Circuit Court for Washington County
Case No. C-21-FM-21-001395

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0729

September Term, 2024

SARAH RED

v.

CHRISTOPHER SHAFFER

Wells, C.J.,
Tang,
Eyler, Deborah, S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: November 25, 2024

*This is an unreported opinion. It 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 case arises from litigation between appellant Sarah Red ("Mother") and appellee Christopher Shaffer ("Father") regarding their minor child. In the Circuit Court for Washington County, Father moved to change the child's surname to Shaffer, and separately, for the court to determine child support arrears. A magistrate recommended granting the name change and setting child support arrears at $6,954.84. Mother filed exceptions to the magistrate's recommendations. After a hearing, the circuit court found extreme circumstances warranted changing the child's last name because Mother effectively abandoned the child by not paying child support for approximately 16 months. The court also set Mother's child support arrears at $8,411.74. Mother filed a motion for reconsideration which the circuit court denied.

Mother filed this timely appeal only as to the circuit court's denial of the motion to reconsider. We conclude the court did not abuse its discretion and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The child at issue here was born on September 10, 2007. Mother and Father never married and have fought in court over custody of the child since two days after his birth. Mother and Father originally shared joint custody of the child, but in 2017, the Court of Common Pleas of Franklin County, Ohio granted Father sole legal and physical custody of the child. The change in custody was for a variety of reasons, some of which Father references in his brief to this Court.

In 2019, the Ohio court ordered Mother to pay child support in the amount of $549.57 per month,[1] which Mother attests she paid to Father through the Ohio Department of Social Services ("Ohio DSS"), not to Father directly. The 2019 custody order also modified Mother's parenting time, decreasing her allotted parenting time per month and requiring supervision.[2]

In October 2022, Maryland acquired jurisdiction over the 2019 custody order and future litigation between Mother and Father regarding the child.

In November 2022, in the Circuit Court for Washington County, Father filed a Motion for Name Change of Minor to change the child's last name from Reid— Mother's maiden name that she has not used since she re-married in 2015 or 2016 and took her husband's name, Red—to Shaffer.[3] Mother opposed the motion. Father then filed a Child's Consent to Name Change form signed by the minor child.

In October 2023, in the same court, Father filed a Motion to Determine Child Support Arrears as he alleged that he had not received child support payments from Mother since December 2022.

[1] In the 2017 order, the court directed Mother to pay $441.50 per month in child support. The court increased that amount to $549.57 in the 2019 custody order.

[2] In the 2017 order, the court granted Mother two weekends per month of parenting time, plus some holidays. The court modified Mother's parenting time in the 2019 order to four supervised hours on two Sundays per month.

[3] Mother testified before the magistrate in Washington County that she married in "either 2015 or 2016."

In December 2023, a magistrate held a hearing regarding the name change and child support arrears. The magistrate recommended granting the name change request as the magistrate found the name change to be in the child's best interests. The magistrate did not consider whether extreme circumstances warranted the name change because neither party presented evidence of a mutual agreement between Mother and Father regarding the child's last name at the time of birth. Therefore, the magistrate's sole inquiry in considering the name change was what last name would be in the child's best interests, which the magistrate determined was Father's.[4]

The magistrate then recommended setting child support arrears at $6,594.84 (12 months multiplied by Mother's $549.57 monthly child support payment), finding Mother did not pay child support from January 2023 through December 2023. Mother argued she paid $381.38 in January 2023 to the Ohio DSS as part of her required $549.57 monthly child support payments, but the Magistrate found Mother did not make any child support payments in 2023. This was because Father testified he did not receive any child support payments in 2023, as well as the fact that Mother's proffered evidence showing $381.38 as

[4] Under Maryland caselaw, if there was no agreement between parents at the child's birth regarding the child's last name, the parent moving to change the child's last name need only "demonstrate that the desired name change is in the Child's best interest." *Dorsey v. Tarpley*, 381 Md. 109, 117 (2004) (citing *Lassiter-Geers v. Reichenbach*, 303 Md. 88, 95 (1985)). However, if there was an agreement between the parents at the child's birth regarding the child's last name, the applicable standard "is not merely what is in the child's best interest, but whether 'extreme circumstances' warrant the requested change" of last name. *Schroeder v. Broadfoot*, 142 Md. App. 569, 581 (2002).

"Funds on Hold" with Ohio DSS did not show *actual payment* of that amount to Father for January 2023.[5]

Mother filed exceptions to the magistrate's recommendations, advancing two arguments relevant to this appeal. *First*, Mother argued the magistrate did not use the proper legal standard in recommending the name change. Mother claimed that, at the child's birth, she and Father agreed the child would have the last name Reid, her family's last name. Because of this agreement, Mother claimed the magistrate needed to consider whether extreme circumstances warranted changing the child's last name in addition to determining what last name serves the child's best interests. *Second*, Mother argued the magistrate erred in its arrears recommendation. Specifically, she claimed the magistrate should have accounted for the $381.38 she said she paid in January 2023 and a "credit" of $1,356.40 with Ohio DSS toward future child support payments. In support of this second argument, Mother pointed to evidence she produced for the magistrate listing $381.38 collected by Ohio DSS in January 2023 and $1,356.40 as "Total Credits," defined as "[t]he total amount of excess funds remaining after all current monthly obligations have been met. These funds will be used to count as a payment toward next month's obligations."

[5] Mother's evidence is a payment history report with the Franklin County Child Support Enforcement Agency. In her brief, she refers to this agency as "OH DSS."

The Circuit Court for Washington County held a hearing on the exceptions in March 2024 and issued an Amended Exceptions Order on March 28, 2024.[6] Regarding the name change, the circuit court found the magistrate erred in not using the extreme circumstances test coupled with the best interest test. The court found extreme circumstances existed in light of the 2017 custody order.[7] However, this finding was only made at the hearing; it was not included in the Amended Exceptions Order. The only finding of extreme circumstances listed in the Amended Exceptions Order was that Mother "effectively abandoned [the child] by not paying child support which establishes an extreme circumstance." After making its finding, the court affirmed the magistrate's finding of the name change being in the child's best interest and ordered that the child's last name be changed to Shaffer.

Regarding child support arrears, the court determined Mother stopped paying child support beginning in December 2022—differing from the magistrate's finding that Mother stopped paying child support beginning in January 2023—but gave her credit for $381.38 paid in January 2023. Further, the court did not give Mother credit for her alleged $1,356.40 credit toward future child support payments because there was no proof she paid that amount to Ohio DSS. In its Amended Exceptions Order, the court set arrears at $8,411.74 through March 1, 2024—16 months (December 2022 through March 2024) multiplied by

[6] The court issued an Exceptions Order on March 22, 2024. To correct a clerical error, the court then issued an Amended Exceptions Order on March 28, 2024.

[7] As Mother correctly notes in her brief, the exceptions court did not explain what in the 2017 custody order specifically led to its finding of extreme circumstances.

Mother's $549.57 monthly child support payment, deducting $381.38 for payment in January 2023.

Pursuant to Maryland Rule 2-535, Mother moved the court to reconsider its order. She requested the court vacate the finding of extreme circumstances to justify changing the child's last name and establish child support arrears at $6,505.77—15 months (January 2023 through March 2024) multiplied by $549.57, deducting for $381.38 for payment in January 2023 and $1,356.40 for credit toward future child support payments. The circuit court denied the motion in a one-line order, entered on May 15, 2024. Mother noted an appeal of the denial of the motion for reconsideration on June 10, 2024.

DISCUSSION

Under Maryland Rule 8-202(c), a motion for reconsideration under Rule 2-535 filed within ten days of the entry of judgment "tolls the running of that appeal period while the court considers" the motion for reconsideration. *Johnson v. Francis*, 239 Md. App. 530, 541 (2018). "A motion for reconsideration filed more than ten days, but within 30 days, after entry of a judgment or order may still be considered by the trial court, pursuant to Rule 2-535, but it does not toll the running of the time to note an appeal" of the judgment. *Id.* "When a revisory motion is filed beyond the ten-day period, but within thirty days, an appeal noted within thirty days after the court resolves the revisory motion addresses only the issues generated by the revisory motion." *Furda v. State*, 193 Md. App. 371, 377 n.1 (2010).

Because Mother filed her motion for reconsideration under Maryland Rule 2-535 more than ten days after the entry of the court's final order, the filing did not toll the 30-day appeal period under Rule 8-202(c). Mother did not file a notice of appeal within 30 days of the exceptions order. However, she did file her notice of appeal within 30 days of the court's denial of her motion for reconsideration. Accordingly, the only timely appeal here is from the court's denial of Mother's motion for reconsideration. *See Bennett v. State Dep't of Assessments and Tax'n*, 171 Md. App. 197, 203 (2006).

"An appeal from the denial of a motion asking the court to exercise its revisory power is not necessarily the same as an appeal from the judgment itself." *Green v. Brooks*, 125 Md. App. 349, 362 (1999) (cleaned up). Specifically, the scope of review for a denial of a motion to reconsider is "limited to whether the trial judge abused his [or her] discretion in declining to reconsider the judgment." *Grimberg v. Marth*, 338 Md. 546, 553 (1995). "Except to the extent that they are subsumed in [the question of whether the trial court abused its discretion in denying the motion for reconsideration], the merits of the judgment itself are not open to direct attack." *Sydnor v. Hathaway*, 228 Md. App. 691, 708 (2016) (alteration in original) (citing *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 241 (1998)). While a "decision on the merits… might be clearly right or wrong[, a] decision not to revisit the merits is broadly discretionary," even "boundless" or "virtually without limit." *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002).

An abuse of discretion occurs "where no reasonable person would take the view adopted by the trial court" or "when the court acts without reference to any guiding

principles." *Alexander v. Alexander*, 252 Md. App. 1, 17 (2021) (cleaned up). Under the abuse of discretion standard, this Court will not reverse a trial court's decision to decline to exercise its revisory power "unless there is a grave reason for doing so." *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 724 (2002). In this context, "even a poor call [in denying a motion to reconsider] is not necessarily a clear abuse of discretion." *Stuples*, 119 Md. App. at 232. The denial of a motion to revise a judgment should be reversed only if the denial "was *so far wrong*—to wit, *so egregiously wrong*—as to constitute a clear abuse of discretion." *Id.* (emphasis in original). "It is hard to imagine a more deferential standard than this one." *Est. of Vess*, 234 Md. App. 173, 205 (2017).

In this case, neither Mother nor Father discuss how the circuit court did or did not abuse its discretion in denying Mother's motion to reconsider. Instead, they discuss how the facts supported or failed to support the underlying decision the court made about the name change and the child support arrears. In effect, Mother seeks to have us review the court's rationale as to the merits of its decision. Father does little better, offering counterarguments about the merits rather than focusing on the denial of the motion to reconsider itself.

All we may consider in this case is whether the circuit court abused its discretion in denying Mother's motion for reconsideration.

> Even assuming, *arguendo*, the appealability of the denial of a post-trial motion, the appellant would carry a far heavier appellate burden on that issue than he would carry in challenging the denial of a more timely motion for relief made during the course of trial. Appellate consideration of a denial of a motion to reconsider, or some similar post-trial revisiting of already

> decided issues, does not subsume the merits of a timely motion made during the trial.

Steinhoff, 144 Md. App. at 484. Mother has not argued why the circuit court abused its discretion by not putting the issue of the court's rulings on the name change or the child support arrears "back on the table." Under these circumstances, we cannot conclude the court's denial of Mother's motion as to either issue was "*so far wrong*—to wit, *so egregiously wrong*—as to constitute a clear abuse of discretion." *Stuples*, 119 Md. App. at 232 (emphasis supplied).

THE JUDGMENTS OF THE CIRCUIT COURT FOR WASHINGTON COUNTY ARE AFFIRMED. APPELLANT TO PAY THE COSTS.