Circuit Court for Prince George's County
Case No.: CAD20-19185

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2032

September Term, 2024

ADANNA IBE

v.

ELVIS EGEONU

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

JJ.

Opinion by Sharer, J.

Filed: June 27, 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).

After a hearing on appellee's, Elvis Egeonu ("Father"), motions for contempt, the Circuit Court for Prince George's County entered a contempt order against appellant, Adanna Ibe ("Mother"), and entered a modified order for custody of the parties' minor child. Mother noted the instant appeal, where she contends that the circuit court erred in entering both orders. As we discuss, we agree and shall vacate both orders and remand for further proceedings.

BACKGROUND

I. The divorce judgment

The parties have one child who was born in September of 2019 ("Child"). In February 2022, and with the agreement of Mother and Father, the circuit court entered a Judgment of Absolute Divorce ("JAD") between the parties and set forth a child custody arrangement where the parties would have joint legal custody, Mother would have primary physical custody, and Father would have custody on alternating weekends from Friday evening until Monday morning. The parties were to exchange Child at a Target in District Heights, Maryland, except for when Father was to bring Child directly to daycare on Monday mornings.

Further, the JAD provided that the parties "shall endeavor to make jointly all major, non-emergency decisions affecting the general welfare of the minor child." In the event of a disagreement between the parties on such decisions, they were ordered to follow a two-step protocol where they would exchange no fewer than two written messages and engage in a call before Mother would be entitled to exercise tie-breaking authority. The JAD also set forth a holiday access schedule.

II. Preceding motions for contempt and to modify custody

In May 2023, Mother filed a petition to modify custody and visitation wherein she sought sole legal custody and to modify Father's access schedule. In response, Father filed (1) a petition for contempt against Mother, alleging that she had denied him access to Child, and (2) an emergency motion for immediate child access. On June 2, 2023, after a hearing on Father's emergency motion only, the court entered an order which denied Father's emergency motion but changed the exchange location to a police station located in Forestville, Maryland (the "June 2, 2023 Order").[1]

On June 9, 2023, Father filed a second emergency motion, alleging that Mother had failed to appear at the Forestville police station to exchange Child. Following a hearing, the court again denied Father's emergency motion and ordered that the parties continue to exchange Child at the Forestville police station.

On June 21, 2023, Father filed a counter-motion to modify custody. On January 31, 2024 and April 25, 2024, the parties appeared before the circuit court for hearings on the parties' three pending motions: Mother's motion to modify custody, and Father's motions for contempt and to modify custody. On June 26, 2024, the court entered an order denying both parties' motions to modify custody and finding Mother in contempt for "failing to provide information regarding the minor child's medical needs and appointments," and for "failing to comply with the holiday access schedule[.]"

[1] Mother did not appear at the hearing and did not appeal the June 2, 2023 Order.

III. The instant contempt motions

On May 30, 2024, Father filed a petition for contempt and enforcement alleging that Mother had violated the JAD by enrolling Child in a Washington, D.C. public school without notifying Father and by failing to exchange Child at the Forestville police station. On August 13, 2024, Father filed a supplemental petition for contempt and enforcement alleging that Mother had called the police on Father during his visitation, and that Mother had scheduled a medical appointment for Child and enrolled Child in summer camp without consulting with Father.

On August 15, 2024 and October 16, 2024, the parties appeared before the court for a hearing on Father's contempt petitions where Father asserted, among other things, that Mother continued to refuse to exchange Child at the Forestville police station, and that, as a result, he had missed three weekends of visitation with Child. Further, Father asserted that Mother changed Child's elementary school without consulting with Father. Mother explained that Child was waitlisted for several D.C. public elementary schools, and that after she notified Father that Child was enrolled in one elementary school, Child was "called from the waitlist" from another "preferred school[.]" She testified that she notified Father of the change in enrollment by sending "correspondence through the [school] portal[.]" Specifically, she asserted that, "as soon as I enrolled, they gave me the portal. I added his father to it . . . and that's how he was . . . in my opinion, that would have sufficed as notification because he's getting it directly from the school."

The court found Mother in contempt for violating the JAD and subsequent orders. Specifically, the court found that Mother "withheld the minor child from [Father] for a

period of twelve (12) days, failed to consult with [Father] prior to enrolling the minor child in school, and failed to consult with [Father] regarding medical appointments for the minor child[.]" The contempt order provided that Mother "may purge this finding of contempt with [Father] exercising twelve (12) consecutive days of make-up time with the minor child during the 2025 summer. [Father] shall provide [Mother] with two (2) weeks written notice of the make-up time he intends to exercise with the minor child[.]"

Additionally, the court found that Mother's contempt constituted a material change in circumstances and that it was in Child's best interests to modify custody. Accordingly, the court entered a separate child custody modification order, giving tie-breaking authority to Father and ordering that the parties communicate exclusively through a co-parenting application called AppClose.

Mother noted the instant appeal, where she asserts six questions, which we consolidate and recast into two[2]:

[2] The questions presented in Mother's brief are:

1. Did the trial court err in finding [Mother] in contempt of an interim order that was no longer in effect?
2. Did the trial court abuse its discretion in holding that [Mother]'s violation of the June 2, 2023, order was willful?
3. Did the trial court abuse its discretion by modifying legal custody as a contempt sanction?
4. Did the trial court abuse its discretion in finding [Mother] in contempt of the JAD for making unilateral decisions regarding the minor child's school selection?
5. Did the [c]ircuit [c]ourt commit prejudicial error by denying [Mother] due process?
6. Did the trial court abuse its discretion in awarding [Father] 12 days of makeup visitation?

I. Did the court err in finding Mother in contempt?

II. Did the court err in modifying child custody?

Although we see no error in the court's contempt finding, because the purge provision orders that Mother purge the contempt by permitting makeup visitation with Child, and the record does not disclose that the court considered Child's best interests, we shall vacate the contempt order. Additionally, because the court failed to provide advance notice that it may modify child custody at the contempt hearing, we also vacate the modified child custody order. We remand to the circuit court for further proceedings.

STANDARD OF REVIEW

"The light that guides the trial court in its [custody] determination, and in our review, is 'the best interest of the child standard,' which 'is always determinative in child custody disputes.'" *Santo v. Santo*, 448 Md. 620, 626 (2016) (quoting *Ross v. Hoffman*, 280 Md. 172, 178 (1977)). To that end, "[w]e review a trial court's custody determination for abuse of discretion." *Id*. at 625. Moreover, we "will not disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed." *Kowalczyk v. Bresler*, 231 Md. App. 203, 209 (2016). The court abuses its discretion when "'no reasonable person would take the view adopted by the [trial] court,' or when the court acts 'without reference to any guiding rules or principles.'" *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (internal citations omitted) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)). Furthermore, "[a] trial court abuses its discretion when its decision encompasses an error of law[.]" *Breona C. v. Rodney D.*, 253 Md. App. 67, 73 (2021).

DISCUSSION

I. The court did not err in finding Mother in contempt.

a. Parties' Contentions

Mother asserts that she was not in contempt for failing to exchange at the Forestville police station because the June 2, 2023 Order became moot when the court entered "the April 2024 [c]ontempt [o]rder" and thus, that the exchange location "reverted back" to Target. Alternatively, she contends that her violation of the June 2, 2023 Order was not willful because she "acted in good faith, relied on legal counsel and judicial statements, and reasonably interpreted the controlling order." Finally, she asserts that the court erred in finding her in contempt regarding enrolling Child in school because she made "good faith efforts" to involve Father in those decisions and "expected [him] to receive the same notifications as she did" from the Washington, D.C. public school portal.

Father responds that Mother cites no support for her position that the June 2, 2023 Order was rendered moot by a later ruling and, in any event, that the court properly found Mother in contempt where the evidence demonstrated that she "blatantly ignored the orders of [c]ourt[.]" Further, Father asserts that the court properly assessed Mother's credibility over the course of a two-day hearing and found Mother's misunderstanding regarding the June 2, 2023 Order insincere and her conduct willful. Finally, he contends that the court properly found Mother in contempt because the JAD required her to consult with Father regarding major decisions, which she did not do.

b. Legal Framework

Md. Code Ann., Cts. & Jud. Proc. § 1-202(a) provides that "[a] court may exercise the power to punish for contempt of court or to compel compliance with its commands[.]" However, "'one may not be held in contempt of a court order unless the failure to comply with the court order was or is willful.'" *Sayed A. v. Susan A.*, 265 Md. App. 40, 70 (2025) (quoting *Dodson v. Dodson*, 380 Md. 438, 452 (2004)). "Willful conduct is action that is '[v]oluntary and intentional, but not necessarily malicious.'" *Royal Inv. Grp., LLC v. Wang*, 183 Md. App. 406, 451 (2008) (quoting BLACK'S LAW DICTIONARY 1630 (8th ed. 2004)). On appeal from a finding of contempt, "[i]t is not our task to re-weigh the credibility of witnesses, resolve conflicts in the evidence, or second-guess reasonable inferences drawn by the court, sitting as fact-finder." *Gertz v. Md. Dep't of Env't*, 199 Md. App. 413, 430 (2011). Instead, we view the evidence and all inferences in light of the prevailing party to determine whether the evidence "is sufficient to support the court's finding of willfulness." *Id*.

c. Analysis

i. The court properly found Mother in contempt of the June 2, 2023 Order.

Mother contends that an order entered in April of 2024 "mooted" the June 2, 2023 Order requiring the parties to exchange at the Forestville police station and thus, that the exchange location "reverted back" to Target. However, as Father correctly points out, there is no order entered in April of 2024 in the docket entries before us. Instead, the record reflects that there were hearings in January and April of 2024 before Judge Stenise Rolle,

the same judge who presided over the August and October 2024 hearings on Father's contempt motions, and an order entered in June of 2024. However, the June 2024 order found Mother in contempt and denied any additional modifications to child custody, such as any additional modifications to the exchange location.

Although the transcripts from the hearings held in January and April of 2024 are not in the record before us, we see no indication that further modifying the exchange location was sought by either party or considered by the court. In any event, the exchange location is not mentioned in the order entered in June of 2024. Thus, it is unclear how that order could be construed as Mother suggests. We see nothing in that order that would indicate that the court intended the exchange location to "revert[] back" to Target. Indeed, statements made by Judge Rolle at the hearing on Father's contempt motions confirm the opposite:

> So this order says -- and again, you should probably talk to your counsel. [The June 2, 2023 Order] says that the only piece of the JAD he changed was the pickup location. It's one, two, three sentences. First, [F]ather shall access -- [F]ather's access shall resume effective June 2nd at 6 p.m. Second, order that exchange of the minor child shall take place at the Maryland State Police Forestville Barracks; and three, all terms and conditions of the JAD dated [sic]. The only thing Judge Johnson changed regarding the JAD was the pickup location. That's it.
>
> And I never changed that [in the order entered in June of 2024]. I said, okay, I'm not modifying this. Everything that was in place when you came to see me remains in place. I dealt with the contempt. So the only thing that I granted was the contempt. I found [Mother] in contempt for failing to provide the medical records. And I found [Mother] in contempt for the access, and I gave [Father] makeup time. I did not change the pickup location[.]

Accordingly, the court did not abuse its discretion by finding Mother in contempt for failing to exchange Child at the Forestville police station.

ii. The court did not err in finding that Mother's violation of the June 2, 2023 Order was willful.

Alternatively, Mother asserts that her conduct was not contemptuous because she followed the advice of counsel in refusing to exchange Child at the Forestville police station. Mother cites no support for her assertion that advice from counsel – misguided or otherwise – prohibits a court from finding conduct willful, and we are not aware of any. Instead, the record indicates that the court properly considered Mother's testimony regarding the advice of her counsel, as well as the remaining facts and testimony, in determining that Mother's conduct was willful. *See Martin v. Martin*, 457 So. 2d 189, 193 (La. Ct. App. 1984) (noting, in rejecting contention that contempt was improper because conduct was based upon legal advice, that "[c]ounsel's advice was simply one factor for the trial court's consideration").

Indeed, one such factor that the court relied upon was Mother's credibility and what the court described as a "pattern of behavior" supporting its ruling:

> Even outside of [Mother's refusal to exchange at the Forestville police station], on October 5th, the pickup time as you know is 6:00, [Mother] wanted to change the time, [Father] said that time did not work for him. [Mother's] response, instead of trying to accommodate what worked for him, again, in what [she has] shown [her]self to -- how [she has] shown [her]self to the [c]ourt to respond, [Mother] said it's my way or no way. [She] said, oh, well, I'll be there at 7 because that's the time that's convenient for me, and if you're not there at 7, I'm taking [Child] home. That's what [Mother] said.
>
> And that has been the pattern of behavior that I've seen from hearing all of these cases from January to April to August, that, oh, well, if you don't

> respond to me in the time that I want you to, how I want you to, then I'm just going to do what I want to do. You can't be here at the time I need you to be here, too bad. Can't be here at 7, too bad, I'll just take him with me. That was [Mother's] response, and that has consistently been [Mother's] response.
>
> So as a result of that, the [c]ourt finds [Mother] in contempt.

"[W]e give 'due regard' to the [trial] court's opportunity to assess the credibility of the witnesses[,]" and we see no reason to disturb the court's credibility assessments here. *Md. Dep't of Health v. Myers*, 260 Md. App. 565, 630, *cert. denied sub nom. Sanders v. Md. Dep't of Health*, 487 Md. 267 (2024).

Mother's challenges to the June 2, 2023 Order, including that it was not a "final" order or that it was ambiguous, are similarly unpersuasive. She asserts that the June 2, 2023 Order was not a final order because, *inter alia*, it contained no material change in circumstances or best interests of the child findings to modify child custody, and further, that it was ambiguous. However, Mother did not appeal the June 2, 2023 Order and, thus, her challenges regarding the court's considerations, or lack thereof, in modifying the exchange location are not properly before us in this appeal. *See* Md. Rule 8-202(a) ("Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.").

Further, the circuit court explicitly rejected Mother's suggestion that the court's June 2, 2023 Order was ambiguous:

> So basically [the June 2, 2023 Order] changed the pickup location. That changes the pickup location for the judgment of absolute divorce.
>
> Now, I'm sorry if that's not the understanding that you had. Like I said, you and [c]ounsel can talk about it. I'm not sure what happened at that

> hearing. I wasn't there. But on June 2nd, the pickup location changed. Okay? And so that affected the judgment of absolute divorce.

We agree that the June 2, 2023 Order provided, in no uncertain terms, that the parties were to exchange at the Forestville police station, and there is no indication from the record that the order was altered or modified in any way. Rather, the Forestville police station exchange location was expressly reaffirmed by the trial court just weeks after the June 2, 2023 Order, and Mother nonetheless insisted on exchanging at Target. Accordingly, the court appropriately found Mother in contempt.

Finally, we disagree with Mother's contention that "there must be evidence of deliberate disobedience" to find her in contempt. As we have previously noted, conduct need not be malicious to be contemptuous. *Royal Inv. Grp.*, 183 Md. App. at 451. Instead, the court's finding that Mother voluntarily and intentionally failed to comply with the June 2, 2023 Order was sufficient to support the court's finding that Mother's conduct was willful. *Id*. Based upon these facts, we cannot say that "no reasonable person would take the view adopted by the [trial] court[.]" *In re Adoption/Guardianship No. 3598*, 347 Md. at 312 (quotation marks and citations omitted).

iii. The court did not err in finding Mother in contempt for making unilateral decisions regarding Child's education.

Lastly, Mother contends that the court erred in holding her in contempt for failing to consult with Father regarding Child's school enrollment, adding that Father "was not excluded from the decision-making process, but rather failed to engage despite multiple opportunities[.]" Although we are not unsympathetic to what the trial court described as "several" instances of unresponsiveness by Father, Father's behavior did not alleviate

Mother of her obligation under the JAD to consult with Father regarding major, non-emergency decisions, such as enrolling Child in school. Nor are we persuaded by Mother's assertion that, because Father's contact information was in the D.C. public school portal and she "expected [Father] to receive the same notifications as she did[,]"she "kept [him] informed at every stage." Mother conceded at the hearing that she had not personally notified Father and had no personal knowledge regarding whether the school notified Father about Child's enrollment:

> THE COURT: . . . But today, sitting here on the stand, do you have any personal knowledge as to whether or not he received the information?
>
> [Mother]: I cannot testify -- I can testify that I -- I sent the necessary --
>
> THE COURT: So you don't --
>
> [Mother]: -- contact --
>
> THE COURT: Ma'am --
>
> [Mother]: -- information --
>
> THE COURT: Ma'am, ma'am, you never sent him --
>
> [Mother]: -- for him to get the notifications.
>
> THE COURT: -- the information. You put his -- I'm going to -- let me backtrack. I'm going to sustain this objection.
>
> You never sent him any information. You may have uploaded his information to some portal or to a website, but you never sent him any information. And you can't testify that the school actually sent him -- sitting here today, you don't know whether or not the school actually sent him information, correct?
>
> [Mother]: That doesn't mean I wasn't going to, Your Honor. I mean --

As the circuit court appropriately concluded, "[p]roviding his email in a portal is not advising him, it's not consulting him." In sum, the court did not err in holding Mother in contempt for failing to consult with Father regarding changing Child's elementary school enrollment.

II. The court erred in awarding Father with makeup visitation as a purge provision in the contempt order without considering Child's best interests.

a. Parties' Contentions

Mother asserts that the court erred in awarding Father with makeup visitation time as a purge provision in the contempt order because the court "failed to make any findings regarding how the 12 days of makeup visitation aligned with the minor child's best interests." Father does not dispute that the court failed to make any best interest findings in awarding makeup visitation but responds generally that the court properly exercised its discretion.

b. Legal Framework

Md. Code Ann., Family Law ("FL") § 9-105 provides that,

> [i]n any custody or visitation proceeding, if the court determines that a party to a custody or visitation order has unjustifiably denied or interfered with visitation granted by a custody or visitation order, the court may, in addition to any other remedy available to the court and in a manner consistent with the best interests of the child . . . order that the visitation be rescheduled[.]

FL § 9-105(1). However, this Court has noted that the trial court is "not required to exercise that option[,]" and that the purpose of the statute is not "to 'make whole' the party that is unjustifiably denied visitation." *Alexander v. Alexander*, 252 Md. App. 1, 17-18 (2021). Instead, "the statute provides that in order to exercise the option, such an award must be

'consistent with the best interests of the child[.]'" *Id*. at 18 (quoting FL § 9-105). In other words, when resolving a motion for contempt, the court "cannot issue orders that effectively modify a prior custody determination without undertaking the same 'procedural analysis' required in any other custody modification." *Sayed A.*, 265 Md. App. at 81 (quoting *Kowalczyk*, 231 Md. App. at 213).

Further, "'[c]ivil contempt proceedings are generally remedial in nature, and are intended to coerce future compliance.'" *Kowalczyk*, 231 Md. App. at 209 (quoting *Marquis v. Marquis*, 175 Md. App. 734, 746 (2007)). To that end,

> an order holding a person in constructive civil contempt is not valid unless it: (1) imposes a sanction; (2) includes a purge provision that gives the contemnor the opportunity to avoid the sanction by taking a definite, specific action of which the contemnor is reasonably capable; and (3) is designed to coerce the contemnor's future compliance with a valid legal requirement rather than to punish the contemnor for past, completed conduct.

Breona C., 253 Md. App. at 74. Further, "'[i]n order for a penalty for civil contempt to be coercive rather than punitive, it must provide for purging that permits the defendant to avoid the penalty by some specific conduct that is within the defendant's ability to perform.'" *Id*. at 75 (quoting *Kowalczyk*, 231 Md. App. at 209).

c. Analysis

Therefore, we conclude, based on the record before us, that the court erred in ordering that Mother provide Father with makeup visitation without considering Child's best interests. The contempt order stated that, for Mother to purge her contempt, she must provide Father with twelve days of makeup visitation – an effective modification of the prior child custody determination – but made no mention of Child, Child's best interests,

or whether there had been a material change in circumstances. In so doing, the court explained that, because "there's been 12 days of access that's been missed[,]" "[Father] is entitled to the 12 days[,]" before concluding that "[t]he purge for that contempt, the sanction, is the 12 days." These statements reflect a misconstrued concern in making Father whole, rather than consideration of Child's best interests. *Alexander*, 252 Md. App. at 17-18. In other words, the court failed to consider the "dispositive factor" upon which custody determinations are made. *Wagner v. Wagner*, 109 Md. App. 1, 38 (1996). Accordingly, because the purge provision improperly seeks to modify child custody without engaging in the procedural analysis necessary to do so, the contempt shall be vacated for lack of a valid purge provision. *See Breona C.*, 253 Md. App. at 75 (vacating contempt order due, in part, to lack of a "valid purge provision").[3]

III. The court erred in modifying child custody without prior notice.

a. Parties' Contentions

Mother asserts that the court violated her due process rights when it modified child custody at the contempt proceedings because the court provided no notice that it would modify child custody. Father does not dispute that the court did not notify the parties that it would modify custody at the contempt hearing, but disagrees generally that Mother's due process rights were violated.

[3] Neither party challenges whether the contempt order has a valid sanction, nor whether the purge provision is "within [Mother's] ability to perform." *Kowalczyk*, 231 Md. App. at 209. Because we vacate the contempt order for lack of a valid purge provision, we need not address those issues in this opinion.

b. Legal Framework

Parents have a "constitutionally protected liberty interest in the care and custody of [their] children." *Burdick v. Brooks*, 160 Md. App. 519, 524 (2004). This Court previously set forth the process due in the context of custody modifications in *Van Schaik v. Van Schaik*, 90 Md. App. 725, 738 (1992), where we noted that "[i]t is clear that if a court is contemplating holding a hearing at which it will, or may, determine custody issues, a parent with custodial rights, or one who has the right to claim custody, must be notified that such an issue may be the subject of the hearing." *See also Blue Cross of Md., Inc. v. Franklin Square Hosp.*, 277 Md. 93, 101 (1976) ("[U]nless an issue decided by the court is raised by the pleadings, or a party otherwise receives adequate notice of an issue during the course of a proceeding, due process is denied."). Further, as set forth in FL § 9.5-205(a):

> Before a child custody determination is made under this title, notice and an opportunity to be heard in accordance with the standards of § 9.5-107 of this title shall be given to all persons entitled to notice under the law of this State as in child custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

c. Analysis

Neither Father's May 2024 petition for contempt nor his August 2024 supplemental petition for contempt, the only two pleadings before the court, requested a modification of custody.[4] Further, Father does not dispute that the court did not provide notice that it may make a custody decision at the contempt hearing, nor does he assert that the parties

[4] Indeed, as noted, *supra*, just four months prior to the instant rulings, the court denied both parties' requests to modify child custody.

"otherwise receive[d] adequate notice of [the] issue during the course of [the] proceeding[.]" *Blue Cross*, 277 Md. at 101. Indeed, when Father's counsel offered "a proposal" during the hearing, which included a modification to legal custody, Mother objected, stating, "this is not a custody change. That's not what we're discussing[.]" Nonetheless, the court ordered a modification to child custody. We agree that, based upon these facts, Mother was deprived the opportunity to provide an effective argument on the issue. *See Burdick*, 160 Md. App. at 527 ("Because the court did not provide notice of a possible custody determination, [mother] had no 'opportunity for an effective argument on the issue of custody.'" (emphasis omitted) (quoting *Van Schaik*, 90 Md. App. at 739)).[5] Accordingly, the court's child custody modification shall be vacated and remanded for further proceedings.

CONTEMPT AND CUSTODY ORDERS VACATED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.

[5] Potentially further complicating the lack of notice was the fact that Mother's counsel withdrew her appearance on the second day of the hearing, after Mother declared that she was not satisfied with her representation. *See Burdick*, 160 Md. App. at 527 (noting that "[c]ompounding the lack of notice is the fact that [mother's] counsel entered his appearance the same day as the status conference" and that counsel was likely not "prepared to argue the custody issue").