Circuit Court for Montgomery County
Case No. C-15-FM-23-004564

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2240

September Term, 2024

NATHAN M. F. CHARLES

v.

TIFFANY SUMMERFIELD CHARLES

Berger,
Nazarian,
Ripken,

JJ.

Opinion by Nazarian, J.

Filed: July 2, 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).

Nathan Charles ("Father") and Tiffany Summerfield Charles ("Mother") commenced their divorce proceedings in July 2023. The following month, they filed an agreement with the court that covered custody and visitation of their two minor children. In December 2024, in response to Mother's motion to modify custody, the Circuit Court for Montgomery County found a material change in circumstance and that the best interests of the children would be served by giving Mother sole legal custody and requiring Father's visitation to be supervised. Father appeals the supervision provisions of the court's modification order (not the legal custody terms), and we affirm.

I. BACKGROUND

Father and Mother were married on May 21, 2011. They have two minor children together: C, age ten, and E, age six.[1] Father initiated divorce proceedings in July 2023, Wife filed a countercomplaint in September 2023, and the court granted Wife an absolute divorce on May 23, 2025. This case involves the parties' custody of their two children.

On August 8, 2023, the parties signed a custody agreement in which they agreed to joint legal custody of the children, with tie-breaking authority to Mother, and primary physical custody to Mother. The agreement followed an incident of alleged sexual assault in July 2023 that had prompted Mother to obtain a temporary protective order against Father. The agreement set a visitation schedule under which Father would have access to the children on alternating weekends "from Friday at 7:30 p.m. until Sunday at 6:00 p.m."

[1] These were the children's ages at the time of the modification hearing in December 2024.

during the school year; alternating weeks during the children's summer break; and alternating access on major holidays and the children's birthdays during odd or even years, depending on the holiday. Additionally, in exchange for Mother's agreement to dismiss her request for a permanent protective order against Father, the custody agreement contained provisions limiting Father's contact with Mother:

> i. [Father] shall not abuse, threaten to abuse, or harass [Mother];
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> ii. [Father] shall not contact, attempt to contact, or harass [Mother], except that the parties may contact each other via e-mail for purposes of child access / visitation or sharing pertinent information about the wellbeing of the Children. In an emergency, the parties may communicate with each other via text message.
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> iii. [Father] shall not enter [Mother's] residence at . . . or wherever she resides; and,
>
> iv. [Father] shall stay away from [Mother's] place of employment . . . or wherever she may work.

On August 17, 2023, the court entered a custody consent order in the parties' divorce case that incorporated the custody agreement.

On October 13, 2023, Father filed a motion to modify visitation, which he later amended twice. In his second amended petition, filed on September 5, 2024, Father argued that the custody agreement contained three "latent ambiguities": (1) although the agreement specified the date on which the school year visitation schedule ended and the summer schedule began, it did not specify which parent had visitation with the children for the *first* week of the summer; (2) the agreement did not specify whether the school year schedule, which granted Father visitation with the children every other weekend "from

Friday at 7:30 p.m. until Sunday at 6:00 p.m.," applied to three-day weekends; and (3) the agreement's communication provision, according to Father, "impose[d] an unreasonable restraint on the children's ability to communicate with [Mother] while they are in the custody of [Father]," and vice versa. Father contended that the parties' failure to account for the first week of summer, three-day weekends, and the children's communication needs constituted a "mutual mistake" in the formation of the agreement. Relying solely on principles of contract law, he asked the court to modify the agreement to resolve the alleged ambiguities.

Mother responded with a countermotion to modify parenting time on May 8, 2024. She argued that a material change in circumstance warranted an order that Father's access to the children must be supervised. To support this claim, Mother explained that since the entry of the consent order, C had been struggling in school and exhibiting behavioral issues; that Father had placed the children in the middle of the parties' conflict, including by making inappropriate comments to the children about Mother and their legal proceedings, asking C to retrieve Father's belongings from the marital home, and telling C to bring his passport when he visited Father even though the parties had not agreed on international travel; that Father had unstable housing and had changed his plans multiple times about where he would live; that Father had placed his own needs above the children's, including by filing a motion to compel Mother to sell or refinance the marital home (the children's primary residence), threatening to liquidate the children's college funds so he could buy a house, planning to have the children fly as unaccompanied minors for his own convenience,

and requesting that Mother and the children move out of the marital home so that Father, his fiancée, and her two children can move in; that Mother had become concerned about Father's mental health due to his "behavior during court proceedings, animus towards the Court, hostile communication with counsel, and the contents of [Father's] pleadings"; and that there had been a "significant breakdown in coparenting" between Mother and Father due to Father's "hostile and retaliatory communication style toward" Mother. The court scheduled a modification hearing for December 16, 17, and 18, 2024.

On November 7, 2024, Mother filed *ex parte* an emergency motion for supervision of access, seeking sole legal custody of the children and supervised access for Father. She alleged that the parties had agreed that C would benefit from therapy and that Mother had been searching for nearly a year to find a provider. In October 2024, Mother placed C on a waitlist for in-person therapy. Mother provided Father with the contact information for the therapist's office, and Father said he would reach out to the therapist. The therapist also told Mother she would contact Father to schedule a parent session. On November 6, 2024, Father emailed Mother, claiming that he had been unable to reach the therapist and that the therapist had yet to contact him. In this email, which Mother attached as an exhibit to her emergency motion, Father told Mother "[i]f you don't have [C] into some sort of therapy by the time I pick [the children] up on Friday, [November 8, 2024,] you will not get them back. I will file an emergency petition for change of custody in Pennsylvania . . . . I will also ask the Montgomery County Police to file a criminal complaint against you for

neglect." That evening, Mother's counsel notified Father of her intent to file the emergency motion, and she filed it the next day.

Father filed his own emergency petition on November 7, claiming that Mother's "fail[ure] to obtain [mental health] services for [C] despite [Father] repeatedly imploring [Mother] to do so" constituted child neglect. He requested immediate physical custody and "assistance from law enforcement officials in effectuating any order stemming from" his emergency petition. Alternatively, he requested an order compelling Mother to have C evaluated by a mental health professional within seven days. The court ruled that it would address both motions together at the hearing in December.

The modification hearing began on December 16, 2024. The court suggested that the parties begin with their arguments on material change in circumstance, and then the court would address custody. Father responded that he was not arguing a material change in circumstance and that he based his modification request solely on a theory of mutual mistake. The court explained that to prevail on a motion for modification of custody, Father first must prove a material change in circumstance. The court gave Father the opportunity to make that argument at the hearing and Father declined. Mother then moved to dismiss Father's second amended petition and the court granted that motion.

The court then proceeded with Mother's countermotion. The court took testimony from Mother; C's fourth grade teacher, Mary Allen; Mother's father, David Summerfield; Father; and Father's father, the Honorable Bradford H. Charles. The court also heard from the court-appointed custody evaluator, Mimi Sneed, LCSW-C, who had conducted a

custody evaluation for this case in November 2024 and whom the court recognized as an expert in social work and custody evaluations. The parties submitted numerous exhibits, including several emails and Ms. Sneed's evaluation report. At the end of the three-day hearing, the court took the matter under advisement.

On January 17, 2025, the court entered a custody order and modified custody as follows:

- The court granted Mother sole legal custody of the children, ordered that Father "may not interfere in any respect with [Mother's] sole decision-making authority," and ordered that the children's providers are not obligated to speak with Father and that Father may only provide records or information to those providers with Mother's consent;

- The court granted Mother primary residential custody of the children;

- The court ordered that Father's parents could supervise his access with the children based on a new visitation schedule, and that the court may consider unsupervised access if Father completed a court-approved anger management program;

- The court ordered that Father "shall not abuse, threaten to abuse, harass, or attempt to contact [Mother] regarding matters unrelated to the children, either directly or through any third party," but that Father may contact Mother's attorneys regarding the parties' legal matters. Additionally, the court ordered that any contact between the parties shall occur through a co-parenting application, shall only concern the children, and may include other parties *as necessary*. The parties may communicate by text only in emergencies;

- The court specified that the new custody order would not supersede certain provisions of the custody agreement, specifically the requirements that Father stay away from Mother's residence and place of work, and the provisions regarding travel and transportation; and

- The court ordered that the parties may alter the custody and access arrangements by agreement, but they must submit by consent order any proposed permanent changes.

On February 4, 2025, the court filed a memorandum opinion, outlining its specific findings on the material change in circumstance and the best interests of the children. Father filed a timely notice of appeal from the court's custody order.

We include additional facts throughout the Discussion.

II. DISCUSSION

Father raises three issues[2] on appeal that we rephrase:

(1) Did the court abuse its discretion when it dismissed Father's second amended petition to modify custody?

(2) Did the court violate Father's due process rights by allowing Mother to "change her theory of the case" on the first day of the hearing?

[2] Father phrased his Questions Presented as follows:

> 1. Whether the Court abused its discretion by dismissing Appellant's Petition to Modify Custody based on mutual mistake.
> 2. Whether the Court violated procedural due process by allowing Appellee to change her theory of the case on the day of trial.
> 3. Whether the Court abused its discretion by imposing supervised visitation without evidence indicating Appellant posed a threat to the safety of his children.

Mother rephrased the Questions as follows:

> I. Did the Circuit Court abuse its discretion by dismissing Appellant's Amended Petition based on mutual mistake?
> II. Did the Circuit Court violate procedural due process by allowing Appellee to change her theory of the case on the day of trial?
> III. Did the Circuit Court abuse its discretion by imposing supervised visitation on Appellant?

(3) Did the court abuse its discretion when it imposed supervised visitation on Father?[3]

We hold *first* that the court did not abuse its discretion in dismissing Father's second amended petition to modify custody; *second*, that the court did not violate Father's due process rights; and *third*, that the court did not abuse its discretion when it imposed supervised visitation on Father.

A. The Circuit Court Did Not Abuse Its Discretion When It Dismissed Father's Second Amended Petition Because He Failed To Allege A Material Change In Circumstance.

First, Father argues that the circuit court abused its discretion when it dismissed his second amended petition because, he says, he "properly pleaded mutual mistake" as the basis for modification. He relies on Maryland Rule 2-535(b) and contract law to support his position that the court had the authority to modify the custody agreement due to a mutual mistake in forming it. In response, Mother asks us to dismiss Father's appeal because he did not file a Rule 2-535 motion in the circuit court and, therefore, cannot raise

[3] Father is not challenging the court's decision to award sole legal custody of the children to Mother. His briefs are silent on the issue and he acknowledged that decision at oral argument in this Court.

In addition, Father's opening brief includes a section entitled "Other Deliberate Falsehoods and Mischaracterizations." That section lists several findings from the court's memorandum opinion that he characterizes as not "directly relevant to the other errors presented in this appeal." He then attempts to explain or recharacterize those findings without requesting any form of relief. Because Father doesn't raise an issue for our review or provide argument as to the propriety of those findings, we will disregard this portion of his brief. *See* Md. Rule 8-504(a)(6), (c) (party's brief must provide "[a]rgument in support of [their] position on each issue," and if their brief is noncompliant with this rule, we can dismiss the appeal or "make any other appropriate order with respect to the case").

an argument grounded in that Rule on appeal. On the merits, Mother contends that Father never asserted, let alone proved, a material change in circumstance that could warrant the modification he requested.

Mother is correct that Father cannot ground his appeal in Rule 2-535 when he didn't file a motion under that rule in the circuit court. *See* Md. Rule 8-131(a) ("Ordinarily, an appellate court will not decide any [non-jurisdictional] issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . ."). Rather than dismiss his appeal, though, we will address the merits of his argument in the context of a petition to modify custody, something he did file in the circuit court. And because Father failed to prove a material change in circumstance, the court did not abuse its discretion when it dismissed Father's second amended petition.

We review a circuit court's decisions on child custody "utilizing three interrelated 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 children, and we will not disturb the court's custody ruling absent a clear abuse of that discretion. *Id.* at 170–71 (*citing In re Yve S.*, 373 Md. at 585–86).

In considering a request to modify child custody, the circuit court first must "assess whether there has been a 'material' change in circumstance." *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005). A "material" change is one that "affects the welfare of the child," or in this case, children. *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.* If the court does *not* find a material change in circumstance, then "the court's inquiry ceases." *Wagner v. Wagner*, 109 Md. App. 1, 28 (1996).

Father acknowledges that he never identified or argued a material change in circumstance in his second amended petition. Instead, he argued that the custody agreement contained "latent ambiguities" that resulted from a "mutual mistake" in the formation of the agreement. He maintained this contract-based argument at the hearing even after the court explained that it couldn't modify the custody agreement unless it found a material change in circumstance first. At no point in his pleadings or during the hearing did Father argue that a material change warranted a modification. But it's not optional: a court *must* find a material change in circumstance affecting the welfare of the child before it can modify child custody. *See Wagner*, 109 Md. App. at 29 ("[U]nless there is a material change, there can be no consideration given to a modification of custody."); Cynthia Callahan & Thomas C. Reis, *Fader's Maryland Family Law* 5-56 (7th ed. 2021) ("The standard has been the same, from the first reported case on the topic in the modern era till the present: the pursuer of the modification must prove a change in circumstances material to the child's welfare before the court can consider whether a modification is

appropriate."). Because Father did not assert a material change in circumstance, "the court's inquiry cease[d]," *Wagner*, 109 Md. App. at 28, and correctly so.

B. The Circuit Court Did Not Violate Father's Due Process Rights When It Allowed Mother To Connect The Children's Issues To Father's Anger Because Mother's Petition Provided Sufficient Notice Of This Argument.

Next, Father contends that the circuit court violated his procedural due process rights by allowing Mother to "fundamentally alter her case theory on the day of trial." Father claims Mother's countermotion didn't provide sufficient notice of her argument that Father's mental health affected the children negatively or that the children's behavioral changes constituted a material change in circumstance. Because he was not on notice of these claims, Father argues, the court erred in allowing Mother to pursue those claims without allowing additional discovery. Mother responds that her countermotion put Father on notice of her claims, including those related to the children's behavioral issues. Alternatively, Mother contends that even if the counterpetition didn't provide such notice, Mother was "still entitled to make a full, evidentiary presentation with respect to the best interest of the Children."

The Fourteenth Amendment to the Constitution of the United States[4] guarantees parents due process of law when their interest in the care and custody of their children is

[4] Father grounds his due process claim in both the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights. *See* Md. Const. art. 24 (protecting individuals against deprivation of "life, liberty or property, but by the judgment of [their] peers, or by the Law of the land"). Because these provisions have been interpreted and applied to have the same reach in this context, we rely on interpretations of the Fourteenth Amendment to interpret Article 24. *Wagner*, 109 Md. App. at 23 n.9.

at stake. *See* U.S. Const. amend. XIV (protecting people against deprivation of "life, liberty, or property, without due process of law"); *Wagner*, 109 Md. App. at 25 (parents have a "protectible liberty interest in the care and custody of [their] children"); *In re Yve S.*, 373 Md. at 565 (parents have a "Fourteenth Amendment liberty interest in raising [their] children as [they] see[] fit, without undue interference by the State"). The extent of the process that's due, however, depends on a "balancing of the various interests at stake." *Wagner*, 109 Md. App. at 25; *see also In re Yve S.*, 373 Md. at 569 ("'Due Process analysis requires the delicate balancing of all of the competing interests involved in the litigation.'" (*quoting Wolinski v. Browneller*, 115 Md. App. 285, 300 (1997), *overruled on other grounds by Koshko v. Haining*, 398 Md. 404 (2007))). And even if there is a departure from the proper procedure, "there is no denial of due process" unless that departure "results in unfairness . . . ." *Wagner*, 109 Md. App. at 25.

As a general matter, due process requires "both notice and an opportunity to be heard on the issues to be decided in a case." *Blue Cross of Md., Inc. v. Franklin Square Hosp.*, 277 Md. 93, 101 (1976). "Thus, unless 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." *Id.* That said, due process "is a flexible concept that calls for such procedural protection as a particular situation may demand. It does not require procedures so comprehensive as to preclude any possibility of error." *Wagner*, 109 Md. App. at 24 (citations omitted). It requires "*reasonable* procedural protections, appropriate to the fair determination of the particular issues presented in a given case." *Id.*

In *Van Schaik v. Van Schaik*, 90 Md. App. 725 (1992), for example, the divorcing parties filed a separation agreement in which they agreed to joint legal custody of their minor child with primary physical custody to the mother and reasonable visitation to the father. *Id.* at 729. The child's court-appointed counsel then requested a hearing to address "'visitation and other issues,'" and the court sent a notice to the parties stating that the hearing would cover "'visitation and [the] child's possessions.'" *Id.* at 730. Neither parent had requested a custody modification. *Id.* at 739. Only at the end of the hearing did the court raise the issue of custody when it terminated the father's joint custody rights. *Id.* at 730, 738. We held that the court had denied the father due process by failing to notify him either before or during the hearing that it would determine custody. *Id.* at 738–39; *see also Burdick v. Brooks*, 160 Md. App. 519, 523–24, 526–27 (2004) (mother denied due process where court failed to notify her that status conference, set upon request of child's appointed attorney, would involve custody determination, and court awarded temporary custody to father at end of conference).

That's not what happened here. In this case, Mother's countermotion provided ample notice that Mother intended to argue a material change of circumstance based on the children's change in behaviors and Mother's concerns about Father's mental health, among other reasons. In her countermotion, Mother alleged that since the entry of the custody agreement, C had been struggling in school and, according to his teacher, seemed "off" after returning from a weekend of visitation with Father. She alleged further that C had exhibited behavioral issues in class after a visit with Father, including refusing to comply

with instructions, hiding under his desk, and leaving the classroom. As for Father's mental health, Mother cited numerous pleadings and emails in which Father communicated in a hostile and demeaning manner towards Mother and her counsel.[5] These pleadings and correspondence also exhibited Father's anger towards the court and his apparent unwillingness to comply with the court's orders when he disagrees with them.[6] In one such

[5] By way of example, Mother included the following quotes from Father's pleadings and emails:

- To Mother's counsel: "'[I]f you keep it up with these vexatious and dilatory filings, your client is going to end up owing sanctions, and you'll be lucky to walk out of this with your licenses.'"
- In various communications, Father called Mother's counsel "'hardheaded idiots,' 'a retard,' 'a man-hater,' 'cheats and liars,' 'inept,' and [a] 'dilatory and vexatious moron who give[s] a bad name to my profession.'"
- In an email to Mother's counsel, Father stated he was "'eminently qualified for three things,'" the first of which is "'killing people . . . .'"

[6] By way of example, Mother included the following quotes from Father's pleadings:

- In his motion for recusal of the same judge that would later preside over the modification hearing, Father said, "'[a] reasonable person could look at the developments in this litigation and conclude that [the judge] is either grossly incompetent or biased in favor of [Mother].'"
- In his motion to reconsider the temporary protective order that prohibited him from liquidating his IRA, Father admitted that he liquidated his IRA in violation of that order. He stated that he "would look favorably upon going to jail." And in his request for relief, he asked the court to reconsider the temporary protective order, "'[o]r don't. At this point, it honestly doesn't matter.'"
- During a motions hearing in March 2024, he told the presiding judge that he believed she was a "'terrible'" judge.
- In his notice of inability to pay child support, Father claimed the court was biased against him, "'culminat[ing] in a situation where [Father] does not have the ability to comply with the orders of this Court.'"

pleading, Father wrote that he "'will no longer put his grievances before the court. He will no longer rely on an appeal to intellectual capacity of judges and juries. Rather he will obtain justice through self-help.'" In conclusion, Mother contended that Father's behavior, as evinced in his emails and pleadings, didn't serve the children's best interests:

> Overall, [Father's] actions are for his self-interests and not in the best interest of the Minor Children. [Father's] statements since August 2023, by virtue of his emails and pleadings, are an example of how his behavior is escalating and becoming of greater concern. Notably, he feels as if he has lost control of [Mother] and is retaliating by his frivolous filings. His disdain for [Mother] dictates his actions, even if that means detriment to the Children.

Mother's countermotion provided more than sufficient notice of her intent to argue that a material change in circumstance warranted a modification of custody and that the children's behaviors and Father's escalating anger both constituted material changes. She connected C's behavioral changes to Father's actions and specifically to visitations with Father. Mother did not include allegations about E's changing behaviors, which she brought up on the first day of the hearing, and she admitted as much when Father objected to her discussing such allegations during her opening statement:

> [FATHER]: Your Honor, I need to object.
>
> [THE COURT]: Yes?
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> [FATHER]: None of these allegations that she's talking about right now were disclosed in any of the—were disclosed in her petition. These are things that I'm hearing for the first time right now. I've never had an opportunity for discovery on these matters. This is all completely new.
>
> [THE COURT]: Okay.

* * *

> [FATHER]: I mean, I'll save you some time. Everything she's talking about has occurred since we filed the petitions. There's no adequate disclosure. This is a due process issue.
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> * * *
>
> [COUNSEL FOR MOTHER]: Your Honor, respectfully, [Father] is correct to say that these incidents have occurred since May 8th, 2024, when we filed our petition. He has not—sorry. But not for [C] but with regard to [E].
>
> [THE COURT]: Okay.
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> [COUNSEL FOR MOTHER]: But the biggest concern here is [Father] never propounded discovery.
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> [THE COURT]: Oh, okay. Well, that answers the question.
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> [FATHER]: No, no, no, no, I didn't have an opportunity to—even if I would have propounded discover, I wouldn't have had an opportunity to question these issues. I wasn't on notice. This is a notice issue. There has to be adequate notice in the pleadings, and there's not.
>
> [THE COURT]: Well, okay. I'm going to overrule your objection. Go ahead.

Mother didn't include allegations in her countermotion about E's behavioral changes because they hadn't yet occurred, but Mother did put Father on notice of those allegations at the start of the hearing in her opening statement. *See Blue Cross*, 277 Md. at 101 (issue must be raised in pleadings *or* party must receive adequate notice of that issue "during the course of a proceeding" to satisfy due process requirement). Then, in his own opening statement, Father said there was no evidence that E's behaviors (*i.e.*, urinating on herself during some visitation exchanges) were his fault and that they were likely the result of the divorce. He had an opportunity to be heard on the matter when he testified that he knew of just one exchange during which E urinated on herself. He suggested the reason was because she drank a lot of fluids and then became so engrossed in her videogame that she wet

herself. He believed it was not a sign of trauma but rather a "little setback" in E's development.

E's concerning behaviors (which included more than wetting herself, as we explain below) were an important factor for the court as it determined whether a material change in circumstance had occurred. *See McMahon*, 162 Md. App. at 594 (defining material change as one that "affects the welfare of the child"). And although Mother didn't (indeed, couldn't) include those allegations in her countermotion, she placed Father on notice of the issue at the start of the hearing, and Father had an opportunity to be heard on it. We recognize the court's decision to hear Mother's arguments and testimony regarding E's behaviors as a "'balancing of all of the competing interests involved in the litigation.'" *In re Yve S.*, 373 Md. at 569 (*quoting Wolinski*, 115 Md. App. at 300). Indeed, the court made the same kind of decision when it allowed Father's father, Judge Charles, to testify despite Father's failure to identify him as a witness during discovery, leaving Mother's counsel with limited opportunity to speak with Judge Charles before his testimony, because the court believed Judge Charles's testimony would be relevant to whether Father's visitation should be supervised. We see no denial of due process under these circumstances.

C. The Circuit Court Did Not Abuse Its Discretion In Ordering Supervised Visitation Because It Found Correctly That A Material Change In Circumstance Existed, And It Considered All The Best Interest Factors Properly.

Finally, Father argues that the circuit court abused its discretion when it ordered that his visitation with the children must be supervised. He raises four issues relating to this modification: (1) Father claims the court should have granted his request to appoint a

guardian *ad litem* (*i.e.*, an attorney) for the children due to the parties' high-conflict divorce; (2) he claims Mother should have requested, and the court should have ordered, a mental health evaluation to substantiate Mother's allegations about his mental health; (3) he claims that the evidence of his parenting "missteps" didn't warrant supervised visitation; and (4) he claims that the best interest factors don't weigh in favor of supervised visitation. Mother responds that it was within the court's discretion to appoint a guardian *ad litem*, and the court chose properly to deny Father's request. She argues further that she wasn't required to request a mental health evaluation and that her decision not to do so is not grounds for reversal. Finally, Mother argues that the evidence demonstrated Father's "alarming inability to control his anger and to shield his children from it" and that the court found properly that supervised access was in the children's best interest. We agree with Mother on all accounts.

1. The court did not abuse its discretion when it declined to appoint a guardian ad litem *for the children.*

First, Father claims the court's decision not to appoint a guardian *ad litem* was "malicious and willful," and that the court "intentionally collud[ed] with [Mother's counsel]" to "assassinat[e]" Father's character in the court's memorandum opinion and order. Father cites no evidence of such malintent or collusion, however, and includes no legal authority to support his position. And although it's true that the appointment of an attorney for a child "may be most appropriate in cases involving . . . [a] high level of conflict," among other scenarios, Md. Rule 9-205.1(b)(2), it is within the court's discretion whether to do so. *See* Md. Code (1999, 2019 Repl. Vol.), § 1-202(a)(1) of the Family Law

Article (court *may* appoint attorney for child in case involving contested custody, visitation, or child support); *Garg v. Garg*, 393 Md. 225, 238 (2006) ("The decision whether to appoint independent counsel for the child is a discretionary one, reviewable under the rather constricted standard of whether that discretion was abused."). There is no evidence that the children's interests have been under- or poorly represented, nor any argument that they required representation independent of their parents in this case. On this record, we see no abuse of discretion in the court's decision not to appoint a guardian *ad litem*.

2. Neither Mother's decision not to request a mental health evaluation nor the court's decision not to order one warrant reversal.

Second, Father contends that Mother's decision not to request a mental health evaluation of Father and the court's decision not to order one were "unconscionable" in light of Mother's focus on Father's anger issues during the hearing. As with the appointment of a guardian *ad litem*, the decision to order a mental or physical health evaluation in a custody matter (or not) falls within the trial court's discretion. *See Laznovsky v. Laznovsky*, 357 Md. 586, 619 (2000) (noting that trial courts "have the option, in their discretion, to order current evaluations of the mental and physical health of the parents and children"). The trial court here had ample evidence demonstrating Father's anger and his poor treatment of others, including emails from Father in which he spoke with hostility towards Mother and her counsel; Mother's and Judge Charles's testimony about Father's angry outbursts (*i.e.*, incidents of road rage, yelling and cursing at the children, etc.); and the custody evaluator's opinion that Father should participate in an

anger management program. This and other evidence provided more than enough proof of Father's anger issues even without a mental health evaluation. We see no abuse of discretion in the court's decision not to order one.

3. The court found properly that a material change in circumstance existed.

Father's *third* contention is that the four parenting "missteps"[7] to which he admits cannot serve as the basis for a material change finding because they all occurred before the custody agreement had been entered. He argues as well that "supervised visitation is rightly restricted to cases where the parent poses a substantial risk to their children" and that these "missteps" do not create such a risk. We see no error in the court's material change finding, not least because the court grounded it in well more than the four "missteps" that Father acknowledges.

As we explained in Section II.A., before modifying custody, the circuit court first must find that there has been a material change in circumstance since the entry of the operative custody order. *See McMahon*, 162 Md. App. at 593–94; *see also McCready v.*

[7] These four "missteps" are:

(1) In May 2020, Father slammed a door in frustration, and the door fell off the hinges;

(2) In March 2022, Father shouted at E, causing her to run to Mother, shaking. Father approached E and Mother, angry and yelling, and Mother ran upstairs and locked herself and the children in the bedroom to keep Father out;

(3) In March 2022, while driving the family to Hershey Park in Pennsylvania, Father took a sudden U-turn, which prompted C to tell Father to slow down, and Father told C to "shut the fuck up"; and

(4) During the drive to Hershey Park, Father swerved into another lane and sped by Judge Charles, who was driving in front of Father.

McCready, 323 Md. 476, 482 (1991) (party may not attempt to relitigate an earlier custody determination and must show material change since entry of that earlier custody order). Again, a material change is one that "affects the welfare of the child." *McMahon*, 162 Md. App. at 594; *see, e.g.*, *Gillespie*, 206 Md. App. at 155–58, 172 (mother's worsening mental health, exhibited through her increasingly hostile and sometimes physical behavior towards son, constituted material change); *Kadish v. Kadish*, 254 Md. App. 467, 505–06 (2022) (mother's failure to comply with travel and notification provisions of custody agreement, which resulted in child residing with father "for almost twice as long as the Agreement contemplated" and caused "'chaos'" in child's life, was a material change).

In this case, the court found that "the worsening emotional health of the children, manifesting in increasingly concerning ways, [was] a material change in circumstances warranting a modification of the custody order." The court then discussed Father's anger and how it has affected the children. The court noted that C lost the opportunity to begin therapy entirely because of Father's actions (namely, informing the therapist that he would subpoena her for a deposition), but that Father blames Mother for the delay in securing mental health services for C. The court added that Father's anger "has been directed at and around the children," and that he "lacks any insight or willingness to address his anger issues." The court concluded that Father "believes he is entirely justified in the actions he has taken that have, ultimately and continuously, caused harm to his own children."

The record supports the court's findings and conclusions fully. As for the children's worsening emotional health, Mother testified that since the entry of the custody agreement

in August 2023, E has become clingier to Mother and has cried and wet herself three times during exchanges with Father, despite having been potty-trained since she was three years old. Mother also said that E doesn't like to sleep alone anymore, that she carries a stuffed doll that looks like Mother, and that she has trouble paying attention and following through with assignments at school.

Mother testified further that although C was diagnosed with attention-deficit/hyperactivity disorder ("ADHD") in early 2022, he had exhibited new, troublesome behaviors since the entry of the custody agreement. At school, C has had problems starting assignments, responding to direction, and being respectful to others. He has growled at his teachers, stormed out of the classroom on occasion, refused to do his work, and blamed his teachers for his failure to complete assignments. The most recent incident had occurred in October 2024, when C threw a book at his teacher's head, grabbed a pair of scissors, threatened to shred the flag, then stormed out of the classroom. C's fourth grade teacher, Ms. Allen, testified that C sometimes pulled his hair or pressed his fingernails into his arms when he became agitated. And she noticed that C had a "harder time getting started in the morning" at school after returning from a weekend in Pennsylvania with Father.

Mother testified that C had displayed troubling behaviors at home as well. When he didn't get what he wanted, C became frustrated and "spiral[ed]." He made demands and threats to Mother and, when Mother refused them, his behavior worsened to the point where he started crying, throwing things at Mother, and yelling. He hit Mother at least twice and frightened E during these outbursts. C's maternal grandfather, Mr. Summerfield,

testified that since the parties separated, C became upset more easily. Alongside these tantrums, Mother testified that C developed a vocal tic after returning from visitation with Father in November 2023. Mother said this tic, which resembled humming or clearing his throat, was "omnipresent . . . for several months." Mother explained another incident in or around November 2024 where C dropped a box of pasta accidentally. He called for Mother and, when she arrived, teared up and looked very anxious. He then asked Mother, "[A]m I going to lose this? Am I going to lose that? Are you really mad? . . . [C]an I not be here anymore?" Mother asked why C thought she would be mad over a small accident, and he said, "because that's what Daddy does."

As for Father's anger, Mother introduced a plethora of evidence demonstrating Father's rage-fueled communication style and his anger towards Mother since the separation. He has threatened to file several unfounded complaints against Mother, including for child neglect (due to the delay in securing therapy for C), theft (because Mother wouldn't allow C to retrieve Father's military memorabilia from the marital home upon Father's request), and parental kidnapping (if Mother didn't produce the kids on the day that Father demanded). In his emails to Mother, many of which Father sends to unnecessary parties such as his fiancée, his mother, and his fiancée's mother, Father has belittled and demeaned Mother, calling her a liar, autistic, delusional, and a "money-grubbing louse," to name a few. Mother testified that during some of the visitation exchanges at which Father was present, he yelled at Mother in front of the children or

approached Mother and asked to touch her. She said that although some exchanges with Father occurred with no problems, "there has been significant hostility in several" others.

The children's paternal grandfather, Judge Charles, also testified about his concerns with Father's anger issues. He explained that he has had to set boundaries with Father to protect his (Judge Charles's) mental health. Judge Charles agreed that E is too young to understand how to set those boundaries and that he wasn't sure if C would be able to do so. Judge Charles also discussed an incident since the separation, during Christmas of 2023, when Father expressed his anger in front of the children. Father and the children were at Father's parents' home in Pennsylvania for part of his Christmas visitation period. Father's sister, who Father had cut out of his life because she agreed with Mother on various matters and Father perceived her as disloyal, was also at the grandparent's home at that time. Father's sister wanted Father to leave, and Judge Charles eventually asked Father to leave. Father expressed his anger in front of the children, then left the home for the night, leaving the children behind.

This evidence revealed Father's anger management problems and the negative changes in the children's mental and emotional wellbeing since the entry of the custody agreement. The court did not err in finding that the escalation in Father's anger and the children's declining mental health constituted material changes in circumstance.

4. The court considered each of the best interest factors properly.

Finally, Father argues that the circuit court didn't "properly list or define the best-interest factors," and he provides his own analyses of each factor. But the court

undertook a detailed analysis of the best interest factors from *Taylor v. Taylor*, 306 Md. 290 (1986), and concluded properly that a modification in custody was in the children's best interest. We address each factor in turn.

a. Agreement between the parties and parents' willingness to share custody.

The court found that Mother was "no longer willing to share legal custody" and that Father "uses legal custody as a sword" and "shows no good faith willingness or ability to share legal custody." The evidence supports this assessment.

Although the parties had agreed to joint legal custody, with tie-breaking authority to Mother, in August 2023, Father's actions confirmed that joint legal custody no longer served the children's best interests. For example, Father insisted on attending Mother's one-on-one parent session with the therapist they sought for C, claiming that because they shared joint legal custody, Mother was not allowed to speak with anyone about the children's wellbeing without Father being present. Then, Father warned the therapist that he intended to subpoena her to prove that the delay in securing therapeutic services for C was "due to [Mother] requesting afternoon appointments for her own convenience," which prompted the therapist to withdraw as C's provider. At the latest school meeting to discuss C's ADHD accommodation plan (the "504 plan"), Father focused more on airing the parties' conflicts in front of the school staff and blaming Mother than on improving the accommodation plan. And when Mother took away C's Nintendo Switch as punishment for his misbehavior, Father told Mother she infringed on his parental rights and that joint

legal custody required Mother to consult with Father before implementing disciplinary action.

These actions demonstrated Father's inability or unwillingness to engage in joint legal custody effectively and with the children's interests in mind. *Taylor*, 306 Md. at 307–08 (absence of willingness to share legal custody is "strong indicator that joint legal custody is contraindicated").

b. Fitness of the parents/character and reputation.

The court found Mother fit but found that Father was not "fit to have unsupervised access to the children at this time in light of the lack of understanding of his own behaviors and the consequences of same reflected in the children's deterioration since the custody order." The record supports these findings.

The custody evaluator, Ms. Sneed, found both parents fit, and the court considered this finding in determining whether a modification was appropriate. The court, however, was not required to accept Ms. Sneed's recommendations. *See Omayaka v. Omayaka*, 417 Md. 643, 659 (2011) (circuit court is "entitled to accept—or reject—*all*, *part*, or *none* of the testimony of any witness"). And ample evidence supported the court's finding that Father is unfit to have unsupervised visitation with the children due to his issues with anger management. Father's hostile communication style and litigious nature demonstrate his "abusive and bullying behavior," behavior the court found relevant to this analysis. Similarly, Ms. Sneed reported that Father's "tone and choice of words is both demeaning and aggressive," and noted her concern that if Father doesn't address his anger issues, "the

children could be placed in harm, whether intentionally or unintentionally." During her testimony, Ms. Sneed opined that even if Father's anger wasn't directed *at* the children, witnessing his angry outbursts "and having to experience him behaving in a reckless manner" affected the children negatively. She testified that harm to a child from witnessing their parent's anger could manifest as the child having difficulty managing their own emotions, struggling with social interactions, exhibiting aggressive behaviors, and struggling with academics. According to Mother's, Ms. Allen's, and Mr. Summerfield's testimonies, C has been exhibiting those signs since the entry of the custody agreement. He becomes angry easily and struggles to calm down; he has been aggressive towards others both in school and at home; he has had trouble getting started with his assignments, particularly after visitations with Father, and struggles to complete his work; and he has become withdrawn, doesn't interact with his classmates, and refuses to attend school gatherings such as assemblies and field trips. This evidence revealed that Father is "engaged in behavior or conduct that is detrimental to the child[ren's] welfare," and compromised his parental fitness. *Burak v. Burak*, 455 Md. 564, 648 (2017).

c. Relationship between the children and each parent.

The court found that the children enjoy their time with Father and his parents, but the court noted that E was "showing a reluctance to engage with" Father and that C was "showing abusive and destructive behaviors similar to" Father's. Conversely, the court found that Mother has a positive relationship with both children and that she had prioritized the children's needs consistently. We see no error in these findings.

Ms. Sneed, who saw Mother interact with the children at the marital home and watched Father interact with them at the circuit court, had "no concerns about the interactions between" either parent and the children. She said the children were comfortable around both parents and that the parents engaged with the children "lovingly." All witnesses who testified or spoke to Ms. Sneed about Mother's parenting, including Father, had positive things to say about her relationship with the children. E told Ms. Sneed that she "likes that [Mother] is her mother . . . ." The children's maternal grandmother said that Mother has a "'super tight'" relationship with the children and that Mother is very engaged with them. Father's sister said Mother is a "warm, caring, kind, and loving mother." Mr. Summerfield said Mother has a very good relationship with the children and that the children's and Mother's "worlds revolve around each other." And Father said he had no concerns about Mother's parenting and that she is a loving mother (sentiments he repeated at oral argument in this Court).

The witnesses testified as well that Mother prioritizes the children and acts in their best interest. Father's sister said Mother "has always prioritized the children's needs." E's teacher said Mother was the primary communicator when it came to E's academics, that Mother was involved in classroom activities and attended parent-teacher conferences, and that Mother has "'always showed interest in [E's] development and well-being.'" C's fifth grade teacher said that she has only had contact with Mother and that Mother is "'very involved' with [C's] performance at school."

Mother testified that because E has become clingier to Mother, she gave E a doll that looked like Mother for E to carry around when she's not with Mother. And on nights when Mother works after E has fallen asleep, Mother works in a room adjacent to E's room so that E can see Mother if she wakes up. Mother testified that she has helped C develop coping strategies, informed by C's meetings with his school guidance counselor, for regulating his emotions. Mother has worked with the school staff, including through regular 504 plan meetings, to address C's behavioral and academic issues. And Mother spent nearly a year searching for a therapist for C, including after one therapist withdrew as C's provider due to Father's actions.

Testimony about Father's relationship with the children was mixed. Judge Charles said Father is an attentive father who provides enriching experiences for the children and that the children "obviously love [Father] very much." The children's paternal grandmother made similar remarks. Judge Charles, however, noted concerns about Father's anger and said Father has expressed his anger in front of the children (particularly the Christmas 2023 incident). Father's fiancée said that Father is a good father who tries to create memories with the children during his visitations.

The children's responses to Ms. Sneed indicated some strain in the children's relationships with Father. According to Father and Mother, E is "assertive, sociable, . . . very extroverted," "outgoing," and "chatty with her friends." When asked about how Mother punishes E when she misbehaves, E was able to provide an example

(*i.e.*, no snacks or TV before bed). When asked the same questions about Father, however, E struggled to answer:

> [COUNSEL FOR MOTHER]: And then your questions of [E], who's social and chatty, . . . to "What does dad do when he gets mad at you?" "I don't know." "What kind of punishment does dad use?" "I don't really know." And "What happens when you get mad at dad?" "I don't know."
>
> [MS. SNEED]: Yes.

Additionally, Mother testified that the children are amenable—C more so than E—to video calls with Father when Mother encourages them. E, however, often refuses to participate and hides from the screen. And C told Ms. Sneed that Mother "'makes me call [Father]'" every day.

Mother testified that at least twice, Father has cursed at the children, telling C to "shut the fuck up" during a road rage incident (Father testified he was "a little miffed" when he said that), and calling E a "fucking cunt" when she was three years old. Additionally, in an email about C's refusal to attend a school field trip, Mother told Father that over the years, she acted as a "buffer" for C "when his anxiety very explicitly centers around when [Father's] next rage outburst will be."

Testimony revealed that Father is less involved than Mother in promoting the children's well-being. Teachers reported that they had only communicated with Mother. Mother testified that she attends C's 504 plan meetings whereas Father, who is invited to those meetings, doesn't attend them all. And while Mother searched for a therapist for C—specifically one that accepted her insurance because Father was not paying child support,

and Mother couldn't cover the cost of self-pay therapy—Mother knew of no effort by Father to find a therapist for C.

Overall, the evidence demonstrated that Mother has a positive, loving relationship with the children and that she prioritizes their health and wellbeing. The record also revealed that the children enjoy their time with Father and "show genuine affection for" him, as the court put it, but that there was cause for concern about Father's behavior towards and around the children when he is angry.

d. Preference of the children.

The court found that neither E nor C expressed a desire to change the custody schedule. This is consistent with the children's responses to Ms. Sneed—both said that they like how they spend time with their parents and that they wouldn't change the schedule that was in place at the time (*i.e.*, the one set by the custody agreement). We see no error in this finding.

e. Potential disruption of children's social and school lives.

The court found that "[t]he current access and legal custody arrangements have led to instability in the school life of [C] and in the social lives of both children . . . ." The record supports this finding as well. Ms. Allen testified that C's behavior, including his interactions with his classmates and teachers, has declined since August 2023, and that he struggled in the mornings after he returned from weekend visitation with Father. The agreement has also posed potential conflicts with the children's extracurriculars and vacation times, largely due to Father's demands. Father rejected Mother's (reasonable)

suggestion that the children spend the first week of summer with her to accommodate E's dance recital, and he demanded that the video call schedule remain the same despite conflicting with E's dance classes. Father filed the second amended petition in part because he wanted to keep the children until Monday (Labor Day) and told Mother he planned to keep the children until that Monday, even though the agreement required him to return the children on Sunday evening. The week-on-week-off schedule for the summer created issues with the children potentially having to fly as unaccompanied minors to Tennessee where Father's fiancée lives. Although Father ended up flying with the children when they went to Tennessee, Mother said Father "reserved the right to [have the children fly alone] in the future." Overall, the agreement disrupted the children's lives in multiple ways and seemed poised to continue doing so.

f. Geographic proximity of parental homes.

The court found that Mother lives in the marital home full time whereas Father "has changed his plans for where he will reside multiple times" and (at the time of the hearing) lived part time in three different locations. The court found that it would not be in the children's best interests to continue an alternating weekend schedule during the school year given the instability of Father's housing and the travel required for visitation. This finding is not erroneous.

Mother confirmed that she lives in the marital home in Potomac, less than a mile from the children's school. Father splits his time among three residences: his parents' home in Lebanon, Pennsylvania; his fiancée's home in Tennessee, where her children reside; and

his and his fiancée's apartment in Salisbury. He has communicated several different plans for where he will live going forward, including living with his parents in Lebanon, buying his own house in Lebanon, moving to Tennessee with his fiancée, and relocating to Salisbury with his fiancée. At the hearing, Father told the court that he and his fiancée planned to move to the Washington, D.C., area "sometime soon," but he couldn't say exactly when or how soon other than that he hoped they would move within the next year.

Despite Father's itinerant lifestyle, the parties always conducted visitation exchanges at a Sheetz store in Gettysburg, Pennsylvania—roughly halfway between Mother's residence and Father's parents' residence. Lebanon (where Father's parents live) is about two and a half hours from Mother's residence in Potomac, and the exchange point is about an hour and fifteen minutes away from Mother's residence (without traffic). Thus, under the August 2023 agreement, the children would travel two and a half hours every other Friday and Sunday evening for visitation with Father.

Sometimes, Father wanted visitation to occur at one of his other residences. Mother testified that for Father's last weekend of visitation before the hearing, he gave Mother less than twenty-four hours' notice that he'd be taking the children to Salisbury, which is over 150 miles away from his parents' home in Lebanon. The custody agreement required the parties to provide at least two weeks' notice before traveling over 100 miles away from their residence with the children, but Father said that the travel provision was "irrelevant" to that situation because his residence was in Pennsylvania *and* in Salisbury. On another occasion during the summer of 2024, Father wanted the children to fly to Tennessee as

unaccompanied minors to visit him, his fiancée, and her children. Mother expressed concerns about the children, especially C, feeling anxious about flying alone and told Father it would be more appropriate for him to fly with the children. Father said the children's anxieties didn't outweigh the "importance of them developing relationships with" Father's fiancée and her children. Father "eventually relented" and flew back to Maryland so he could accompany the children on their flight to Tennessee, but he "reserved the right" to have the children fly as unaccompanied minors in the future.

Given Father's "fluid" (by his reckoning) living situation and the travel required for the children to visit with Father at his various residences, the court did not err in its findings on this factor.

g. Demands of parental employment.

The court found that the parties' work schedules were not a significant factor in its analysis. This finding is not clearly erroneous. According to Ms. Sneed's report, Mother works as a unit chief at the United States Federal Bureau of Investigations, Monday through Friday, from 8:30 a.m. to 4:00 p.m. Father is the owner and managing partner of his own law firm, Charles International Law, which he testified is an "almost entirely virtual practice." He works Monday through Friday, from 9:00 a.m. to 5:00 p.m., but his work hours are "'considerably longer' when the children are not in his care." We see no error in the court's finding that these facts are not particularly significant to the custody determination.

h. Age, health, and gender of children.

The court found that C was a ten-year-old boy, and E was a six-year-old girl at the time of the hearing. The court also found that both children had experienced a deterioration in their emotional health and were "exhibiting behaviors and signs of significant distress and trauma." The record supports these findings.

According to the custody agreement, C was born in June 2014, and E was born in July 2018. This, coupled with Mother's and Father's testimonies that C was ten and E was six at the time of the hearing, confirms the children's ages.

As for the children's mental and emotional health, the many examples discussed above memorialize the deterioration in the children's health. Since the entry of the custody agreement, E, who had been potty-trained since she was three years old, began to wet herself at some visitation exchanges. She has become clingier to Mother, carries an emotional support doll that resembles Mother, and struggles to sleep by herself. She has also had trouble paying attention and finishing assignments at school. C has exhibited increasingly aggressive behaviors towards others, including Mother and his teachers. He struggles to regulate his emotions, has difficulty starting and finishing school assignments, and shies away from social interactions and gatherings at school. Overall, the evidence amply supports the court's findings on this factor.

i. Sincerity of parents' requests.

The court found that Mother's request for sole legal custody and supervised access was sincere and that Father likely believed that his requests for modifications to address

the "latent ambiguities" in the custody agreement were in the children's best interests. Nothing in the record indicates otherwise.

j. Financial status of the parents.

The court found that Father has no stable residence and that he claims to be "'flat broke'" and unable to pay child support. Mother, on the other hand, has a stable residence and "has had to support the children without sufficient assistance due to [Father's] refusal to pay the court ordered support." There is no error in these findings.

Mother lives at the marital home in Maryland, and Father alternates among residences in Pennsylvania, Maryland, and Tennessee. According to Ms. Sneed's report, Mother makes approximately $180,000 per year, and Father reported making about $4,271.44 per month as of August 2024. Father, however, has refused to contribute to the cost of mental health services for C and has refused to pay the court-ordered child support because he is, in his words, "flat broke and unemployable." He stated multiple times throughout the hearing that he is "broke," and he made the same claim in his appellate brief. We therefore discern no error in the court's findings.

k. Benefit to parents.

The court found that there was "no reason to believe the parties would not benefit by having parenting time with the children" but that Father and the children would also benefit from Father "focus[ing] his efforts on engaging in anger management therapy." The record supports this finding.

Father has exhibited extreme anger and hostility towards Mother and her counsel. He has damaged relationships with others, including his father and his sister, as a result of

his anger; he has directed his anger at and around the children on a number of occasions; and although he admits that he is angry due to this litigation, he has not acknowledged that he has an anger problem that has affected the children in a negative way. On this record, the court did not err in finding that Father and children would benefit from him addressing his anger management issues before having unsupervised visitation with the children.

l. Other factors.

The court included additional findings about whether either party had previously abandoned or surrendered custody of the children, the length of the parties' separation, the parties' abilities to maintain family relationships, and the parties' abilities to communicate with one another. None of the court's findings as to these other factors are erroneous.

First, the court found no abandonment or surrender of custody in this case. There is nothing in the record to suggest otherwise.

Second, the court found that the parties separated in July 2023 and that the children have lived primarily with Mother ever since. The evidence confirms that the parties separated in July 2023 after Father allegedly assaulted Mother sexually, and the police removed Father from the marital home to effectuate Mother's protective order against Father. The record also confirms that the children have lived with Mother while Father has had access to the children on a bi-weekly basis, under the terms of the custody agreement. Father argues in this Court that the circuit court "misapplied this factor," claiming that it's relevant only to cases that address the competing rights of natural parents and adoptive parents. But when determining custody, the trial court "should consider all other

circumstances that reasonably relate to the issue." *Taylor*, 306 Md. at 311. And it's reasonable in this case for the trial court to consider the length of the parties' separation, during which the children have resided primarily with Mother, in determining whether and what modification is appropriate. The fact that this is an important factor in cases involving natural and adoptive parents doesn't preclude the trial court from considering this factor in a case like this.

Third, the court found that although there is "no indication that [Mother] is unable to maintain a healthy relationship with [Father's] family," Father has no relationship with Mother's family, and he has damaged his relationship with his parents and ended his relationship with his sister. Judge Charles confirmed this—he acknowledged that his relationship with Father is "strained" because Judge Charles disagrees with Father's legal tactics, and that makes Father angry. Judge Charles testified that he must set boundaries with Father to protect his (Judge Charles's) mental health. And Judge Charles testified about Father "disowning" his sister because she agreed with Mother regarding some issues, which made Father angry. The rift between Father and his sister has made it nearly impossible for Father's parents to have all their grandchildren together for family gatherings, depriving the children of time with their cousins, aunts, and uncles, because Father and his sister refuse to be around one another.

Fourth, and finally, the court found that Father has shown an "unwillingness to be civil or reasonably responsive regarding the children" when he communicates with Mother. The record is replete with evidence of Father's abusive, rude manner of speaking to

Mother. He calls Mother names and insults her in emails on which he has copied several people; he threatens to file motions and complaints against Mother left and right, with no real basis; and he reveals through his communications a stronger desire to blame Mother for his problems and to exact revenge against her than to serve the children's best interests.

In sum, the record supports the circuit court's findings and consideration on all of these factors, and we affirm the court's conclusion that it is in the children's best interests that Mother have sole legal custody and that Father's visitations be supervised.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. APPELLANT TO PAY COSTS.