

Circuit Court for Wicomico County
Case No. C-22-FM-17-000616

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 0577

September Term, 2024

LUCKNER HYPPOLITE

v.

MIKERLANGE MEDINA

Friedman,
Beachley,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: November 25, 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 MD. RULE 1-104(a)(2)(B).

In this appeal, we are asked to determine whether the Circuit Court for Wicomico County erred in granting a modification of custody sought by appellee Mikerlange Medina. Because the circuit court did not abuse its discretion in adopting the recommendations of the magistrate, we affirm.

BACKGROUND

Appellant, Luckner Hyppolite, and Appellee, Mikerlange Medina, are the biological parents of minor Child. Hyppolite and Medina shared legal custody, and Medina had primary physical custody. On July 12, 2022, Medina filed a motion to modify custody, child support, and other relief. A hearing was held in front of a magistrate on March 6, 2023, and July 6, 2023. 175 days later, on December 28, 2023, the magistrate issued her Report and Recommendations (“Report”), recommending that the modification of custody be granted in favor of Medina. Hyppolite filed exceptions to the Report and a hearing was held in the Circuit Court for Wicomico County on May 7, 2024. After reviewing the magistrate’s Report and conducting its own independent review of the record, the circuit court granted the motion to modify custody. This timely appeal followed.

DISCUSSION

Hyppolite presents two issues on appeal. *First*, he argues that the circuit court erred in accepting the magistrate’s Report because it was not submitted within the requisite ten-day period after the hearing. MD. R. 9-208(e)(1). *Second*, he asserts that the circuit court should not have adopted the recommendations of the magistrate because of numerous factual errors in the Report. Neither argument is persuasive.

In custody disputes, magistrates often act as the factfinder and prepare a written recommendation for the circuit court. MD. R. 9-208(a), (b), (e)(1). These findings of fact, however, “do not bind the parties until [they are] approved by the court.” *Doser v. Doser*, 106 Md. App. 329, 343 (1995); MD. R. 9-208(i)(1). Though the 175-day delay between the hearing and the filing of the Report and Recommendations was a failure by the magistrate,¹ without a showing of prejudice it is not grounds for reversal. *Crane v. Dunn*, 382 Md. 83, 91 (2004) (stating that the burden to show prejudice is on the appellant, and defining prejudice as an error that was “likely to have affected the verdict below”). Here, Hyppolite does not allege prejudice, rather he gestures vaguely at the late Report, as if the fact that it was filed late is enough to warrant reversal. It is not. He must show how the failures of the magistrate prejudiced him. *See, e.g., Barrett v. Barrett*, 240 Md. App. 581, 591-92 (2019) (finding prejudice and reversible error when party was barred from filing exceptions after the deadline of which they received no notice). Moreover, any error was corrected by the circuit court when it issued its order based on an independent judicial review of the record. We, therefore, reject Hyppolite’s first claim.

Once a magistrate issues a report and recommendations, the parties may contest the magistrate’s findings by filing exceptions within ten days. MD. R. 9-208(f). The circuit

¹ Absent any extenuating circumstance, none of which were provided for here, missing the deadline to file a report by 165 days is contrary to Maryland Rule 9-208(e)(1) which serves “the purpose of streamlining and expediting the procedure for filing exceptions.” *See Morales v. Morales*, 111 Md. App. 628, 630 (1996) (referring to prior iteration of the rule). This is especially true in the light of the facts of this case. A young child and his parents should not be left in limbo about their future for so long.

court must review the record and the magistrate’s findings and exercise its own “independent judgment concerning the proper conclusion to be reached upon those facts.” *Domingues v. Johnson*, 323 Md. 486, 490 (1991). Here, the circuit court did just that. Hyppolite filed exceptions, and the circuit court reviewed the magistrate’s Report, along with the transcript from the hearings in March and July of 2023. Using its independent judgment and setting aside several erroneous facts identified by Hyppolite, the circuit court adopted the recommendations of the magistrate.

To be clear, upon review of the arguments of counsel and the Magistrate’s report and the transcript, in the exercise of the Court’s independent judgment, the recommendation of the Magistrate is in the best interest of the Child and should be adopted by the Court.

Opinion of the Court, p. 10.

While the circuit court reviews the findings of the magistrate, it is our job to review the decision and process of the circuit court. *Doser*, 106 Md. App. at 343-44. To do this, we review the circuit court’s decision for abuse of discretion. *Santo v. Santo*, 448 Md. 620, 625 (2016). Abuse of discretion occurs where “no reasonable person would take the view adopted by the [circuit] court or when the [circuit] court acts without reference to any guiding rules or principles,” which in the case of a custody dispute is the best interest of the child standard. *Id.* at 625-26 (cleaned up) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295 (1997)). Though there were factual errors in the Report, the circuit court, in its written opinion, individually assessed each of these errors, independently made a finding of fact on each, and did not rely upon any erroneous findings in its independent

appraisal of the Report.² Indeed, the circuit court corrected all of the errors that Hyppolite argues warrant reversal, which leaves us with nothing to fix. We affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR WICOMICO COUNTY IS
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

² Hyppolite points to three findings of fact that the circuit court determined to be erroneous, each of which the circuit court addressed in its opinion and did not rely upon in its decision to grant the custody change.