

Circuit Court for Montgomery County
Case No. C-15-FM-22-1169

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 2055

September Term, 2025

ARMELLE S. FRANKLIN

v.

CRAIG ANTHONY OSBOURNE

Graeff,
Leahy,
Ripken,

JJ.

Opinion by Leahy, J.

Filed: July 7, 2026

* This is an unreported opinion. The 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).

In August 2025, appellant Armelle S. Franklin asked the Circuit Court for Montgomery County to modify the court’s custody order, entered one year earlier, that governed how she and appellee Craig Anthony Osbourne spend time with their child. Osbourne moved to dismiss Franklin’s modification request, arguing that Osbourne had failed to identify any “material change of circumstances” that could justify such a modification. Because Franklin never responded to Osbourne’s motion to dismiss, the court granted it without a hearing.

On appeal, Franklin contends that it was error for the court to dismiss her modification request without a hearing. We disagree. Because Osbourne’s motion did not seek a hearing, and because Franklin did not respond to the motion (and thus did not request a hearing), Rule 2-311(f) empowered the court to resolve Osbourne’s motion to dismiss on the papers and without a hearing. We therefore affirm.

BACKGROUND

Four years ago, Franklin filed for divorce in the Circuit Court for Montgomery County seeking to end her marriage to Osbourne and retain sole custody of their then-five-month-old child. Seven months into the litigation, the parties entered a consent custody order dated October 28, 2022, under which: Franklin would have “primary residential custody” and “sole legal custody” of their child; Osbourne would have supervised visitation twice a week; and the parties would reconvene in four months to update or modify the custody arrangement. At the end of the divorce proceedings in January 2023,

this consent order was incorporated into the judgment of absolute divorce entered on January 20, 2023.

In May 2023, Osbourne moved to modify this custody arrangement. He explained that since the divorce judgment, he had secured adequate housing for him and the child to live together. Following a hearing on August 26, 2024, the court entered a revised “Custody and Access Order” on August 30, 2024, granting the parties joint legal custody of their child, who was then almost three years old. The order provided that the parties “shall share information in writing and communicate with one another in writing regarding all decisions relating to the minor child’s health, education, religion, and extra-curricular activities.” Franklin was awarded tie-breaker authority for those instances in which the parties may not be able to agree on a matter, “after making significant communication and good faith efforts.” The court ordered the parties to communicate non-emergency matters only through the “Our Family Wizard” parenting app and to be civil and respectful to one another. In addition, the court set out a “step-up schedule” under which Osbourne would get more time with the child each month, and the court divvied up holiday custody. If the parties made it all the way through Osbourne’s step-up period, then under the “final and permanent access schedule,” Osbourne would have the child on weekends and Wednesday afternoons.

In May 2025, about nine months into this arrangement, Osbourne filed a petition for contempt, alleging that Franklin kept him from using the child’s daycare’s “Tadpoles” app; interfered with his allocated parenting time; and needlessly called the police on him.

Franklin responded that Osbourne had abused his access to Tadpoles to harass daycare staff; that she had proposed changes to visitation but had not missed any visits, and that she had asked for a welfare check because Osbourne “hesitated to post” his “address.” The court issued a show cause order on September 11, 2025, ordering Franklin to show cause why she should not be held in contempt.

While the contempt matter was pending, on August 26, 2025, Franklin filed the underlying “Petition to Modify Custody and Visitation” in which she sought sole physical and legal custody, reduced visitation with Osbourne, and limitations on Osbourne’s access to the daycare facility. Franklin responded by moving to dismiss the petition to modify. He argued that none of the facts alleged in Osbourne’s petition qualified as “material change[s] in circumstances” that justified changing the custody and visitation arrangement, and he accused Franklin of commencing the modification process in response to the contempt petition, rather than as a good-faith effort to better the interests of their child. Franklin did not respond to this motion, so the court granted it and dismissed her petition to modify on October 23, 2025. Franklin timely appealed to our Court.

DISCUSSION

Standard of Review

When we review custody modification decisions, we ordinarily apply three standards of review—one for the facts, one for the law, and one for the court’s ultimate decision. *Karen P. v. Christopher J.B.*, 163 Md. App. 250, 264 (2005).

Here, the court did not make any findings of fact for us to review, and Franklin does not ask us to review the ultimate custody decision. Instead, Franklin argues that the court

could not dismiss her modification petition without first holding a hearing. This is a question of law that we review *de novo*, without deferring to the court’s interpretation of the law. *Id.*

Parties’ Contentions

Franklin argues that she was entitled to a hearing under Rule 2-504.1. She says that she was preparing for such a hearing, at which she would have had “the opportunity to present additional evidence in support of her claim.” Because the court granted Osbourne’s motion to dismiss without holding a hearing, she was “denied ... due process and her day in court.”

Osbourne mostly argues the merits of Franklin’s petition, reiterating his position below that Franklin had failed to allege any material change of circumstances that could justify modification of the custody order. As for Franklin’s right to a hearing, Osbourne argues that because Franklin did not respond to his motion to dismiss or request a hearing, she has waived the argument she now presses. In other words, because Franklin did not ask the court for a hearing, Osbourne says Franklin should not be allowed to ask us to order a hearing.

The Hearing Requirement

Franklin asserts that under Rules 2-504 and 2-504.1, the court was obligated to hold a hearing on her contempt petition. Those rules obligate the court to issue scheduling orders and, when appropriate, set scheduling conferences for new matters. See Rule 2-504(a)(1) (“Unless otherwise ordered by the County Administrative Judge for one or more specified categories of actions, the court shall enter a scheduling order in every civil

action.”); Rule 2-504.1(a) (“[T]he court shall issue an order requiring the parties to attend a scheduling conference ... in an action placed or likely to be placed in a scheduling category for which the case management plan ... requires a scheduling conference”). Neither of these rules requires that the scheduling order set a hearing.

Instead, because Osbourne moved to dismiss the petition, Franklin’s hearing rights are governed by Rule 2-311(f), which directs parties to request hearings on motions:

A party desiring a hearing on a motion ... shall request the hearing in the motion or response under the heading “Request for Hearing.” The title of the motion or response shall state that a hearing is requested. Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

The court correctly noted in its order dismissing the petition that Osbourne’s motion did not contain a request for a hearing and that, because Franklin did not file a response to the motion,¹ Franklin had not requested a hearing, either. For that reason, Rule 2-311(f) authorized the court to consider Osbourne’s motion without holding a hearing.² *Drolsum*

¹ See Rule 2-311(b) (giving parties 15 days to file a response to a motion).

² Franklin’s brief does not ask us to review the court’s substantive ruling, namely that the facts alleged in her petition do not amount to a “material change of circumstances” requiring a change to the custody arrangement. Although she recites her factual allegations, she identifies only one “Issue” about the court’s lack of a hearing, and her request for relief asks us to reverse and remand the case so that the court can hold a hearing. We therefore will not review the court’s ultimate determination about what constitutes a material change of circumstances. See Guidelines for Informal Briefs §(b)(3) (“Any issue not raised specifically in an informal brief may not be considered by the Court”), <https://perma.cc/WX5S-JMJJ>.

v. Horne, 114 Md. App. 704, 711 (1997) (trial court may rule on a motion without a hearing if the other party does not respond).

CONCLUSION

Franklin did not respond to Osbourne's motion and she did not request a hearing on the motion. The applicable Maryland rules provide that the court was then free to decide the motion on the papers without a hearing.

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