

Circuit Court for Baltimore City
Case No. 24-D-23-001751

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2248

September Term, 2025

JEREMY MCCULLOUGH

v.

SHIANN PRICE MUHAMMAD

Wells, C.J.,
Graeff,
Berger,

JJ.

Opinion by Berger, J.

Filed: July 10, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant, Jeremy McCullough (“Father”) and appellee, Shiann Price Muhammad (“Mother”) share one child, (“M.M.”) born in March 2022. In May 2023, Father filed a Complaint for Custody in the Circuit Court for Baltimore City. Mother did not respond but filed a Motion to Vacate Order of Default in July 2023 claiming she had not been served and requesting the circuit court to allow her to file an answer and counter complaint. In October 2023, the circuit court granted Mother’s motion. Mother failed to participate in the custody action further. On November 20, 2025, after two hearings at which Father was the only party present, the circuit court concluded that it had insufficient evidence to make a custody determination and denied Father’s Complaint. This appeal followed.

On appeal, Father presents four questions for our review, which we have consolidated into one and rephrased as follows:¹

¹ Father phrased the questions as follows:

1. Did the Circuit Court abuse its discretion by denying custody based on insufficient evidence where the record shows the lack of evidence resulted substantially from Appellee’s failure to appear, failure to answer, and failure to complete court-ordered evaluation appointments?
2. Did the Circuit Court violate Appellant’s right to due process by declining to hear available witness testimony and other evidence while relying on the incompleteness of the record as the reason for denying relief?
3. Did the Circuit Court legally err by failing to meaningfully weigh Appellee’s default, nonappearance, and noncompliance when applying the best-interest standard?
4. Should this Court reverse and direct custody relief favorable to Appellant or alternatively vacate and remand with strict instructions and reassignment to a different judge?

- I. Whether the circuit court erred in denying Father’s Complaint for Custody after concluding there was insufficient evidence to make a custody determination.

For the following reasons, we affirm.

BACKGROUND

On May 30, 2023, Father filed a Complaint for Custody (“Complaint”) in the Circuit Court for Baltimore City seeking primary physical custody and sole legal custody of M.M. The Complaint provided that the custody arrangement requested was in M.M.’s best interest because of Mother’s “mental unpredictability” and “chronic homelessness” leading to instability for M.M. Further, Father claimed that Mother had kidnapped M.M. from their shared home. A writ of summons was issued on June 23, 2023. Both the Complaint and writ of summons listed Mother’s address as being in Baltimore City (“Baltimore address”). On June 27, 2023, Father filed an affidavit of service providing that Mother was personally served that same day by a third-party at the Baltimore address.²

Thereafter, Mother filed a Motion to Vacate Order of Default on July 18, 2023. Therein, Mother claimed she was not properly served and that Father’s affidavit of service was erroneous. According to Mother, she had not lived at the Baltimore address since February 2023 because she was “forced to relocate due to threats of physical [and] actual bodily harm (domestic violence) at the hands of” Father. Mother listed her address as a

² In his subsequent Request for Order of Default, Father indicated that the affidavit of service was filed on July 10, 2023. The affidavit of service filed, however, is stamped as received on June 27, 2023. Accordingly, we use the latter date here.

church in Rosedale, Maryland (“Rosedale address”). Finally, Mother requested that the circuit court allow her to file an answer and counter complaint.

On July 31, 2023, Father filed a Request for Order of Default based on Mother’s failure to file an answer. Subsequently, on August 15, 2023, Father filed a response to Mother’s Motion to Vacate Order of Default, asking the circuit court to dismiss the motion for Mother’s alleged failure to serve him. Further, Father contended that Mother’s motion was premature because an order of default had not yet been issued. The circuit court granted Mother’s Motion to Vacate Order of Default on October 24, 2023, and added the Rosedale address as an address of record for Mother.³ Mother did not file either an answer or counter complaint.

On March 29, 2024, Father filed a request to reissue the writ of summons using Mother’s Rosedale address. The writ of summons was reissued on April 22, 2024. On April 26, 2024, Father filed an affidavit of service signed by a third party attesting that Mother was personally served on April 26, 2024 at her Rosedale address with the May 30, 2023 writ of summons and the Complaint. After Mother did not respond, Father filed a second Request for Order of Default on June 25, 2024, which the circuit court granted on August 28, 2024.

³ The circuit court’s order correctly lists the Rosedale address provided by Mother. Subsequent communications from the circuit court to Mother, however, are addressed to the Rosedale address, but appear to erroneously list the city as Baltimore, rather than Rosedale. Because the address, including the zip code, is otherwise correct and the discrepancy was not raised by the circuit court or the parties, we do not address it further here.

A hearing was held on April 4, 2025. Mother failed to appear. At the hearing, the circuit court heard testimony from Father and Mother’s first cousin, Towanda Fleming (“Ms. Fleming”). Because insufficient evidence was provided, the circuit court reset the custody hearing for November 20, 2025.

On April 7, 2025, the circuit court entered an Order for Custody Evaluation and Mental Health Evaluation of both Mother and Father to be conducted by the Medical Services of the Circuit Court for Baltimore City (“Court Medical”). Thereafter, Father was evaluated by Court Medical. Mother cancelled her appointment with Court Medical on three separate occasions. A Court Medical evaluator did, however, briefly speak with Mother via telephone. Based on the brief phone conversation with Mother, the evaluator reported that Mother had been living in various residences in New York. Further, Mother reported Father as her abuser and indicated that she needed to “escape” him.

The evaluation submitted by Court Medical provided that Father told the evaluator that Mother is an “unmedicated schizophrenic” and reported that, although his relationship with Mother had been “okay” in the beginning, they eventually began to argue consistently and, therefore, ended their relationship. Further, Father told the evaluator that he had not seen M.M. or had contact with M.M. or Mother since 2023. Father expressed concern to the evaluator that Mother’s homelessness and unstable living situation did not provide sanitary living conditions for M.M.

Regarding Father’s mental health, Court Medical concluded that Father’s “performance on the mental status examination was adequate, suggesting no major cognitive impairments.” Further, during the evaluation Court Medical administered the

Brief Symptom Inventory which measures psychiatric symptoms. The results were determined to be invalid because Father answered all test items the same. Ultimately, Court Medical concluded that, “[g]iven that both parties, and the child in this case were not evaluated, a formal recommendation of custody/visitation may not be made.”

A subsequent hearing was held on November 20, 2025, at which Mother did not appear. The trial court first asked about M.M.’s birth certificate:

THE COURT: . . . I know at the last hearing when I had you back in April, you said you signed an Affidavit of Parentage as it relates to you all’s child, is that correct?

[FATHER]: Um --

THE COURT: Well, let me ask you this. Have you seen your child’s birth certificate?

[FATHER]: I have in my home and she had [taken] it away, because they gave me a copy at the hospital.

THE COURT: Okay. Are you listed as this child’s father?

[FATHER]: Yes, ma’am.

THE COURT: But you don’t have a copy of it?

[FATHER]: Correct.

THE COURT: Have you ever gone --

[FATHER]: I believe I made another copy. I’m going to check through my papers. If not, there’s a place right around the corner I can --

THE COURT: Get a copy?

[FATHER]: Yes, yes.

Thereafter, the circuit court read the Custody Evaluation and admitted it into evidence. The circuit court then discussed the procedural history, noting that although an Order of Default was entered against Mother and Mother failed to appear at the April 4, 2025 hearing, the circuit court referred the matter to Court Medical “due to concerns regarding mental health,” “concerns of violence between the parties,” and “concerns regarding [Father] himself saying that he had not seen [M.M.] in two years.”

The circuit court next discussed its findings of fact based on both hearings:

[Ms. Fleming] testified [on April 4, 2025] that [Mother] is not fit to have custody, because she says, she needs help. That the last time she saw [Mother] was in 2023. That [Mother] provides false addresses in a way to avoid being located. This Court inquired whether or not there was any emergency petitions filed on behalf of [Mother] and [Ms. Fleming] was unsure. The Court know[s] that it is about to and did -- was able to locate, based on the testimony and information, that there had been prior abuse between the parties. While [Father] testified no. There were two interim protective orders issued by the District Court of Maryland for Baltimore City.

One in January of 2021, that was ultimately dismissed in that same year. The temporary [protective order] was dismissed, it didn't go further than that. And the other one was an interim protective order that was issued in January of 2023. And because the Petitioner, [Mother], failed to appear, it was dismissed when it came in for a temporary protective order and did not move on from there. Due to the tender age of the minor child, my understanding is the minor child was born in 2022 and it is now 2025. She is three-years-old. [Father] has not seen her, again, for at least two years.

[Father's] testimony was that the minor child and [Mother] left around May of 2023.

The circuit court concluded that,

based on the limited information that's been provided by Court Medical, based on the testimony from [Father], based off the little information that was told to Court Medical from [Mother], this Court, unfortunately, can not [sic] issue a decision as to what is in the best interest of the minor child in this case. Because the evidence in this case is deficient.

...

While I don't have an actual birth certificate to show that [Father] is indeed this child's father, so I will start with that, even though he testified that he signed an affidavit of parentage, that he did see his name on the birth certificate, that he may have it. I still don't have sufficient enough evidence in order to make a best interest finding based on the allegations of -- based on the history between [Father] and [Mother]. [Mother] allegedly indicating that she is now in the State of New York, not in the State of Maryland.

The information provided to this Court is insufficient at this time in order for me to make a custody determination that would be in the best interest of the three-year-old, especially based on [Father's] request, is for this Court to give him full physical or primary physical and sole legal custody of a child that he has not seen in two years.

Thereafter, Father indicated that his witness, Ms. Fleming, was in the lobby and was prepared to provide video evidence of Mother "confessing that [Father] never abused her and that she made it up." Additionally, Father contended that Ms. Fleming had text messages from Mother "saying that she wants to burn down the house and . . . a whole lot of things that was just unbelievable." The circuit court then asked Father whether he had contacted Child Protective Services ("CPS") regarding Mother. Father responded that he had, but that CPS had failed to "call [him] back." The following then transpired:

THE COURT: This case, I will tell you, it's delicate. Because again, this is a child that you have not seen in two years. While I -- and ultimately it is what is in this child's best interest. And

the information that is before me as to what is in this child's best interest is very limited at this point.

[FATHER]: I mean, what information that I can provide or show (inaudible 12:38:35).

THE COURT: I can't give legal advice.

[FATHER]: Okay.

THE COURT: Okay?

[FATHER]: Okay.

THE COURT: [Father]. The only people who can would be we have two pro se attorneys here. You can talk to them and they can provide you legal advice on what steps to do and what to do. . . .

The circuit court then explained that, based on what Father suggested Ms. Fleming would testify to, there would still be “insufficient information to make a custody determination.” The circuit court, therefore, denied Father's Complaint for Custody. Father filed a timely appeal.

STANDARD OF REVIEW

We review a circuit court's child custody determination “utilizing three interrelated standards of review.” *Kadish v. Kadish*, 254 Md. App. 467, 502 (2022) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)). As the Supreme Court of Maryland has explained:

[W]e point out three distinct aspects of review in child custody disputes. When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Maryland Rule 8-131(c)] applies. [Second,] [i]f it appears that the [court] erred as a matter of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] founded upon sound legal principles

and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

In re Yve S., 373 Md. at 586 (quoting *Davis v. Davis*, 280 Md. 119, 122-26 (1977)).

DISCUSSION

I. The circuit court did not err in denying Father's Complaint for Custody because there was insufficient evidence to determine what custody arrangement would be in M.M.'s best interest.

Father contends that the circuit court erred in concluding there was insufficient evidence to make a custody determination because it was Mother who “caused much of that insufficiency.” According to Father, by acknowledging that Mother had failed to respond but not using “any procedural tool to correct the problem,” the circuit court abused its discretion. Further, Father argues that the circuit court violated his due process rights by rejecting his attempt to provide additional evidence through further testimony from Ms. Fleming. Finally, Father contends that the circuit court erred by not considering Mother's repeated failure to appear and participate in the custody action when assessing the best interest of the child.

“Unequivocally, the test with respect to custody determinations begins and ends with what is in the best interest of the child.” *Azizova v. Suleymanov*, 243 Md. App. 340, 347 (2019) (citing *Boswell v. Boswell*, 352 Md. 204, 236 (1998)). “In between, a trial judge must determine whether a particular issue related to a parent presents harm to the health and welfare of a child or affects the child's development, and whether there is a nexus between the parental issue and any adverse impact on the child's overall well-being.” *Azizova*, 243 Md. App. at 347 (citing *Boswell*, 352 Md. at 235-38). Sixteen non-exhaustive

factors for a circuit court to consider when making a custody determination are listed in Maryland Code (1984, 2019 Repl. Vol., 2025 Suppl.) § 9-201(a) of the Family Law Article (“FL”).

Here, the circuit court did not engage with the FL § 9-201(a) factors. Rather, the circuit court determined that it had insufficient evidence from which to determine M.M.’s best interests. We see no error in this determination.

As an initial matter, although he provided an affidavit of parentage, Father did not provide the circuit court with M.M.’s birth certificate. The circuit court, therefore, did not even have conclusive evidence that Father is in fact M.M.’s biological father. Further, because the Court Medical evaluator was unable to observe Father and M.M. together, the only evidence that the circuit court had regarding Father’s relationship with M.M. was that they had not seen each other in two years. What is more, as the circuit court discussed, there was at least some evidence of violence between Father and Mother. In such circumstances, Father did not provide sufficient evidence to allow the circuit court to determine what custody arrangement would be in M.M.’s best interest. The circuit court’s denial of Father’s Complaint, therefore, was not an abuse of discretion.

The circuit court’s decision to decline to hear additional testimony from Ms. Fleming at the November hearing does not change our conclusion. Indeed, the circuit court heard from Father what Ms. Fleming would testify to and explained that, even with such testimony, the court would still have insufficient evidence to make a custody determination. We are satisfied that Father had sufficient opportunity to be heard during

the proceedings, even without the opportunity to provide additional testimony from Ms. Fleming.

We sympathize with Father and understand the difficult situation that Mother's failure to participate in the proceedings has put him in. As the circuit court aptly explained, however, we are constrained in our role to render judicial decisions, not offer legal advice. It was not the circuit court's role to advise Father as to what legal avenue to take to ensure Mother's participation in the action. Father, of course, is free to seek legal advice and file a new Complaint for Custody.

CONCLUSION

We hold that the circuit court did not err in denying Father's Complaint for Custody due to insufficient evidence. We, therefore, affirm the judgments of the circuit court.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**