Circuit Court for Anne Arundel County
Case No. C-02-FM-23-809964

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1375

September Term, 2023

J.S.

v.

L.S.

Beachley,
Albright,
Robinson, Dennis M., Jr.
(Specially Assigned),

JJ.

Opinion by Robinson, J.

Filed: November 4, 2024

This appeal arises out of the entry of a final protective order by the Circuit Court for Anne Arundel County against appellant, J.S[1]. ("Father"). Appellee L.S. ("Daughter") obtained the final protective order on behalf of her two minor half-siblings, L. and C., who are Father's children. Based on the testimony and evidence presented at the hearing, the circuit court issued a final protective order against Father, granting Daughter full custody of L. and C. for the duration of the protective order and restricting Father's access to L. and. C. to a one-hour visitation on Tuesdays and Thursdays from 7:00 p.m. until 8:00 p.m.

Father presents three questions for our review, which we have rephrased:[2]

> I. Did the circuit court commit reversible error by not informing Father of a perceived right to counsel in a protective order proceeding and failing to inquire whether Father desired to seek counsel?

[1] To protect the privacy of the parties, we refer to them by their initials in the caption and as "Father" and "Daughter" in the body of this opinion. To protect the privacy of the minor children, we refer to them by the first letter of their respective names. We also refer to witnesses by their initials to further protect the privacy of the parties and the minor children.

[2] Father presented the questions for review as follows:

> 1. Did the Circuit Court err by failing to inform Appellant of his right to counsel, and failing to inquire whether Appellant desired to seek counsel before proceeding in a matter in which Appellant faced allegations of child abuse and loss of custody of his Minor Children?
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> 2. Did the video evidence admitted into evidence by the Circuit Court at trial, over objection of Appellant, violate the Maryland Wiretap Act?
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> 3. Did the Circuit Court err in finding by a preponderance of the evidence that Appellant had committed child abuse?

II. Did the circuit court commit reversible error by admitting audio-video recordings in violation of the Maryland Wiretap Act?

III. Did the circuit court commit reversible error by concluding by a preponderance of the evidence that J.S. had abused the minor children?

For the reasons explained below, we answer these questions in the negative and affirm.

BACKGROUND

On July 26, 2023, Daughter filed a petition for a protective order on behalf of L. and C., her two minor half-siblings who are Father's children. The petition referenced three acts of alleged abuse: 1) that Father "pulled L. by her hair in anger" in April 2023, 2) that Father "pulled L. out of the front door of her home" in June 2023, and 3) that Father caused "emotional and mental distress to both children by refusing to allow them to return to their primary residence with" Daughter. At the hearing regarding the temporary protective order, Daughter testified about the incidents of physical abuse described in the petition for a protective order and also testified that, on multiple occasions, Father had made threats against C., specifically, "to tie [C.]'s left arm down to his side so that he is forced to use his right hand." Daughter also described a phone call with the minor children after Father removed them from her care, during which "they were crying and distraught that they wouldn't come home." Daughter testified that she heard Father tell the children that "they cannot come back" to Daughter's home.

Daughter also testified that she believed the children were in danger in Father's care. The circuit court issued a temporary protective order at the conclusion of the hearing.

The circuit court held a final protective order hearing on August 2, 2023. Father appeared without counsel. When the circuit court explained to Father the procedure for the hearing, he replied, "Yes ma'am." The hearing began, and Daughter's counsel conducted direct examination of Daughter's first witness. After Father's cross-examination, the following exchange took place between him and the circuit court:

> [FATHER]: Your, Your Honor, I would have a lawyer representing me, if that was possible, in a week. I've called –
>
> THE COURT: Well, if –
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> [FATHER]: Multiple lawyers.
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> THE COURT: If you would like to seek a postponement, I don't think it would be granted in the middle of the trial, and I'm not the postponement Judge.
>
> [FATHER]: Okay.
>
> THE COURT: But…I'm happy for you to try.
>
> [FATHER]: I would like my kids returned to me.
>
> THE COURT: Okay.
>
> [FATHER]: I have custody of them.
>
> THE COURT: Do you want to continue the case or ask for a postponement?
>
> [FATHER]: I'll continue the case.

The hearing proceeded after this exchange.

At the hearing, K.S., who is Daughter's sister and Father's daughter, testified that she witnessed Father pull the hair of L. so hard that L. cried. She also testified that afterward, L. got into bed with her, appeared scared, and complained that her "head hurt." K.S. also described the children's demeanor as "upset" when she communicated with them through the FaceTime application after Father removed them from Daughter's care. K.S., who lived with Father, testified that she installed a camera in her bedroom "for [her] health reasons," and that Father was aware of this.

Daughter attempted to introduce an audio-video recording of the incident, in which Father pulled L. up from the ground by her hair, causing L. to cry, to get in bed with K.S., and to cover herself with a pillow ("Video 1"). Father objected to the introduction of Video 1, but the circuit court overruled the objection and permitted Daughter's counsel to play Video 1, which was recorded by the camera inside K.S.'s bedroom at Father's residence. Video 1 showed L. standing in the doorway to a bedroom and Father pulling her hair. Father's voice could be heard in Video 1.

Father objected to the admission of Video 1 when Daughter's counsel moved for its admission. He argued that Video 1 was recorded in his home, but he was not aware that the camera had been installed in his home. The circuit court admitted Video 1 over Father's objection. After admitting Video 1, the circuit court advised Daughter's counsel: "You may wish to block out the sound of these videos, because we do have wiretap laws."

After Daughter's counsel objected to a line of questioning by Father, he stated that he "would have a lawyer representing [him], if that was possible, in a week. I've called multiple lawyers." The circuit court explained that, "[if Father] would like to seek a postponement, I don't think it will be granted in the middle of the trial, and I'm not the postponement Judge . . . . But, I'm happy for you to try." When the circuit court followed up and asked whether Father wanted "to continue the case or ask for a postponement," he stated that he wanted to continue.

After Father's cross-examination of K.S., the circuit court noted that an employee of the Department of Social Services ("DSS") was present in the courtroom. The circuit court asked Daughter's counsel if she intended to call the DSS employee as a witness. She replied, "I don't think, actually, either of us are calling her as a witness." The circuit court excused the DSS employee.

Daughter testified at the final protective order hearing. According to Daughter, she lived at her mother's house in Baltimore County for over twenty-five years. She testified that L. and C. had been living with her at that Baltimore County address since March 2020, and that, prior to March 2020, L. and C. lived with Father in Anne Arundel County. She also testified that, prior to L. and C. living with Father, there had been DSS involvement. L. had been removed from Father's care and custody to be placed in the care and custody of Daughter. She explained that C. resided with Father and C.'s mother during the first few months of his life prior to being placed in the care and custody of Daughter. According to Daughter, while L. and C. resided with her and her mother,

Father would visit the minor children during the week, after work, and, more recently, he had been taking them on day trips and for entire weekends. She testified that Father would take the minor children on day trips to visit their mother, who was undergoing a drug treatment program. She also testified that L. and C.'s mother had been granted limited access to the minor children pursuant to a custody order unrelated to this case.

Daughter's counsel played another audio-video recording ("Video 2"). The audio portion of the recording includes Father telling the minor children that he is coming to see them, and L. can be heard crying. Daughter's counsel moved for the admission of Video 2. The circuit court admitted Video 2 after Father did not object. Daughter's counsel played another audio-video recording ("Video 3"). Video 3 includes audio of K.S. and Father arguing, with K.S. saying, "I'm not coming in demanding nothing. I'm coming in and saving the f*****g kids, because they obviously don't want to stay with you." Daughter's counsel moved for the admission of Video 3. The circuit court admitted Video 3 after Father did not object. Daughter then played another audio-video recording ("Video 4"). Video 4 includes audio of Father saying, "No, gee. Yeah, here's [L.] calling you mommy again." It also includes video of Father pulling L.'s hair. Daughter's counsel moved for the admission of Video 4. The circuit court admitted Video 4 after Father did not object.

Daughter essentially repeated her prior testimony from the temporary protective order hearing regarding Father's physical and mental abuse of the children. She testified that Father tried to pull L. out of a doorway by her arm "rather aggressively, and to the

point where she turned and latched onto [Daughter's] grandmother, and she said – she was scared." Daughter also stated that Father "threatened to tie [C.'s] left hand down to force him to use his right hand." According to Daughter, Father was "very angry" and would yell. She testified that she never suffered any physical abuse from Father, but "definitely mental and verbal [abuse]." She also testified that the children were afraid of Father, and that she believed that they were in imminent danger in Father's care. Daughter asked the circuit court to grant a final protective order with the same terms as the temporary protective order–not to abuse or threaten to abuse, harass, or contact [L. and C.], to grant Daughter custody of L. and C., and to require Father to surrender his firearms.

On cross-examination by Father, Daughter testified that she lived at her mother's home, and that she shares a room with her boyfriend. After Daughter's counsel objected to a line of questioning, the following exchange occurred:

> [FATHER]: -- once again, I would have hired a lawyer –
>
> THE COURT: Okay, but you didn't and we're here, so you need to continue.
>
> [FATHER]: Well, will you give me five days to do it, or seven days –
>
> THE COURT: I can't do that, sir…. If you want a postponement, you should have asked at 1:30.

After this exchange, Father stated that he had no further questions for Daughter. Daughter rested her case.

The circuit court informed Father that he had an opportunity to present his case and suggested that he testify first because "it gives a lot more context to hear from the person who is the respondent in the case than third parties, but it's up to you, the order in which you wish to call your witnesses." Father decided to testify as a witness. He began by attempting to discuss a DSS report completed by the DSS employee who had previously been excused by the circuit court. Daughter's counsel objected to any reference to the DSS report because the DSS employee was no longer present to testify, and there was no stipulation between the parties that the DSS report should come into evidence. The circuit court sustained the objection regarding the DSS report and informed Father:

> Okay. So, sir, her objection is, and she's correct, that that is not a document that is admissible in evidence. The worker, case worker, who was here, could have testified about what she said in that report if you wished, but you both said you did not wish to call her, and she's gone now. So, it's not admissible.

The circuit court sustained Daughter's objections to Father's attempts to discuss the contents of the DSS report.

During his testimony, Father testified that he has small kids, that they sometimes do not listen, and that he tries to make them listen as well as he can. He acknowledged being "a little upset" and picking up L. by her hair. He did not consider this to be abusive behavior and stated that it was "out of character" for how he reprimands his children. He said he would "usually try to talk to them or have a time-out chair." He also acknowledged "not claiming to be anything super special," but that he "tr[ies] to keep

[his] kids with discipline." He also denied "hit[ting] [his] kids," but he acknowledged that C. might have gotten a "pop on the butt . . . as all kids deserve" in the six months preceding the hearing regarding the final protective order. According to Father, although he had court-ordered custody of L. and C., they typically slept at Daughter's mother's house as a matter of convenience and so that Father could work and provide support for the minor children. He explained that, after Daughter filed a petition for custody of L. and C., he "kept the kids with [him] because [he] has custody of the kids, and [he believed] they [were] going to use situations against him."

Father called his sister as a witness. When asked if she had ever seen Father be abusive to his children, she said, "No. No. I've seen him yell at them." When asked if she thought Father had ever been abusive to his children at any time, she said:

> I do not. I do not, which, I've been around [Father] a lot with his children. As I said, L[.] lived with me for almost a full year. The only reason she stopped is because I had eye surgery. And I've never seen him do anything. You know, yes, he corrects her if she does something wrong, but it's not physical. I've never seen anything physical abuse.

Father also called C.J. as a witness. He is married to Father's older sister, who was not identified by name. C.J. testified that he had never seen Father be aggressive with his children. According to C.J., Father "has always looked out for his children, always had their care in mind -- and their future in mind."

After considering the testimony and other evidence presented and hearing closing arguments, the circuit court explained:

> So, the standard for the Court is whether abuse occurred, and abuse is defined as a physical or a mental injury of a child under circumstances that indicate the child's health or welfare is harmed or at substantial risk of being harmed by, in this case, a parent. So, mental abuse, for one thing, is very hard to pin down. The statute also defines mental abuse as an observable, identifiable, and substantial impairment of a child's mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there is an intent to harm the child.
>
> I do think that in this case, the [F]ather's bringing the children to his home and denying them the benefit of being in the home where they've slept for years before that with his approval, given the videos I saw about their reaction to being withheld from what is, I guess, a surrogate parent, your daughter, is an act of mental abuse. They're obviously distraught. Also, the pulling up your daughter by her hair is physical abuse. That's not an appropriate way to discipline a child. She was obviously afraid, in pain, and the like. That's not a swat on the butt. It's abusive, and the father admitted that.
>
> It's clear to the Court that the reason for the change was that [Father] was just upset about the petition for custody being filed, and I think his actions were inappropriate and didn't account for the children's mental health. So, I am going to grant the final protective order on the same terms as were set forth in the temporary order, which means, until there is a hearing on the custody case, which, sir, is a different case. That will determine the final custody and would supersede this.

The circuit court entered a final protective order, which specified that Father committed the following act of abuse by a preponderance of evidence: "Statutory abuse of a child (physical)," with the following "description of harm": "JUNE 2023 CHILD PULLED BY ARM OUT OF DOOR." The final protective order provides that Father not abuse or threaten to abuse L. and C., awards Daughter custody of L. and C. for the

duration of the protective order, which was effective through August 2, 2024, and restricts Father's access to L. and. C. to a one-hour visitation on Tuesdays and Thursdays from 7:00 p.m. until 8:00 p.m. The final protective order prohibits Father from visiting Daughter's residence and the children's childcare providers and also requires Father to surrender to law enforcement all firearms that he owns. This appeal followed.

STANDARD OF REVIEW

Generally, appellate courts do not opine on abstract propositions or moot questions. *State v. Ficker*, 266 Md. 500, 506–07 (1972). A case is considered moot when there is no longer an existing controversy between the parties at the time it is before the court. *Coburn v. Coburn*, 342 Md. 244, 250 (1996). Although the final protective order expired approximately one month before appellate arguments, the appeal is not moot. When a party can demonstrate that collateral consequences flow from a lower court's disposition, mootness does not necessarily preclude appellate review. *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 352 (2019). In *Piper v. Layman*, this Court explained, in allowing the appeal, that there are two collateral consequences for a person against whom a final protective order has been granted and thus, the person "has an interest in exoneration even if the period of the protective order has expired without incident." 125 Md. App. 745, 753 (1999). First, a judicial determination that a person has abused their children creates a lasting stigma and a final protective order "is a permanent record of the court." *Id.* at 752–53. Second, if the petitioner seeks another protective order against the respondent parent, the court has the discretion to consider the prior

order. *See Coburn*, 342 Md. at 250. If another petition is filed, a judge might assume that Father had previously committed "some sort of assault" on the minor children. This information would be properly considered by the court because "one act of abuse may not warrant the same remedy as if there is a pattern of abuse between the parties." *Id.* at 258. Also, according to section 4-506(j) of the Family Law Article ("FL"), if another act of abuse is committed by "the same respondent" against "the same person[s] eligible for relief" within one year after the expiration of a prior protective order, the court can issue a second final protective order that will be in effect for a term of two years. There may also be employment, security clearance and licensure issues as a result of the issuance of a protective order. *Piper*, 125 Md. App. at 753.

Under section 4-506 of the Family Law Article, a court may issue a final protective order if "the judge finds by a preponderance of the evidence the alleged abuse has occurred[.]" FL § 4-506(c)(1)(ii). The petitioner bears the burden to establish by a preponderance of the evidence that the alleged abuse has occurred. *Piper v. Layman*, 125 Md. App. 745, 754 (1999). "If the court finds that the petitioner has met the burden, it may issue a protective order tailored to fit particular needs that the petitioner has demonstrated are necessary to provide relief from abuse." *Id.* (quoting *Ricker v. Ricker*, 114 Md. App. 583, 586 (1997)). On review of the issuance of a final protective order, an appellate court "accept[s] the facts as found by the hearing court unless it is shown that its findings are clearly erroneous." *Id. See also* Md. Rule 8-131(c) (providing that this

Court "will not set aside the judgment of the trial court on the evidence unless clearly erroneous").

A trial court's factual findings are not clearly erroneous so long as they are supported by substantial evidence. *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000). *See also Mills v. Mills*, 178 Md. App. 728, 734–35 (2008) ("[I]f substantial evidence was presented to support the trial court's determination, it is not clearly erroneous and cannot be disturbed."). We are deferential to the factual findings of the trial court, which had the "opportunity to gauge and observe the witnesses' behavior and testimony" throughout the protective order proceeding. *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001) (quoting *Ricker*, *supra*, 142 Md. App. at 592). For this reason, we also "leave the determination of credibility to the trial court[.]" *Id.* This Court considers the evidence produced at trial in the light most favorable to the prevailing party. *Mills*, 178 Md. App. at 734–35. "As to the ultimate conclusion, however, we must make our own independent appraisal by reviewing the law and applying it to the facts of the case." *Piper*, *supra*, 125 Md. App. at 745–55.

DISCUSSION

Father raises three arguments on appeal. First, he argues that the circuit court committed reversible error by failing to inform him of a perceived right to counsel and failing to inquire whether he desired to seek counsel before proceeding with the hearing regarding the final protective order. Second, he argues that the admission of Video 1, Video 2, Video 3 and Video 4 violates Maryland's Wiretap Act. Third, he argues that the

evidence presented at the final protective order hearing was insufficient to establish that he physically or mentally abused his minor children by a preponderance of the evidence. For the reasons explained below, we conclude that the circuit court did not commit reversible error and affirm the circuit court.

I. The circuit court did not commit reversible error by not advising Father of a right to counsel and not inquiring whether he wanted to seek counsel before proceeding with the final protective order hearing.

Unlike criminal defendants, Father did not have "the right to counsel [as] guaranteed in criminal cases under the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights." *In Re Adoption/Guardianship of Chaden M.*, 189 Md. App. 411, 425 (2009) (internal citations omitted). He also fails to point to any statutory or other legal authority that may guarantee a right to counsel for a party to a protective order proceeding. Given the absence of any legal authority providing a right to counsel in a protective order case, the circuit court did not err by not advising Father of a perceived right to counsel.

Father raises a related issue regarding his expressed desire to postpone the protective order hearing for him to obtain counsel. Rule 2-508(a) provides, "On motion of any party or on its own initiative, the court may continue or postpone a trial or other proceeding as justice may require." Under this Rule, "the trial court has wide latitude in determining whether to grant a continuance." *Shpak v. Schertle*, 97 Md. App. 207, 225 (1993). The denial of a postponement request "will not be reviewed on appeal" absent an abuse of discretion or a showing that the trial court acted arbitrarily. *Id.* (quoting *Thanos*

v. Mitchell, 220 Md. 389, 392 (1959)). An abuse of discretion means "'discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006) (quoting *Jenkins v. City of College Park*, 379 Md. 142, 165 (2003)). Father does not point to any statute or rule that mandates a continuance in protective order proceedings for respondents to obtain counsel. That is presumably because there is no such authority. *See Touzeau*, 394 Md. at 670 ("In the present [custody] case, there was no statute or rule requiring that the trial judge grant [appellant]'s motion for continuance."). The circuit court's refusal to postpone this matter was not "manifestly unreasonable." *Id*., 394 Md. at 669. Father did not request a postponement at the beginning of the hearing. Rather, he acquiesced to starting the hearing without an attorney. When the circuit court offered Father the opportunity to request a postponement in the middle of the first witness's testimony, he expressly declined. Indeed, he did not request a postponement until the court had already heard the testimony of two witnesses and admitted four exhibits into evidence. Under the circumstances, the circuit court was well within its discretion to deny Father's request. *See id*., 394 Md. at 654 (affirming the lower court's decision to deny a postponement request, for the purpose of obtaining counsel, in a contested custody case).

II. The circuit court did not commit reversible error by admitting Video 1, Video 2, Video 3 and Video 4.

A. The circuit court properly admitted Video 1.

Under section 10-401, *et seq*. of the Courts and Judicial Proceedings Article (the

"Maryland Wiretap Act"), it is unlawful for a person to "[w]illfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication…." Maryland Wiretap Act § 10-402(a)(1). The Maryland Wiretap Act "requires consent from all parties before a conversation may be taped or otherwise intercepted in the absence of a court order authorizing law enforcement officials to conduct a wiretap." *Miles v. State*, 365 Md. 488, 508 (2001). Significantly in this case, the Maryland Wiretap Act does not apply to video surveillance. In this case, after admitting Video 1, the circuit court advised Daughter's counsel: "You may wish to block out the sound of these videos, because we do have wiretap laws." Daughter's counsel responded: "Well, I know that, and for this one, I think it's fine. But yes, I'm aware, thank you." The circuit court properly addressed the implications of the Maryland Wiretap Act by pointing out the applicability of the statute, instructing Daughter's counsel to "block out the sound of these videos," and effectively admitting Video 1 without the audio portion.

Even if the circuit court erred by admitting Video 1, any error was harmless. "'It has long been the policy in this State that this Court will not reverse a lower court['s] [erroneous evidentiary ruling] if the error is harmless.'" *Barksdale v. Wilkowsky*, 419 Md. 649, 657 (2011) (quoting *Flores v. Bell*, 398 Md. 27, 33 (2007)). To prove reversible error, an appellant must show that the error prejudiced the outcome of the case. *Flores*, 398 Md. at 33. Father "must show more than that prejudice was possible; [he] must show that it was probable." *Gillespie v. Gillespie*, 206 Md. App. 146, 169 (2012) (quoting

Flores, 398 Md. at 33). "[A]n error in evidence is harmless if identical evidence is properly admitted." *Id*. (quoting Barksdale, 419 Md. at 663). Even if the circuit court erred by admitting Video 1, any error was harmless because testimony and other admissible evidence were sufficient to prove abuse by a preponderance of the evidence.

K.S. witnessed the incident depicted in Video 1 and testified regarding her observations. She testified that Father pulled up L. from the ground by her hair, causing L. to cry, become scared, complain that her head hurt, and take out her ponytails. Daughter also testified as to what she witnessed, specifically that in June of 2023, Father "grabbed L. by the arm and tried to pull her out the door to leave, and she turned and grabbed onto [her] grandmother…so [Father] wouldn't pull her." According to Daughter, Father grabbed L. "aggressively" during this incident, and L. appeared to be scared of him.

Daughter testified that Father threatened to tie C.'s "left arm down to his side so that he is forced to use his right hand." Daughter and K.S. described their observations of the children's emotional distress caused by Father's refusal to return them to Daughter. K.S. testified that the children were "very upset," crying, screaming, and asking to return to Daughter's home when she spoke with them on FaceTime after Father took them with him. Daughter also testified that during two calls with the children after Father removed them from her care, "they were distraught, and crying, and screaming that they wanted to come home." Daughter also testified that L. has expressed being fearful of Father.

B. Father waived appellate review of the admission of Video 2, Video 3 and Video 4.

Under Rule 2-517(a), "An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." In this case, Father argues that the circuit court admitted Video 2, Video 3 and Video 4 into evidence in violation of the Maryland Wiretap Act. The circuit court's admission of Video 2, Video 3 and Video 4 is not preserved for appellate review. The circuit court specifically asked Father whether he objected to the admission of Video 2, Video 3 and Video 4. The following exchanges occurred:

> [DAUGHTER'S COUNSEL]: Okay. I'll move to admit Exhibit 2.
>
> THE COURT: Do you have any objections to Exhibit 2?
>
> [FATHER]: I do not.
>
> THE COURT: Okay. It's admitted.
>
> * * *
>
> [DAUGHTER'S COUNSEL]: Okay. I'm going to admit Exhibit 3.
>
> THE COURT: Do you have any objection to video three?
>
> [FATHER]: I do not.
>
> THE COURT: It's admitted.
>
> * * *

[DAUGHTER'S COUNSEL]: Okay. I move to admit Exhibit 4.

THE COURT: Any objection to Exhibit 4?

[FATHER]: No.

THE COURT: Okay. It's admitted.

Father's objection to the admissibility of Video 1 is no substitute for an objection to the admissibility of Video 2, Video 3 and Video 4. To preserve an issue for appellate review, Rule 2-517(a) requires an objection to the introduction of evidence "at the time the evidence is offered." *See Fireman's Fund Ins. Co. v. Bragg*, 76 Md. App. 709, 719 (1998) ("When a party has the option of objecting, his failure to do so is regarded as a waiver estopping him from obtaining review of that point on appeal…Each party must make it clear that he or she has an objection to the particular evidence.") (citing *Phil J. Corp. v. Markle*, 249 Md. 718, 725 (1968)). Father did not preserve appellate review of the admissibility of Video 2, Video 3 and Video 4 because, instead of objecting to the admission of the videos, he affirmatively stated that he did not object.

III. The circuit court did not commit reversible error by concluding that Father committed the alleged abuse by a preponderance of the evidence.

Father contends that there was insufficient evidence to establish that the alleged abuse occurred by a preponderance of the evidence. Section 4-501(b)(1) of the Family Law Article defines "abuse" as follows:

(i) an act that causes serious bodily harm;

(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;

(iii) assault in any degree;

(iv) rape or sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment;

(vi) stalking under § 3-802 of the Criminal Law Article; or

(vii) revenge porn under § 3-809 of the Criminal Law Article.

FL § 4-501(b)(1).

The Family Law Article also specifies that "[i]f the person for whom relief is sought is a child, 'abuse' may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article." FL § 4-501(b)(2)(i). Section 5-701 of the Family Law Article defines abuse of a child as "the physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed" by a parent. FL § 5-701(b)(1)(i)(1). Of particular importance to this matter is the exclusion included in Section 4-501(b)(2)(ii) of the Family Law Article, which provides that:

> Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

FL § 4-501(b)(2)(ii). *See also* FL § 5-701(b)(2) (providing that child abuse "does not include the physical injury of a child by accidental means").

K.S. testified that she witnessed Father pull the hair of L. so hard that L. cried. She also testified that afterward, L. got into bed with her, appeared scared, and complained

that her "head hurt." K.S. also described the children's demeanor as "upset" when she communicated with them through the FaceTime application after Father removed them from Daughter's care. Daughter testified at the final protective order hearing regarding Father's abuse of the children. She testified that Father tried to pull L. out of a doorway by her arm "rather aggressively, and to the point where she turned and latched onto [Daughter's] grandmother, and she said – she was scared." Daughter also stated that Father "threatened to tie the [C.'s] left hand down to force him to use his right hand." According to Daughter, Father was "very angry" and would yell. She also testified that the children were afraid of Father, and that she believed that they were in imminent danger in Father's care.

Father testified that he has small kids, that they sometimes do not listen, and that he tries to make them listen as well as he can. He acknowledged being "a little upset" and picking up L. by her hair. He did not consider this to be abusive behavior and stated that it was "out of character" for how he reprimands his children. He said he would "usually try to talk to them or have a time-out chair." He also acknowledged "not claiming to be anything super special," but that he "tr[ies] to keep [his] kids with discipline." Although he denied "hit[ting] [his] kids," he acknowledged that C. might have gotten a "pop on the butt . . . as all kids deserve" in the six months preceding the hearing regarding the final protective order. Father called his sister and C.J. as witnesses. They both testified that Father had never engaged in any abusive behavior towards the minor children. We recognize that "[r]easonable corporal punishment, by definition, is not child abuse."

Charles Cnty. Dep't of Soc. Servs. v. Vann, 382 Md. 286, 303 (2004). Whether corporal punishment is reasonable "depends not simply on the misbehavior of the child and the amount of force used in the punishment from the parent's perspective, but also on the physical and mental maturity of the child[.]" *Id.* at 299.

It is "not our role, as an appellate court, to second-guess the trial judge's assessment of a witness's credibility." *Gizzo v. Gerstman*, 245 Md. App. 168, 203 (2020). *See also* Md. Rule 8-131(c) (providing that this Court "will give due regard to the opportunity of the trial court to judge the credibility of the witnesses"). The circuit court relied on this testimony and the other evidence presented at the hearing to reach its findings regarding physical abuse. We conclude that the trial court did not err in finding that the alleged physical abuse occurred.

CONCLUSION

Father did not have a guaranteed right to counsel for a protective order proceeding. The circuit court did not abuse its discretion when it did not postpone the hearing regarding the final protective order. The circuit court properly admitted Video 1; even if it was error to admit Video 1, any error was harmless. Father did not preserve the admissibility of Video 2, 3 and 4 for appellate review. There was sufficient evidence for the circuit court to find that Father committed physical acts of abuse against the minor children. For these reasons, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.