

Circuit Court for Carroll County  
Case No. 06-C-17-073980

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1975

September Term, 2025

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JAMES MAKIA

v.

EZIAKU OGBONNA

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Ripken,  
Tang,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Tang, J.

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Filed: April 9, 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).

The appellant, James Makia (“Father”), and the appellee, Eziaku Ogbonna (“Mother”), are the parents of two minor children. Father moved to modify an existing custody order to increase his child access to shared physical custody. After a contested hearing, the Circuit Court for Carroll County denied his request and modified his weekend access with the children. On appeal, Father raises two questions, which we have reorganized and rephrased as follows:<sup>1</sup>

1. Did the court abuse its discretion in denying Father’s request for shared physical custody of the children?
2. Did the court abuse its discretion in modifying weekend access with the children?

For the reasons explained below, we answer the first question in the negative and the second in the affirmative. Accordingly, we shall vacate the judgment only as to the access provision under paragraph 6(a) of the order and remand for further proceedings.

### **BACKGROUND**

The parties divorced in 2018 and parented according to a Child Custody Consent Order dated September 12, 2018 (“Consent Order”), which was incorporated into the judgment of absolute divorce. At that time, their elder daughter was six, and their younger daughter was five.

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<sup>1</sup> Father’s brief presents the issues as follows:

- I. Did the trial court err or abuse its discretion by refusing to increase Father’s access with the children, by eliminating Father’s overnight access on Sundays, and by refusing to award physical custody on an equal basis?
- II. Did the trial court err or abuse its discretion by employing an improper bias in favor of Mother based on gender?

The Consent Order awarded the parties joint legal custody and awarded Mother primary physical custody of the children. Father had access to the children on alternating weekends, starting from Saturday evening until Monday morning. These weekends began on Saturday to accommodate Father’s work schedule, as he worked about sixty to seventy hours per week at that time.

In 2024, Mother filed a complaint to modify custody, which she later amended. In the amended complaint, Mother did not seek any change in custody. Instead, she requested that the court require both parties to use the OurFamilyWizard application for communication, due to difficulties she was experiencing in communicating with Father.

In response, Father filed a petition to modify custody, requesting a change to physical custody. He proposed a week-on, week-off (50/50) physical custody arrangement, in which he would have the children for alternating weeks, from Thursday evening until the following Thursday morning.

The court conducted a merits hearing on these requests on September 22 and 23, 2025.<sup>2</sup>

### **Merits Hearing**

At the time of the merits hearing, the children were thirteen and twelve years old. It was undisputed that much had changed since the entry of the Consent Order in 2018.

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<sup>2</sup> In connection with the underlying proceedings, the court modified child support. In addition, Father requested an increase in vacation time, which the court ultimately granted. Neither child support nor vacation time is challenged on appeal. Therefore, we will not discuss facts relevant to either issue.

Father was the sole owner of an automotive sales company and had recently hired a general manager to help run it. The employment of a general manager provided him with greater flexibility and more time to spend with his children than in the past.

Mother had started working as a pharmacy manager, with hours from 7:00 a.m. to approximately 5:00 p.m. She had a nanny to assist with childcare while the children were younger but had recently terminated this arrangement. The nanny could not drive, cook, or help with the children’s homework, which led Mother to seek alternative childcare. At the time of the hearing, the children’s maternal grandmother provided childcare during the week when Mother was at work.

According to Father, communication with Mother was generally fine. However, Mother pushed back regarding his views about their daughters being “fat” and “overweight,” which he viewed as an issue that needed addressing. In an email to Mother, Father explained:

Men are very visual. She can be the nicest girl in the world, but no man of means that is worth anything wants to date and marry a fat girl. Call it shallow but that’s just reality so [their daughters] both need to start now to learn how to eat healthy and be fit.

Father testified that their daughters’ appearances were “very important,” and he expected them to look presentable. He practiced intermittent fasting and encouraged their daughters to do the same.

Father described his parenting style as a disciplinarian one, imposing structure on their daughters, while Mother’s strength lay in her ability to communicate with and nurture them. He testified that

[Their daughters] have to eat a certain way, so they can maintain a certain diet, so they can maintain healthy weights. . . . I get push back [from Mother] on those type of . . . things, or when I'm trying to teach them certain things, be it, how to properly take care of themselves hygiene-wise, or . . . saying how their hair needs to be done more. They need to be dressed a certain way because, you know, I dress well. . . .

[I]t's a way of showing self-respect. I wanna teach that to my daughters. So . . . when I'm getting into these things and I get pushback [from Mother] . . . . I would say those are the challenges that I've had with her.

The children were both enrolled in the same private school. They were performing well academically and were involved in various extracurricular activities. Aside from one child who faced some self-esteem issues related to test-taking, neither child exhibited any social or behavioral problems. Father acknowledged that maintaining stability was in the children's best interest, but he believed that his suggestion of a 50/50 physical custody arrangement would not adversely affect that stability.

Mother expressed two main concerns regarding Father's proposed week-on/week-off custody schedule. First, she felt that Father had not been "as active" in the children's school and extracurricular activities. Father acknowledged this point, noting that Mother typically helped the children with their homework since she had them for most of the time. Additionally, when Father offered to assist the children with their homework, they declined his help. Mother was worried that transitioning to a week-on/week-off schedule might disrupt the children's performance in school and distract them from their studies.

Second, Mother believed that some of Father's parenting decisions were unhealthy for their daughters' emotional development and self-esteem. She recounted an incident from the previous year, when their daughters were eleven and twelve. Father instructed

them to shave their armpits and demonstrated how to do so, which left the children feeling “embarrassed and tearful.” Mother expressed concern about their daughters developing self-esteem issues because of Father’s strict views on appearances, intermittent fasting, and “things of that nature.” She wanted the children to have “autonomy over their bodies, over decisions that they make, over their bodies and things like that.” In sum, Mother’s “primary concern” was the children’s “wellbeing and their education.” According to Mother, the children had been “doing very well” with the current physical custody arrangement, and she wanted them to continue thriving.

Father recognized that his children’s needs had changed as they entered adolescence, and he believed that he could address those needs by shifting to shared physical custody. He testified about the incident recounted by Mother. Last summer, he and the children were at a restaurant when his youngest daughter, then eleven, wore a sleeveless dress. When she raised her hand, Father noticed her armpit hair, which he described as “literally, this long sticking out.” He “kick[ed] into action” and told her that they would have a conversation when they returned home. Upon their return, Father told his daughters that having armpit hair was “not appropriate.” He then took them into the shower, where he instructed them to remove their clothes down to their underwear. He provided them with an electric shaver and taught them how to shave. Additionally, Father discussed shaving pubic hair with his daughters and told them that “that’s a conversation they need to have with their mom.”

Father did not discuss this incident with Mother, nor did he feel the need to. He explained, “I don’t think I needed to ask for permission from [Mother] to teach our daughters how to shave.” He did not think this incident made the children feel uncomfortable. Instead, he believed they were “fine,” and “[a]s a matter of fact, they appreciated it.”

Although Mother opposed Father’s proposed week-on/week-off schedule, she was open to expanding Father’s weekend overnight access. According to the Consent Order, Father’s overnight weekends began on Saturday to accommodate his work schedule at that time. However, since Father was no longer working as much, Mother testified that she had no issue with Father starting his weekend overnights on Friday instead.

### **Court’s Ruling**

After the hearing, the court gave its oral ruling. The court denied Mother’s request that the court require the parties to use OurFamilyWizard, which the court noted was not connected to any request for modification of legal or physical custody.

The court then addressed Father’s petition to modify physical custody. The court found that the parties’ respective changes in income, their changes in residence, and the children’s new school location constituted a material change in circumstances that justified a modification of custody. The court proceeded to consider the factors for determining the best interests of the child in child custody cases.<sup>3</sup>

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<sup>3</sup> Although courts are not limited to a list of factors in applying the best interest standard in each individual case, our appellate courts in *Montgomery County Department*

Most of the court’s findings are not disputed and were neutral in the court’s weighing of the custody factors. They were as follows:

- The court found that both parents were fit and proper and have a good, close relationship with the children.
- The court found that because the parents live close to one another, the children have the opportunity for frequent, regular, contact with the parents, both of whom act with the children’s best interest at heart.
- There was no credible evidence that the children would be subjected to any abusive behavior from either parent.
- The parents were able to share rights and responsibilities in raising the children, including reaching an agreement under the Consent Order and observing the current schedule effectively with the children.
- The court observed that the children “seem to be doing very well,” and there was no credible evidence of conflict between the parties that would impact the children. While there were some challenges with communication with the parents, the court found that the parties “can communicate.”
- Neither of the children had health issues, and neither of them were “hurting for anything financially.” In fact, they were “in the enviable position of being with two loving parents and comfortable housing situations” and enrolled in “one of the best prep schools” in Maryland. “By all accounts, these girls are doing very, very well.”
- The court found that the children were “doing fantastic” under the current custodial arrangement, and it did not “hear[] anything about the current schedule disrupting social or school lives.”

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*of Social Services v. Sanders*, 38 Md. App. 406 (1977), and *Taylor v. Taylor*, 306 Md. 290 (1986), have set forth a non-exhaustive delineation of factors that a court must consider when making custody determinations. Pertinent here, one of the factors is the ability of each of the parties to meet the child’s developmental needs. This includes ensuring physical safety, supporting emotional security and positive self-image, promoting interpersonal skills, and promoting intellectual and cognitive growth. The court applied the *Sanders-Taylor* factors as well as overlapping factors covered by Maryland Code, Family Law Article (“FL”) § 9-201(a), which, at the time of the oral ruling on September 24, were about to take effect on October 1, 2025. *See* 2025 Md. Laws Ch. 484 (S.B. 548).

While most factors did not favor one parent over the other, the court found that one factor—the children’s developmental needs, specifically positive self-image and emotional security, *see* FL § 9-201(a)(6)—weighed in favor of Mother. The court explained:

The testimony that caused me some concern is you’ve got two daughters who are entering adolescence or puberty. They’re going to have to start dealing with some issues, changing of their bodies, things like that. I heard more testimony about armpit hair, pubic hair, and the like than I probably would have liked to have heard. But the manner in which it was handled when you discovered that this is an issue, this is one of those examples where when you have joint legal custody and the children start going through something like that, they cry out for communication between the two parents. There wasn’t communication here.

You really made a decision on how you were going to take care of it. And that’s a concern because I think that you’re very fastidious about your appearance. You want that to be the same for your daughters, and I get that. But I think there should have been at least some degree of communication with [Mother] about how to address your concerns that you saw then, rather than just dealing with it directly. . . .

I also think that self-esteem and body images for kids, particularly adolescents, and candidly, particularly girls when they’re going to high school, have to be handled very carefully, and it requires coordination between two parents. I’m not clear whether that’s something that you gave specific consideration to, but I think that’s something that on this score, I think that that factor would favor [Mother] just based on . . . the evidence . . . that I saw here today.

The court declined to award Father’s requested 50/50 physical custody schedule. It explained that making “such a significant change” was “a pretty tall order.” The court further explained its “serious concerns” about whether such a change was in the children’s best interest, given the evidence related to the developmental needs factor, citing the incident the previous summer as an example:

I’m not saying this to be critical of [Father], but as I said, I gave an example. When you were confronted with what I would consider to be a touchy issue

to deal with two daughters that almost cries out to talk to their mother, how should we handle this, you didn't. That, to me, is a little bit of a concern, and so therefore, I don't find, based on the totality of the evidence before me that it would be in the girls' best interest to award the 50/50 or week on, week off custody.

The court then modified Father's weekend access with the children. In relevant part, the court changed Father's alternating weekend access from Saturday evening to Monday morning under the Consent Order, to Friday evening to Sunday evening. While the court acknowledged that Mother had no objection to expanding Father's weekend access from Friday to Monday, it was concerned that returning the children on Monday would be too disruptive to the children's stability. It explained:

[Mother] acknowledged from the stand that she has no objection to changing that to Friday night so he'd have the girls from Friday night, including Saturday and Sunday. *The question I had was whether we should make it from Friday to Sunday night or from Friday till Monday morning. I think, again, owing to my concerns for stability of the girls, I think that what I'm going to do is, as far as the controlling consent order, it'll be modified so they have this alternating weekend starting Friday at 6:00 p.m. and continuing through Sunday at 7:00 p.m. 7:00 p.m., they're older. Getting them back by 7:00 p.m. gives them sufficient time to get settled in so that they're ready for school the following morning. I gave consideration to saying take them back on Monday morning. I candidly think that might be a little too disruptive so therefore it'll be Friday 6:00 p.m. till Sunday at 7:00 p.m.*

(Emphases added.)

The court issued an order memorializing its decision on October 16, 2025. Father noted this timely appeal.

### **STANDARD OF REVIEW**

“When an action has been tried without a jury, an appellate court will review the case on both the law and the evidence.” Md. Rule 8-131(c). We “will not set aside the

judgment of the trial court on the evidence unless clearly erroneous, and [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” *Id.* Indeed, “[t]he trial judge who sees the witnesses and the parties, and hears the testimony is in a far better position than the appellate court, which has only a transcript before it, to weigh the evidence and determine what disposition will best promote the welfare of the child.” *Gizzo v. Gerstman*, 245 Md. App. 168, 201 (2020) (citation modified).

Further, when reviewing a circuit court’s child custody determinations, we utilize three interrelated standards of review. *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022). First, we apply the “clearly erroneous” standard of review to the court’s factual findings. *Id.* Second, where the court’s custody determination “involves an interpretation and application of statutory and case law,” we decide “whether the circuit court’s conclusions are legally correct under a *de novo* standard of review.” *Barrett v. Ayres*, 186 Md. App. 1, 10 (2009) (citation modified).

Finally, if we determine that the circuit court’s “ultimate conclusion” was “founded upon sound legal principles and based upon factual findings that are not clearly erroneous,” we do not disturb that conclusion absent a “clear abuse of discretion.” *Kadish*, 254 Md. App. at 502. An abuse of discretion occurs when the challenged decision is “well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable.” *North v. North*, 102 Md. App. 1, 14 (1994); *see also B.O. v. S.O.*, 252 Md. App. 486, 502 (2021) (stating that an abuse of discretion “should only be found in the extraordinary, exceptional, or most egregious case”). We will not

reverse a circuit court’s decision just because we might have ruled differently. *North*, 102 Md. App. at 14.

## **DISCUSSION**

### **I.**

#### **Physical Custody**

Father argues that the court erred or abused its discretion in denying his request for shared custody of the children. His challenge focuses on the court’s emphasis of the developmental needs factor in two ways. First, he contends that the court weighed the evidence inappropriately. Second, Father argues that the court employed an improper bias in Mother’s favor based on gender in assessing this factor. We start with the second argument.

#### **A.**

##### **Gender Bias**

Father contends that the trial court improperly denied his request for shared physical custody of the children based on gender. He highlights the court’s findings and remarks in connection with the developmental needs factor, arguing that the court’s statements demonstrate that it assumed that Mother would be a better parent and should have custody based on her gender and the fact that the children are adolescent girls.

Father relies on *Giffin v. Crane*, 351 Md. 133 (1998), for the proposition that sex cannot be the determining factor in the grant of child custody. There, the parents entered into an agreement whereby the father was awarded physical custody of their two daughters.

*Id.* at 135–36. At some point, the mother filed a petition to modify custody. *Id.* at 138. The trial court granted the petition, holding that, even though both parents were otherwise fit to care for the children, the daughters’ particular need for a “female hand” was a “necessary factor” in the court’s determination that the mother should be granted custody. *Id.* at 139–41. In other words, the determination of custody was based “solely” on sex and was “the only reason given for the court’s decision.” *Id.* at 155. On appeal, the Supreme Court of Maryland held that, in “assum[ing] that the [mother] necessarily would be a better custodian solely because she has a female hand, and that a girl child of a certain age has a particular and specific need to be with her same sex parent,” the trial court erred as a matter of law. *Id.*

In this case, the court did not deny Father’s request for shared physical custody solely because Mother is female or because the children, being adolescent girls, have a specific need to be with their same-sex parent. Rather, as the court explained, its decision was “based on the totality of the evidence.” The court expressed concerns that shifting to a 50/50 physical custody schedule would be “such a significant change” for the children, that Father was not sufficiently aware of how his behavior affected the children’s self-esteem and body image, and that there was a lack of communication from Father to Mother regarding sensitive body-related issues and how these issues should be managed. In other words, the court provided multiple reasons for maintaining physical custody with Mother, none of which rested solely on the fact that the children and Mother are female.

**B.**

**Communications About Children’s Hygiene/Shaving**

Father contends that the court overlooked evidence favorable to him and unfavorable to Mother, while also discounting evidence against Mother. For example, he points out that the court criticized him for not discussing with Mother the decision to teach their children how to shave their armpits, while ignoring that Mother did not communicate with Father before terminating the children’s nanny. In addition, he claims that the court discounted his concerns about the children being left alone after school, noting that he has greater availability to be with the children now than in 2018. Father further argues that the court’s assertion that he should have discussed the shaving incident with Mother was misguided. He explains that discussions about hygiene are not the type of decisions that require parental coordination because shaving is not a long-term decision that concerns a child’s life or welfare.

As mentioned, the abuse of discretion standard “accounts for the trial court’s unique opportunity to observe the demeanor and the credibility of the parties and the witnesses.” *Gizzo*, 245 Md. App. at 201 (citation modified). The trial judge, who “sees the witnesses and the parties, and hears the testimony is in a far better position than the appellate court, which has only a transcript before it, to weigh the evidence and determine what disposition will best promote the welfare of the child.” *Id.* (citation modified). The fact that Father would weigh the factors and evidence differently does not mean that the court abused its discretion in making its decision. Because the court “embarked upon a thorough, thoughtful

and well-reasoned analysis congruent with the various custody factors,” *Azizova v. Suleymanov*, 243 Md. App. 340, 347 (2019), we hold that its denial of shared physical custody was not an abuse of discretion.

## II.

### **Father’s Alternating Weekend Access**

Father argues that the circuit court abused its discretion by eliminating his Sunday overnights, which had been part of the custody schedule since the parties entered the 2018 Consent Order. He explains that neither party argued that Sunday overnights were a problem, that Mother specifically testified she had no issue with Father continuing to have access until Monday morning, and that the court itself found that the existing custody schedule (which included Sunday overnights) was not disruptive to the children’s social or school lives. We agree.

Regarding access/visitation, a trial court has “broad discretion” to impose conditions on a parent’s visitation rights “so long as it is in the child’s best interest and there is sufficient evidence in the record to support the condition.” *Cohen v. Cohen*, 162 Md. App. 599, 608 (2005); *see also Kennedy v. Kennedy*, 55 Md. App. 299, 310 (1983) (explaining that a trial court may “impose such conditions upon the custodial and supporting parent as deemed necessary to promote the welfare of the children” and that an appellate court “will affirm the imposition of such a condition so long as the record contains adequate proof that the condition or requirement is reasonably related to the advancement of a child’s best interests”).

The court’s decision to eliminate Father’s Sunday overnights with the children is inconsistent with Mother’s recommendation during her testimony that Father have expanded weekend access from Friday until Monday. The court’s conclusion that the children should be dropped off on Sunday night because their schedules might be disrupted otherwise was not supported by the evidence. The parties had successfully maintained the existing schedule—where Father had custody until Monday morning on alternating weekends—for over six years. Neither party testified that the Monday morning drop-offs were disruptive to the children. In fact, the court had found, when addressing a different factor, that the current schedule did not disrupt the children’s school or social lives, stating that it had not “heard anything about the current schedule disrupting social or school lives.” Therefore, the court’s rationale for modifying Father’s alternating weekend access with the children was not supported by the evidence and was contradicted by its own findings.

For the reasons stated, we shall vacate the order only as it relates to Father’s alternating weekend access, which appears under paragraph 6(a) of the order. We remand the case for further proceedings on this issue. Until the court rules on the remanded issue, the vacated provision of the order will have the force and effect of a *pendente lite* order. We otherwise affirm the court’s decision to deny Father’s request for shared physical custody.

**JUDGMENT OF THE CIRCUIT COURT FOR CARROLL COUNTY AFFIRMED IN PART AND VACATED IN PART;**

**JUDGMENT AS TO ALTERNATING WEEKEND ACCESS UNDER PARAGRAPH 6(a) OF THE ORDER VACATED AND CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION; JUDGMENT OTHERWISE AFFIRMED;**

**THE VACATED PROVISION OF THE JUDGMENT TO REMAIN IN FORCE AND EFFECT AS A *PENDENTE LITE* ORDER PENDING FURTHER ORDER OF THE CIRCUIT COURT; COSTS TO BE EVENLY DIVIDED.**