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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
April 15, 2026 Session

**EDDIE LAMAINÉ BROWN v.
CHRYSTAL DIANE ARMSTRONG BROWN**

Appeal from the Chancery Court for Knox County
No. 207018-2 Richard B. Armstrong, Jr., Chancellor

No. E2025-00896-COA-R3-CV

In this appeal involving competing petitions to modify a Virginia residential co-parenting order, the trial court denied both petitions after determining that no material change of circumstance existed warranting modification. Because the trial court did not apply the correct legal standard to its analysis regarding material change of circumstance, we vacate and remand with instructions to apply the proper standard set forth in *Armbrister v. Armbrister*, 414 S.W.3d 685 (Tenn. 2013). We decline to award Mother her attorney’s fees incurred on appeal.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court
Vacated; Case Remanded**

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which KRISTI M. DAVIS and WILLIAM E. PHILLIPS, II, JJ., joined.

Meghan A. Bodie, Knoxville, Tennessee, for the appellant, Eddie Lamine Brown.

Thomas M. Leveille and Lori F. Fleishman, Knoxville, Tennessee, for the appellee, Chrystal Diane Armstrong Brown.

OPINION

I. Factual and Procedural Background

The parties, Eddie Lamine Brown (“Father”) and Chrystal Diane Armstrong Brown (“Mother”), were divorced by final decree in Washington County, Virginia, on July 23, 2021. On that same date, the Washington County Circuit Court (“Virginia trial court”) entered a “Custody and Visitation Order” concerning the parties’ minor child, K.B. (“the

Child”). The order set forth a residential co-parenting schedule providing that Mother and Father would “share joint legal custody” and that Mother would “have sole physical custody” of the Child with “reasonable and liberal visitation to Father.” The order granted to Father visitation with the Child “every other weekend from 4:30 p.m. on Friday to 5:30 p.m. on Sunday” and every Wednesday evening. In addition, the Custody and Visitation Order set forth a schedule for holidays, including Father’s Day, Mother’s Day, Thanksgiving, Christmas, Easter, and summer vacation. The Virginia trial court held in abeyance the issues of child support and appropriate fees for the guardian *ad litem*, which the Virginia trial court later addressed in a “Final Order,” entered on December 16, 2021.

In 2021, both parties relocated to Knoxville, Tennessee. Accordingly, the Virginia trial court ordered that all further issues regarding enforcement or modification of the Custody and Visitation Order be heard in Tennessee. Father filed an unopposed “Notice of Registration of Foreign Child Custody Determination” with the Knox County Chancery Court (“trial court”), and the Virginia judgment and related documents were enrolled with the trial court on August 11, 2023.

On August 25, 2023, Father filed a “Petition to Modify Permanent Parenting Plan” (“the Petition”).¹ In the Petition, Father alleged that Mother had “refused to effectively co-parent with the Father,” made “unilateral decisions regarding [the Child’s] school and extracurriculars,” and failed to “share details of her decisions” concerning the Child with Father. Father further claimed that Mother had “sought educational assessments” for the Child without seeking Father’s “consent or involvement” and had failed to “provide the results of said assessments.” Father complained that Mother had failed to seek his input regarding the Child’s medical appointments “despite [Father] being a doctor.” Additionally, Father noted that the Custody and Visitation Order failed to “address Fall and Spring Break” and argued that for this and other reasons, it did not “maximize” Father’s co-parenting time with the Child. Father filed a proposed amended permanent parenting plan seeking fifty-percent co-parenting time with the Child and designation of Father as joint primary residential parent with Mother. This initial proposed parenting plan provided for fall and spring break time to be divided equally between the parents.

Mother filed a response and counter-petition on February 29, 2024, seeking authority to make “final decisions regarding parenting issues” in consultation with Father and to end Father’s Wednesday night co-parenting time with the Child. Father filed an answer to Mother’s counter-petition on March 7, 2024. On June 4 and October 22, 2024, the trial court conducted a hearing concerning the parties’ petitions to modify. On January 2, 2025, Father filed a second proposed permanent parenting plan in which Father appeared to abandon his request for a change of primary residential parent. In the new proposed

¹ Although the caption of Father’s Petition indicates that he sought to amend a “Permanent Parenting Plan,” Father was referring to the Custody and Visitation Order entered by the Virginia trial court. The Virginia trial court did not enter a separate permanent parenting plan.

parenting plan, Father designated Mother as the primary residential parent and set forth a schedule wherein Mother would have 230 days co-parenting time with the Child and Father would have 135 days.

On January 22, 2025, the trial court delivered an oral “Memorandum Opinion” and directed from the bench that the ruling be incorporated into the final written order, which was later entered on May 15, 2025. However, the written order did not include a statement expressly incorporating the oral Memorandum Opinion. Further, the order did not include detailed findings of fact or conclusions of law. Instead, the final order simply stated the trial court’s determination that there had been no material change of circumstance since entry of the Virginia Custody and Visitation Order on July 23, 2021. The trial court accordingly dismissed both parties’ petitions to modify. In the final written order, the trial court instructed the parties to adhere to the “Parental Bill of Rights, codified at [Tennessee Code Annotated §] 36-6-101” and to use “Family Wizard” to communicate with each other about matters affecting the Child.² The order also memorialized the parties’ agreement to alternate spring and fall break co-parenting times with the Child. Father timely appealed.

II. Issues Presented

Father presents the following issues on appeal, which we have restated slightly:

1. Whether the trial court correctly applied Tennessee Code Annotated § 36-6-101(a)(2)(C) when determining whether a material change of circumstance had occurred.
2. Whether the trial court erred by finding that there was not a material change of circumstance warranting modification of the residential co-parenting schedule as set forth in the Custody and Visitation Order.

Mother presents the following additional issues for our consideration:

3. Whether the trial court erred by denying Mother’s request for attorney’s fees pursuant to Tennessee Code Annotated § 36-5-103(c).
4. Whether Mother is entitled to an award of attorney’s fees on appeal pursuant to Tennessee Code Annotated § 36-5-103(c).

III. Standard of Review

² The trial court’s decision to add language and instructions to the Custody and Visitation Order appears to conflict with the court’s determination that no material change of circumstance existed warranting modification of the residential co-parenting schedule. Because we vacate the trial court’s final order in its entirety, we do not reach that issue in this Opinion.

We review a non-jury case *de novo* upon the record with a presumption of correctness as to the findings of fact unless the preponderance of the evidence is otherwise. *See* Tenn. R. App. P. 13(d); *Bowden v. Ward*, 27 S.W.3d 913, 916 (Tenn. 2000). We review questions of law, including those of statutory construction, *de novo* with no presumption of correctness. *Bowden*, 27 S.W.3d at 916 (citing *Myint v. Allstate Ins. Co.*, 970 S.W.2d 920, 924 (Tenn. 1998)). To the extent that the trial court's determinations rest upon an assessment of the credibility of witnesses, the determinations will not be overturned absent clear and convincing evidence to the contrary. *Wells v. Tenn. Bd. of Regents*, 9 S.W.3d 779, 783 (Tenn. 1999).

Regarding an action to modify a permanent parenting plan, our Supreme Court has instructed:

A trial court's determinations of whether a material change in circumstances has occurred and whether modification of a parenting plan serves a child's best interests are factual questions. *See In re T.C.D.*, 261 S.W.3d 734, 742 (Tenn. Ct. App. 2007). Thus, appellate courts must presume that a trial court's factual findings on these matters are correct and not overturn them, unless the evidence preponderates against the trial court's findings. *See* Tenn. R. App. P. 13(d); *In re C.K.G.*, 173 S.W.3d [714,] 732 [(Tenn. 2005)]; *Kendrick [v. Shoemaker]*, 90 S.W.3d [566,] 570 [(Tenn. 2002)]; *Hass [v. Knighton]*, 676 S.W.2d [554,] 555 [(Tenn. 1984)].

Because decisions regarding parenting arrangements are factually driven and require careful consideration of numerous factors, *Holloway v. Bradley*, 190 Tenn. 565, 230 S.W.2d 1003, 1006 (1950); *Brumit v. Brumit*, 948 S.W.2d 739, 740 (Tenn. Ct. App. 1997), trial judges, who have the opportunity to observe the witnesses and make credibility determinations, are better positioned to evaluate the facts than appellate judges. *Massey-Holt v. Holt*, 255 S.W.3d 603, 607 (Tenn. Ct. App. 2007). Thus, determining the details of parenting plans is "peculiarly within the broad discretion of the trial judge." *Suttles v. Suttles*, 748 S.W.2d 427, 429 (Tenn. 1988) (quoting *Edwards v. Edwards*, 501 S.W.2d 283, 291 (Tenn. Ct. App. 1973)). "It is not the function of appellate courts to tweak a [residential parenting schedule] in the hopes of achieving a more reasonable result than the trial court." *Eldridge v. Eldridge*, 42 S.W.3d 82, 88 (Tenn. 2001). A trial court's decision regarding the details of a residential parenting schedule should not be reversed absent an abuse of discretion. *Id.* "An abuse of discretion occurs when the trial court . . . appl[ies] an incorrect legal standard, reaches an illogical result, resolves the case on a clearly erroneous assessment of the evidence, or relies on reasoning that causes an injustice." *Gonsewski v. Gonsewski*, 350 S.W.3d 99, 105 (Tenn. 2011). A trial court abuses its

discretion in establishing a residential parenting schedule “only when the trial court’s ruling falls outside the spectrum of rulings that might reasonably result from an application of the correct legal standards to the evidence found in the record.” *Eldridge*, 42 S.W.3d at 88.

Armbrister, 414 S.W.3d at 692-93.

IV. Compliance with Tennessee Rule of Civil Procedure 52.01

As a threshold matter, we must determine whether it is proper for us to review the trial court’s oral Memorandum Opinion when it was not expressly incorporated into the final written order. Although the trial court stated its detailed findings and conclusions from the bench, the court provided only conclusory statements and instructions in the final written order such that the order contains insufficient facts and conclusions for appellate review. *See* Tenn. R. Civ. P. 52.01 (“In all actions tried upon the facts without a jury, the court shall find the facts specially and shall state separately its conclusions of law and direct the entry of the appropriate judgment.”).

Certainly, “it is well-settled that a trial court speaks through its written orders—not through oral statements contained in the transcripts—and that the appellate court reviews the trial court’s written orders.” *Williams v. City of Burns*, 465 S.W.3d 96, 119-20 (Tenn. 2015) (quoting *Anil Constr. Inc. v. McCollum*, No. W2013-01447-COA-R3-CV, 2014 WL 3928726, at *8 (Tenn. Ct. App. Aug. 7, 2014)). Nevertheless, the Tennessee Supreme Court has “recognized that a trial court’s order ‘should be construed with reference to the issues it was meant to decide, and should be interpreted in light of the context in which it was entered.’” *Id.* (quoting *Morgan Keegan v. Smythe*, 401 S.W.3d 595, 608 (Tenn. 2013)) (emphasis added). The Supreme Court in *Williams* went on to consider the “trial court’s written order in light of its oral ruling,” but determined that the oral ruling revealed “only slightly more than the written order.” *Williams*, 564 S.W.3d at 120.

In certain circumstances, reviewing courts have considered transcripts of a trial court’s oral rulings and decisions alongside a written order even though the oral ruling was not expressly incorporated into a written order. For example, in *In re Conservatorship of Brainard*, this Court considered a transcript of an oral ruling to “comprehend the trial court’s reasoning” in dismissing a conservatorship action when the trial court’s order provided “no explanation whatsoever” for the decision. No. W2024-00031-COA-R3-CV, 2025 WL 213854, at *6 (Tenn. Ct. App. Jan. 16, 2025). In *Perry v. Thyssenkrupp Elevator Corp.*, No. W2019-01549-SC-R3-WC, 2020 WL 5565072, at *5 (Tenn. Workers’ Comp. Panel Sept. 16, 2020), the panel held:

[O]ur review is limited to the findings and conclusions of the trial court as reflected in its August 8, 2019 judgment. That being said, we note that Employee has not objected to Employer’s references to the trial court’s oral

ruling and our review of the same indicates that were we to consider that ruling, it would in no way alter our resolution of this appeal.

In *Payne v. CSX Transp., Inc.*, the Tennessee Supreme Court noted a discrepancy between the trial court's written order and its oral statements in transcripts. 467 S.W.3d 413, 441 (Tenn. 2015). The Court considered both, determining: "In this instance, we find that the issues raised by the Defendant, considered along with the transcript and the order of the trial court, are sufficient for us to review the motion for a new trial." *See id.* at 441 n.21.

Rule 52.01 requires trial courts to enter detailed findings of fact and conclusions of law, particularly in cases involving co-parenting schedules, because the parties "deserve to know the factual basis for the trial court's decision on such important matters." *In re Caleb F.*, No. M2016-01584-COA-R3-JV, 2017 WL 5712992, at *5-6 (Tenn. Ct. App. Nov. 28, 2017). In addition, this rule reflects the importance that the trial court's determination "represents the trial court's own deliberations and decisions" and that any written order "accurately reflect[s] the decision of the trial court." *See Crain Law Grp., PLLC v. Amacher*, No. M2024-01369-COA-R3-CV, 2026 WL 959470, at *5 (Tenn. Ct. App. Apr. 9, 2026).

Here, the trial court complied with the spirit of Rule 52.01 even if it did not follow the letter of the rule. The record indicates that the trial court intended its oral findings of fact and conclusions of law rendered from the bench to be considered as part of its final, written disposition of the case. The transcript from the oral ruling is entitled: "Memorandum Opinion." The trial court convened a hearing that day solely for the purpose of rendering its oral ruling from the bench, and at the conclusion of the ruling, the trial court reminded everyone present that a court reporter had recorded the ruling. Finally, the court instructed counsel to prepare a written order incorporating the court's oral findings, conclusions, and instructions, stating that "this is a final judgment."

Unfortunately, the trial court's instructions were not accomplished, and the written order did not expressly incorporate the oral Memorandum Opinion. Such omission notwithstanding, neither party has disputed the validity of the oral Memorandum Opinion. Moreover, there is no dispute regarding whether the oral Memorandum Opinion reflects the trial court's own deliberations and decisions or whether it is an accurate representation of the trial court's findings. *See Crain Law Grp., PLLC*, 2026 WL 959470, at *5. Notably, both parties reference the oral Memorandum Opinion throughout their briefs on appeal. In consideration of all these contextual clues, *see Williams*, 465 S.W.3d at 119-20, we will proceed to review both the oral Memorandum Opinion and the final written order in addressing the parties' substantive issues.

V. Material Change of Circumstance

Father contends that the trial court applied an incorrect legal standard when it determined that no material change of circumstance had occurred warranting modification of the residential co-parenting schedule. Specifically, Father posits that the court erred by considering whether the purported changes of circumstance were foreseeable, a step in the analysis that our Supreme Court rejected in *Armbrister*, 414 S.W.3d at 704.

Prior to the *Armbrister* decision, a trial court's determination as to whether a material change of circumstance had occurred included consideration of whether the change was reasonably foreseeable at the time the previous residential co-parenting schedule had been entered. For example, our Supreme Court stated in *Cranston v. Combs*, 106 S.W.3d 641, 644 (Tenn. 2003):

Although there are no bright-line rules for determining when such a change has occurred, there are several relevant considerations: (1) whether a change has occurred after the entry of the order sought to be modified; (2) whether a change was not known or reasonably anticipated when the order was entered; and (3) whether a change is one that affects the child's well-being in a meaningful way."

See also Kendrick v. Shoemaker, 90 S.W.3d 566, 570 (Tenn. 2002); *Blair v. Badenhope*, 77 S.W.3d 137, 150 (Tenn. 2002).

However, in 2004, the Tennessee General Assembly added clarifying language to Tennessee Code Annotated § 36-6-101 pertaining exclusively to modification of a residential parenting schedule. *See Armbrister*, 414 S.W.3d at 702-703. The added language provides:

If the issue before the court is a modification of the court's prior decree pertaining to a residential parenting schedule, then the petitioner must prove by a preponderance of the evidence a material change of circumstance affecting the child's best interest. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance for purposes of modification of a residential parenting schedule may include, but is not limited to, significant changes in the needs of the child over time, which may include changes relating to age; significant changes in the parent's living or working condition that significantly affect parenting; failure to adhere to the parenting plan; or other circumstances making a change in the residential parenting time in the best interest of the child.

Tenn. Code Ann. § 36-6-101(a)(2)(C) (West April 11, 2024, to current). Interpreting this section of the statute, the *Armbrister* Court explained:

By declaring that changes relating to a child's age or a parent's living or working conditions may constitute a material change in circumstances, the General Assembly has plainly expressed its intent to permit modification of residential parenting schedules based on changes that reasonably could have been anticipated when the original residential parenting schedule was established. *Boyer [v. Heimermann]*, 238 S.W.3d [249,] 256-57 [(Tenn. Ct. App. 2007)].

* * *

Applying [the] familiar rules of statutory construction, we conclude that when the issue is modification of a residential parenting schedule, section 36-6-101(a)(2)(C) provides the governing standard for determining whether a material change in circumstances has occurred. We further conclude that section 36-6-101(a)(2)(C) abrogates any prior Tennessee decision, including *Blair*, *Kendrick*, and *Cranston*, which may be read as requiring a party requesting modification of a residential parenting schedule to prove that the alleged material change in circumstances could not reasonably have been anticipated when the initial residential parenting schedule was established. Consistent with section 36-6-101(a)(2)(C), we hold that facts or changed conditions which reasonably could have been anticipated when the initial residential parenting schedule was adopted may support a finding of a material change in circumstances, so long as the party seeking modification has proven by a preponderance of the evidence "a material change of circumstance affecting the child's best interest." Tenn. Code Ann. § 36-6-101(a)(2)(C) (2010).

Armbrister, 414 S.W.3d at 703-704 (footnotes omitted).

Tennessee Code Annotated § 36-6-101(a)(2)(C) applies to the instant case because the parties sought only a change of the residential co-parenting schedule and not a change in the primary custodial parent designation. Hence, when determining whether a material change of circumstance warranting modification had occurred, the trial court should have considered, *inter alia*, "facts or changed conditions which reasonably could have been anticipated when the initial residential parenting schedule was adopted." *See Armbrister*, 414 S.W.3d at 704.

In the oral Memorandum Opinion, the trial court stated in pertinent part:

The first burden that has to be overcome, is there a material change of circumstance. And what we have to look at, [Father], in that very statement is, is there a change that is material, that is significant that was not foreseeable at the time this order was implemented. See what I'm saying. Well, [in the

Custody and Visitation Order] they talk about you coming to Tennessee. They talk about all the moves. They talk about the mother coming here. They talk about you all being here. They talk about we don't want it anymore, it belongs in Tennessee. So all the stuff in the order that [the Virginia trial court] did, everything about us being here today was foreseeable.

Father argues that "the trial court applied the incorrect legal standard" by focusing on whether the purported changes of circumstance presented by both parties were foreseeable. Father asserts that instead, the trial court "should have focused on the circumstances since the entry of the Custody and Visitation Order out of Virginia, and not whether those changes were reasonably foreseeable at the time that order was entered." Mother counters that although the trial court's use of the word "foreseeable" in its ruling was "unfortunate," there was "nothing in the opinion" to indicate that the trial court was addressing factual circumstances that were not already "present and determined in 2021 [when the Custody and Visitation Order was entered]." Mother posits:

[I]n addressing the issue of a material change in circumstances, the trial court was very focused upon the findings and rulings of the Virginia Court but did not in any way appear to be focusing on the issue of whether the asserted changes were foreseeable at the time of the Virginia Custody Order.

We respectfully disagree. As demonstrated in the excerpt from the trial court's oral ruling, the trial court clearly interpreted "material change of circumstance" to mean "a change that is material, that is significant that was not foreseeable at the time this order was implemented." Moreover, throughout the presentation of proof and in the trial court's ruling from the bench, the trial court repeatedly articulated that it needed to consider whether a change in circumstance was "foreseeable" before determining whether the change warranted modification of the residential parenting schedule. During a conversation between the trial court and counsel for both parties, the trial court stated:

I think two things are going on. I think we have a running parallel. I think, number one, the [Virginia trial court] did anticipate the situation that's here today, and the real question is who had the material change of circumstance that's already not been anticipated by [the Custody and Visitation Order]. I'm still waiting on that.

Later, after clarifying that the determination of whether there was a material change of circumstance was "not up to [the parents]" but was "up to the court," the trial court explained:

So it's not just have things changed, changed, but . . . were these things foreseeable when the original judgment came down. And that's what I've

been trying to weigh, not just exactly what's going on and what is a continuance of going on. And I have read this order like you wouldn't believe. And I'm trying to look for some condition that this prior court has not made foreseeable. And I'm going to listen to the closing arguments for this reason. I'm still trying to determine material change. This Court's trying to do that, and I'm going to allow you all to do your closing statements to see what else you may bring before me.

(Emphasis added.)

In making these statements, the trial court clearly contemplated foreseeability to be a component of the analysis for determining whether a material change of circumstance had occurred. Significantly, the trial court made no mention of *Armbrister* in either the oral Memorandum Opinion or the written final order. Thus, the trial court applied an incorrect legal standard to the material change of circumstance inquiry. *See Armbrister*, 414 S.W.3d at 693; *Gonsewski*, 350 S.W.3d at 105. We acknowledge that a trial court's application of an incorrect legal standard constitutes an abuse of discretion "only when the trial court's ruling falls outside the spectrum of rulings that might reasonably result from an application of the correct legal standards to the evidence found in the record." *See Eldridge v. Eldridge*, 42 S.W.3d 82, 88 (Tenn. 2001). However, upon careful review, we determine that the trial court's conclusions were inextricably intertwined with the court's understanding that the purported change of circumstance could not be considered material if it was foreseeable when the Custody and Visitation Order was entered. Thus, we determine that the trial court could not reasonably have reached the same conclusion had it applied the *Armbrister* standard to the analysis. *See Armbrister*, 414 S.W.3d at 703-704; *Eldridge*, 42 S.W.3d at 88.

For the foregoing reasons, we vacate the trial court's May 15, 2025 final order and remand with instructions for the trial court to enter an order that includes detailed findings of fact and conclusions of law and employs the analysis regarding material change of circumstance as set forth in *Armbrister*. Such vacatur includes the trial court's decision to deny Mother's request for an award of attorney's fees at the conclusion of the trial. Accordingly, we do not reach that issue in this Opinion.

VI. Attorney's Fees on Appeal

Mother also seeks her attorney's fees on appeal pursuant to Tennessee Code Annotated § 36-5-103(c). "The decision to award attorney fees incurred on appeal lies solely within the discretion of the appellate court." *See Andrews v. Andrews*, 344 S.W.3d 321, 340 (Tenn. Ct. App. 2010) (citation omitted). "When considering a request for attorney's fees on appeal, we also consider the requesting party's ability to pay such fees, the requesting party's success on appeal, whether the requesting party sought the appeal in good faith, and any other equitable factors relevant in a given case." *Chase v. Chase*, 670

S.W.3d 280, 304-05 (Tenn. Ct. App. 2022) (quoting *Darvarmanesh v. Gharacholou*, No. M2004-00262-COA-R3-CV, 2005 WL 1684050, at *16 (Tenn. Ct. App. July 19, 2005)). Exercising our discretion, we decline to award Mother her attorney's fees on appeal because Father has presented a meritorious argument resulting in vacatur of the trial court's final order. Additionally, Mother has not presented argument or evidence that she is unable to pay her own attorney's fees on appeal and has not presented any other relevant proof to support her request.

VII. Conclusion

For the foregoing reasons, we vacate the trial court's May 15, 2025 order and remand with instructions for the trial court to enter a written order including detailed findings of fact and conclusions of law and to apply the legal standard set forth in *Armbrister* to the material change of circumstance analysis. We deny Mother's request for attorney's fees incurred on appeal. Costs on appeal are taxed one-half to the appellant, Eddie Lamine Brown, and one-half to the appellee, Chrystal Diane Armstrong Brown.

s/Thomas R. Frierson, II

THOMAS R. FRIERSON, II, JUDGE