

Circuit Court for Anne Arundel County  
Case No.: C-02-FM-22-002434

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 2169

September Term, 2023

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BRYANNI HOLLIS

v.

JOHNATHON HOLLIS

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Leahy,  
Reed,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Reed, J.

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Filed: December 27, 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).

By order entered on December 14, 2023, the Circuit Court for Anne Arundel County granted Johnathon Hollis (“Husband”), appellee, an absolute divorce from Bryanni Hollis (“Wife”), appellant. The court awarded the parties equal physical custody and joint legal custody of their minor child. The court did not award child support to either party. The court ordered Wife to pay Husband \$6,647.50 in attorney’s fees. Wife timely appeals. As we understand it, Wife is asking this Court to consider the following:

1. Whether the circuit court erred in its physical and legal custody awards by failing to properly consider her allegations of domestic abuse.
2. Whether the circuit court erred in awarding the parties joint legal custody.
3. Whether the circuit court failed to consider the proper factors when awarding the parties shared physical custody.
4. Whether the circuit court erred in failing to award her child support.
5. Whether the circuit court erred in failing to grant her a monetary award.
6. Whether the circuit court erred in ordering Wife to pay a portion of Husband’s attorney’s fees.<sup>1</sup>

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<sup>1</sup> Wife’s brief, filed by counsel, is very difficult to follow. The questions presented for appellate review in her brief are phrased as follows:

The question presented is whether the Circuit Court Order of December 12, 2023, follow Legal Custody, Physical Custody, and Mother holds tiebreaker in Legal Custody and Physical Custody Issues, as address under ‘Maryland’s Domestic Violence Act, Maryland Code, §§ 4-501 through 4-516 “and the Domestic Violence laws, under Family Law (“F.L.”) Article, subsection 5 of title 4 of the Maryland Code?

- a) Legal Custody
- b) Physical Custody
- c) Mother holds tiebreaker in Legal Custody and Physical Custody Issues.

Did the Circuit Court Order dated December 12/2023, follow the ‘Maryland’s Domestic Violence Act, Maryland Code, §§ 4-501 through 4-516’ under the Domestic  
(continued)

For the reasons to be discussed, we shall affirm the judgments.

### **BACKGROUND**

Husband and Wife’s relationship began when they were 17 years old, dating long-distance as Husband was then living with his family in Orlando, Florida and Wife with her family in Gulfport, Mississippi. After graduating from high school, both parties attended college in Atlanta—Husband at Morehouse College and Wife at Spelman College. After graduating from college, Husband, who had been in the ROTC, joined the United States Navy and was stationed in San Diego, California. Wife accompanied Husband to San Diego and on May 31, 2018, they married in a civil ceremony in that city.

After three years in San Diego, the Navy sent Husband to Norfolk, Virginia, and Wife accompanied him there. While in Norfolk—which was close to where his mother and other relatives lived—Husband was deployed for 200 days. At the start of that deployment, the couple learned that Wife was pregnant. Wife’s mother moved to Norfolk to be close to Wife during her pregnancy. The parties’ daughter was born on September 23, 2020 (the “Child”).

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Violent laws in divorce case, by not addressing the issues in its ruling for Divorce and Property Settlement?

We also note that Wife’s brief contains some assertions (such as that Husband was trained in the martial arts and that he “is a U.S. Navy-trained weapon; his hand are lethal weapons[.]”) that are not based on the record before us. Husband’s informal brief, filed as a self-represented litigant, also contains some information (such as email exchanges between the parties) that occurred *after* the trial in this case. Because appellate review is limited to the record developed before the trial court, we shall disregard—as we must—any factual assertions in the briefs that were not in evidence in the circuit court proceedings which are the subject of this appeal.

Shortly after Child’s birth, Wife’s Mother died.<sup>2</sup> Wife, with Husband’s encouragement, took Child to the home of Wife’s Father and stepmother in Pennsylvania during her bereavement. Wife and Child spent about six months with Wife’s father, with Husband traveling there on those weekends he was not on duty.

In 2021, after completing his tour of duty in Norfolk, the Navy sent Husband to Annapolis for a position at the Naval Academy—a tour of duty expected to last until July 2024. Husband and Wife purchased a home in Edgewater, Maryland and moved into the house in July of 2021. Child was then about nine or ten months old.

Shortly after Child’s first birthday in September 2021, Husband informed Wife that he would like them to “split up.” Wife did not want to divorce, and Husband agreed to marriage counseling. Counseling, however, did not change Husband’s desire to end the marriage.

In late May of 2022, Wife, with Husband’s consent, booked roundtrip flights for herself and Child for a two-week visit with her family in Mississippi. While in Mississippi, Wife was in a serious car accident, which prompted Husband to travel there to see her. During that visit, Husband reiterated his desire to divorce. The topic arose when they were in Husband’s rental car when Husband had a panic attack.

By mid-June 2022, Wife was still in Mississippi, but she repeatedly informed Husband that she intended to return to Maryland. At this time, she was still opposed to ending the marriage. By the end of June, Wife informed Husband that she was not ready

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<sup>2</sup> In opening statements, Husband’s counsel related that Wife’s Mother died in a fire when Child was about six weeks old.

to return to Maryland, as her “nerves are way too bad” and she could not face his rejection of her. In a text message exchange on June 30<sup>th</sup>, Wife advised Husband that she would return to Maryland “around late August or early September” and suggested that he move out of the marital home given that he was the one seeking a divorce. Wife, however, did not return to Maryland and, as of the merits hearing in this case (November 2 -3, 2023) Wife continued to reside with her grandmother in Mississippi.

#### Legal Proceedings

On July 19, 2022, Husband filed a complaint for divorce, custody, and other relief. On September 8, 2022, Wife filed a counter-complaint for divorce, custody, and other relief. In her counter-complaint, Wife asserted that she is a resident of Anne Arundel County, and that Maryland is her domicile.

A *pendente lite* hearing on custody, visitation, and child support was held before a magistrate on December 2, 2022.<sup>3</sup> In its Report and Recommendation, the magistrate related that Wife testified at the hearing that she intends to remain in Mississippi for the foreseeable future. The magistrate also found that, except for a several-day Thanksgiving visit, Husband had had no in-person access to Child since June of 2022. Although Husband initially had frequent FaceTime access with Child, he had reduced that in recent months because “he indicated that it was just ‘too emotionally difficult’ to have that kind of access” with Child. Husband had not traveled to see Child in Mississippi (even though he had traveled for work and pleasure) because he claimed that Wife was always planning to return

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<sup>3</sup> The record before us does not include a transcript of the hearing.

to Maryland. The magistrate also related that Wife testified to an alleged physical altercation with Husband in June 2022, which Husband denied.<sup>4</sup>

The magistrate recommended that the parties, *pendente lite*, be awarded joint legal custody. The magistrate found that, despite Wife’s assertions that Husband engages in hostile communication with her, gets belligerent, and hangs up on her, the parties nonetheless had the “capacity to communicate[.]”

As for physical custody, the magistrate did not recommend a shared or equal arrangement. Among other things, the magistrate noted that, given the physical distance between the parties’ residences, a shared physical custody arrangement involves substantial transportation costs. The magistrate also found that Child should have a primary residence “to promote stability” and that Husband’s “lack of effort to exercise access with the child for the past several months” did not support his claim for shared physical custody at this time. On the other hand, although Wife had indicated she wanted Husband to have significant access to Child, the magistrate found that her “recent actions appear more geared to what is best for [her] and not for the child.” The magistrate concluded that it was in Child’s best interest to have her primary residence with Wife, especially given Child’s age and the significant amount of time Child had spent in Wife’s sole care.

As for Husband’s access to Child, pending the final decision on the merits, the magistrate recommended a rotating schedule whereby Child would spend two weeks with

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<sup>4</sup> The magistrate’s Report and Recommendation did not recount any details regarding the alleged physical altercation.

Husband in Maryland followed by six weeks with Wife in Mississippi. The magistrate also recommended that Husband pay Wife \$1,390 monthly in child support.

Neither party noted exceptions to the magistrate's Report and Recommendation. By order filed on January 6, 2023, the circuit court ratified and affirmed the magistrate's findings and adopted the magistrate's recommendations on a *pendente lite* bases.

The merits hearing was held 11 months later, on November 2 and 3, 2023. About a week prior to the hearing, Husband filed an amended complaint for absolute divorce, custody, and other relief. In light of Wife's failure to return to Maryland, Husband requested primary physical custody and sole legal custody of Child and child support.

At the merits hearing, Husband testified about the panic attack he experienced in June 2022 when with Wife in Mississippi following her car accident. He related that the panic attack was precipitated by Wife's comment that she had not actually wanted him to come to Mississippi at that time. Husband testified that, after the panic attack, he drove Wife to her grandmother's home and he went to a hotel and left town the next day.

Husband also related that, during the *pendente lite* hearing Wife asserted, for the first time ever, that during this panic attack incident Husband had choked her, slammed her head against the car and threatened to kill her. At the merits hearing, Husband denied those allegations. Husband also entered into evidence text messages Wife had sent him hours after that incident. The text messages read:

Johnathon I love you. And I feel like shit about everything that's going on. It kills me that I've hurt you so much that being married to me gave you an anxiety attack. If you want to sell our house I won't stand in the way. I don't want to keep disappointing you. Please let me know when you make it home.

I am truly grateful for all that you've done for me and our family.

I know that you're done with us but I hope you know how much I love you. And I will never stop. I've loved you for 11 years and you gave me my only reason for living. I [sic] kills me where we are right now and I wish I never put you in this predicament. I truly truly do. You're my heart and soul. I can't sleep without letting you know how much you mean to me and how I love you. So please please please have safe travels tomorrow. I love you so much. Goodbye.

In a text message Wife sent on June 18<sup>th</sup> (about two weeks after the panic attack incident), Wife again expressed her love for Husband and asked whether he was sure he did not “want to take a trip together me and you to see if you're really ready to let us go[.]”

Wife also testified at the merits hearing about the panic attack incident. She related that she and Husband had gone out to dinner because “he was upset surrounding the circumstances of him coming down . . . [a]nd he wanted to talk” about that. When Wife asked if they could “table” the discussion for another time, Husband became angry and accused Wife of not understanding him. They then left the restaurant and sat in Husband's rental car where he continued to say that he did not feel that Wife understood him or really liked him. According to Wife, Husband started screaming and saying he hated her and then began hyperventilating. Recognizing that Husband was having a panic attack, Wife claimed that she helped him calm down. Husband then drove off and began talking about a divorce. When Wife indicated she wanted the marital home, Husband said Wife would have to pay him back for the mortgage payments he had made. When Wife said no, she claimed Husband lunged at her with his right hand and grabbed and squeezed her throat. Husband eventually turned into a parking lot, put the car in park, and according to Wife,



husband started banging her head repeatedly against the passenger car window. Wife claimed that she screamed and begged him to stop. He then drove her to her grandmother's house.

When asked about the text messages she sent Husband a few hours later, Wife testified that she was “very confused[]” and could not “bear losing another person that [she] loved so much like that.” She noted that she was still grieving the loss of her mother, and she “just couldn't believe . . . he would actually do that” to her. After returning home, she did immediately call Husband's mother and spoke to her for 45 minutes. When asked why she did not report the incident to the police or immediately seek a protective order, Wife explained that she “felt like” Husband had made “a mistake.” She was reluctant to “go the legal route” and “put a stain [on] his reputation” and she knew that once she reported it to the police, she had to also report it to the military. Wife related that she did not want Husband to lose his job. Ultimately, however, Wife could no longer stand Husband's nastiness towards her—his calling her names when she would not agree to “exactly what he wanted”—that she got her aunt involved.

After the issuance of the *pendente lite* order in December 2022, the parties were obliged to follow the child access order called for therein, that is, a rotation of six weeks with Wife then two weeks with Husband. Husband claimed, however, that Wife told him she wanted him to be off work for the two weeks Child was in his custody. That was not possible and Husband, as he had testified at the *pendente lite* hearing, enlisted his mother and other family members to care for Child when he was working.

Exchange dates also became difficult. Husband planned to travel to Mississippi over President’s Day weekend (February 2023), but a couple days before he was scheduled to depart he learned that an arrest warrant had been issued for him based on the June incident. He further learned that Wife had filed criminal charges in Mississippi alleging domestic abuse and first-degree assault, and she had sought a protective order in Mississippi as well. Wife testified that she sought the protective order because she felt like Husband “was getting more and more volatile every time [she] wanted to address something with him.”

Husband related that the criminal charges were ultimately “passed” to the “inactive” file and the charges have been expunged.<sup>5</sup> The protective order was denied and, instead, according to Husband, “the court put a restraining order in place to not have us create a worse situation until” he “went to court” on the criminal charges.<sup>6</sup> With respect to the restraining order, Husband testified that it was “dropped” on October 20, 2023 after he took a 12-hour anger management class and remained on “good behavior” through that date.

Wife had also filed a complaint with the Navy alleging domestic abuse based on the same incident. Husband claimed that the military denied Wife’s request for a “military

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<sup>5</sup> Husband included in the appendix to his brief an order dated October 25, 2023, of the Municipal Court, City of Biloxi, Mississippi expunging the charge of “domestic assault/simple 1<sup>st</sup>” after finding that “said charges were nolle prossed, dismissed, passed to the inactive files or otherwise not prosecuted[.]”

<sup>6</sup> At the merits hearing, the petition was referred to as a “protective order,” as it is called in Maryland, but it seems Mississippi’s term for it may be a “domestic violence order.”

protective order” because “it did not meet criteria.” Instead, according to Husband, “the military put in a no contact order for the same reason that Mississippi put in a restraining order.”

As a result of the charges Wife filed in Mississippi, Husband’s two-week access to Child was delayed until March 2023. During that visit, Wife called the police four times requesting a welfare check. Wife explained that she had requested the welfare checks because Husband did not respond to her communications and she was worried about Child.

Wife also testified that, during times when Child was in Husband’s care, her attempts to check on Child (who at times was in Husband’s family’s care) were ignored by Husband and Husband’s family. In fact, Husband’s mother and other relatives blocked Wife’s phone number, something the Child’s paternal grandmother acknowledged at the merits hearing. The grandmother explained that she blocked Wife’s phone number because she felt that Wife was “harassing” her. When Wife was on FaceTime with Child when Child was with grandmother, grandmother claimed that Wife would pepper Child with questions such as the whereabouts of Husband, who was with Husband, what Child ate, and the like.

Wife also hired a private investigator—spending over \$12,000 for the services—to keep tabs on Child when in Husband’s care. Wife explained that she did so because Husband and his family were not responding to her calls, she did not know where Child

was, and she wanted to make sure that Child was “safe” and “still alive.” Wife maintained that she “wouldn’t have had to hire a private investigator if the lines of communication were open.”

As noted, at the time of the merits hearing Husband was assigned to a position at the Naval Academy and was residing in the marital home in Edgewater. Wife was living at her grandmother’s house in Mississippi and had no intention of moving, claiming that she had researched possibilities and concluded that she could not afford to live in Maryland. Wife works for a cybersecurity company as a proposal analyst, a full-time remote position.

#### The Court’s Findings

On November 22, 2023, the court convened a hearing to announce its decision. After granting Husband’s request for a divorce, the court noted that neither party sought alimony and alimony would not be awarded. The court then turned to the factors set forth in *Taylor v. Taylor*, 306 Md. 290 (1986) and *Montgomery County Dept. of Social Services v. Sanders*, 38 Md. App. 406 (1978), which a court considers when determining the best interest of the child in custody disputes. We summarize the court’s findings as to each factor it addressed in oral decision.

*Fitness of the parents.* The court found that both parents are fit.

*Character and reputation of the parties.* The court found that both parties “are well educated, bright, appear to be successful in their respective careers[]” and that both are “of good character and reputation.”

*The desire of the parents and any agreement between them.* The court found that the parties were unable to reach an agreement on custody. It noted that Wife desired primary physical and sole legal custody of Child and Husband was seeking joint legal custody and “as much physical time” with Child as the court deemed appropriate.

*Potentiality of maintaining natural family relations.* This factor gave the court pause. The court noted that Wife “removed” Child from Child’s home in Maryland and relocated to Mississippi, thereby “putting significant distance between [Child] and her father.” The move also created a significant distance between Child and Husband’s extended family members, noting that “both parties extended families have played a significant role in [Child’s] upbringing so far.”

*Preference of the child.* The court found that this factor was inapplicable given Child’s age (then three years old).

*Any material opportunities affecting the future life of the child.* The court did not find this to be a significant factor, as it concluded that both parents are able to provide Child with significant material opportunities.

*The suitability of the parties’ residences and whether a non-custodial parent will have adequate opportunities for visitation.* The court found that both parties have suitable residences, but noted, again, that Wife’s move to Mississippi “has frustrated” Husband’s “opportunity for access with and contact with” Child.

*Length of time child has been separated from the natural parent who is seeking custody.* The court found that neither parent had been separated from Child “at this point” but noted “that has not always been the case over the past year or so[.]”

*Whether either party voluntarily abandoned or surrendered custody of the child.* The court found that neither party had done so.

*The willingness of each parent to share custody.* The court found that Husband is willing to share both legal and physical custody, but Wife “not so much.” Although Wife had indicated she desired sole legal custody, the court found that, when questioned, Wife “really did not establish at any point that the parties were not able to agree on any significant issues related to health care, education, or religion.” As for physical custody, the court found that, ultimately, Wife suggested that Husband have Child for one week per month and summers could be split between them. The court, however, had concerns about “additional travel time” that arrangement would entail.

*The psychological and physical fitness of each parent.* The court found that both parents appeared to be physically fit. The court had no concerns regarding Husband’s psychological fitness, but it did “have some concerns related to how [Wife] handled issues” involving Child’s contact with Husband. The court noted, “[f]irst and foremost,” Wife’s relocation to Mississippi “without any discussion or consent[.]” something the court found was “a self-serving decision[.]” as it did not take into account Child’s “need to have a relationship with both parents.” Moreover, the court found that “just by moving that great

of a distance, it has a negative impact on [Child’s] ability to have a . . . meaningful relationship with her father.”

The court chose not “to comment on the validity” of the “criminal allegations” Wife made against Husband, but it did “have a concern regarding how and when she reported the alleged assault and sought a protective order timing wise.” The court also had concerns about Wife calling the police to conduct welfare checks when Child was in Husband’s care. Of further concern to the court was “how she questions [Child] when she’s in the care of” Husband. The court also noted Wife’s hiring of a private investigator to make sure that Child “was alive and safe[ ]” and concluded that there was “no need for that[ ]” as there was nothing to indicate that Husband or his family had “ever done anything remotely negative towards” Child. In sum, the court explained that the “overriding theme of all these concerns . . . is that they seem to be an effort to marginalize or negatively impact the relationship” between father and daughter.

*The strength of the relationship between the child and each parent.* The court found that Child “has a loving and healthy relationship with each of her parents.”

*The potential disruption of shared physical custody upon the child’s social and school life.* The court found that Child is not currently enrolled in school (but noted that both parents were doing a “tremendous job” in “stimulating her mind for purposes of learning.”) Moreover, the court found that most of Child’s social life revolves around the parents and their respective extended families and concluded that the extended family relationships were beneficial to Child.

*Geographic proximity of the parents' homes.* The court found this to be a significant factor and “a big problem” in this case. The court noted that Wife’s father lives two-hours driving distance from Husband’s home in Edgewater and living with him (as she and Child had following the death of Wife’s mother) could have been an option for her. The court also acknowledged Wife’s testimony that she considered moving to Richmond, Virginia—a locale she claimed was affordable and was significantly closer to Edgewater than Mississippi—but Wife took no steps towards doing so.

*Demands of parental employment.* The court found that Wife works remotely from home and that she can “adjust her schedule to spend a good bit of time” with Child. Although Husband’s position was less flexible, the court found he “can work remotely at times.” The court, moreover, found that Husband’s relatives were “incredibly helpful” in assisting Husband when Child is in his care.

*Sincerity or motivation of the parents' requests.* The court concluded that both parties were sincere in their requests for custody.

*Financial status of the parties.* The court found that both parents “make an adequate income” sufficient to care for Child.

*The impact on state and federal assistance on custody determination.* The court found this factor to be inapplicable, as neither the parents or Child receives any state or federal assistance.

*The benefits of the parents.* The court concluded that Child “having a lot of access to each parent is beneficial to them and to her.”



The court then spoke of the difficulties, on children and parents, when the parents reside in different states. The court, moreover, reminded the parties that its custody decision must be based on what is in Child’s best interest “at this point in time.” The court expressed that it had “no doubt whatsoever that both parents dearly love their daughter and that she loves them each.” The court also found that both parties are “very good parents” to Child. Despite the difficulties they experienced leading up to trial, the court concluded that Husband and Wife “are capable of effectively communicating with one another.”

#### The Court’s Decision

The court concluded that it is in Child’s best interest that she has “equal time with each parent.” The court acknowledged that this “won’t be a viable option when she is enrolled in school full time,” but it found that “it is a viable option at this point.” The court granted the parties “equal physical custody” on a rotating 15-day schedule, as well as joint legal custody. Among other things, the court set forth a holiday schedule, and addressed the travel costs when exchanging Child.

After considering the relevant factors, the court denied the parties a monetary award. The court found that, although Husband earns more than Wife, Wife’s expenses are less than his and both “are leaving the marriage with similar debts and assets in similar financial circumstances[.]”

Wife did not request attorney’s fees, but she argued that each party should be responsible for their own fees. Husband, however, did request attorney’s fees related to Wife’s failures to comply with discovery requests, as well as the *pendente lite* proceeding.

The court found that Husband “was fully justified in how he handled this case and the way he defended and prosecuted the case.” The court did grant Husband’s request for attorney’s fees and ordered Wife to pay him \$6,647.50, which it broke down as follows: “\$2,882.50 in discovery related counsel fees, and \$3,765 in *pendente lite* attorney fees.” The court found that Wife “had no justification whatsoever to fail to comply with reasonable discovery requests” made by Husband. The court noted that Wife “simply ignored them and/or didn’t respond, and/or didn’t update any discovery responses she did make.” With regard to Husband’s attorney’s fees incurred in relation to the *pendente lite* order, the court found that Wife had moved to Mississippi with Child without Husband’s consent and left him “with no option other than pursuing access to [Child] through the courts at a PL hearing.” The court concluded that Mother’s move out of state was not only unjustified, but her suggested access schedule was also not “justified.”

The court then turned to child support. The court noted that, when using the child support guidelines based on each parent having Child 50% of the time, Husband’s child support obligation “comes out to \$439 per month.” The court, however, deviated from that number after “finding it’s in the best interest of the party’s minor child to deviate downwards from \$439 to zero dollars child support, given the fact that [Husband] will incur substantial travel expenses in order to participate in access time with his minor child as a result of [Wife’s] unwarranted relocation of the minor child to Mississippi.” In so ruling, the court acknowledged that Wife would also incur similar travel expenses, but it noted

that Wife included on her financial statement “\$2,500 in mortgage expenses and \$960 a month in domestic assistance expenses, which she simply does not incur.”<sup>7</sup>

The court’s rulings were reduced to writing in an order filed on December 14, 2023. Wife noted a timely appeal.

### STANDARD OF REVIEW

In an action tried to the court, we “review the case on both the law and the evidence” and “will not set aside the judgment of the trial court on the evidence unless clearly erroneous, [as we give] due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c). “When a trial court decides legal questions or makes legal conclusions based on its factual findings, we review these determinations without deference to the trial court.” *E.N. v. T.R.*, 474 Md. 346, 370 (2021) (cleaned up). We review a trial court’s custody decision for abuse of discretion. *Basciano v. Foster*, 256 Md. App. 107, 128 (2022).

### DISCUSSION

As noted, Wife’s brief is very difficult to follow and includes some information extraneous to the record developed in the circuit court, as well as misstatements of fact.<sup>8</sup>

#### I.

We begin with what we perceive as Wife’s contention that the circuit court erred in its physical and legal custody awards by failing to properly consider Wife’s allegations

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<sup>7</sup> Wife testified that she resides with her grandmother, rent free, and it was her intention to continue living there.

<sup>8</sup> Wife’s appellate counsel is not the same attorney who represented her at trial.

that, in June 2022, Husband choked her, banged her head against the car, and threatened to kill her following his panic attack. Counsel claims that the court “did not follow . . . the *Family Law-Domestic Violence* laws, under Family Law (“F.L.”) Article, subsection 5 of title 4 of the Maryland Code.”<sup>9</sup> Appellant’s counsel further asserts that the court allowed Husband to testify that he did not abuse Wife and seems to maintain this was error because “Mississippi has already convicted and sentenced him for the crime of domestic violence.”

First, the evidence before the circuit court was that Mississippi did not prosecute the criminal charges brought against Husband, but rather placed them in their inactive file. The charges were subsequently expunged based on that fact. Consequently, there is no evidence in the record before us that Husband was “convicted and sentenced” of any criminal charges in Mississippi.<sup>10</sup>

Husband also denied, at the merits hearing in this case, that he committed the abuse testified to by Wife. In addition, Husband testified that Wife’s request of the Mississippi court for a civil protective or domestic violence order was denied and ultimately “dropped”

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<sup>9</sup> Subsection 5 of Title 4 of the Family Law Article of the Maryland Code addresses temporary and final protective orders. There is no evidence in the record before us that Wife sought a protective order in Maryland. Accordingly, we fail to understand Appellant’s counsel’s contention that the court did “not follow” this statute.

<sup>10</sup> In Appellant’s Brief, counsel asserts that the criminal *conviction* was expunged and cites a Mississippi statute allowing for the expungement of one conviction from public records “five (5) years after the successful completion of all terms and conditions of the sentence.” Not only is there no evidence in the record before us that Husband was convicted of any criminal charges in Mississippi based on the alleged assault in June 2022, even if he was the Mississippi statute counsel cites would not have allowed expungement at this point because five years have not elapsed.

after he completed an anger management class and remained on “good behavior” for a period of time. Wife did not dispute that testimony at trial in this case.

Appellant’s counsel points to the court’s statement, made in conjunction with its findings on the psychological fitness of the parents, that it was “not going to comment on the validity of any criminal allegations that [Wife] made,” but noted its “concern regarding how and when she reported the alleged assault and sought a protective order timing wise.” Appellant’s counsel then maintains that the court “holds the view that [Wife] is a liar when it comes to the ‘Domestic Violence Charges.’” Counsel further states that the Maryland trial judge “substitutes his view in place of the Mississippi State Court, which convicted the Husband; as such, he gives no credence to her charges, and it shows in his ruling that he is washing his hands of her domestic violence charges and victimization and the authorities of the Mississippi State Court System.”

Again, Appellant’s counsel is blatantly misconstruing the facts, as the record before us is devoid of any evidence that Husband was convicted of any criminal charges in Mississippi or that the Mississippi court, in the civil protective or domestic violence case, made any findings that Husband abused Wife. Moreover, we decline to disturb the Maryland’s trial court’s credibility determinations in this case as, unlike this Court, it had the opportunity to both hear the testimony and observe the parties and 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).

Finally, we note that, at trial, Wife did not argue that Husband should be denied access to Child based on any alleged domestic violence perpetrated by Husband against her. In fact, Wife proposed a visitation schedule. And the court specifically found that “[t]here’s been no indication that [Husband] has ever done anything remotely negative towards” Child. Thus, we are satisfied that the court complied with Section 9-101.1 of the Family Law Article – a provision counsel does not cite or allege the trial court failed to comply with.<sup>11</sup>

## II.

Appellant’s counsel asserts that the court erred in awarding the parties joint legal custody, pointing out that Wife testified at trial that she did not believe she and Husband could share decision-making with respect to issues involving Child. Wife testified that, “[w]ith [Husband], it’s his way or the highway. It’s very, very, very hard to get him to be

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<sup>11</sup> Family Law, § 9-101.1(b) provides that, “[i]n a custody or visitation proceeding, the court shall consider, when deciding custody or visitation issues, evidence of abuse by a party against,” among others, the “other parent of the party’s child.” Then, “[i]f the court finds that a party has committed abuse against the other parent[,]” the “court shall make arrangements for custody or visitation that best protect” the child and the victim of the abuse. Family Law, § 9-101.1(c).

Here, Wife’s only complaint of “abuse” by Husband against her was in relation to the June 2022 panic attack incident and, thereafter, of Husband being verbally “nasty” to her and failing to communicate with her when Child was in his care. The court’s order addressed the communication issue by requiring the parties, among other things, to communicate through Our Family Wizard app; to provide FaceTime (or similar) access to Child with the non-custodial parent every other day; to inform the non-custodial parent if Child would not be spending the night at the custodial parent’s home and, in that event, inform the non-custodial parent of the location where Child would be spending the night; and to provide the non-custodial parent with the name and phone number of any third party who might care for the Child.

amenable to anything.” Consequently, counsel argues that joint legal custody is inappropriate in this case. Counsel also appears to be contending that Mother holds (or should be awarded) tie-breaker status.

As the Maryland Supreme Court has explained, “[l]egal custody carries with it the right and obligation to make long range decisions’ that significantly affect a child’s life, such as education or religious training.” *Santo v. Santo*, 448 Md. 620, 627 (2016) (quoting *Taylor*, 306 Md. at 296)). In contrast, physical custody “means the rights and obligation to provide a home for the child and to make daily decisions as necessary while the child is under that parent’s care and control.” *Id.* (internal quotation marks omitted). When the court awards parents joint legal custody, “both parents have an equal voice in making [long range] decisions, and neither parent’s rights are superior to the other.” *Id.* (quoting *Taylor*, 306 Md. at 296).

In *Santo*, the Maryland Supreme Court declined “to hold as a matter of law that a court errs if it awards joint custody to parents who fail to communicate effectively with one another.” *Id.* at 630. Here, there was certainly evidence before the court as to communication difficulties between the parties, including Husband’s failure to keep Wife apprised of Child’s whereabouts when in his care. But the court addressed that issue in its order. *See* footnote 11 *supra*.

Moreover, when questioned whether she and Husband had any unresolvable disagreements related to Child’s education, religious upbringing, or health care, Wife’s

answer was no. Wife did, however, prefer to make those decisions herself. In awarding the parties joint legal custody, the court found that Wife “really did not establish at any point that the parties were not able to agree on any significant issues related to health care, education, or religion[,]” which the court recognized are “the primary legal custody determinations that are typically made in a child’s life.” The court further acknowledged that the parties had “gone through some significant difficulties leading up to the trial in this case,” but found that “they are capable of effectively communicating with one another.” Accordingly, we are not persuaded that the court abused its discretion in awarding the parties joint legal custody.

“In a joint legal custody arrangement with tie-breaking provisions, the parents are ordered to try and decide together matters affecting their children.” *Santo*, 448 Md. at 632. “When, and only when the parties are at an impasse after deliberating in good faith does the tie-breaking provision permit one parent to make the final call.” *Id.* at 632-33. The court did not award either parent tie-breaking authority in this case. Wife’s counsel appears to claim that Wife has or should have it – counsel’s argument is unclear. Because a court is not required to grant either parent tie-breaking authority in a joint legal custody award, we cannot say that the court abused its discretion in failing to include one in this case. If the parties find, however, that they frequently are at an impasse on significant life issues involving Child, they are always free to file a motion with the circuit court requesting that it impose a tie-breaking provision.

### III.



Wife challenges the shared physical custody award, contending that “transporting a three-year old from Mississippi to Maryland every fifteen days is not [in] the minor child’s best interest.” Counsel then asks: “Why” should Wife “be placed in a position where the Husband, the abuser, could injure her?” Counsel claims that this is “in total opposition” to Maryland’s domestic violence laws and asserts that the domestic violence statute is “designed to separate the parties and avoid future abuse.” Counsel further maintains that the trial court “should have addressed the guiding factors” in *Sanders, supra*, and *Taylor, supra*.

Again, based on the record before us, Wife did not seek a protective order in Maryland and the issue here is not what is in Wife’s best interest but rather what custody arrangement is in Child’s best interest. And, as we summarized previously, the court did address factors set forth in *Sanders* and *Taylor* and clearly recognized its task. The court was very cognizant of the geographic distance between the parties and found that was a “big problem,” but one that was precipitated by Wife’s decision to stay in Mississippi instead of returning to Maryland, even though Wife’s full-time remote employment enables her to live almost anywhere. The court found that both parents are fit, both are of good character and reputation, and both desired custody of Child. Most significantly, the court found that it is in Child’s best interest to have equal time with each parent. The court also acknowledged that the fifteen-day rotating schedule “won’t be a viable option when [Child] is enrolled in school full time, but it is a viable option at this point.” We cannot say that the

court abused its broad discretion when granting the parents equal physical custody and ordering the fifteen-day rotation.<sup>12</sup>

IV.

Wife challenges the court’s decision not to award her child support. Wife’s counsel asserts that the trial judge “is punishing [Wife] for filing domestic violence charges.”

In ruling that neither party would be awarded child support, the court explained why it was deviating from the child support guidelines under which Husband would have paid Wife about \$439 monthly. First, the court noted that Husband would incur substantial travel expenses to have access to Child due to Wife’s “unwarranted relocation of the minor child to Mississippi.” The court further found that Wife included on her financial statement “\$2,500 in mortgage expenses and \$960 a month in domestic assistance expenses, which she simply does not incur.” There is no evidence whatsoever that the trial judge in this case was seeking to punish Wife.

If Wife has more substantive reasons as to why she believes she is entitled to child support, she can file a motion with the circuit court. The arguments made in this appeal are simply unavailing and it is not the role of this Court to search the record to support an appellant’s general claim of error.

V.

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<sup>12</sup> In his brief, Husband requests that this Court “consider a 30-day rotation for custody instead of a 15-day rotation[.]” and asks us to modify the exchange time from 12:00PM to another more convenient time. Husband must direct these requests to the circuit court.

Wife maintains that she is “being cheated out of her share” of marital property, claiming that Husband’s income “is approximately twice as much as” Wife’s. She also asserts that the court failed to “include all of [Husband’s] income” when addressing a monetary award. She does not, however, identify what income the court failed to include in its calculations and, again, it is not our role to search the record to support an appellant’s position. *Rollins v. Capital Plaza Assocs., L.P.*, 181 Md. App. 188, 201 (2008) (“We cannot be expected to delve through the record to unearth factual support favorable to [the] appellant.”) (quoting *von Lusch v. State*, 31 Md. App. 271, 282 (1976)).

In addressing whether to grant a monetary award in this case, the court determined that “both parties made equal contributions, both monetary and non-monetary to the well - being of the family.” The court found that the value Wife placed on marital property appeared to be “simply estimates that were pulled out of the air[,]” whereas Husband “was able to justify every single value of each piece of property” and, consequently the court accepted Husband’s valuation. After considering the value of all marital property and the parties’ respective debts and assets, the court concluded that Husband and Wife are “in very similar economic circumstances.” The court did recognize that Husband earns more than Wife, but it found that Wife has fewer expenses. The court then addressed other factors to consider before making a monetary award and concluded that it would be inequitable to grant either party one. Given what is before us—and Wife’s counsel’s failure

to articulate with any precision why the court erred in denying her a monetary award—we cannot say that the court erred in its decision.

VI.

Wife appears to challenge the court’s order directing her to pay a portion of Husband’s attorney’s fees. The entirety of the “argument” is that Husband’s income “is approximately twice as much as the Appellant’s income; however, the Judge granted the Appellee attorney fees.”

Section 7-107(b) of the Family Law Article authorizes the court in a divorce action to “order either party to pay to the other party an amount for the reasonable and necessary expense of prosecuting or defending the proceeding.” Reasonable and necessary expense includes counsel fees. Fam. Law § 7-107(a)(2). Before ordering the payment, the court must consider: “(1) the financial resources and financial needs of both parties; and (2) whether there was substantial justification for prosecuting or defending the proceeding.” Fam. Law § 7-107(c).

Whether to award attorney’s fees is within the discretion of the trial court. *Abdullahi v. Zanini*, 241 Md. App. 372, 425 (2019) (citation omitted). “The court’s decision in this regard ‘should not be reversed on appeal unless the ruling was arbitrary or clearly incorrect or both.’” *Id.* (quoting *Huntley v. Huntley*, 229 Md. App. 484, 497 (2016)).

Here, the trial court determined that the parties were in “very similar economic circumstances” and that Husband had substantial justification for prosecuting the *pendente lite* motion as Wife had moved a significant distance, without Husband’s consent, thus

making quite difficult his access to Child. The court also concluded that Wife “had no justification whatsoever to fail to comply with reasonable discovery requests” made by Husband. The court noted that Wife “simply ignored them and/or didn’t respond, and/or didn’t update any discovery responses she did make.” Based on this record, we cannot say that the court abused its discretion in ordering Wife to pay the attorney’s fees Husband incurred related to discovery violations and the *pendente lite* proceeding.

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