Circuit Court for Montgomery County
Case No.: 155241FL

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1585

September Term, 2023

JACQUES BOUHGA-HAGBE

v.

BLONLEY MICHEL

Graeff,
Zic,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: May 2, 2024

*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).

This appeal arises from an order issued by the Circuit Court for Montgomery County modifying child custody between appellant, Jacques Bouhga-Hagbe ("Father"), and appellee, Blonley Michel ("Mother"). On appeal, Father lists twelve issues for our review,[1] which we consolidate and rephrase into the following five questions:

[1] Both parties appear unrepresented by counsel on appeal. Several of the issues presented by Father in his informal appellate brief contain overlapping points. In sum, Father's issues presented assert that:

1. The Magistrate failed to provide a "careful recitation" of her assessment of the Sanders and Taylor custody factors like in the 2019 hearing.

2. [T]he final order has no logical link with the trial as many changes introduced in this revised custody order were not discussed at the trial.

3. The Magistrate's recommendations, which are reflected in the custody order entered on September 22, 2023, cannot be seen as in the best interest of the children.

4. The Magistrate gave undue weight to [Mother]'s dubious "credibility" despite her record of lying in Court and to Child Protective Services, which was known to the Magistrate at the time of the hearing.

5. [Mother] lied in Court by claiming that [Father] is the one who stopped one of the Parties' children ([A.]) Applied Behavioral Analysis (ABA) therapy, even though [Father] did not have access to the child and was even stationed abroad (in Rwanda) at the time he is accused to have stopped the therapy.

6. [Mother] lied in Court by claiming that [Father] was the one who caused one of the [p]arties' children to become "depressed" and go see the school counselor in February 2023, even though at that time, [Father] had not seen the child for more than two months.

7. [Father] was not allowed to introduce important documentary and testimonial evidence relevant to the Court's determination of the Sanders and Taylor custody factors.

(continued)

1. Did the court fail to consider the children's best interests?

2. Did the court err in alternating summer access with the children and in failing to award FaceTime access?

3. Did the court err in finding Mother credible?

4. Did the court err by prohibiting Father from introducing evidence or by making inferences and findings regarding the facts before it?

5. Was the magistrate's conduct unfair towards Father?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

The parties married in 2012 and separated in 2018. They are the parents to three minor children: A., D., and Y.[2] In May 2019, when A. was six years old, D. was five years old, and Y. was two years old, the court issued an order (the "2019 order"). It granted Mother primary physical custody, and Mother and Father joint legal custody, with the exception that Father would have sole legal custody "for all medical and educational

8. The Magistrate made the wrong inference about [Father]'s call to the police on July 7, 2023 after he was denied access to one of the parties' children.

9. The Magistrate made the wrong inference about [Father]'s involvement in the children's medical issues.

10. The Magistrate made the wrong inference about the [p]arties' job demands.

11. The Magistrate made the wrong inference about [Father]'s educational achievements.

12. The Magistrate's conduct of the hearing was not fair to [Father].

[2] We use initials for the children to protect their privacy.

issues." The order granted Father the right to "hold the passports of the children" and "do everything necessary in order to update and keep current the passports of the children." The court provided that Father have access during school breaks, including the following summer access schedule:

> the children shall spend the first three weeks of the school summer vacation with [Mother], which shall begin on the last day of school for students, and the following seven weeks of summer vacation with [Father.]

Father would keep Mother "informed of the location where the children will spend overnights when they are with him," and the parties would "have Skype or FaceTime with the children four times per week."

I.

Father's Motion to Modify Custody

On June 2, 2023, Father filed a motion to modify child custody, requesting primary physical custody of the children. On July 18, 2023, a magistrate held a hearing on Father's motion.

At the hearing, the parties testified that they believed that their oldest child, A., had Autism Spectrum Disorder ("ASD"), but no formal diagnosis had been made.[3] Mother testified that A. "needs help in transitioning between activities or location[s] and it's hard for her to transition to another setting where she knows she's going to sleep." A. had been receiving Applied Behavioral Analysis ("ABA") therapy, which had been "really helpful with her language development," but ABA therapy stopped in 2019 when Father was

[3] Father explained that "it takes a long, long time to get [an] appointment" for an evaluation.

granted sole legal custody.[4] Mother wished to keep primary physical custody of the children and requested sole legal custody, in part, so she could continue ABA therapy for A.

Father sought primary physical custody and sole legal custody for all medical and educational issues. Among other things, he asserted that he intended to take a more active role in the education of the children, stating that, because he had a "high education," he was "in the better position to help the[] children with their school work."

Mother testified about an incident where D. returned from Father's house "very sad," and the "teachers thought he was depressed." D. visited his school counselor, where he disclosed that, after becoming upset with D., Father had "put him in the basement and turn[ed] out the light." Father did not dispute Mother's testimony and testified that he had not spoken with D.'s school counselor.

The parties testified about an incident where A. refused to go with Father during Father's scheduled summer access. Mother testified that, "when [A.] saw her dad coming to pick them up, and then she saw me giving her [her] bag … she had a meltdown." In response, Father called the police, claiming he was being "denied access" to A. Mother testified that she did not deny Father access to A., but A. refused to go with Father. In support, Mother introduced the police report, which noted that Father asserted that he wanted a police report to present to court, not that Mother was refusing access to A. Y. and D. went with Father at that time, and A. remained with Mother.

[4] Mother testified that she started ABA therapy with A. prior to the 2019 order, but that, with "not having health custody, I can only do so much."

II.

Magistrate's Recommendations

On July 27, 2023, the magistrate issued her recommendations. She made several findings of fact, including that the children were thriving in Mother's care during the school year, and Father's work commitments often extended beyond the traditional workday and required him to travel out of the country. The magistrate was not persuaded by Father's belief that, because Mother had fewer formal degrees than Father, she was in an inferior position with regard to child rearing. Moreover, the magistrate found that the "undisputed testimony was that [A.] benefited from ABA therapy, but ABA therapy ended when [Father] was awarded sole legal custody."

The magistrate expressed concern over Father's decision to involve police when A. refused to go with him. She stated that, "[i]nstead of communicating about [A.]'s refusal to spend time with [Father] during the summer, [Father] elected to use law enforcement to compel her to go. That reflects poor judgment, particularly in light of the testimony about [A.]'s difficulties with transitions and difficulty managing her emotions."

Accordingly, the magistrate recommended modification of the 2019 order. Specifically, the magistrate recommended awarding sole legal custody to Mother and modifying the summer access schedule as follows:

> [S]ummer access for [D. and Y.] shall be alternated weekly with the transition occurring on Sundays at 5:00 p.m. The children shall be in [Mother]'s care for the first full week following the conclusion of school, and the parties shall thereafter alternate weekly access. The parent receiving the children shall pick up the children from the other parent's residence. [A.] shall have access with her dad during the summer every other week on the same schedule as her brothers, but her visits shall be limited to daytime

> access from 9:00 a.m. until 5:00 p.m. [Father] shall pick up [A.] from [Mother]'s home in the morning, and [Mother] shall pick up [A.] from [Father]'s home at 5:00 p.m.

III.

Court's Adoption of Magistrate's Recommendations

Father filed exceptions to the magistrate's recommendations, listing more than fifty exceptions. Father challenged, among other things, the magistrate's assessment of the factors set forth in *Taylor v. Taylor*, 306 Md. 290 (1986) and *Montgomery Cnty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406 (1977), the magistrate's credibility determinations, and various "inferences" made by the magistrate, including those regarding his call to police, the health of the children, and the parties' job demands and educational achievements.

On September 19, 2023, the court held a hearing on Father's exceptions. Father first asserted that he never discontinued his daughter's ABA therapy, contrary to the magistrate's report. He noted that, prior to leaving for Rwanda in 2018, he ensured that his insurance company would continue to cover his daughter's ABA therapy from August 2018 to February 2019. Nothing in the record showed that Mother took their daughter to her ABA therapy appointments, and Father never received a bill for any therapy sessions. Thus, if he did not have custody, did not call the therapist to cancel any therapy sessions, and did not refuse to pay any therapy bills, he could not have discontinued his daughter's therapy.

Next, Father argued that there was nothing in the record indicating that he did not follow the doctor's medical advice for his daughter. He cared for his children's medical

needs by taking them to doctor's appointments and various surgeries. Father further clarified that, on July 7, he did not call the police on his child, but rather, he called for the police to report that he "was denied access to the child" so he could show the judge. He asserted that the magistrate was "totally wrong" for noting in her recommendation that his daughter was afraid of spending time with him. Moreover, the magistrate's assertion that Father "believes that he's superior to [Mother] and her family" was incorrect.

Father further contended that Mother's testimony that he caused his son's depression was "fabricated." The magistrate also incorrectly ruled on Father's "job demands" because his job was "very flexible." Finally, the magistrate did not "conduct a thorough examination of all possible factors that impact the best interest of the child" according to applicable case law.[5]

Mother argued that the magistrate was "truthful" in her recommendation because she "accepted all of the proof" when making her decision. Mother clarified that their daughter's ABA therapy in 2018 did not require insurance coverage because she was in a program called the "Abused Persons Program," and her daughter was on Medicaid; thus, her daughter's therapy bill would not have been mentioned on Father's insurance.

Mother stated that their daughter told her, the psychologist, and the police that she no longer wanted to stay at Father's house. Her son also was scared to go to his father's house, which was corroborated by an email from his school counselor that was provided to

[5] The court noted that Father had "boiled . . . down" his "50 - some exceptions" to fourteen issues.

the magistrate. Finally, Mother stated that she brought her daughter to summer school, and her children were "thriving" and doing well in school as "straight A students."

At the conclusion of the hearing, the court gave its ruling. It noted that the hearing was an "exceptions hearing," and the court would review the magistrate's finding of facts under the clearly erroneous standard. It would "give deference to the first level of facts as determined by the magistrate" and then review the magistrate's recommendations under a *de novo* standard, conducting an independent review of the facts presented before the magistrate regarding her recommendation. The court addressed the 14 exceptions articulated at the hearing, and it concluded that the magistrate's findings of fact were not clearly erroneous, and the magistrate's "recommendations with regards to the findings that she made were appropriate."

First, regarding the ABA therapy and Father's allegation that Mother lied by stating that Father stopped the therapy, the court found that the magistrate credited Mother's testimony that the ABA therapy was benefiting her daughter in 2019, but it stopped when Father received sole legal custody regarding medical care. The magistrate had the right to credit that testimony and was not clearly erroneous.

The court next addressed Father's claim that the magistrate did not allow him to discuss the custody factors. The court rejected that argument, noting that he discussed different custody factors during his closing argument, and the magistrate asked Father several times whether he would "like to say anything else."

Regarding Father's call to police, the court found that the magistrate "properly understood the facts" when she stated that Father's "decision to contact law enforcement

on his 10-year-old daughter [was] reflective of poor judgment." The court stated that the magistrate's finding that Father calling the police because he wanted a report for the custody was poor judgment was not clearly erroneous.

The court next found that the magistrate's finding "that the daughter had an apparent fear about spending time with [F]ather" was supported by the evidence and was not clearly erroneous. With respect to the magistrate's failure to mention one daughter's Individual Education Plan, the court found that this was not clearly erroneous because the magistrate "considered all the factors, even if she didn't specifically mention each one." Addressing Father's claim that Mother fabricated that the parties' son was depressed because of Father, the court found that the magistrate credited Mother's testimony in this regard, which was not clearly erroneous.

With respect to the magistrate's finding that Father's job sometimes required him to work outside the country and often required him to work beyond the traditional workday, the court stated that those findings were supported by the evidence and not clearly erroneous. Regarding Father's claim that the magistrate improperly precluded him from admitting evidence, the court found that nothing was presented to show that the magistrate was not following the rules of evidence, and the court stated that it did not find that anything that the magistrate did with regard to the evidence was clearly erroneous.

The court found that Father's exceptions were not sustained, and the magistrate's recommendations with regard to those findings were appropriate. It found that there was a material change in circumstance, and it would adopt the magistrate's recommendations.

On September 22, 2023, the court issued an order overruling Father's exceptions and adopting the magistrate's recommendations.

This timely appeal followed.

STANDARD OF REVIEW

Our appellate courts engage in "a limited review of a trial court's decision concerning a custody award." *Wagner v. Wagner*, 109 Md. App. 1, 39, *cert. denied*, 343 Md. 334 (1996). We apply three interrelated standards of review. *In re Yve S.*, 373 Md. 551, 586 (2003). First, factual findings are reviewed for clear error. *In re R.S.*, 470 Md. 380, 397 (2020). Second, we review whether the court erred as a matter of law without deference, under a *de novo* standard of review. *Id*. Finally, ultimate conclusions of the court, "when based upon 'sound legal principles' and factual findings that are not clearly erroneous, will stand, unless there has been a clear abuse of discretion." *Id*.

Where a magistrate issues child custody recommendations pursuant to Md. Rule 9-208, the parties may file exceptions to those recommendations. Md. Rule 9-208(f). "[B]oth a trial court and an appellate court defer to the [magistrate's] first-level findings (regarding credibility and the like) unless they are clearly erroneous." *McAllister v. McAllister*, 218 Md. App. 386, 407 (2014). The trial court, however, "must make its own independent decision as to the ultimate disposition." *Id. Accord Domingues v. Johnson*, 323 Md. 486, 496 (1991). We then review the trial court's ultimate decision for abuse of discretion. *McAllister*, 218 Md. App. at 407. *Accord Domingues*, 323 Md. at 492 n.2.

DISCUSSION

Trial courts employ a two-step process when considering a request to modify child custody. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012). They must first determine a threshold question of whether "there has been a 'material' change in circumstance." *McMahon v. Piazze*, 162 Md. App. 588, 594 (2005). "[I]f the court determines there has been a material change in circumstance, then it proceeds to consider the best interests of the child." *Jose v. Jose*, 237 Md. App. 588, 599 (2018).

Several factors guide the court's consideration of the best interest of the child. *Id*. In *Sanders*, 38 Md. App. at 420, this Court set forth the following factors:

> 1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) potentiality of maintaining natural family relations; 5) preference of the child; 6) material opportunities affecting the future life of the child; 7) age, health and sex of the child; 8) residences of parents and opportunity for visitation; 9) length of separation from the natural parents; and 10) prior voluntary abandonment or surrender.

(Internal citations omitted).

Later, in *Taylor*, 306 Md. at 304-11, the Supreme Court of Maryland expanded on the factors enumerated in *Sanders*. The *Taylor* factors include: 1) capacity of the parents to communicate and to reach shared decisions affecting the child's welfare; 2) willingness of parents to share custody; 3) fitness of parents; 4) relationship established between the child and each parent; 5) preference of the child; 6) potential disruption of child's social and school life; 7) geographic proximity of parental homes; 8) demands of parental employment; 9) age and number of children; 10) sincerity of parents' requests; 11)

financial status of the parents; 12) impact on state or federal assistance; 13) benefit to parents; and 14) any other factors as appropriate.

While the factors set out in *Sanders* and *Taylor* are instructive to a trial court's custody determination, "no one factor serves as a prerequisite to a custody award." *Santo v. Santo*, 448 Md. 620, 629 (2016). Indeed, this Court has emphasized that "[u]nequivocally, 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), *cert. denied*, 467 Md. 693 (2020).

Finally, "an appellate court does not make its own determination as to a child's best interest." *Gordon v. Gordon*, 174 Md. App. 583, 637-38 (2007). Instead, "the trial court's decision governs, unless the factual findings made by the lower court are clearly erroneous or there is a clear showing of an abuse of discretion." *Id*. With these principals in mind, we turn to the issues before us.

I.

The court properly considered the best interests of the children.

Father contends that the magistrate's recommendations "cannot be seen as in the best interest of the children," and the magistrate erred in failing to "explicitly assess each of [the *Sanders* and *Taylor*] custody factors." In support, Father asserts that the child custody modification has "no legal or factual basis," prevents him from taking the children on summer vacation, and "mak[es] it impossible for [Father], who is an engineer and a PhD, to train his children regularly during the school year." Mother responds that the

magistrate considered the relevant factors and the best interests of the children before modifying child custody.

The circuit court found that the magistrate properly considered the best interests of the children in ordering a modification of child custody, and we agree. The magistrate specifically noted that "the [c]ourt must conduct a best interest analysis" to modify child custody. Indeed, the magistrate indicated that several facts weighed in favor of modified custody, including: that "[t]he undisputed testimony was that [A.] benefited from ABA therapy, but ABA therapy ended when [Father] was awarded sole legal custody"; that "[i]nstead of communicating about [A.]'s refusal to spend time with [Father] during the summer, [Father] elected to use law enforcement to compel her to go"; that the children were "thriving" in Mother's care; that Father's work required travel and "often extend[s] beyond the traditional workday"; that Mother's "primary concern is for the welfare of the children" and that Father's "primary concern is in being right and controlling the situation"; that Father "has strained relationships with his family members" and Mother "has close relationships with her extended family"; and that Father's "feeling of superiority was clear throughout the hearing," noting that Father "does not respect [Mother] or her contributions to the family." We cannot say on the record here that the magistrate failed to consider the best interests of the children under these facts.

The circuit court disagreed with Father's contention that the magistrate failed to consider the *Sanders* and *Taylor* factors, noting that when the parties appeared before the magistrate, "[Father] talked for a long time about different custody factors." The court concluded that the magistrate "talked about how she considered all the factors, even if she

didn't specifically mention each one," and it found that there was nothing "clearly erroneous about the [magistrate's] failure to mention" each of the factors.

We, too, are unpersuaded that the magistrate failed to consider the relevant *Sanders* and *Taylor* factors in the record before us. The magistrate specifically listed the combined factors from *Sanders* and *Taylor* and noted that she had "considered each of these factors even if I do not specifically reference a particular factor."

As the Supreme Court made clear in *Taylor*, "no single list of criteria will satisfy the demands of every case." *Taylor*, 306 Md. at 303. Instead, "[t]he best interest standard is *the* dispositive factor on which to base custody awards," and here, the record reflects that the magistrate properly considered the best interests of the children. *Jose*, 237 Md. App. at 600 (citation omitted). Accordingly, given the record before us and the substantial deference we afford to the trial court, we perceive no abuse of discretion in the court's consideration of the relevant factors and its decision to modify child custody.

II.

The court did not err in alternating summer access and in failing to award FaceTime access.

Father asserts that "many changes introduced in this revised custody order were not discussed at the trial," pointing to the fact that the court did not award him FaceTime access and that the order revised the summer access schedule by alternating weekly access with Y. and D. and removing overnights with A. Mother asserts that the court properly modified custody "[f]ollowing a comprehensive review of the testimon[y] and evidence presented."

Preliminarily, we note that Father failed to raise any issue regarding FaceTime access at the hearing before the magistrate, in his exceptions to the magistrate's recommendations, and during the hearing on Father's exceptions. Accordingly, this issue is not preserved for our review. *See* Md. Rule 9-208(f) ("Any matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise."); Rule 8-131(a) ("Ordinarily, an appellate court will not decide any [] issue unless it plainly appears by the record to have been raised in or decided by the trial court.").

Further, we find that the court's decision to modify the summer access schedule to remove Father's overnight visits with A. was supported by the record. Mother's undisputed testimony was that A. had difficulty "transition[ing] to another setting where she knows she's going to sleep." Additionally, the magistrate found that, although A. refused to go with Father, that Father "spent almost no time testifying about [A.]'s apparent fear about spending time with him," and "[i]nstead, he focused on his own accomplishments and [Mother]'s and her sisters' immigration status." We cannot say that the court's discretion to remove Father's overnight access with A. was arbitrary or clearly wrong under these facts.

Nor are we persuaded that alternating the parties' weekly summer access with D. and Y. was an abuse of discretion. Father maintains that "alternating access weeks for [D. and Y.] . . . would *de facto* prevent [Father] from taking the children on vacation," but provides no explanation as to why the modification would prevent him from taking D. and Y. on vacation. Moreover, the magistrate recommended the modification after finding that Father had exercised "poor judgment" in a matter involving the children, that the children

had been thriving in Mother's care, and that after Father learned that D. had spoken with his school counselor, Father "never contacted the school counselor to discuss [D.]'s issues" and "did not provide a cogent explanation" for failing to do so. Under these facts, we cannot say that no reasonable person would take the view adopted by the circuit court.

III.

The court did not err in finding Mother credible.

Father contends that the magistrate gave "undue weight" to Mother's credibility, stating that Mother lied by: (1) claiming that Father stopped A.'s therapy, "even though [Father] did not have access to the child and was even stationed abroad" at that time; and (2) claiming that Father caused D. "to become '*depressed*' and go see the school counselor in February 2023, even though at that time, [Father] had not seen the child for more than two months." Mother disputes Father's characterizations stating that Father "had legal custody of the children in 2019 but failed to continue ABA [t]herapy" and D. "proactively approached the school counselor and shared concerns regarding his well-being when in the custody of his father."

At the hearing on Father's exceptions, the court considered Father's assertion that the magistrate erred in crediting Mother's testimony and disagreed. Specifically, regarding A.'s therapy, the court noted that:

> [T]he magistrate asked how long was [A.] receiving ABA therapy; and [Mother] said she received it for a few months; I can't remember exactly how long, but I know that it stopped right after the trial in 2019. She said it was definitely assisting her. It was helping in her language development. It was helping her transition and also learn how to be kind when you're upset.

> So, [the magistrate] credited that; and she said that she found that since, since [Father] was granted sole legal custody as to educational and medical issues, no formal diagnosis has been sought or additional services have been attained, obtained for her; and then went on to say, here's the part about the ABA therapy, that in 2019, [A.] was receiving ABA therapy and that therapy ended when [Father] was awarded sole legal custody regarding medical care.
>
> [Mother] testified credibly that the ABA therapy was helping [A.]; that [Mother] testified it helped [A.] manage her transitions and to manage her emotions. So, I find that, that the magistrate credited the testimony of the defendant, which she has the right to do; and I find that the testimony of [Mother] supports the finding that [the magistrate] came to. There is nothing here that tells me that it's clearly erroneous.

Further, the court found Father's assertion that Mother lied regarding D.'s visit to the school counselor similarly unpersuasive, noting that the magistrate credited Mother's testimony, and "there was nothing clearly erroneous about that."

> [T]here was a general complaint about relying on [Mother]'s credibility and saying that [Mother] has a track record of lying that [t]he magistrate didn't consider. But the magistrate was able to examine, observe and examine [sic] both parties, and gave them plenty of time to testify; and I find that nothing was clearly erroneous about her crediting [Mother]'s credibility."

On appeal, Father does not dispute that there was competent material evidence to support the magistrate's credibility findings. Accordingly, he fails to satisfy his burden of demonstrating clear error.[6]

[6] Moreover, the magistrate not only found Mother's testimony credible, it noted that several facts weighed against Father's credibility. For example, Father did not "provide a cogent explanation for his failure to contact [D.'s] school counselor," and Father had not yet had A. evaluated for ASD.

IV.

The magistrate did not err by prohibiting Father from introducing evidence or by making inferences regarding the facts and testimony before it.

Father asserts that he was "not allowed to introduce important documentary and testimonial evidence relevant to the Court's determination of the *Sanders* and *Taylor* custody factors," and the magistrate made the "wrong inference[s]" regarding his call to police, his involvement in the children's medical issues, his educational achievements, and the parties' job demands. Rather than setting forth argument in support of these issues, he refers to over thirty paragraphs enumerated in a motion for a new trial, attached to his brief, which he filed before the circuit court prior to noting this appeal.[7]

Mother asserts that both parties "were afforded the opportunity to present relevant evidence." She argues that the court arrived at its factual inferences after "conduct[ing] a thorough examination of the case."

As we have previously made clear, it is not our role to "delve through the record to unearth factual support favorable to [the] appellant." *Rollins v. Cap. Plaza Assocs., L.P.*, 181 Md. App. 188, 201, *cert. denied*, 406 Md. 746 (2008) (quoting *von Lusch v. State*, 31 Md. App. 271, 282 (1976)). Nor is it "our function to seek out the law in support of a party's appellate contentions." *Higginbotham v. Pub. Serv. Comm'n of Md.*, 171 Md. App. 254, 268 (2006) (quoting *Anderson v. Litzenberg*, 115 Md. App. 549, 578 (1997)).

[7] That motion was denied on November 6, 2023.

Father has not cited in his brief references to where he was denied the ability to introduce evidence. In any event, the circuit court found, and the record reflects that the magistrate did not improperly prevent Father from admitting evidence at trial.

Father successfully introduced fifteen exhibits at trial and testified in detail about several of the *Sanders* and *Taylor* factors. He introduced into evidence the transcript from the child custody proceedings in 2019 and talked at length about the court's prior child custody determination, ultimately submitting that: "I'll just ask this Court to go back to the assessment made by this same [c]ourt in 2019."

To be sure, the magistrate stated that "quoting from the 2019 trial… is not relevant" and told Father to "focus on the evidence I received today." As the circuit court correctly noted:

> [Father] was occasionally interrupted by the magistrate because he was referring to things not in evidence and she had to redirect him to, to stick to things not [sic] in evidence; but in no way was he den[ied] the opportunity to discuss and argue the custody factors, as he went on for a few pages doing that.

The magistrate prohibited Father from introducing additional evidence during closing argument, but the record reflects that he later acknowledged that he attempted to do so after the close of evidence, stating: "I have some videos, but, unfortunately, it's closed, the evidence situation is closed." The record does not support Father's contention that the magistrate improperly denied him the right to introduce evidence.

With respect to Father's assertions that the magistrate made improper inferences about the evidence, the court found that the magistrate's findings were not clearly

erroneous. Specifically, regarding Father's call to police, the court noted that the magistrate:

> [U]nderstood clearly that he wanted the police involved because this is a custody case and because he wanted a report; but she found that to be poor judgment because then that's exposing the children to the police and having to talk to the police. So, I don't find that that was a clearly erroneous finding.

Regarding medical issues relating to the children, the court found that:

> [S]ince [Father] was granted sole legal custody as to educational and medical issues, no formal diagnosis has been sought or additional services have been attained, obtained for [A.]; and then went on to say, here's the part about the ABA therapy, that in 2019, [A.] was receiving ABA therapy and that therapy ended when [Father] was awarded sole legal custody regarding medical care.
>
> [Mother] testified credibly that the ABA therapy was helping [A.]; that [Mother] testified it helped [A.] manage her transitions and to manage her emotions. So, I find that, that the magistrate credited the testimony of [Mother], which she has the right to do; and I find that the testimony of the [Mother] supports the finding that [the magistrate] came to. There is nothing here that tells me that it's clearly erroneous.

Further, as to the demands of the parties' jobs, the court concluded that:

> [The magistrate] also made the finding that the defendant testified credibly that the [Father's] work commitments often extend beyond the traditional work day. For example, [Mother] called the children around 7:00 p.m. and the [Father] was still working. She testified credibly that his work commitments require him to travel outside of the country.
>
> I found that those findings were supported by the evidence and they were not clearly erroneous. It's not just a simple comparison as to who works at home and who doesn't, and what your actual hours are; but the totality of the circumstances of jobs, and those were the magistrate's findings about international, lengthy international travel and the children being at home while, and not involved in activities while the father is working and that his work day can go until 7:00 p.m. All of those were supported by the evidence.

Finally, as to Father's educational achievements, the magistrate found that Father spent a "great deal of time focused on his own accomplishments stating many times that

he has two master's degrees and a PhD." By contrast, he "spent almost no time testifying about his daughter's apparent fear about spending time with him this summer." We agree with the circuit court that the magistrate's findings and inferences were reasonable and supported by the record. *State v. Smith*, 374 Md. 527, 547 (2003) ("The primary appellate function in respect to evidentiary inferences is to determine whether the trial court made reasonable, *i.e.*, rational, inferences from extant facts."). Father states no claim of error in this regard.

V.

Father failed to preserve his contentions regarding the magistrate's conduct.

Father contends that he was treated unfairly at the hearing before the magistrate, asserting that the magistrate "obstructed [his] attempt to argue his case," he "never received any copy of [Mother's] exhibits," and the magistrate "ensured that copies of [Father's] exhibits were given to [Mother] and gave her enough time to go over them" but "did not ensure that [Father] also receive[d] copies of [Mother's] exhibits." Mother responds that each party "had the opportunity to submit their evidence."

Father's assertions are not properly before us on appeal. Father fails to provide any support for his position that the magistrate "obstructed" his attempt to argue his case. Accordingly, we decline to consider it. *Klauenberg v. State*, 355 Md. 528, 552 (1999) ("[A]rguments not presented in a brief or not presented with particularity will not be considered on appeal."). Nor did Father raise his contentions regarding not receiving Mother's exhibits or the length of time given to review exhibits in his exceptions or at any

point before the trial court. Accordingly, those issues have been waived. *See* Md. Rule 9-208(f).

Assuming, *arguendo*, that Father had preserved these contentions for our review, we would conclude that they are without merit. As discussed, *supra*, the circuit court considered Father's assertion that he was prevented from arguing his case before the magistrate and rejected that argument. We agree that the record reflects that Father had the opportunity to present his case, and that the magistrate did not deny Father a fair hearing.

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