Circuit Court for Prince George's County
Case No. C-16-FM-23-009189

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1952

September Term, 2024

YAZMIN M. GUARDADO GIRON

v.

WILLIAM RIVERA

Arthur,
Shaw,
Zic,

JJ.

Opinion by Zic, J.

Filed: June 10, 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 Maryland Rule 1-104(a)(2)(B).

This case arises from custody proceedings in the Circuit Court for Prince George's County. Yazmin M. Guardado Giron ("Mother"), appellant, and William Rivera ("Father"), appellee, are the parents of one minor child, M.[1] In August 2023, Mother filed for custody of M.[2] The circuit court held a custody trial on October 8 and October 9, 2024. At the end of the second day of trial, the court issued a verbal *pendente lite* order and continued the custody trial to October 30, 2024. The trial was then continued to November 25, 2024, and later, to January 27, 2025. On December 4, 2024, the *pendente lite* order was docketed ("PL Order"). Mother now appeals.

QUESTIONS PRESENTED

Mother presents two questions for our review, which we have rephrased as follows:[3]

1. Whether the circuit court erred in ordering Father to enroll M. in Prince George's County Public Schools.

2. Whether the circuit court abused its discretion by not granting Mother parenting time after December 20, 2024.

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[1] We refer to the minor child using an anonymized initial.

[2] Mother initially filed for custody and child support of M. in the Circuit Court for Montgomery County. Her complaint, as well as Father's countercomplaint, was transferred to the Circuit Court for Prince George's County in December 2023.

[3] Mother phrases the questions as follows:

1. Did the [c]ourt err in issuing a *Pendente Lite* Order which directs a party to enroll the minor child in a particular school district?

2. Did the [c]ourt abuse its discretion when it entered a *Pendente Lite* Order wherein [Mother] is not awarded any parenting time after a particular date certain?

For the following reasons, we answer both questions in the negative and affirm.

BACKGROUND

Mother and Father are the parents of M., who was born in February 2015. M. lived with the parties and her maternal grandparents in Wheaton, Maryland, from her birth until 2017, when Mother and Father separated and Father moved to his mother's home in Hyattsville, Maryland. Mother and M. remained in Wheaton until August 2018, when they moved to California. In March 2019, Mother brought M. back to Maryland, where M. resided with her maternal grandparents until August 2019. Mother then moved with M. back to California, where M. began preschool in the fall of 2019.

In March 2020, Mother and M. returned to Maryland to live with M.'s maternal grandparents. M. participated remotely in her California-based school through the 2019-2020 and 2020-2021 academic years. Mother returned to California in September 2021, while M. continued to live with her maternal grandparents. M. attended an elementary school in Montgomery County, Maryland, through the 2021-2022 and 2022-2023 academic years.

In August 2023, Mother moved back to California with, and filed for custody of, M. The change in M.'s residence was not clearly communicated between the parties prior to the move. Mother then enrolled M. in school in California to begin the third grade. M. continued to attend school in California through the fall of 2024.[4]

[4] Mother transferred M. to a different California elementary school in the middle of the 2023-2024 academic year. M. continued to attend the transfer school for the first half of fourth grade during the 2024-2025 academic year.

The Custody Trial

The circuit court held a custody trial on October 8 and October 9, 2024. Mother, M.'s maternal grandmother, and Father testified. During Father's cross examination on October 9, the court continued the proceedings, explaining:

> [S]ince it seems that this case has taken much longer to prosecute and defend, the [c]ourt is going to have to issue a temporary order because I'm not going to just let this hang on until we can come back, but the [c]ourt finds, based on what I have heard thus far --
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> * * *
>
> When you look at all of the factors from *Taylor v. Smith* [sic] and *Montgomery County* [sic] factors, and obviously all the factors, the [c]ourt doesn't have to consider because they're all not applicable, but in this case, we do have a young child who is not necessarily the biological daughter of [Father], but he has been raising this child as if [she] is his own.[5] And that has been consistent.
>
> What's also been consistent is that there has been a sufficient communication between [Father] and the maternal grandmother that they are able to communicate and they are able to work together. So the [c]ourt has to decide, because it's either California or Maryland, and while we have not heard all of the testimony, the [c]ourt needs to make some type of PL order, put some PL order in effect, and all of the -- all of the resources that are available for the minor child are in the State of Maryland.
>
> And it was interesting that the [c]ourt was appri[s]ed that there's not anyone from California that was going to be here to at least elicit some -- to provide some information to this [c]ourt as to what's going on with the minor child. The only thing the [c]ourt has is testimony from the maternal

[5] For the sake of completeness, we note that Father is not M.'s biological father. Mother testified at the custody hearing that "[Father] sign[ed] an affidavit of parentage regarding [M.]"

> grandmother who obviously loves her granddaughter and is able to provide in any way, and it is a -- is an assistant, and we have a father who, although not biological, is providing as best he can, and he has -- the paternal grandmother is also able to help.
>
> So the child needs to come back to the State of Maryland and needs to be enrolled in school. And so that's why the [c]ourt asked, when is this child coming back to the State of Maryland?
>
> So if you want to take a few minutes, [c]ounsel, and step out and talk to your client to see what the plan is, we can discuss that further. But a PL order will be in effect until the next hearing.

Following a brief recess, Mother's counsel stated that M. "will attend [a] Prince George's County School at the start of the next opening term." The court then recognized that it "want[ed] to finish the hearing[,]" but that it was "extremely troubled by the fact that [M. was] currently in California[.]" **[**The court explained that "giving [the parties] an order today, but it not really taking effect [until] January[2025,] means that I have already predisposed what I'm going to do in January, and that's not necessarily the case because I need to hear the rest of the testimony."

As this Court understands the record, the circuit court appeared to believe that a temporary custody order was necessary to begin the process of enrolling M. into school in Maryland. To this end, the court verbally ordered:

> [T]hat Mother and Father are awarded temporary joint legal custody of [M.] And then Mother shall retain temporary physical custody of [M.] until [M.] is returned to the state of Maryland or October 30, 2024, whichever is earlier.
>
> That Mother shall provide [M.'s] medical records, including any immunization records, to Father, within ten days of this order. And that Father shall enroll [M.] into the Prince

> George's County Public School system for the third quarter of the 2024-2025 academic year, which would be January [2025].
>
> That Mother and Father shall split the cost to fly [M.] from the state of California to the state of Maryland, and that Mother may appear remotely for the next hearing. And the hearing shall be held on October 30th at 9:30 a.m.

The court stated that a written order would be given to the parties.

On October 30, 2024, the parties were notified that the trial court was "unable to proceed having just sat a jury for a two-week criminal trial." custody hearings were continued to November 25, 2024. On November 22, 2024, "the court's chambers contacted counsel by telephone to continue the trial as the court was scheduled to be on leave on November 25, 2024." The custody hearings were again continued, this time to January 27, 2025.

The* Pendente Lite *Order

Following the court's October 9, 2024 verbal order, a written order was entered into the Maryland Electronic Courts ("MDEC") system on December 4, 2024.[6] The entered *pendente lite* order (previously, "PL Order") states:

> On October 8 and 9, 2024, the above-captioned case came before the [circuit c]ourt for a hearing on [Mother's] Complaint for Custody [] and [Father's] Counter Complaint for Custody[.] Both parties appeared with counsel and are seeking sole physical custody of [M.] Trial began was unable to conclude and carried over October 30, 2024. In the

[6] It is unclear why the court's written order was not entered into MDEC until nearly two months after the last hearing date. The parties do not take issue with this fact. We observe that until the order was entered, it was not an appealable judgment. *See* Maryland Rule 1-202(p) (defining "judgment" as "any order of court final in its nature *entered* pursuant to these rules") (emphasis added).

interim, the [circuit c]ourt issued a temporary custody order and placed its reasons on the record in open court.

Here, Mother resides in CA and Father lives in MD; split custodial access is not an option. The "primary goal" in a custody determination "is to serve the best interests of the child." *Conover v. Conover*, 450 Md. 51, 61 (2016). This over-reaching standard applies to pendente lite custody orders. *See Malik v. Malik*, 99 Md. App. 521, 525 (1994). In making a custody determination, the court "examines numerous factors and weighs the advantages and disadvantages of the alternative environments." *Taylor v. Taylor*, 306 Md. 290, 304-11. *See also Montgomery County Dep't. of Social Services v. Sanders*, 38 Md. App. 406, 420 (1977).

It is, therefore, this 10/09/2024, by the Circuit Court for Prince George's County, Maryland

ORDERED, that Mother and Father shall be awarded temporary joint legal custody of [M.]; it is further

ORDERED, that Mother shall retain temporary physical custody of the minor child until December 20, 2024; thereafter, Father shall be awarded temporary primary physical custody of [M.]; it is further

ORDERED, that [M.] shall return to the state of Maryland on December 20, 2024; it is further

ORDERED, that Mother shall provide [M.'s] medical records, including immunization records, to Father within ten (10) days of this Order; it is further

ORDERED, that Father shall take [M.] to obtain a lead test and shall enroll the minor child into the Prince George's County Public School System for the 2024-2025 academic year, beginning January 6, 2025; it is further

* * *

ORDERED, that a further hearing shall be held on October 30, 2024, at 9:30 am.

Mother appealed the PL Order on the same day as its entry. On December 12, 2024, Mother asked the circuit court to stay enforcement of the PL Order and vacate the January 27, 2025 hearing date pending the instant appeal. Father opposed both requests. On January 14, 2025, the court denied Mother's motion to stay enforcement of the PL Order and vacated the January 27, 2025 hearing date pending the resolution of this appeal.

STANDARD OF REVIEW

As a general matter, we do not address an issue "unless it plainly appears by the record to have been raised in or decided by the trial court[.]" Md. Rule 8-131(a). Our review of a child custody decision involves three interrelated standards of review. *Reichert v. Hornbeck*, 210 Md. App 282, 303 (2013) (citation omitted). The Supreme Court, in *In re Yve S.*, 373 Md. 551, 586 (2003), explained:

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Maryland Rule 8-131(c)] applies. [Secondly,] [i]f it appears that the chancellor 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 chancellor founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the chancellor's decision should be disturbed only if there has been a clear abuse of discretion.

(second and third alterations in original) (citations omitted). A trial court abuses its discretion when "no reasonable person would take the view adopted by the trial court." *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (citation omitted).

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN ORDERING FATHER TO ENROLL M. IN THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM.

A. The Parties' Contentions

Mother first argues that the circuit court erred in directing Father to enroll M. in a "particular school district[.]" Mother contends that this instruction "falls outside the scope of the jurisdictional authority of the court" because it is a "particular legal custody decision" to be made by Mother and Father. Mother additionally asserts in a footnote that the court's instruction to enroll M. in the Prince George's County Public School system "raises [a] question as to interference with the constitutionally protected parental liberties of parents to make education decisions regarding their child."

In response, Father argues that the circuit court had the "statutory authority" to issue the PL Order, and did not further err in directing the parties to enroll M. in the Prince George's County Public School system because the PL Order awarded Father temporary primary physical custody and Father lives in Prince George's County, Maryland. Father additionally contends that Mother did not object to the order during the hearing, but instead agreed to M.'s enrollment in the Prince George's County Public School system.

B. Legal Framework

Pursuant to § 1-201(b)(5) of the Family Law ("FL") Article of the Maryland Code, Ann. (1984, 2019 Repl. Vol., 2022 Supp.),[7] Maryland equity courts have jurisdiction over matters regarding custody and guardianship of a minor child. There are two general types of custody orders: *pendente lite* orders, i.e., temporary orders, and "final" orders. *Frase v. Barnhart*, 379 Md. 100, 111 (2003). As explained by the Supreme Court in *Frase*,

> [t]he normal progression of a contested child access case is for there first to be a *pendente lite* determination, designed to provide some immediate stability pending a full evidentiary hearing and an ultimate resolution of the dispute. . . . A *pendente lite* order is not intended to have a long-term effect and therefore focuses on the immediate, rather than on any long-range, interests of the child. As a result, although it should not be changed lightly, lest the stability intended by it be diminished, it is subject to modification during the pendency of the action, as current circumstances warrant, and it does not bind the court when it comes to fashioning the ultimate judgment.

Id. (citations omitted). Then, after either an agreement between the parties or a full trial, the court renders a "final" order based on "what is in the long-term overall best interest of the child." *Id.* at 111-12.

A trial court's authority to make custody determinations "'is very broad so that it may accomplish the paramount purpose of securing the welfare and promoting the best interest of the child.'" *Santo v. Santo*, 448 Md. 620, 627 (2016) (quoting *Taylor v. Taylor*, 306 Md. 290, 301-02 (1986)). The "primary goal" in a custody determination "is

[7] All statutory references are to the Family Law Article unless otherwise noted.

to serve the best interests of the child." *Conover v. Conover*, 450 Md. 51, 60 (2016) (citing *Taylor*, 306 Md. at 303). This consideration applies to *pendente lite* orders. *See Malik v. Malik*, 99 Md. App. 521, 525 (1994); *see also Kovacs v. Kovacs*, 98 Md. App. 289, 312 (1993) ("The proper standard the court should use to determine a change of custody from a *pendente lite* order is and continues to be what is in the best interest of the child." (citation omitted)). In addition to the best interests of the child, a court "examines numerous factors and weighs the advantages of the alternative environments." *Montgomery Cnty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406, 420 (1977); *see also Taylor*, 306 Md. at 304-11.[8]

[8] In *Sanders*, this Court articulated factors for consideration by a court determining custody:

> The criteria for judicial determination includes, but is not limited to, 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*, the Supreme Court listed factors for courts to consider, including the capacity of parents to communicate and to reach shared decisions affecting the child's welfare, willingness of parents to share custody, fitness of parents, relationship established between the child and each parent, preference of the child, potential disruption of child's social and school life, geographic proximity of parental homes, demands of parental employment, age and number of children, sincerity of parents' request, financial status of the parents, impact on state or federal assistance, benefit to parents, and "all other circumstances that reasonably relate to the [custody] issue." *Taylor*, 306 Md. at 304-11. The factors in *Sanders* and *Taylor* are colloquially known as

(continued)

"[T]rial judges are not obliged to spell out in words every thought and step of logic[.]" *Beales v. State*, 329 Md. 263, 273 (1993). Thus, "a trial judge's failure to state each and every consideration or factor in a particular applicable standard does not, absent more, constitute an abuse of discretion, so long as the record supports a reasonable conclusion that appropriate factors were taken into account in the exercise of discretion." *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 445 (2003); *see also Wagner v. Wagner*, 109 Md. App. 1, 50 (1996) ("[W]e presume judges to know the law and apply it, even in the absence of a verbal indication of having considered it.").

C. Analysis

In our view, the record indicates that the circuit court was aware of the requisite best interest analysis and rendered an appropriate decision to avoid a potential disruption to M.'s education. After hearing nearly two days of testimony, the court determined that a temporary order was necessary until the court could conclude the trial. The court mentioned the *Taylor-Sanders* factors in its verbal decision and in the written PL Order, explaining that Father's "consistent" desire to care for M., as well as M.'s maternal grandmother's presence in Maryland and communication with Father, demonstrated that M. "need[ed] to come back to the State of Maryland[.]" The court then emphasized that its decision would be temporary and only "in effect until the next hearing[,]" at which point the court would "hear the rest of the testimony." The court also gave the parties a

the *Taylor-Sanders* (or the *Sanders-Taylor*) factors. *See*, *e.g.*, *Jose v. Jose*, 237 Md. App. 588, 600 (2018).

chance to discuss a plan for M.'s schooling in Maryland. Based on our understanding of the record, Mother and Father agreed that M. would be enrolled in the Prince George's County School system for the second half of the 2024-2025 academic year.

In effect, the PL Order acknowledged Father's place of residence in Prince George's County, Maryland, and Mother's residence in California, and memorialized the plan—contingent on the remaining "one or two questions" of Father's cross examination—to enroll M. in school in Maryland with as little disruption as possible. This decision reasonably furthers M.'s best interests, i.e., preventing an interruption in M.'s education, transitioning to a new school, and establishing a routine. Furthermore, the circuit court was not required to "state each and every consideration" in support of the PL Order, *Cobrand*, 149 Md. App. at 445, and we presume the court knew and correctly applied the law. *Wagner*, 109 Md. App. at 50.

For these reasons, we conclude that the court acted within its jurisdiction by ordering Father to enroll M. in the Prince George's County Public School system, and accordingly, did not violate § 1-201.[9]

[9] Mother's ancillary argument that the circuit court "interfere[ed] with" the parties' federal constitutional parental rights is without merit. The cases cited by Mother, namely, *Wisconsin v. Yoder*, 406 U.S. 205 (1972), *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and *Meyer v. Nebraska*, 262 U.S. 390 (1923), are distinguishable from the case before us. In *Yoder*, the Supreme Court held that requiring public schooling of Amish children, against the wishes of the children's parents, would violate the parents' individual and religious liberties. 406 U.S. at 234. Similarly, in *Pierce*, the Supreme Court held unconstitutional an Oregon statute that required children to attend public schools. 268 U.S. at 534-35. Finally, in *Meyer*, the Supreme Court struck down a (continued)

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION BY NOT SCHEDULING MOTHER'S PARENTING TIME.

A. The Parties' Contentions

Mother next argues that the circuit court erred by "entering [the PL Order] wherein [Mother] is not awarded any parenting time after [December 20, 2024]" and that "it is not easily discernable how the particular *Taylor-Sanders* best interest factors were considered and weighed by the trial court[.]" Father contends that the court did not err in not awarding Mother parenting time because Mother did not "object to the omission[,] "Mother "fail[ed] to seek redress in the trial court[,]"and the court "had no reason to believe that [Mother] would be denied access time with [M.]" Quoting *Cobrand*, 149 Md. App at 445, Father further maintains that the testimony and evidence provided to the circuit court "supports a reasonable conclusion that appropriate factors were taken into account in the exercise of discretion." As explained further below, we conclude that the court did not abuse its discretion and affirm.

Nebraska statute that criminalized teaching any language other than English until high school. 262 U.S. at 403.

Here, unlike in *Yoder* and *Pierce*, there is no evidence that Mother did not want to enroll M. in a public school in Maryland. Indeed, at oral argument, Father's counsel explained (and Mother's counsel did not correct) that neither party had previously "brought up" the desire to send M. to private school. There is also no evidence that M.'s enrollment in the Prince George's County Public School system would violate a particular right akin to that "of parents to engage [a public-school teacher] to instruct their children[.]" *Meyer*, 262 U.S. at 400. For these reasons, we conclude that the circuit court did not unconstitutionally "interfere[] with" either Mother's or Father's parental rights.

B. Legal Framework And Analysis

"Embraced within the meaning of 'custody' [in § 1-201] are the concepts of 'legal' and 'physical' custody." *Taylor*, 306 Md. at 296. "'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 at 627 (quoting *Taylor*, 306 Md. at 296). A parent granted primary physical custody is the parent with whom the child spends the majority of time. *See Taylor*, 306 Md. at 297 n.5 (defining "sole custody" and "split custody" and observing that custody terminology is not uniform). In contrast, "parenting time" refers to the court-ordered time that the child spends with the parent without primary physical custody. *See id.* at 296-97, 303 ("The availability of joint custody, in any of its multiple forms, is but another option available to the trial judge.").

Here, Mother does not challenge the award of "temporary primary physical custody" to Father; instead, Mother argues that the circuit court did not articulate "how the particular *Taylor-Sanders* best interest factors were considered and weighed by the trial court as between [Mother and Father], when the trial court declined to provide parenting time to [Mother] beyond December 20, 2024." But the circuit court did not, as Mother claims, "decline[]" to give Mother parenting time; rather, Mother did not *ask* for parenting time in the proceedings leading up to the PL Order. Put simply, the court did not decline—and could not have declined—to decide something that was not before it. Likewise, this Court will not decide the matter now. *See* Md. Rule 8-131(a).

We observe that, when the circuit court issued its verbal order on October 9, 2024, it clarified that the PL Order would be temporary and only remain in effect until the court could finish receiving testimony. We discern no legal or practical reason for the court to have ordered *sua sponte* parenting time to Mother at that point. Moreover, because the PL Order did not prohibit Mother from having parenting time, there is nothing inhibiting the parties from scheduling Mother's parenting time without the court's intervention.

In short, because parenting time was not before the circuit court and the PL Order does not prohibit Mother from having parenting time with M., we conclude that the court did not abuse its discretion in this regard.

CONCLUSION

We hold that the circuit court did not err in entering the PL Order that, in part, ordered M. to be enrolled in the Prince George's County Public School system. We further hold that the court did not abuse its discretion in not explicitly granting Mother parenting time after December 20, 2024. Accordingly, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.