

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 1868

September Term, 2023

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AURELIO BARAHONA

v.

STACIE SNYDER

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Ripken,  
Albright,  
Meredith, Timothy E.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Ripken, J.

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Filed: July 29, 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).

In this custody case, appellant Aurelio Barahona (“Father”), appeals an order granting Stacie Snyder (“Mother”) sole legal and primary physical custody of the parties’ minor daughter (“Child”), who was born in May of 2019. Following a trial on the merits in October of 2023, the Circuit Court for Baltimore City entered the Custody Order at issue. Father then filed a timely notice of appeal.<sup>1</sup>

### **ISSUES PRESENTED FOR REVIEW**

Father presents the following issues for our review, which we have rephrased as follows:

- I. Whether the court abused its discretion by improperly weighing the evidence and subsequently awarding sole legal custody and primary physical custody to Mother.
- II. Whether the court improperly exhibited racial bias in awarding custody.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In February of 2023, Father filed a complaint seeking primary physical and sole legal custody of Child, subject to Mother’s supervised visitation. In his complaint, Father asserted that Mother had mental health diagnoses that prevented her from acting in the best interest of Child.

Mother subsequently filed an answer, requesting that the court dismiss or deny the complaint. Mother asserted that she is Child’s primary caretaker, that Father has continually struggled with drug abuse and that Mother and Child were subjected to abuse from Father. Mother further indicated that she and Child were fearful of Father and his

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<sup>1</sup> We note that Mother did not file briefing materials in response to this appeal.

romantic partner (“Partner”).

In May of 2023, the court noted that the parties could not come to an agreement and the case would proceed to trial. The court subsequently entered multiple orders, including requirements that both parties undergo substance abuse assessments, mental health screenings, and a custody evaluation. The custody evaluation was completed in October of 2023, and in its final report, the evaluator recommended that Mother’s home serve as the “primary residence [for Child] so that schooling is not interrupted” and that “legal custody be shared, with neutral mediators to help the parents come to mutual decisions.”

Mother filed a counter-complaint in August of 2023, alleging that “recent events have shown that [Father] is unable to cope with the responsibility of caring for the child; that he is addicted to and possesses illegal drugs and is continually under the influence of drugs even when in the presence of the child.” Mother sought sole custody of Child.

**A. Custody Trial**

A trial on the merits was held in October of 2023. Father proceeded *pro se*, and Mother was represented by counsel. Father presented two witnesses during his case—himself and Partner—in addition to three exhibits. Those three exhibits included text messages between Mother and Father, a letter from Child’s school, and traffic citations issued to Mother.

As the first witness, Father began by testifying about his relationship with Child and Mother. He explained that he loves Child and “appreciate[s] her mother[, b]ut every child is entitled to both parents present.” Father alleged that Mother had stopped him from seeing his daughter, failed to inform him about Child’s doctor’s appointments, and did not provide

Child's school with Father's information.

Father also asserted that Mother's mental health is deteriorating such that Child "is suffering right now." Father discussed at length his perceptions of Mother's mental health, alleging that "she has a multitude of mental health issues and she's not being treated right now." Father asserted that as a result of Mother's contended mental health issues, he was requesting "temporary full custody of [Child] while [Mother] gets a thorough mental health evaluation[.]" Father contended that this was necessary in part because Mother had been previously admitted to a hospital for mental health treatment.

The court inquired of Father when Mother's prior hospitalization had occurred, and Father informed the court that it happened in 2019 following the birth of Child. In response, the court further inquired if anything more recent had happened, and Father indicated that he was not aware of any similar hospitalization or mental health crisis since 2019.

During cross-examination of Father, it was revealed that Father had previously pled guilty to conspiracy to participate in a racketeering enterprise and had a history of drug abuse, although he denied active addiction or illicit drug use. Father also explained that he was unemployed, but due to disability benefits he received an income of \$800.00 a month. Father further testified that he co-habitated with Partner, who was employed and assisted with household expenses. He noted that Partner had three minor children of her own who did not reside in the home but did visit occasionally.

Father additionally testified during cross-examination that he felt he could not trust Mother because Mother had made "false allegations" of sexual abuse against Partner and thus he would need a neutral party to conduct any exchange of Child. Father emphasized

that he was not even comfortable exchanging Child in the parking lot of a police station. Father reiterated that he did not believe that he and Mother could communicate to effectuate Child's interest unless Mother received mental health treatment, although Father admitted he had not been in contact with Mother for over a year.

Mother presented four witnesses: herself, her mother and Child's maternal grandmother ("Grandmother"), Mother's maternal aunt ("Aunt"), and a family friend ("Friend"). She also presented evidence including certificates of completion related to mental health, trauma informed care, and peer support coaching, as well as certifications related to her role as a peer recovery specialist with the Maryland Office of the Public Defender, and photos of the home in which she resided with Child and Grandmother.

Mother first called Aunt to testify. Aunt stated that both parties had struggled with drug addiction, but that Mother sought treatment and had no issues with drugs since the birth of Child. Aunt confirmed Father's testimony that Mother had mental health challenges in the past and explained that Mother had been admitted to the hospital three years prior for postpartum anxiety but had not experienced a similar mental health crisis since. Grandmother and Mother similarly testified that Mother had been diagnosed with postpartum anxiety, among other diagnoses, but that Mother continues to receive treatment and take her prescribed medication.

Aunt also testified that Mother was the primary caregiver of Child, and that Father had disappeared for long stretches of time when Child was an infant. Aunt stated that during the entire course of Child's life, Mother had been the better provider for Child. Similarly,

Grandmother testified that Father had “[v]ery little” interaction with Child when Child was an infant.

Mother’s testimony reiterated that Father, although somewhat present during Child’s infancy, was not the primary caretaker. Mother also stated that when Child was 10 months old, Mother asked Father to leave the family home because “he was still getting high” and he subsequently “chose to leave instead of go to treatment.” At the conclusion of her testimony, Mother indicated that she believed that presently Father was incapable of having Child safely stay overnight at Father’s house. However, Mother noted it was in Child’s best interest to have some form of a relationship with Father. Mother did not believe that the two of them would be able to productively communicate to make decisions regarding Child’s best interest.

Notably, throughout the course of the trial, an allegation that Partner sexually abused Child by touching her inappropriately in November of 2022 was at issue. Child was taken to the hospital by Mother for an evaluation; however, the allegation was not corroborated by a medical assessment of Child and no legal action appears to have been taken regarding the allegation. Yet, Child Welfare Services did provide a safety plan to Mother as a result of the abuse allegation. While Child did not testify, Mother’s testimony and the custody evaluation report indicated that Child was uncomfortable and felt unsafe around Partner due to the alleged inappropriate touching and resulting events.

## **B. Findings and Order**

After having heard the presentation of evidence, the court awarded sole legal custody to Mother. The court noted its consideration of the *Sanders-Taylor* factors, *see*

*infra* Section I.A., concluding, largely based on the inability of the parents to communicate, that joint custody was not appropriate and that it would award sole custody to Mother due to Child thriving in her care.

The court also awarded Mother primary physical custody and Father access every other weekend from 9:00am to 7:00pm, indicating that Partner was not to be in the presence of Child. The court noted that, although there was an inconclusive investigation regarding the abuse allegations against Partner, Child believes the abuse to have occurred and “exhibits a lot of discomfort at the specter of being around [Partner].” Of additional concern to the court was that two of Partner’s own children were in the court-ordered custody of their grandmother and not Partner. This gave the court concern as no explanation had been provided as to the reason for that order. Thus, while explaining the award of custody, the court explained that it was in the best interest of Child to not be in the presence of Partner. Additional facts will be included as they become relevant to the issues.

## DISCUSSION

### **I. THE COURT PROPERLY CONSIDERED THE *SANDERS-TAYLOR* FACTORS IN AWARDING CUSTODY.**

Father contends that the court improperly weighed the evidence and thus the award of legal custody and primary physical custody should be vacated on three grounds. Father argues that (1) the court failed to properly consider the report prepared by the custody evaluator; (2) that the court did not adequately consider Mother’s multiple mental health diagnoses when determining the best interest of Child; and (3) that the court gave improper

weight to the allegations of sexual abuse against Partner when making its custody determinations.

**A. Standard of Review**

When reviewing child custody determinations, we employ three interrelated standards of review. *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012).

When the appellate court scrutinizes factual findings, the clearly erroneous standard of Rule 8-131(c) applies. Second, if it appears that the court erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the court founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the court’s decision should be disturbed only if there has been a clear abuse of discretion.

*Id.* (quoting *In re Yve S.*, 373 Md. 551, 586 (2003)) (internal brackets omitted). Trial courts are vested with such broad discretion because a trial court “sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child.” *J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 246–47 (2021) (quoting *In re Yve S.*, 373 Md. at 587). A trial court therefore is in a superior position “to weigh the evidence and determine what disposition will best promote the welfare of the minor[.]” compared to the “appellate court, which has only a cold record before it[.]” *Id.* (citation omitted).

A trial court’s findings are “not clearly erroneous if there is competent or material evidence in the record to support the court’s conclusion.” *Lemley v. Lemley*, 109 Md. App. 620, 628, *cert. denied*, 343 Md. 679 (1996). “Additionally, all evidence contained in an appellate record must be viewed in the light most favorable to the prevailing party below.” *Id.* An abuse of discretion exists only where “no reasonable person would take the view



adopted by the trial court or when the court acts without reference to any guiding rules or principles.” *Santo v. Santo*, 448 Md. 620, 625–26 (2016) (internal quotation marks, brackets, and citation omitted).

In all custody determinations, the paramount and overarching concern is “the best interest of the child.” *Taylor v. Taylor*, 306 Md. 290, 303 (1986). Although “[t]he best interest standard is an amorphous notion, varying with each individual case,” a fact finder should “evaluate the child’s life chances in each of the homes competing for custody and then [] predict with whom the child will be better off in the future.” *Montgomery Cnty. Dep’t of Soc. Servs. v. Sanders*, 38 Md. App. 406, 419 (1978). To accomplish this task, Maryland appellate courts have identified several factors for circuit courts to consider when determining child custody, collectively termed the *Sanders-Taylor* factors.<sup>2</sup> *See id.* at 420;

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<sup>2</sup> In *Sanders*, we set out the following non-exclusive factors for a circuit court to consider in child custody determinations: 1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) the ability to maintain 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. *Sanders*, 38 Md. App. at 420. We have stated that a trial court will generally not weigh any one factor to the exclusion of others. *Id.*

In *Taylor*, our Supreme Court reiterated the *Sanders* factors and added several other factors it viewed as relevant in making custody determinations: 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’ request; 11) financial status of the parents; 12) impact on state or federal assistance; 13) benefit to parents; and 14) other factors. *Taylor*, 306 Md. at 304–11. The most important factor to consider in

see also *Taylor*, 306 Md. at 304–11.

**B. Analysis**

Here, we cannot conclude that the court abused its discretion when it awarded sole legal and primary physical custody to Mother. The court acknowledged considering the *Sanders-Taylor* factors when coming to the custody determination and was particularly focused on the “capacity of the parents to communicate and reach shared decisions” which has been identified as one of the “the most important fact[s] in the determination of whether an award of joint legal custody is appropriate.” *J.A.B.*, 250 Md. App. at 256 (quoting *Taylor*, 306 Md. at 304). Based on the testimony and evidence presented, the court concluded that “there is no good way for these two individuals to communicate. And therefore, my hands feel tied as far as I cannot do a joint custody[.]” This conclusion is amply supported by the testimony from Mother and Father wherein both parties note a lack of the ability to communicate albeit placing the fault on the other person.

During Mother’s testimony she said that “if the two of [them] ha[d] to make decisions about [Child] in the areas of health, education and religion” they would not be able to do so without argument. Mother also testified that her text messages to Father went unanswered. Further, during his testimony, Father likewise indicated that he did not believe that the two of them could communicate unless Mother received “mental help.” Father noted that Mother “doesn’t want to communicate. I’ve tried[.]”

Thus, the court determined that, because Mother and Father could not communicate

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determining legal custody is the parents’ capacity to communicate and to reach shared decisions affecting the child’s welfare. *Id.* at 304.

effectively, it was in the best interest of Child to award legal custody to one parent and subsequently awarded sole legal custody to Mother. The court reasoned that Mother should have sole legal custody because “[b]y all reports [] the child has thrived under the care almost exclusively of [Mother] in this case[.]” The court’s reasoning is supported in the record by testimony from Grandmother and Aunt, as well as both Mother, and Father. Grandmother testified that Mother “is at my house every single day with the child. I do not babysit the child. She is there with the child every day.” Grandmother also testified that Mother is the one to make the meals for Child, get her on and off the school bus, and that Child has “lived with [Mother] her whole life.” Mother similarly testified that she has “a whole system that we have been put together for [Child] for her school clothes, for her nightly routines. . . . And, you know, we’ve worked extremely hard to . . . give her that stability with different tools and things[.]” Further, while Father testified about the financial resources he previously offered to provide for Child, such as paying for her to be enrolled in daycare, he acknowledged that his visits with Child have been limited.

In deciding to award primary physical custody to Mother, the court indicated that because Child “exhibits a lot of discomfort at the specter of being around [Partner,]” it is in Child’s best interest, that Partner is not around Child. However, Father was awarded access to ensure a continued relationship between Father and Child. The record supports the court’s conclusion that Child was uncomfortable around Partner, as well as the court’s conclusion that it is in Child’s best interest to award Mother primary physical custody. There was ample testimony and evidence upon which a reasonable fact finder could reach these conclusions, to include the custody evaluation report which noted that Child should

be in Mother’s primary custody so as not to disrupt school. Additionally, Grandmother and Aunt both testified that Mother was the primary provider for Child. Further, Mother testified regarding the positive routine and environment she created for Child.

Thus, the court did not err in awarding sole legal custody and primary physical custody to Mother because a reasonable factfinder could determine that it was in Child’s best interest for Mother to have sole legal custody and primary physical custody. Nevertheless, we will address in turn each of Father’s contentions of error.

1. *The custody evaluation report*

Father contends that the court failed to take into consideration the report prepared by the custody evaluator and disregarded the report’s recommendation that “legal custody be shared, with neutral mediators to help the parents come to mutual decisions.” During the trial, the court acknowledged reading the evaluation and relied on aspects of the report in concluding that Child was uncomfortable around Partner due to the allegations of sexual abuse. Thus, the record illustrates that the court considered the custody evaluation, however based on all of the evidence, determined that the parents could not effectively communicate, making joint legal custody not feasible. As such, the court properly used its discretion to “engage[] in precisely the type of analysis we have explained is appropriate when evaluating the best interests of a child” and determined that joint legal custody was not appropriate. *See J.A.B.*, 250 Md. App. at 258.

2. *Mother’s mental health history*

Father further asserts that the court erred when it awarded sole legal and primary physical custody to Mother who has “multiple severe mental health issues.” The trial court

had the opportunity to hear from multiple sources regarding Mother’s mental health, evaluate her fitness as a parent, and subsequently determine what was in the best interest of Child.

Father testified extensively regarding his perception of Mother’s mental health, particularly regarding its impact on their ability to communicate and relationships with Child. However, on cross examination he admitted that outside of one incident he did not have any knowledge of Mother’s mental health status after 2021. Whereas, Grandmother and Aunt testified that Mother was diagnosed with postpartum anxiety when Child was an infant and was admitted to the hospital, but that nothing akin to that incident reoccurred in the years since. Similarly, during Mother’s testimony she explained that she has seen a “mental health doctor” for the last 10 years and that she “worked extremely hard to learn and educate [her]self to be able to deal with certain emotions, and . . . mental health issues[.]”

Having heard from multiple sources regarding Mother’s mental health and having its own opportunity to observe her behavior in court, the court applied the *Sanders-Taylor* factors, which include the fitness of the parents. The court determined that it was in the best interest of Child for sole legal custody and primary physical custody to be awarded to Mother. Here, there was evidence in the record acknowledging Mother’s prior mental health issues. However, at the time of the custody determination, the court concluded Mother was a mentally fit parent capable of providing care to Child. As this is well supported in the record, we cannot say the court abused its discretion by declining to find that her past mental health struggles impeded Mother’s ability to act in the best interest of

Child as Father alleges. *See Lemley*, 109 Md. App. at 628.

3. *The allegation of sexual abuse*

Father additionally argues that the court improperly considered unsubstantiated allegations of sexual abuse against Partner in reaching the custody determination. But, in making its custody decision, the court appropriately declined to determine the veracity of the allegations against Partner and noted that it was “not finding [Partner] guilty of any sexual molestation.” Instead, the court took great care to explain that it was not the *truth* of the allegations it was considering, but the *effect* of those allegations on Child, Child’s relationship with Father, and Child’s relationship with Partner.

These considerations by the court are relevant to multiple *Sanders-Taylor* factors, particularly, preference of the child and residences of parents and opportunity for visitation, as Father resides with Partner. *See Sanders*, 38 Md. App. at 420; *Taylor*, 306 Md. at 304–11. Thus, it was appropriate for the court to consider the effect of the allegations and their circumstances on Child when determining Child’s best interest.

Father has asked us to re-weigh the evidence at trial and examine the evidence favorable to him without deference to the circuit court’s determinations. That is not our role as an appellate court. Indeed, “trial courts are entrusted with ‘great discretion in making decisions concerning the best interest of the child.’” *Gizzo v. Gerstman*, 245 Md. App. 168, 200 (2020) (quoting *Petrini v. Petrini*, 336 Md. 453, 469 (1994)). The trial court’s custody determination was soundly based on factual findings that were not clearly erroneous. In arriving at the conclusion, the court explained its reasoning on the record, and specifically referenced the *Sanders-Taylor* factors.

As previously noted, there is ample evidence in the record by which a reasonable factfinder could determine that it was in Child’s best interest for Mother to have primary physical and sole legal custody, hence, the court did not abuse its discretion in making the custody determinations.

**II. THE COURT DID NOT EXHIBIT RACIAL BIAS IN ITS CUSTODY DETERMINATION.**

Father asserts that the court’s decision to award sole legal custody and primary physical custody to Mother was grounded in “Discrimination and Bias[.]” Father contends that he was not afforded a fair trial due to a statement made by the trial court in which the court informed Father that the custody decision was not based on race.

A trial judge “is presumed to know the law and apply it properly” such that it only considers the best interest of the child when making a custody determination. *State v. Chaney*, 375 Md. 168, 180 (2003) (quotations omitted); *see Sanders*, 38 Md. App. at 420. The Maryland Rules of Judicial Conduct require judges to “uphold and apply the law and [] perform all duties of the office impartially and fairly.” Rule 2.2 As such, the judge “shall not, in the performance of judicial duties, by words or conduct, manifest bias, prejudice or harassment based on upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.” Rule 2.3. The court is thus not to be guided by any such beliefs related to the previously identified categories while assessing the *Sanders-Taylor* factors or when making a custody determination. *See Azizova v. Suleymanov*, 243 Md. App. 340, 347–48 (2019).

We have carefully reviewed the record for any indication that the court’s

determination was motivated by racial bias. Here, the record does not support the contention that the court discriminated against Father and awarded sole legal custody and primary physical custody to Mother on the basis of racial discrimination. Instead, the record evinces a situation wherein the court attempted to alleviate concerns raised by Father during the course of trial regarding potential racial bias. During the pendency of the trial, Father made numerous comments pertaining to the impact of race and racism within society and noted his concern that racism would taint any legal proceedings. The court responded in an attempt to allay these concerns with a single statement addressing the issue at the close of the trial. In that statement the court specifically assured Father that it was *not* basing its determination on race; the court made no other statements related to race.

Regardless of whether the court's statement accomplished its intended goal of alleviating Father's concerns regarding the fairness of the proceeding, there is nothing in the record by which we could conclude that the court's statement indicates that it impermissibly awarded sole legal custody and primary physical custody to Mother due to racial bias against Father.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**