties properly feed, bathe, and clothe the child, guide the child in her activities, and are mindful of the minor child's health."

- **Preference of the child**: "[T]he minor child did not testify and the [c]ourt will consider this factor neutral."
- **Potential disruption of the child's social and school life:** "[T]here is great potential for disruption" because "[t]he parents cannot decide what school the minor child will attend starting in kindergarten" and "[t]he distance between the parties has already disrupted the child's schedule." "[T]he child has established friendships with at least one child at the [Appellant's] nanny share program, with the children of [Appellant's] boyfriend, and with her paternal grandmother, in addition to the parties. The current custody schedule allows the child to spend time with these friends. It is in the best interest of the child that she continues to develop the friendships she has made."
- **Geographical proximity of the parent's homes:** The Appellant lives in Fulton, Maryland and the Appellee lives in Arlington, Virginia. "The distance between the parties is moderate, but the distance is exacerbated by traffic on the roads between the parties."
- **Demands of parental employment:** Both parents have flexibility in their schedules. The Appellee "always has something to do with his time and sometimes works on weekends." The Appellant "works on a hybrid schedule" where she is in the office three days a week.
- **Age and number of children:** The parties have one minor child who is four years old.

- **Sincerity of parent's requests:** "[B]oth parties are sincere in their requests."
- **Financial status of the parents:** "[B]oth parties earn over $100,000.00 per year." The Appellee "is CEO of a business which currently operates three (3) dental practices." The Appellant earns approximately $250,000.00 a year as "an Executive Vice President and operations leader at Edelman since 2021."
- **Impact on state and federal assistance:** "[N]one."
- **Benefit to the parents:** "[O]ther than the love that they receive from the minor child, there will be no benefits.

The court analyzed all of the *Taylor* factors in coming to its decision, taking great care to explain its reasoning. After analyzing the evidence, the circuit court determined that the Appellee should have tie-breaking authority.

The Appellant argues that the circuit court's ruling is the reverse outcome from *Kpetigo v. Kpetigo*, 238 Md. App. 561 (2018). In that case, the trial court granted joint legal custody with tie-breaking authority to one parent. *Id.* at 585–86. The trial court found that both parents were fit and cared deeply for their child, but they suffered from communication issues that prevented the minor child from taking full advantage of the opportunities the parents could provide. *Id.* The trial court determined that the father was "at times angry, untruthful, vindictive and mean-spirited toward" the other parent and found his testimony was not credible. *Id.* at 587. The father also testified he was willing to share custody with the other parent. *Id.* This court found the lower court did not abuse its discretion in awarding joint legal custody with tie-breaking authority to the other parent

because the tie-breaker "is appropriate in situations like this when parents have difficulties communicating and acting in the best interests of their child." *Id.*

The Appellant argues that the Appellee "sought conflict at every opportunity" and "constantly made belittling and derogatory remarks" to the Appellant. We do not hold that the characterization of the Appellee's comments by the Appellant is entirely supported by the record, but the allegations made by the Appellant reflect the conflict between the parties. Given the evidence presented at the hearing, we do not hold that this case is the opposite of *Kpetigo*. The circuit court noted issues with both parties in its opinion. The circuit court found that the Appellee took an action not in the best interests of the child when the Appellee "unilaterally ceased allowing the child to FaceTime with [Appellant]." The circuit court also found that the Appellant moved "without first engaging in productive discussion" with the Appellee about the effect of that move, and the Appellant testified that she had been contemplating moving out of Howard County prior to signing the MSA and signed a lease and moved by December of 2022. Additionally, the court noted that the Appellant applied to a school for the minor child without giving the Appellee the opportunity to review or sign the application, though she rectified this issue on a follow-up application after the Appellee discovered the application.

Additionally, the circuit court noted that "[t]he fact that [the Appellant] had been looking for a new residence in October of 2022 while negotiating a settlement agreement which specifically contemplated that the child would attend the Goddard School in Columbia, Maryland demonstrates that [the Appellant] was not forthcoming in her negotiations for the MSA." The court found that the Appellant's "failure to keep [the

Appellee] apprised of her plans to move residences [was] not in the best interest of the child." Both parties at times took actions that were not in the best interest of the child, and as the circuit court noted, both parties have accused the other of "creating narratives" in their communications that could be used to benefit themselves in court.

As in the *Kpetigo* case, the parties have difficulties communicating about issues affecting the welfare of their child. Another similarity is that both parties in both cases testified that they were willing to share legal custody. The circuit court concluded that the inability to communicate in this case "necessitates that one party have tie-breaking authority as to major decisions affecting their child's welfare." Given the trial court's careful analysis, it was permitted to make this decision about joint legal custody despite the difficulties in communication.

Giving "due regard. . . to the opportunity of the lower court to judge the credibility of the witnesses" we do not hold that the circuit court abused its discretion in awarding tie-breaking authority to the Appellee. *Gillespie*, 206 Md. App. at 171 (quoting *In re Yve S.*, 373 Md. at 584). The circuit court was in a far better position "to weigh the evidence and determine what disposition will best promote the welfare of the minor." *Id.* (quoting *In re Yve S.*, 373 Md. at 586). This Court "will defer to the fact-findings of trial judge or jury whenever there is some competent evidence which, if believed and given maximum weight, could support such findings of fact." *Washington v. State*, 191 Md. App. 48, 79 (2010) (quoting *Morris v. State*, 153 Md. App. 480, 489 (2003)).

There was sufficient competent evidence to support the circuit court's decision in this case. As discussed above, there were times that both parties acted against the minor

child's best interest, but the circuit court noted multiple actions by the Appellant that were not in the minor child's best interest. This does not take away from the "healthy, loving relationship" the circuit court noted that both parties had with the minor child. But given the inability of the parties to communicate and the conflict that would likely result from joint custody, the circuit court concluded that the Appellee should have tie-breaking authority to resolve any conflicts that arise. This was a proper exercise of the circuit court's discretion weighing the evidence before it, and we will not disturb that determination on appeal.

Modification of Access Schedule

On the second issue, the Appellant argues that the circuit court's modification of the physical custody schedule was an abuse of its discretion. The Appellant says that this modified schedule does not adequately account for the child's best interest and does not foster stability for the child. The Appellant argues that the circuit court ignored the Appellant's involvement in L.G.'s school and health and in L.G.'s travel times while in the Appellee's custody. Lastly, the Appellant argues that the Appellee exhibits "constant deprecating and degrading behavior" towards the Appellant, which means the circuit court abused its discretion in its decision.

The Appellee argues that the circuit court did not abuse its discretion in modifying the access schedule after the Appellant moved to a different state. The Appellee contends that the circuit court's decision properly tried to maintain stability in the minor child's life. The Appellee argues that the factual contentions argued by the Appellant in her brief were not supported by the record at the hearing. Additionally, issues the Appellant argued were

not considered by the circuit court the Appellee points out were included in the court's decision making.

As discussed above, physical custody is "'the right and obligation to provide a home for the child and to make' daily decisions as necessary while the child is under that parent's care and control." *Santo*, 448 Md. at 627 (quoting *Taylor*, 306 Md. at 296). When determining physical custody, courts apply the *Taylor* factors cited above and any other relevant conditions.

Here, the circuit court analyzed multiple additional factors in determining physical custody:

- **Parental fitness:** "both parties are fit parents."
- **Character and reputation of the parties:** The court found that the Appellant "was not forthcoming in her negotiations for the MSA" based on her already looking for a new residence in Virginia. "[T]he [c]ourt finds that [Appellant's] failure to keep [Appellee] apprised of her plans to move residence is not in the best interest of the child."
- **Potential for maintaining natural family relations:** "[T]here is still potential for maintaining natural family relations, as both parents love the child very much, both parents have sincere beliefs in what is best for their child, and both parents have the support of their own family and loved ones to help raise their child."
- **Material opportunity affecting the child's future life:** "Both parties have enrolled the child in activities, taken her on vacation, and live in locations

with plenty of amenities such as pools and parks which will contribute to the child's happiness."

- **Health of the child:** The parties share a four-year-old female child who is in good health, with "allergies to cashews, pistachios, tree nuts, and fish."
- **Opportunity for visitation:** "The opportunity for visitation is still good, although traffic on the road exacerbates the distance the parties must drive to facilitate visitation." The Appellant was planning on moving in with Joseph Knight and Mr. Knight testified that his children get along with the minor child, "that he has good relationship with the parties' minor child, and that he helps care for the child by cooking for her and looking after her when with [Appellant]."
- **Length of separation from natural parents:** "[N]o great separation from the natural parents."
- **Prior voluntary abandonment:** "[N]o voluntary abandonments."

After weighing these additional factors, the circuit court concluded that the physical distance between the parties made the 5-5-2-2 schedule not in the best interests of the minor child. The court found that the current access schedule was "burdensome" for the minor child based on the number of exchanges and commute required for an exchange.

The court noted that as the child begins kindergarten in the fall, this arrangement would become unworkable. As a result, the court modified the current schedule to the Appellee having custody Sunday through Wednesday nights and the Appellant having custody Thursday through Saturday nights. When the minor child begins kindergarten, the

court modified the schedule to give the Appellee primary physical custody with the Appellant to have visitation on Friday and Saturday nights. Over the summers, the court said the parties would have an alternating weekly schedule.

The Appellant argues that this new schedule is "contrary to the child's best interest" because it minimizes the school transitions in favor of in-person exchanges, which "were causing the child great difficulty." The order says that in the initial arrangement, exchanges would take place on Thursday at the minor child's daycare, and when the child attends kindergarten, the exchanges on Friday would take place at the minor child's school. The order does not appear to double the number of exchanges, as the Appellant argued, as there are now only two exchanges per week on consistent days. The circuit court did not abuse its discretion in trying to balance the minor child having access to both parents with the reality of the physical distance between the parties.

The Appellant argues that the circuit court ignored the Appellant's involvement in L.G.'s school and health and in L.G.'s travel times while in the Appellee's custody. The circuit court's opinion did discuss the Appellee's travel with the minor child, such as going swimming, going to church, or travelling to Ocean City. The opinion shows that the circuit court weighed this evidence about the minor child's travel but did not determine this travel to be controlling against the Appellee's custody. Regarding the decision about school, the circuit court noted that the Appellee testified he cannot afford private school. The court also agreed with the sentiment that the minor child should attend a school close to one of the parents so that friends and activities would also be close to that parent and transportation would be easier than a school between the parties' homes. Therefore, with

the Appellee getting primary physical custody, the minor child would attend the public school in the Appellee's area. There was no abuse of discretion where the circuit court showed that it considered the evidence before it that the Appellant claims it ignored and made a decision the court determined was in the best interest of the minor child supported by the evidence presented.

The Appellant's final argument is that the Appellee exhibited "constant deprecating and degrading behavior" towards the Appellant. The Appellant cited to some comments in the record that were negative towards the Appellant, such as the Appellee's mother saying, "Every one of [Appellant's] mothering instincts are bad, it's tragic." However, the Appellant did not cite any occasions where this kind of behavior occurred in front of the minor child. There was conflicting testimony about whether the Appellee called the Appellant "vile" during an in-person exchange of the minor child, though the Appellee denied saying this. As there was conflicting evidence, we must "defer to the fact-findings of the trial judge" who had the ability to weigh the credibility of the two parties and, after doing so, ruled in favor of the Appellee. *Washington*, 191 Md. App. at 79 (quoting *Morris*, 153 Md. App. at 489).

The circuit court properly weighed the evidence before it and the burden placed on the minor child based on the current custody schedule. We do not hold that the circuit court's decision on the issue of physical custody was an abuse of its discretion.

CONCLUSION

Accordingly, we affirm the judgment of the Circuit Court for Howard County.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO APPELLANT.