Circuit Court for Carroll County
Case No. 06-C-15-069779

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2170

September Term, 2025

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CHASTITY JONES

v.

RONALD LIVESAY, ET AL.

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Shaw,
Zic,
Eyler, Deborah
(Senior Judge, Specially Assigned)

JJ.

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Opinion by Shaw, J.

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Filed: July 8, 2026

This appeal arises from the denial of a motion to reconsider and vacate a 2016 Custody order by the Circuit Court for Carroll County. Appellant is the Mother of D.T.L., the minor child who is at the center of this case, and Appellees Ronald and Lauren Livesay are the paternal grandparents. In September 2015, Appellees filed a Complaint for Custody after D.T.L, who was two years old at the time, had been left in their care for several months by Mother and Father Michael Livesay. The circuit court ultimately issued a custody order on August 9, 2016, granting sole legal and physical custody of D.T.L. to Appellees and granted Appellant and Father supervised access. Over the next nine years, Appellant filed numerous pleadings and motions, seeking to modify custody, which the circuit court denied. In December 2025, Appellant filed an emergency motion to vacate the 2016 custody order, which was also denied. Appellant timely noted this appeal, and she presents three questions for our review:

1. Did the Circuit Court err in failing to vacate the 2016 Custody Award as void ab initio under Md. Rule 2-535(b), given that Appellees knowingly used a false P.O. Box address to bypass service on the biological parents despite having documented knowledge of their physical mailing address?

2. Did the trial court abuse its discretion by maintaining a custody arrangement where the guardians intentionally concealed the child's suicidal ideation, ODD/ADD diagnoses, and escalating behavioral crises from the biological mother?

3. Does the biological father's failure to maintain contact or housing since 2020 constitute legal abandonment, and did the court err by allowing Appellees to use this "unavailability" as a procedural shield to block Appellant's petitions?

For reasons that follow, we hold that the circuit court did not abuse its discretion in denying the motion to reconsider and vacate the 2016 custody order. We decline to review the remaining questions presented by Appellant as they were not presented to the circuit court and are therefore, not preserved for our review. The judgment of the circuit court is affirmed.

**BACKGROUND**

Appellant Chastity Jones is the Mother of D.T.L., a minor child, and Appellees Ronald and Lauren Livesay are the paternal grandparents. On September 22, 2015, Appellees filed a complaint for emergency custody of D.T.L. after the child had been left in their care for several months by Appellant and Father Michael Livesay. Appellees asserted that Appellant and Father were "homeless, on drugs and as of this time do not have employment," and thus it would be in the best interest of the minor child if he remained with Appellees. Appellees requested temporary sole physical and legal custody and that the parents could have visitation "only if they have safe accommodations and food to feed [the] child." The Court issued an order the following day, scheduling the case for an expedited hearing before a magistrate, "after service on defendants." A Writ of Summons was issued to both Appellant and Father on September 23, 2015. The address listed was P.O. Box 1048, Emmitsburg, MD 21727. Service was not successfully effectuated.

Appellees filed a second complaint for custody on October 6, 2015, requesting sole physical and legal custody of D.T.L. The court entered an order on October 13, 2015, stating: "Request for Emergency/Ex Parte Custody Denied. Expedited Magistrate's hearing to be set <u>after</u> service of process on defendant's [sic] per Court's 9/23/15 ruling" (emphasis in original). A second Writ of Summons was issued to both Appellant and Father on

October 13, 2015, and a Return of Service for both parties was filed on October 30, 2015. The Return of Service indicated that Appellant was served with the Writ of Summons, the Complaint for Custody, and the accompanying Order on October 29, 2015 in Taneytown, Maryland. A Notice of Hearing was sent to all parties on November 25, 2015. The notice designated December 2, 2015, at 9:30 AM as the date for the expedited hearing. Appellant's mailing address was listed, again, as P.O. Box 1048, Emmitsburg, MD 21727. The hearing occurred on December 2, 2015, and Appellees were the only parties in attendance.

Following the hearing, the magistrate issued a report and recommendations, where he found that it was in the best interest of the minor child that Appellees be granted temporary sole legal and physical custody, pending further court proceedings. He recommended that a scheduling conference be set. A temporary custody order was issued on January 5, 2016, by the circuit court, in accordance with the magistrate's recommendations, pending further court proceedings. A scheduling conference was set for February 9, 2016, and a notice of hearing, along with the magistrate's report and recommendations, and temporary custody order, was mailed to Appellant's P.O. Box address. Neither Appellant nor Father appeared for the scheduling conference. A merits hearing was set for April 18, 2016 and a notice of hearing was sent to Appellant and Father.

On March 3, 2016, Appellant filed her first answer in these proceedings, where she stated that she and her four children were homeless from May 2015 to December 2015, and that she and Father had previously offered to "buy and provide for [D.T.L.], Ronald insisted he buy cause we were tight on money." Appellant also stated that the court should consider the fact that "[Father] and I let Ronald watch [D.T.L.] for the year due to our situation. We both have full time jobs, and want our son back. Ronald said all of 2015, when we got a place/or not we could get him [D.T.L.] any time we wanted." Appellant filed a motion, on March 3, 2016, requesting that the temporary custody order be stricken, and stated that she was "never served with the documents in this case and the address given to the court was false and has never been [her] address." On the same day, Appellant filed an "Address Change Request" in which she listed her "old address" as Appellees' residence and listed her new address as an apartment in Pennsylvania.

The notice of hearing for the April 18, 2016 merits hearing was sent to Appellant's new address on March 11, 2016. On March 31, 2016, the circuit court denied Appellant's motion, stating "Temporary Order is by its terms, <u>temporary</u>. Merits trial is set for 4/18/2016" (emphasis in original).

The merits hearing was held on April 18, 2016, and all parties were present. At its conclusion, the magistrate issued his report and recommendations. He found that granting sole legal and physical custody of D.T.L. to Appellees was in the best interest of the child, and recommended that Appellant and Father be granted supervised access to D.T.L. and be charged generally with the child's support. Appellant and Father filed exceptions, arguing that they were never served with the complaint, had little notice of the hearing and time to prepare, that the magistrate "got facts wrong," and that Appellees lied to Appellant and Father about what they were seeking. A hearing was set for August 19, 2016, to address the exceptions. The exceptions were overruled and on August 19, 2016, a final custody order was entered, granting Appellees sole legal and physical custody of D.T.L. The order granted Appellant and Father supervised access to the minor child and charged the parents with general support of D.T.L.

Over the next nine years, Appellant filed various pleadings and motions to modify the custody arrangement. In December 2025, Appellant's emergency motion to vacate the 2016 custody order was denied by the court. Appellant timely noted this appeal.

## STANDARD OF REVIEW

"In general, the denial of a motion to alter or amend a judgment or for reconsideration is reviewed by appellate courts for abuse of discretion." *Miller v. Mathias*, 428 Md. 419, 438 (2012) (internal citations omitted). "We have also noted that, when reviewing a trial judge's discretionary rulings, this Court has recognized that trial judges do not have discretion to apply inappropriate legal standards, even when making decisions that are regarded as discretionary in nature." *Id.* (internal citations omitted).

## DISCUSSION

Appellant argues that the circuit court erred in failing to vacate the 2016 Custody Award as void ab initio under Md. Rule 2-535(b). Appellant alleges that Appellees knowingly used a false P.O. Box address to bypass service on the biological parents despite having documented knowledge of the parents' physical mailing address. Appellant contends that since she was never properly served, a default order was entered without her knowledge, and the order is "a legal nullity due to extrinsic fraud."

Appellees contend that Appellant admitted in her March 3, 2016 Answer, that she was homeless at the time of the filing of the initial complaint for custody and that she did not have a physical address at that time. Appellees used the only address known to them. Appellees contend that by filing an answer and participating in the proceedings, Appellant waived any objection she may have had regarding service and in doing so, she submitted herself to the jurisdiction of the court.

Maryland Rule 2-535 outlines a court's revisory power and control over a judgment after the judgment has been entered. Section (b) of the rule states:

> **(b) Fraud, Mistake, Irregularity.** On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity.

Md. Rule 2-535(b). In *Thacker v. Hale*, 146 Md. App. 203 (2002), this Court held:

> [A]fter a judgment becomes enrolled, which occurs 30 days after its entry, a court has no authority to revise that judgment unless it determines, in response to a motion under Rule 2-535(b), that the judgment was entered as a result of fraud, mistake, or irregularity. [. . .] The evidence necessary to establish fraud, mistake, or irregularity must be clear and convincing. [ . . .] Maryland courts 'have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity,' in order to ensure finality of judgments. *See Platt v. Platt,* 302 Md. 9, 13 (1984). Moreover, the party moving to set aside the enrolled judgment must establish that he or she 'act[ed] with ordinary diligence and in good faith upon a meritorious cause of action or defense.'

*Thacker*, 146 Md. App. at 216-17. We note that the type of fraud necessary to vacate a final judgment must be extrinsic fraud. Our Court, in *Facey v. Facey*, 249 Md. App. 584 (2021) defined what constitutes extrinsic fraud. There, we stated:

> Extrinsic fraud perpetrates an abuse of judicial process by preventing an adversarial trial and/or impacting the jurisdiction of the court. Fraud prevents an adversarial trial when it keeps a party ignorant of the action and prevents

> them from presenting their case . . . or . . . the fraud prevents the actual dispute from being submitted to the fact finder at all. . . . Extrinsic fraud is normally collateral to the issues tried in the case in which the judgment is rendered. A court will not reopen a judgment because a party discovers fraud that took place during the trial or was contained within the trial [.]

*Id*. at 632 (emphasis omitted).

In *Das v. Das*, 133 Md. App. 1 (2000), we noted that "[t]he term fraud as used in Rule 2-535(b) is 'narrowly defined and strictly applied [,]" and to "prevail on a motion to set aside an enrolled judgment, the moving party must show fraud, mistake, or irregularity by clear and convincing evidence." *Id*. at 18 (internal citations omitted). We held that it is the duty of litigants to keep themselves informed about the progress of a pending case, and to furnish the court with their most recent address themselves. *Id*. at 20.

In the case at bar, Appellant alleges that Appellees committed extrinsic fraud by knowingly using a false P.O. Box address to bypass service on Appellant. The record, however, includes a Return of Service that evidences that Appellant was served with a summons, the custody complaint, and the accompanying Judge's Order on October 29, 2015. The Return of Service was signed, under oath, by the process server, and was filed with the circuit court on October 30, 2015. Appellant also filed an answer on March 3, 2016, effectively waiving any objection she may have had.

While the record does contain several instances of returned mail from the P.O. Box address, the record also includes an "Address Change Request" that Appellant filed on March 3, 2016, shortly after filing her first answer in these proceedings, where she lists her old address as Appellees' home address and her new address as an apartment in

Pennsylvania. Appellant was also ultimately served with a summons, and she was present for the merits hearing on custody. Based on this record, which includes the court's docket entries and filings by Appellant, it is clear that Appellees did not commit extrinsic fraud.

With regard to the two remaining issues Appellant presents to our Court, these issues were not properly preserved for appellate review because Appellant did not present these issues to the circuit court for a determination. In *Robson v.* State, 257 Md. App. 421 (2023), this court stated that Maryland Rule 8-131(a) "makes unambiguously clear, the appellate courts of this state 'ordinarily will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.'" 257 Md. App. at 459 (2023) (quoting *Small v. State*, 235 Md. App. 648, 696 (2018)). This Court explained that the "purpose of the preservation requirement is to preserve the integrity and the efficiency of the trial itself" and that the primary purpose is not to "facilitate or to foreclose appellate review of a trial error," but rather to "eliminate any necessity for appellate review." *Robson* at 460. "A secondary purpose of the preservation requirement is to protect the trial judge from being charged with error without having been alerted to the risk by counsel." *Id*. at 461.

Here, Appellant asserts, in her second and third questions, that the trial court abused its discretion by maintaining the custody arrangement because Appellees intentionally concealed the child's suicidal ideation, ODD/ADD diagnoses, and escalating behavioral crises from Appellant, that Father's failure to maintain contact or housing since 2020 constituted legal abandonment, and that the court erred by allowing Appellees to use

Michael Livesay's "unavailability" as a procedural shield to block Appellant's petitions. The record is clear, however, that Appellant did not raise these issues before the circuit court. We, therefore, decline review as the issues have not been preserved.

**JUDGMENT OF THE CIRCUIT COURT FOR CARROLL COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.**