Circuit Court for Baltimore City
Case No. 24-D-17-003177

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2209

September Term, 2024

ANNIEBELL STEWART

v.

DAVID ALCINDOR

Nazarian,
Arthur,
Leahy,

JJ.

Opinion by Nazarian, J.

Filed: August 25, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

In December 2024, after a three-day custody modification hearing, the Circuit Court for Baltimore City awarded David Alcindor ("Father") sole legal and physical custody of his and Anniebell Stewart's ("Mother") daughter, A. The court also established a "step-up" visitation schedule for Mother that began with three months of no parenting time and will morph into weekly supervised visits, then unsupervised visits to increase in length approaching the start of the school year in September 2025, and a holiday visitation schedule. Mother appeals the modification order and we affirm it.

I. BACKGROUND

Mother and Father share a daughter, A, who was born on July 10, 2015. Mother and Father never married, and they ended their relationship in early 2017. Father filed a complaint seeking sole legal and physical custody of A on September 25, 2017, and Mother filed a counter-complaint the next day that sought sole legal and physical custody as well. Mother filed an emergency request for relief in November 2017, claiming that Father withheld A from her for six weeks. The court issued an interim order on December 11, 2017 that granted Mother primary physical custody and gave visitation access to Father. The court held a two-day hearing and on September 7, 2018 issued a final custody order that granted the parties joint legal custody, with tie-breaking authority to Mother, and joint physical custody on a week-on-week-off basis.

A few weeks later, Mother filed a petition for contempt against Father, claiming that he had failed to bring A to school—the Dayspring Head Start program ("Dayspring")—during his custodial weeks. Father filed a contempt petition against Mother that alleged

that she enrolled A in Dayspring without consulting him. He also filed a petition to modify the tie-breaking authority provision of the custody order. In January 2019, the court denied Father's contempt petition and ordered that the parties re-enroll A in Dayspring—her enrollment had been terminated due to her failure to attend—but made no modifications to the 2018 custody order.

Five months later, Mother filed a petition to modify custody. She alleged that Child Protective Services ("CPS") had opened an investigation against Father based on a report that he had hit A. Father answered that A told a CPS worker that Mother, not Father, had hit her. Father also filed a contempt petition against Mother for failing to re-enroll A in Dayspring and a cross-petition to modify custody, claiming that Mother was harassing him by filing multiple protective order petitions based on false allegations of abuse.

The parties appeared before a family magistrate in February 2020. The magistrate found that A was on the waitlist for Dayspring and recommended that Father's contempt petition be denied. As to the modification petitions, the magistrate found questionable Mother's credibility and the veracity of her allegations against Father. The magistrate noted that Mother had filed petitions for protective orders against Father at least four times between 2018 and 2019 and that CPS had "ruled out" abuse by Father in fall 2019, after finding that the parents had "coached" A on what to say. Ultimately, the magistrate found no credible evidence of a material change in circumstance and recommended the parties' modification petitions be denied. The court adopted the magistrate's recommendations in March 2020.

In January 2023, CPS received a report from a teacher at A's school who said that they saw marks on A's arms and that A had said that Father beat her with a spoon, called her names, had a gun, and made her sleep with him at night, after which she experienced vaginal and rectal pain. A CPS caseworker, Robin Stokes, and an officer interviewed A at her school. A denied having experienced abuse or name-calling, and she said she didn't know what a gun was. Ms. Stokes asked to speak with the teacher who made the report, but there was no teacher at the school under the name that the reporter had given.

Ms. Stokes also interviewed Mother, Father, A's paternal grandmother who lives with Father ("Grandmother"), and A's sister, K, who lives with Mother (they have different fathers). Mother said she observed marks on A and that A had reported vaginal and rectal pain in the past. K said that A had reported being choked and threatened by Father. Father denied having hurt or called A names, and he said A has her own room at his house and is not forced to sleep with him. Grandmother said that Father sometimes applied Vaseline to A's private areas when she complained of pain but that he didn't do so in a sexual manner. Indeed, as would later come to light, Mother had told Father to apply Vaseline to A's bottom, and Father only did so when A complained of irritation. Grandmother also said that neither she nor Father owns a gun and that, in early January 2023, A told Father that Mother had directed A to tell her teacher that Father had a gun. Grandmother warned Ms. Stokes that Mother "has a history of lying."

CPS recommended that Mother have A examined. Dr. Rebeca Tholen, a nurse practitioner at A's pediatrician's office, examined A and reported that A's hymen appeared

to be ruptured. Dr. Tholen noted, however, that she is not a specialist and recommended that A visit another clinic. A couple weeks later, a provider at the Center for Hope, Baltimore Child Abuse Center, Dr. Wendy Lane, performed a second medical exam. Dr. Lane concluded that A's hymen and genitalia appeared normal but that those results didn't rule out the possibility of abuse. The Center for Hope also conducted a forensic interview of A, during which A reported that Father threatened her, called her names, touched her in her "private parts," and showed her naked pictures of adults.

On January 20, 2023, Mother filed for another protective order against Father, alleging that he abused A sexually. The District Court in Baltimore City granted Mother an interim protective order that day. The District Court then held a hearing on January 24 and issued a final protective order that granted Mother sole legal and physical custody of A for a year. Father appealed to the circuit court, and the court scheduled a trial to begin in March 2023.

CPS continued its investigation, and on February 24, 2023, sent Father a letter indicating that they had "ruled out" physical abuse, meaning that CPS had concluded that abuse did not occur in this case. CPS closed the investigation on March 9, 2023.

The circuit court held a trial on Father's appeal from the final protective order on March 30, April 12, and April 20, 2023, and the court vacated the final protective order. Mother filed a motion to alter or amend that ruling and for a new trial, which the court later denied. Father regained custody of A from April 23 to 28. He returned A to Mother on Sunday, April 29, in accordance with the week-on-week-off schedule of the 2018 custody

order. After that, though, Mother did not return A to Father, or even let him see her, until the resolution of this case a year and a half later.

After the court vacated the final protective order on April 20, 2023, Mother filed a petition to modify custody and another petition for a protective order, both of which repeated the same allegations of sexual abuse by Father. In May 2023, the Circuit Court for Baltimore County, the court in which Mother filed for a protective order, denied her petition. CPS opened another investigation, and the Center for Hope conducted another forensic interview of A on May 12, 2023. During that interview, A reported that Father inserted his fingers into her privates after bathing her, that he made A wash him in the shower, that Father and Grandmother showed her pictures of naked adults, and that they took pictures of A with her clothes off. CPS reported "a high level of concern" that A had been coached before her interview, and they ruled out sexual abuse. CPS would later rule out abuse a third time in May 2024.

Mother dismissed her custody modification petition voluntarily on May 19, 2023, and Father filed a contempt petition on May 30 in which he alleged that Mother told him she wouldn't return A for his next custodial week. Father supplemented that petition and filed a petition to modify custody on July 11, 2023, asking the court to grant him sole legal and physical custody of A. Mother re-filed her petition to modify custody on October 26, 2023, requesting sole legal and physical custody of A. Father dismissed his contempt petition voluntarily in November 2023, and each party filed an answer to the other's modification petition.

The circuit court held a three-day modification hearing on September 9, 10, and 11, 2024. Mother, Father, and Grandmother testified, and Mother called an expert in child forensic interviewing, Dr. Kelly Champion,[1] to opine on the reliability of A's statements during her forensic interviews. On September 12, 2024, the court issued a temporary custody order granting Father weekly visitation, supervised at first and then unsupervised after the first month. The court also granted Father weekly communication with A via phone or video, twice a week at first and then three times per week after the first month. The court ordered that Mother must not deny Father access to those communications with A and that she must leave the room while A is speaking with Father. The court also ordered the parties to communicate solely through AppClose, a co-parenting application, on matters related to A. This order superseded the 2018 custody order only to the extent that the orders conflicted.

The court held another hearing on November 6, 2024, at which Father and Mother testified on how the visitations and communications had gone since the court entered its temporary order. The court was not prepared to issue a final ruling, so it issued a supplemental temporary custody order. This supplemental order continued Father's thrice-weekly communications with A and increased his unsupervised parenting time gradually until the next hearing.

[1] The court also qualified Dr. Champion as an expert in parent-child relationship development; child development, including cognitive development; clinical child and adolescent psychology, especially child anxiety and trauma; and interdisciplinary approaches to child maltreatment.

The court issued its final ruling on December 30, 2024. The court found a material change in circumstance in Mother's persistent allegations against Father and her withholding of A from him. The court found further that the parties were unable to communicate effectively or reach shared decisions about A's well-being, that Mother had "no desire to co-parent with Father," and that Mother was unfit to have physical custody of A. In light of these findings, the court granted Father sole legal and physical custody. The court also ordered a visitation schedule for Mother that started with no parenting time until April 7, 2025, then increased gradually her supervised and, eventually, unsupervised visitation time.

Mother noted a timely appeal to the court's modification order on January 10, 2025. We include additional facts throughout the Discussion.

II. DISCUSSION

Mother raises several issues on appeal that we have consolidated and rephrased: *first*, did the court err in finding that Father hadn't abused A; and *second*, did the court abuse its discretion when it granted Father sole legal and physical custody and awarded step-up visitation to Mother?[2] We hold that the court didn't err in finding that Father hadn't

[2] Mother phrased her Questions Presented as follows:

> 1. Did the trial court improperly convert the custody modification into a contempt hearing and place punishing Mothers violation of the custody order above the best interests of the child?
> 2. Did the trial court abuse its discretion by issuing multiple pendente lite orders and review hearings regarding

Continued . . .

abused A and didn't abuse its discretion in modifying custody as it did.[3]

We review a circuit court's decisions on child custody "utilizing three interrelated

visitation with Father after the final evidentiary hearing without considering the best interests of the minor child?

3. Did the trial court err or abuse its discretion when after granting Father sole custody it created a step-up custody schedule that ordered a "blackout period" that denied the child any and all contact with Mother, supervised visits, and gradual unsupervised visits over a period of 3 years.
4. Did the trial court err or abuse its discretion when it ruled that Mother had falsely accused Father of sexual abuse despite the evidence that it was the child who made the allegations and Fathers admissions?
5. Did the trial court err or abuse its discretion when it ruled Mother's conduct had caused alienation and damage to the Father-Child relationship and negatively impacted the child's mental health and overall wellbeing?
6. Did the trial court properly consider the expert witness testimony that the child was credible and had not been coached by mother?
7. **Did the trial court err or abuse its discretion in concluding that Mother was unfit?**

Father did not file a brief in this Court.

[3] We do not reach Mother's question about the temporary orders that the court issued on September 12 and November 13, 2024 because the court since has issued a final custody modification order that mooted any challenges to the temporary orders. *See Krebs v. Krebs*, 183 Md. App. 102, 109–10 (2008) (holding that mother's appeal regarding circuit court's *pendente lite* custody order pending the parties' divorce merits hearing was moot because the court held the merits hearing and awarded custody to father as part of its ruling); *Cabrera v. Mercado*, 230 Md. App. 37, 85 (2016) (holding that mother's claim that the circuit court's emergency temporary custody order should be vacated for lack of proper service was moot because "the final custody order [was] the . . . governing order and would still govern even if we vacated the emergency temporary custody order").

standards": *first*, we review the court's factual findings for clear error; *second*, "'if it appears that the [court] erred as to matters of law,'" we will remand for further proceedings unless the legal error was harmless; and *third*, we review the court's ultimate conclusion for abuse of discretion. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012) (*quoting In re Yve S.*, 373 Md. 551, 586 (2003)). The circuit court has broad discretion to determine the best course of action for the child, and we will not disturb its custody ruling absent a clear abuse of that discretion. *Id.* at 171 (*citing In re Yve S.*, 373 Md. at 585–86).

A. The Court Did Not Err In Finding That Father Hadn't Abused A Because The Court Was In The Best Position To Judge Mother's Credibility And To Weigh Dr. Champion's Testimony.

Mother argues *first* that the court erred in finding that Father hadn't abused A. She argues that the court concluded incorrectly that Mother had fabricated abuse allegations against Father, that the court didn't consider Dr. Champion's expert testimony on A's forensic interviews adequately, and that the evidence was sufficient for the court to find that abuse had occurred. We see no error in the court's findings.

In determining whether a child who is the subject of a custody or visitation proceeding has been abused or neglected by one of the parties, the circuit court must decide whether there are "reasonable grounds to believe" that one or both of the parties abused or neglected the child. Md. Code (1984, 2019 Repl. Vol.), § 9-101(a) of the Family Law Article ("FL"). The "reasonable grounds to believe" standard, in this context, is equivalent to the "preponderance of the evidence" standard, meaning the court must decide whether it's more likely than not that the child was abused or neglected. *See Volodarsky v.*

Tarachanskaya, 397 Md. 291, 308 (2007). In deciding this issue, the court, as the ultimate fact-finder, determines credibility and weighs the persuasive value of the evidence—including expert testimony—just as a jury would in a jury trial. *See id.* at 305–06; *Porter v. Schaffer*, 126 Md. App. 237, 269–70 (1999) ("In a non-jury case, matters involving the credibility of witnesses and conflicts in the evidence are firmly within the purview of the trial judge, sitting as the trier of fact. This rule applies with equal force to the testimony of an expert." (citations omitted)). On appeal, we "will not set aside the judgment of the trial court on the evidence unless clearly erroneous[] and will give due regard to the opportunity of the trial court to judge the credibility of witnesses." Md. Rule 8-131(c).

Mother's and Father's testimonies in this case boil down to a "he said, she said" situation, and the court ultimately decided that it didn't believe Mother's allegations of abuse. This finding is not erroneous. The record revealed several inconsistencies and false information in Mother's statements to Father, CPS, medical providers, and the court. She testified that A has a heart murmur, but A's medical records contain no such diagnosis. Mother admitted that she lied to Father about being abused as a child, claiming it was a "sad attempt" to convince him to get back together with her. She told a court-appointed psychological evaluator in 2020 that she completed a bachelor's degree in social science and started a master's program, but she admitted at the modification hearing that her highest level of education is high school. On May 3, 2023, Mother told A's doctor that Father had taken A out of school that past week (April 23–28) without Mother knowing,

but as Father explained during his testimony, that was the week that he regained custody of A after the circuit court vacated the final protective order. Father had to coordinate with A's teachers so that he could pick her up from school because Mother was trying to deny him access. Mother also told the doctor at the May 3 visit that she had a protective order against Father, but the last protective order had been vacated, and Mother didn't file for a new one until May 4, the day after the visit. Mother testified that she has never coached A into making allegations against Father, but Father introduced a video of A admitting that Mother told her to lie about him owning a gun and to call 911 when she got to his house. These and other discrepancies in Mother's statements gave the court ample reason to question Mother's credibility.

The court also referenced the special family magistrate's skepticism of Mother's claim that as a risk analyst for the Federal Housing Administration, she reported to the Vice President of the United States directly and had top-secret security clearance. Mother claims this was improper because her job duties were irrelevant to the modification issue. But the court stated simply that it shared the magistrate's concerns about Mother's credibility, not on the issues before the magistrate "but on issues that we've had since then." And there were several other inconsistencies in Mother's statements for the court to consider. Mother's credibility was relevant to determining whether the court had reasonable grounds to believe that A had been abused, *see Volodarsky*, 397 Md. at 307–08 (noting that court was required to make credibility determinations, among other findings, to decide whether there was reasonable grounds to believe the child had been abused), and the court didn't

err in finding Mother less than credible.

The court had the discretion as well to decide how much weight to give Dr. Champion's expert testimony. *See Porter*, 126 Md. App. at 270 ("As the trier of fact, the court was entitled to give [the expert's] testimony the weight and value the court believed it should have."). The court seemed to give little weight to Dr. Champion's testimony, finding in essence that Dr. Champion recommended that the court "believe [A's] statements that impact this case and not believe [her] statements that are fanciful and off the wall." We can't say that this finding is clearly erroneous. Mother played the recordings of A's forensic interviews during the modification hearing, and Dr. Champion testified that she didn't notice anything during the interviews that would suggest that A had been coached. The court noted, however, that Dr. Champion wasn't aware before conducting her analysis that Father had seen A for only about two weeks in 2023 and that A hadn't seen him since April 29, 2023. Dr. Champion also didn't know that the person who called CPS in January 2023 was a fictitious reporter, and she couldn't testify definitively that Mother wasn't the person who made that call. The court pointed out that Dr. Champion had testified that "[c]hildren will use names and labels as they've heard them," which may explain why during the second interview, A referred to Father and Grandmother by their first names and called Grandmother, whom Mother had accused of doing witchcraft, a "witch." A also repeated information that she said Mother had told her and that A couldn't have known herself, such as that Father kidnapped her when she was two years old and that he's been carrying a gun since she was two. Overall, the court had the opportunity to

watch the recordings and make its own conclusions about A's statements, and it wasn't required to give any particular weight to Dr. Champion's testimony. *See id.*; *see also Dackman v. Robinson*, 464 Md 189, 216 (2019) ("Even if a witness is qualified as an expert, the fact-finder need not accept the expert's opinion, *i.e.*, the fact-finder is free to reject the expert's opinion and accord it little or no weight." (cleaned up)).

Finally, the court found that there was no credible evidence that Father abused A physically or sexually. Based on our review of the record, we can't say that this finding was clearly erroneous. The parties introduced into evidence the files from the CPS investigations, including the letters informing Father and Grandmother that CPS had ruled out abuse; Dr. Lane's report on her forensic examination of A; A's medical records from her birth to November 13, 2023; a transcript of Dr. Tholen's, Ms. Stokes's, and A's second-grade teacher Ms. Crocker's testimony during the March 30, 2023 final protective order hearing; and the video recordings of A's two forensic interviews, among other exhibits. These exhibits and the witnesses' testimonies contained conflicting information in some respects, and it was up to the court to resolve those conflicts. *See Porter*, 126 Md. App. at 269–70 (citations omitted).

For example, A reported during the interviews that Father had touched her inappropriately, called her names, and threatened to kill her. A's medical records, however, mentioned no signs or concerns of abuse other than Mother's reports of such. Indeed, in January 2020, A's doctor noted that there had been "a running issue with [Mother] complaining about possible sexual abuse by Father, which has not been substantiated."

And the doctor had stated a few months earlier that "Father denie[d] any wrongdoing" and that he "presented a cogent case." Dr. Tholen reported in January 2023 that A's hymen may have been ruptured, but that finding, which Dr. Tholen qualified by noting that she is not a child abuse specialist, was contradicted by Dr. Lane's later finding.

Mother maintains that she believes Father abused A, but the record reveals that CPS investigated and ruled out abuse by Father three times and by Grandmother once. CPS concluded in 2023 that there was a lack of evidence that Father abused A physically or sexually because Ms. Stokes never noticed any marks or injuries on A, A couldn't provide "explicit details of any incidents of sexual abuse" during her forensic interview, and Dr. Lane had determined that A's hymen and genitalia were normal. When another CPS worker spoke with A during the 2024 investigation, A "did not disclose any acts of sexual molestation by either [Father] or [Grandmother]." Although A disclosed abuse by Father during her two forensic interviews, including by inserting his fingers into her vagina and rectum while applying Vaseline, CPS had "a high level of concern" that A had been coached before her interviews. During the modification hearing, Father explained that he and Grandmother had applied Vaseline to A's private areas when she complained of irritation, and he denied having ever inserted his fingers while doing so. He further explained that Mother had told him to apply Vaseline for A's irritation. Indeed, he introduced an email from 2018 in which Mother had told him to apply Vaseline to A's bottom, and another from 2019 in which Mother informed Father that the doctor suggested applying a healing ointment to A's bottom to address irritation.

Based on the record and the court's appropriate findings regarding Mother's credibility and the weight of Dr. Champion's testimony, we see no error in the court's conclusion that Father did not abuse A.

B. The Court Did Not Abuse Its Discretion When It Granted Father Sole Legal And Physical Custody And Established An Escalating Visitation Schedule Because The Court Considered The Best Interest Factors Properly.

Second, Mother contends that the circuit court abused its discretion by granting Father sole legal and physical custody of A and establishing a graduated visitation schedule for Mother. She argues that the court placed Father's parental rights above A's best interests, that the court prioritized punishing Mother over serving A's best interests, and that the evidence didn't support the court's step-up visitation plan. We hold that the court did not abuse its discretion in awarding custody to Father and limiting visitation with Mother as it did.

When considering a request to modify child custody, the court first must "assess whether there has been a 'material' change in circumstance" since the entry of the last custody order. *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005). A "material" change is one that "affects the welfare of the child." *Id.* If the court finds that "there has been such a material change, the court then proceeds to consider the best interests of the child as if the proceeding were one for original custody." *Id.* The best interests analysis requires the court to review several "major factors" outlined in *Taylor v. Taylor*, 306 Md. 290, 303–11 (1986). But "none [of those factors] has talismanic qualities, and . . . no single list of criteria will satisfy the demands of every case." *Id.* at 303. Rather, the trial court "should

carefully set out the facts and conclusions that support the solution it ultimately reaches," *Santo v. Santo*, 448 Md. 620, 630 (2016), with the best interests of the child as the "paramount concern . . . ." *Taylor*, 306 Md. at 303.

Mother doesn't seem to dispute the circuit court's finding of a material change in circumstances. Her brief focuses largely on the court's findings on the best interest factors, particularly whether Mother is a fit parent. The court stated in its ruling that it had considered all the required factors in reaching its decision:

> I've considered all the factors . . . under Maryland law with respect to legal custody and physical custody.
>
> * * *
>
> I have to consider the fitness of each parent, which is the primary consideration. . . .
>
> I have to consider the parties' character and reputation and the agreements, the ability to maintain natural family relations, preference of the child if old enough to make a rational choice, material opportunities, residence and the opportunity for visitation and pending relocation, which there is none.
>
> Stability and foreseeable health and welfare, child's spiritual, physical, and moral well-being, contact and bonding between child and parents, [A's] physical and emotional security, her developmental needs, ability to create a positive self-image.

The court then concluded that it would be in A's best interest to award Father sole legal and physical custody. Although the court centered its findings on three factors—the parties' ability to communicate and make shared decisions about A's wellbeing, the parties' willingness to share custody, and the parties' fitness as parents—the record and the court's findings support its ultimate conclusion. *See Gillespie*, 206 Md. App. at 174–76 (affirming custody modification order where trial court stated that it considered numerous factors in

reaching its decision, but the analysis centered largely on the parents' ability to communicate and their willingness to share custody).

1. The parties' ability to communicate and reach shared decisions regarding the child's welfare

The court found that Mother and Father "are unable to communicate effectively and reach shared decisions concerning [A's] welfare." We see no error in this finding. In fact, both parties agreed that they haven't been able to communicate productively over the years. Mother testified specifically that communications between her and Father have been "contentious." The record confirms that characterization. Grandmother testified that Father and Mother don't get along, that they used to argue when they spoke on the phone, and that their inability to converse without arguing is why they had to start communicating with each other via email. Indeed, the 2018 custody order required the parties to communicate by email except in an emergency. The court-appointed best interests attorney also introduced several emails that Mother sent to Father, accusing him of misconduct and abuse against A. Those emails, Father said, represented "only a small portion of the accusations" that Mother has made against him over the years. Additionally, after the District Court granted Mother an interim protective order on January 20, 2023, she drove to the exchange point on January 22 for Father's scheduled pick-up, directed A to hand Father the interim protective order through the cracked car window, then drove off with A. Mother testified that she believed this action of obtaining a protective order against Father and then having A, the protected party, hand it to him in person was in A's best interest.

Father also testified that Mother has not kept him in the loop about A's well-being.

He introduced an email from August 2021 in which Mother informed him that she had moved and transferred A to a new school, and she did so without notifying or conferring with Father. He testified that Mother also switched A to homeschooling in 2022 and didn't tell him; he had to contact A's former elementary school to find out she was being homeschooled. Mother also didn't tell Father that she intended to continue homeschooling A for the 2024/2025 school year. And she didn't inform him that her friend from church was helping her homeschool A; Father learned about this during Mother's testimony at the modification hearing. Father testified as well that Mother hasn't updated him about A's academic progress since her transition to homeschooling. In addition to A's academics, Father testified that before January 2023, Mother refused to keep him updated on A's medical appointments. And after the Circuit Court for Baltimore County denied Mother's last protective order petition on May 11, 2023, the parties stopped communicating altogether. According to Father, he wasn't receiving any information on A's medical appointments until Mother retained an attorney for the modification hearing and the attorney helped ensure that Father received updates from A's doctor.

Overall, the evidence in this case, including the parties' own admissions that they don't communicate well, supported the court's findings on this factor.

2. The parties' willingness to share custody

The court found that that "Mother has, quite frankly, no desire to co-parent with Father." Again, we see no error in this finding. The most significant piece of evidence that supports this finding is Mother's withholding of A from Father for nearly a year and a half.

As the court put it, "Mother has, since January of 2023, through her conduct, intended to alienate [A] from Father's orbit, from his life. And she has . . . largely been successful." Mother argues in this Court that the circuit court erred in blaming Mother for that lengthy separation and failed to consider the parties' prior "agreements" about whether Father would contact A while the case was pending. Mother claims that after the parties appeared before a magistrate in July 2023 to address Father's contempt petition, "Father agreed that he would not pursue access [to A] during the pendency of the trial." Mother says the fact that Father dismissed his contempt petition after that hearing shows that the parties had entered into that agreement. There is, however, no evidence of such an agreement in the record, and neither Mother nor Father testified about the existence of an agreement at the modification hearing. Moreover, Father's decision to dismiss his contempt petition doesn't prove anything about whether such an agreement existed. In the end, Mother withheld A from Father for sixteen months in violation of the 2018 custody order, going so far as to switch A to homeschooling to keep her away from Father. And her testimony during the modification hearing suggested that she would continue to defy the court's orders if it decided, as the courts did in the protective order hearings, that there wasn't enough evidence to believe that Father abused A:

> [BEST INTERESTS ATTORNEY ("BIA")]: [Y]ou said [you denied Father] access to [A] because you wanted the courts to decide, right?
>
> [MOTHER]: Mm-hmm.
>
> [BIA]: On April 20th, 2023, you asked the Circuit Court for Baltimore City to decide whether [Father] should have no contact, right?

[MOTHER]: Right.

[BIA]: And that Judge said no, correct?

[MOTHER]: Right.

[BIA]: On May 11th, 2023, you asked [the Circuit Court for Baltimore County] to decide whether [Father] should have no contact, right?

[MOTHER]: Right.

[BIA]: [That judge] said no, right?

[MOTHER]: Right.

[BIA]: Since May 11th, 2023 there have been no safety plans in effect by CPS advising that [Father] should have no contact, correct?

[MOTHER]: Correct.

[BIA]: So you've taken it into—you've taken matters into your own hand, haven't you?

[MOTHER]: I guess, yes.

[BIA]: And if [this Court] finds that [Father] did not sexually abuse [A], you will disagree with that decision, won't you?

* * *

[MOTHER]: Yes.

[BIA]: Just like you disagreed with [the prior judge's] decision, right?

[MOTHER]: Yes.

[BIA]: Just like you disagreed with [another prior judge's] decision, right?

[MOTHER]: Yes.

[BIA]: And if [this Court] finds that [Father] did not sexually abuse [A], you will still believe that you need to keep [A] safe, won't you?

[MOTHER]: Yes, ma'am.

Mother said she was open to Father having contact with A, but she also testified that there was "always a disconnect" when she and Father tried to co-parent. And ultimately

she sought sole legal and physical custody of A herself, an outcome that required her to allege and prove that she and Father couldn't communicate or co-parent. The record supports the court's finding that she was not willing to share custody with Father.

3. The parental fitness of the parties

Finally, the court found that Mother was not fit to have physical custody of A. This finding is not clearly erroneous. To start, the record demonstrates that Mother has acted against A's best interests for the purpose of keeping her away from Father. Mother removed A from school and started homeschooling her as a means of denying Father access. As a result, A doesn't socialize with other children except on "field trips" with other homeschooled children whom A doesn't know. And A hasn't seen her best friend from elementary school other than in passing since A started homeschooling. Mother recognized the lack of socialization and testified that she wanted A to return to her former school. Despite these apparent concerns, however, Mother had re-enrolled A in homeschool for the 2024/2025 school year just before the hearing, which occurred in September 2024. In addition to the lack of socialization, homeschooling led to issues with A having too much "screen time." Mother testified that A watched YouTube videos for health class as part of her homeschooling curriculum. Then in March 2024, Mother took A to the doctor for a well visit and reported that she would sometimes "wake up to find [A] watching YouTube at daybreak" and that A had "poor sleep habits." In response, the doctor recommended less screen time.

Mother's actions before she started homeschooling A also demonstrate her

unfitness. During the 2022/2023 school year, A was absent from school thirty-one times (only eight of which were excused) and tardy twenty-nine times (twenty-five of which were unexcused), all during Mother's custodial weeks, according to Father. Father also introduced a video of A saying that Mother told her to lie about Father having a gun and to call 911 on him. This coupled with Grandmother's reports to CPS that Mother told A to lie and CPS's concerns that A had been coached before her interviews supports the court's conclusions that Mother falsified all the allegations against Father and directed A to lie to keep A from Father. As the court concluded, such conduct created an "unhealthy environment for [A]." Also as a result of these false allegations, A was subjected to multiple invasive medical exams as part of the CPS investigations only to find that she appeared to be normal. Mother also brought A to the circuit court for two of the protective order hearings. And she had A hand-deliver (through a cracked window) the January 2023 interim protective order to Father even though Mother obtained the protective order because she claimed to believe that Father was abusing A and that A was afraid of him. Overall, Mother's actions put A at the center of the parties' conflict for several years and to A's detriment.

In sum, we hold that the court did not abuse its discretion in modifying custody as it did. The record supports the court's findings that Mother and Father do not communicate well, that Mother abused her tie-breaking authority while the preceding order was in place, and that joint legal custody would not be in A's best interest. *Taylor*, 306 Md. at 304 ("Rarely, if ever, should joint legal custody be awarded in the absence of a record of mature

conduct on the part of the parents evidencing an ability to effectively communicate with each other concerning the best interest of the child."); *id.* at 307–08 ([T]he absence of an express willingness on the part of the parents to accept a joint custody arrangement is a strong indicator that joint legal custody is contraindicated.").

The record supports the court's skepticism of Mother's fitness to retain custody of A in light of her persistent false allegations against Father, her willingness to defy the court's orders, and her desire to deny Father access to A even for as long as sixteen months. Mother's goal of withholding A from Father took precedence over A's well-being, and Mother's conduct, the court concluded correctly, created an unhealthy environment for A and damaged her relationship with Father unnecessarily. We see no abuse of discretion in the court's decision to grant Father sole legal and physical custody of A. *See Bienenfeld v. Bennett-White*, 91 Md. App. 488, 502 (1992) (affirming grant of physical and legal custody to father where circuit court found, among other facts, that "the children's ties to the father would be threatened if the mother were given custody," and noting that "'to deny to the child an opportunity to know, associate with, love and be loved by either parent, may be a more serious ill than to refuse it in some part those things which money can buy'" (*quoting In re Marriage of Hadeen*, 619 P.2d 374, 382 (1980))).

We also see no abuse of discretion in the court's decision to implement a graduated visitation plan for Mother. The court found that Mother's conduct damaged Father's relationship with A and that Mother fed A false information and encouraged her to lie. The visitation plan related reasonably to the harms that the court identified in that it would help

to repair A's relationship with Father, particularly after such a lengthy separation, and help to prevent Mother from continuing the damaging conduct (*i.e.*, telling A lies and encouraging A to lie about Father). *See, e.g.*, *North v. North*, 102 Md. App. 1, 14–15 (1994) (explaining that a visitation restriction must "follow logically from" the court's findings and have a "reasonable relationship" to its announced objective). Mother claims that the court failed to consider A's relationship with her sibling when it modified custody as it did, but the court mentioned A's relationship with her maternal family members when creating the visitation plan:

> THE COURT: Starting Monday, June the 2nd, Mother will have once-a-week unsupervised visitation with [A]. That will be either a weekend morning or afternoon so she can reacquaint herself with her sister and her extended family. And we're going to do that once every other week.

Moreover, and although it generally is in the best interests of a child to remain with their siblings, "when separation becomes necessary or inevitable, . . . there is no reason why it should not be done." *Hild v. Hild*, 221 Md. 349, 359 (1960). The court did not prioritize punishing Mother over A's best interests, and it modified custody reasonably based on the evidence before it.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. APPELLANT TO PAY COSTS.