

Circuit Court for Prince George's County  
Case No. CAD21-14976

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 556

September Term, 2024

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DELSHAWN HARRIS

v.

BREANA NICHOLSON

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Berger,  
Reed,  
Shaw,

JJ.

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Opinion by Reed, J.

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Filed: December 18, 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 concerns a custody dispute between Appellant, Delshawn Harris, and Appellee, Breana Nicholson. On April 26, 2024, the Circuit Court for Prince George’s County issued an order granting Appellee’s “Petition for Modification of Custody and Access.” This appeal followed.

Not all of the issues Appellant raised in his brief were timely. Rule 8-202(a) requires a notice of appeal to be filed within 30 days after entry of the judgment or order from which the appeal is taken. While Appellant’s notice of appeal of the April 26, 2024, order was timely, he also attempted to challenge the trial court’s earlier orders, including the original June 7, 2022, custody judgment. We only review Appellant’s timely allegations of error relating to the April 26, 2024, order.

While Appellant has not clearly articulated specific questions for our review, he seemingly alleges that he was denied due process during the modification proceedings. We disagree and find that the trial court did not violate Appellant’s rights to due process.

We therefore affirm the trial court’s judgments granting Appellee’s Petition for Modification of Custody and Access and dismissing Appellant’s Petition to Modify Custody and Visitation.

### **Factual & Procedural Background**

Appellant and Appellee are the unmarried biological parents of a minor child, H.H., who was born on April 12, 2019. On November 22, 2021, Appellee filed a complaint for custody. On January 14, 2022, Appellant filed a counter-complaint for custody and child support. On February 24, 2022, Appellant filed an amended counter-complaint. On June 7, 2022, the court granted Appellee’s complaint in part and Appellant’s counter-complaint in

part, and awarded the parties “joint legal custody and shared physical custody of” H.H. The trial court also granted Appellee “primary residential” custody and granted Appellant “reasonable rights of access.”

On October 26, 2023, Appellee filed a petition for modification of custody and access (hereinafter “Appellee’s petition”). On November 22, 2023, Appellant filed a petition to modify custody and visitation (hereinafter “Appellant’s petition”). On February 28, 2024, Larry A. Varner filed an “Affidavit of Personal Service,” in which he “attest[ed] and [swore] under threats of perjury that [he] served” Appellee’s petition “upon [Appellant], by personally handing him a true and correct copy of the [p]etition . . . on December 23, 2023 at 3:00 o’clock pm at 13512 Baltimore Avenue, Laurel, MD 20708, [Appellant’s] place of employment or business.”

On February 29, 2024, a hearing was held on the petitions before a magistrate. Appellee appeared with counsel, and Appellant appeared *pro se*. When the magistrate noted that both parties had filed petitions, Appellant replied: “Well, they filed first. The clerks made me file the answer. That was what I was told.” Appellee subsequently testified as to the “character of [her] communications” with Appellant, his lack of “interest in . . . co-parenting,” his failure to administer medication to H.H. and attend her medical appointments, and his failure to deliver H.H. to school in a timely manner and assist her in completing homework. Appellant subsequently testified as to his attendance of H.H.’s medical appointments and understanding of H.H.’s medical diagnoses and medication schedule. During his testimony, Appellant declared that the case was “null and void,” he was “done,” the court was to subsequently “communicate with [him] in writing,” and the

court and its “building” were “triggering [Appellant’s] disabilities.” Appellant subsequently exited the courtroom.

Following the hearing, the magistrate issued a proposed order in which he recommended that the court grant Appellee’s petition, dismiss Appellant’s petition, award Appellee “sole legal and primary physical custody” of H.H., and award Appellant specified access to H.H. On April 26, 2024, the court signed the order, adopted the recommendations, and awarded the parties the recommended relief. On May 2, 2024, the clerk entered the order. On May 16, 2024, Appellant filed a notice of appeal from “the final judg[ment] dated” April 26, 2024. On October 31, 2024, Appellant filed his brief. Appellee is not participating in this appeal.

### **Discussion and Analysis**

Appellant’s brief is confusing, but as best we can determine, he presents three contentions. Appellant first challenges the court’s order of June 7, 2022, in which it granted Appellee’s complaint and granted Appellant’s counter-complaint in part. But, Maryland Rule 8-202(a) states that generally, a “notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” Appellant failed to file such a notice within thirty days after entry of the judgment of June 7, 2022, and hence, the judgment is not before us.

Appellant next contends that, for the following reasons, the court’s granting of Appellee’s petition and dismissal of Appellant’s petition “was done in violation of . . . due process:”

- “Appellant wasn’t served [with] that modification.”

- Mr. Varner’s affidavit is “fraudulent” and “false.”
- Appellant “was not proven guilty of an ‘injury in fact.’”
- The “evidence was proven ‘hearsay.’”
- “Appellant[’s] disabilities [were] triggered during this hearing.”
- “The court[] was given notice to only communicate with . . . Appellant in writing due to his disabilities.”
- The magistrate “already made a decision before allowing . . . Appellant to leave.”

We disagree. At the hearing on the petitions, Appellant expressly indicated that at the time that he filed his petition, he was aware of Appellee’s petition. Appellant also did not present any evidence that the statement made by Mr. Varner in his affidavit was “fraudulent” or “false.” Appellant does not specify what constitutes an “injury in fact” in the context of a petition to modify custody and does not cite any authority that required Appellee to prove such an “injury.” Although the court, at the hearing on the petitions, excluded some of Appellee’s testimony on the ground of hearsay, the court did not exclude the entirety of Appellee’s testimony and evidence. Appellant does not cite any authority that required the court to deny Appellee’s petition, or award Appellant some form of relief, on the grounds that his “disabilities” had been “triggered” or that Appellant desired for the court to communicate with him only in writing. Finally, the transcript of the hearing on the petitions does not reflect that the court “made a decision before” Appellant exited the courtroom. In light of these circumstances, we conclude that the court did not violate Appellant’s right to due process.

Appellant next challenges the court’s “Order dated June 3<sup>rd</sup> 2024.” But the record contains no such order, nor any notice of appeal from such an order. Hence, no such judgment is before us. Finally, Appellant challenges “all decisions made from the

beginning.” But, Appellant does not identify any judgment other than the court’s order of April 26, 2024, from which he timely filed a notice of appeal. Hence, any such “decisions” are not before us.

### **Conclusion**

We affirm the judgment, dated April 26, 2024, granting Appellee’s Petition for Modification of Custody and Access and dismissing Appellant’s petition to modify custody and visitation.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**