

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
July 9, 2026 Session

JESSICA TRIMBLE v. GREGORY JOHN VELA

Appeal from the Juvenile Court for Montgomery County
No. 2021-JV-187 Sharon Massey Grimes, Judge

No. M2025-00560-COA-R3-JV

Mother filed a petition to modify the parties' parenting plan seeking additional parenting time with the child. Father filed a counter-petition alleging that Mother had repeatedly interfered with Father's parenting time and communication with the child, and he requested that he be designated primary residential parent. The trial court modified the parenting plan by designating Father as the primary residential parent, reducing Mother's parenting time from 265 days to 120 days, and increasing Father's parenting time from 100 days to 245 days. Mother appeals, arguing that the trial court erred in its application of the best interest factors. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court Affirmed

JEFFREY USMAN, J., delivered the opinion of the court, in which ANDY D. BENNETT and W. NEAL MCBRAYER, JJ., joined.

Gregory D. Smith, Clarksville, Tennessee, for the appellant, Jessica Trimble.

Mark R. Olson, Clarksville, Tennessee, for the appellee, Gregory John Vela.

OPINION

I.

Jessica Trimble (Mother) and Gregory Vela (Father) are the parents of M.W.V., who was born in 2018. The parties were never married. In 2020, both parents relocated. Father moved to California, and Mother moved to New Hampshire for three months to live with her family before returning to Tennessee with the child.

In 2021, Mother petitioned the trial court to establish child support, and Father

counter-petitioned to establish a parenting plan. The trial court entered a temporary parenting schedule awarding Father monthly parenting time in Tennessee and video calls with the child. The trial court also ordered Father to pay temporary child support pending a final hearing.

Following a mediation in August 2021, the parties agreed to a parenting plan designating Mother as the primary residential parent, granting her 265 residential parenting days and Father 100 days. However, before the plan was entered, Mother moved to “set aside” the agreement, asserting that the plan was not in the child’s best interest.

Father subsequently sought an evidentiary hearing to assess the child’s best interest. After an evidentiary hearing, the trial court granted Mother’s motion, set aside the mediated agreement, and adjusted Father’s child support obligation to account for Father’s travel expenses. A final hearing on the permanent parenting plan was set for January 6, 2022.

The final hearing was continued several times before ultimately taking place in September 2022. Before the hearing, Mother filed a motion to relocate to New Hampshire. The hearing on the motion to relocate was set for the same day as the final hearing on the permanent parenting plan. At that hearing, Mother informed the court that she instead planned to relocate to Massachusetts.

Following the September 2022 hearing, the trial court entered the permanent parenting plan, designating Mother as the primary residential parent, granting her 265 days of parenting time, awarding Father 100 days of parenting time, and permitting Mother to relocate to Massachusetts. The court also granted Father a \$200 downwards deviation in child support to account for Father’s travel expenses from California. Mother, however, never moved to Massachusetts.

In March 2023, Mother filed a petition to modify the permanent parenting plan, alleging that Father’s relocation to Missouri and return to military service constituted a material change in circumstances warranting modification of the parenting schedule. Mother also requested that the trial court eliminate Father’s \$200 downward deviation because Father’s move to Missouri reduced his travel expenses.

Father filed a counter-petition in April 2023. Therein, Father alleged that Mother was interfering with his court-ordered telephone communication and parenting time and further asserted that Mother intended to relocate with the child to Arizona.

In May 2023, Mother filed a petition to relocate to Arizona, asserting that she was engaged and that Father had initially consented to the relocation before withdrawing his consent. Father opposed the relocation, arguing that Mother’s repeated relocations demonstrated instability. He also explained that his move from California to Missouri had been motivated by a desire to live closer to the child, whom Mother was now seeking to

move to Arizona.

The trial court conducted a two-day hearing on September 19, 2024, and December 2, 2024. Three witnesses testified: Mother, Father, and Father's wife.

Mother testified about her current living and family circumstances. At the time, Mother was residing in Fort Cavazos, Texas. She lived with her wife, Grace, Grace's nine-year-old son, and M.W.V. Mother testified that she was a stay-at-home mom and retired veteran who receives approximately \$4,500 per month in VA disability and combat-related benefits.

A significant portion of the testimony was focused on Mother's relationships and relocations. Because Mother's testimony regarding the chronology of her relationships was unclear, the trial court sought clarification. Mother testified that she married Grace on November 5, 2022. Later that same month, she reconnected with Jess, an ex-boyfriend with whom she had a relationship approximately eleven years before. Mother testified that she discussed the matter with Grace and that Grace agreed to allow Jess to move into their home in March 2023. Mother eventually became engaged to Jess while still being married to Grace. Mother further testified that she initially planned to relocate to Arizona with Jess after obtaining Father's permission to relocate. She moved with M.W.V. to Arizona to be with Jess for approximately two to three weeks, but she and Jess broke up in February 2024. Shortly after the breakup, Mother moved back to Texas to again live with Grace. Mother indicated that she had relocated to Texas without first obtaining court approval. Mother was married to Grace throughout her engagement to Jess.

Mother acknowledged that she had not been forthcoming with Father regarding the timing of her marriage to Grace. She admitted that she stated she "got married" when informing Father that she would no longer relocate to Arizona but instead planned to move to Texas. She conceded that she had implied that the marriage was recent, when in fact she had already been married for over a year. Mother also admitted that she did not disclose to the trial court that she was already married to Grace when seeking permission to relocate to Arizona to live with her fiancé Jess. The trial court found that Mother was not credible with respect to her testimony regarding the timing of her marriage to Grace and her representations concerning the proposed relocation to Arizona.

Father testified as to his concerns for M.W.V. with regard to the instability Mother was creating. He explained that he agreed to Mother's proposed relocation to Arizona because he hoped she would finally establish a permanent residence. Father further testified that he was unaware Mother was already married to Grace, with whom she was living in Texas, when Mother sought permission to relocate to live with Jess in Arizona. According to Father, Mother refused to provide him with Jess's contact information despite planning for the child to reside with Jess in Arizona. Father also testified that Mother left the child in Jess's care while Mother attended motorcycle rallies and meetings.

Mother testified that her relationship with Grace had deteriorated and that Grace had recently filed for divorce. Mother indicated that she had obtained a no-contact order against Grace “because she started harassing me and [was] trying to use [the child] against me.” Mother maintained that the child was never present during any incidents of domestic violence between herself and Grace and that any domestic violence occurred solely between the two adults without M.W.V. being present.

A significant portion of the testimony was also directed to Mother’s approach to Father’s parenting time. Father testified that Mother frequently monitored his parenting time by requesting updates regarding the child’s whereabouts, activities, and companions. Father testified that Mother routinely required him to tell her what time Father was leaving for work, what time he would return, and where the child was. According to Father, on one occasion, when Father took the day off work during his parenting time with the child, Mother asked Father why he did not notify her that he took the day off. Father testified that on days when Father took the child to work with him, Mother asked why the child was not at the youth center instead. Father testified that he did not protest against Mother’s inquiries and instead chose to placate her because “that’s what you do when you co-parent [;] . . . you try to make it as easy as possible. If the other parent wants to know something, you give them that respect and the courtesy, and you just let them know.” Father testified that although he tried to accommodate Mother’s monitoring and requests, Mother did not afford him the same courtesy by keeping him informed.

Father indicated that Mother was not accommodating but instead created barriers to his parenting. As an illustration, in December 2023, Father told Mother he needed to “alter some of his visitation” because of a temporary duty assignment for the military. Mother asked Father to provide her with written orders proving that he in fact had an upcoming temporary duty assignment. Father told her that he could not produce such signed written orders and instead tried to satisfy her request by sending an unsigned memorandum from someone in his office instead. Mother did not accept the memorandum because it was not signed and was not from his commander. Accordingly, Mother declined to accommodate the request to alter parenting time to address Father’s temporary duty assignment.

Similarly, when Father moved from California to Missouri to be closer to M.W.V., Mother refused to allow him to exercise his parenting time in Missouri because parenting time under the plan was for California. A formal hearing was required before Mother allowed Father to exercise parenting time in Missouri.

On another occasion, Mother did not allow him to spend Veterans Day with M.W.V. Father testified that he initially planned not to exercise his Veterans Day parenting time because of timing concerns in connection with the twelve-hour drive. According to Father, he later learned that he would have a four-day weekend and, five days before the holiday, he notified Mother that he intended to drive to Texas to exercise his parenting time. Mother responded that five days’ notice was insufficient because she required thirty days’ notice

for parenting time. She explained that she and the child already had weekend plans, including a birthday party, volunteer activities with veterans, and a parade. Father responded that the parenting plan itself provided notice of his annual holiday parenting time on that date. He testified that he asked several times for Mother simply to allow him to exercise his parenting time under the plan. Father ultimately did not drive to Texas because Mother would not permit visitation because of his failure to provide the advance notice she demanded. Mother indicated that, in general, she required two weeks to a month's notice for parenting time, even though the court order did not require Father to provide her with any prior notice to exercise his parenting time.

Father also testified regarding Mother's monitoring of his communication with M.W.V. during her parenting time. Father asserted that the child had an iPad through which M.W.V. could receive calls directly and that Father had asked Mother to allow him to communicate with M.W.V. through the iPad. Mother, however, would not allow the child to communicate with Father directly through the iPad and instead required that all communication between Father and the child go through her. To communicate with M.W.V., Father would call Mother's phone, and Mother would usually hold the phone during the duration of the call between Father and the child. Father, on the other hand, allowed the child to speak with Mother directly through the iPad. Mother denied that the child had the capability of video calling via the iPad, but Father stated that he purchased the iPad for the child specifically for the purpose of communicating with his parents. Father further testified that he encouraged the child to communicate with Mother during Father's parenting time by allowing the child to text her through the iPad and by prompting M.W.V. to respond to Mother's messages. For her part, Mother asserted that Father ignored some of her phone calls. Father denied intentionally ignoring Mother's telephone calls, explaining that some of her calls occurred after the child's bedtime or while the child was bathing and that he generally avoids use of the phone and iPad after 8:00 p.m. to allow for winding down for bed.

Both parties presented testimony regarding Mother's relationship with the child and her role as the child's primary caregiver. Mother testified that she had been the child's primary caregiver since birth, describing herself as "the stay-at-home parent" who had "been the one . . . to do everything for him all the time." She explained that she had handled the majority of the child's day-to-day caregiving responsibilities. Mother stated that she had taken the child to his medical appointments, communicated with his teachers, enrolled him in extracurricular activities, and maintained a stable home. The child's kindergarten progress report reflected that he was doing well academically. By contrast, Mother claimed that when the child was in Father's care, Father was not diligent in ensuring that the child completed school assignments. She testified that on one occasion, the child's homework was only half complete when the child was under Father's care. Mother also noted that Father had missed one of M.W.V.'s dental cleaning appointments, despite reassuring Mother that he would take care of it.

Mother asserted that M.W.V. experienced significant distress when transitioning to Father's parenting time. According to Mother, the child clung to her, and it usually took between fifteen and thirty minutes to convince him to leave with Father. Mother asserted that she and M.W.V. had a particularly close relationship, noting that she and the child had co-slept "the whole time." Mother denied that M.W.V. curses at her or disrespects her. Mother acknowledged that she frequently makes snarky comments during text exchanges with Father.

Father, however, testified that the child's behavior in Mother's care was significantly different from his behavior while in Father's care. He testified that the child was frequently disrespectful toward Mother in Mother's presence but did not display the same behavior while in Father's care. Father explained that he addressed inappropriate behavior by establishing boundaries. He expressed concerns about Mother's failure to adequately address inappropriate behavior. Father also indicated that Mother brought M.W.V. into inappropriate environments; for example, Father asserted that the child was allegedly left sitting near a beer refrigerator late at night while Mother attended a motorcycle meeting. Father also expressed concern about the manner of Mother's communication with M.W.V. during his parenting time. He noted that Mother frequently contacted the child during Father's parenting time to tell the child about activities that he was missing. Father indicated that Mother would tell M.W.V. that she wished he could be there for the activity that he was missing but that "Daddy said no."

As for his relationship with M.W.V., Father testified that his relationship with the child is "very positive." He termed it "awesome." Father conceded that he had gone approximately two years without seeing the child in person and was limited to video communication after first moving to California. However, Father testified that, following this period of video-only communication, he exercised in-person parenting time each month while in California, estimating that he spent approximately \$20,000 on airfare to maintain the parenting schedule. He explained that he relocated to Missouri to be closer to the child. As for how he and the child spend their time together now, Father indicated that everything he and the child do together is intentional and directed toward the child's growth and well-being. Father testified that he works from 7:00 a.m. to 3:00 p.m. five days per week at Whiteman Air Force Base. He spends his time with the child watching educational YouTube videos, singing, dancing, and visiting water and trampoline parks. Father asserted that he and his wife maintain a quiet home life, spending most of their time together at home with family. M.W.V. has his own room at Father's home.

Father further testified regarding the child's relationships with others in his household. According to Father, the child has a positive relationship with Father's daughter—the child's half-sister—and enjoys playing with her and helping care for her. Father likewise testified that M.W.V. has a positive relationship with Father's wife and enjoys spending time with her and cuddling with her.

Father's wife testified that the child is well-behaved and a happy boy. She stated that she frequently plays with him when he is in their home. She also testified as to the stability of the couple's home, the quality time the family spends together, and the strength of her and Father's relationships with the child.

Following the final hearing, the trial court denied Mother's petition to modify the parenting plan and instead granted Father's counter-petition in part. Specifically, the court modified the plan to designate Father the primary residential parent, awarded him 245 days of parenting time, and awarded Mother 120 days.

The trial court found a material change in circumstance. The court noted Mother's frequent plans to move and her actual relocations, which included Tennessee, New Hampshire, Massachusetts, Texas, Arizona, and Florida. The trial court also noted Mother's engagement and marriage to different individuals, "exposing the child to different persons." The trial court also noted Father's move to be closer to the child from California to Missouri and re-entry into the military.

The trial court found that the best interest factors weighed in favor of a change in the primary residential parent designation. The trial court reasoned that Mother repeatedly interfered with Father's parenting time by creating obstacles and relocating from state to state while Father moved to Missouri to be closer to the child. Alternately, Father fostered a healthy relationship between Mother and M.W.V. The trial court further found that Mother had been deceptive with Father and the trial court regarding her relationships and relocation plans. The trial court concluded that Mother's frequent moves reflected a pattern of instability and that Father provided a more stable home environment. The trial court was also concerned that the child's relationship with Mother, while strong, had developed unhealthy aspects, undermining the parent-as-parent and child-as-child relationship, whereas Father maintained appropriate parental boundaries with the child. In contrast to Mother's shifting marriage and engagement status bringing different people into and out of child's life in these significant roles, Father had fostered a healthy stable family relationship with his wife and the child's half-sister. Having considered the statutory factors, the trial court concluded that Father becoming the primary residential parent was in M.W.V.'s best interest.

Mother filed a motion to alter or amend or reconsider, arguing that the court improperly weighed the statutory best interest factors and urging the court to reconsider the designation of Father as the primary residential parent. The trial court denied the motion, and Mother filed a timely appeal.

On appeal, Mother does not challenge the trial court's determination that a material change in circumstances occurred. Mother instead asserts that "[t]he Trial Court abused its discretion in its application of Tenn. Code Ann. § 36-6-106(a) [best interest] factors in changing the primary residential parent in this case." Father argues in support of the trial

court's conclusion, and he also seeks attorney's fees in relation to this appeal.

II.

We review a trial court's factual findings de novo upon the record, accompanied by a presumption of correctness, unless the evidence preponderates otherwise. Tenn. R. App. P. 13(d); *Armbrister v. Armbrister*, 414 S.W.3d 685, 692-93 (Tenn. 2013). Questions of law are reviewed de novo with no presumption of correctness. *Armbrister*, 414 S.W.3d at 692.

“One of the most time-honored principles of appellate review is that trial courts are best situated to determine the credibility of the witnesses and to resolve factual disputes hinging on credibility determinations.” *Mitchell v. Archibald*, 971 S.W.2d 25, 29 (Tenn. Ct. App. 1998). As stated by the Tennessee Supreme Court, “[w]hen it comes to live, in-court witnesses, appellate courts should afford trial courts considerable deference when reviewing issues that hinge on the witnesses’ credibility because trial courts are ‘uniquely positioned to observe the demeanor and conduct of witnesses.’” *Kelly v. Kelly*, 445 S.W.3d 685, 692 (Tenn. 2014) (quoting *State v. Binette*, 33 S.W.3d 215, 217 (Tenn. 2000)). In conducting this deferential review, “a trial court’s determination of credibility will not be overturned on appeal unless there is clear and convincing evidence to the contrary.” *Allstate Ins. Co. v. Tarrant*, 363 S.W.3d 508, 515 (Tenn. 2012).

Because custody decisions are factually driven, determining the details of a parenting plan is “peculiarly within the broad discretion of the trial judge.” *Armbrister*, 414 S.W.3d at 693 (quoting *Suttles v. Suttles*, 748 S.W.2d 427, 429 (Tenn. 1988)). Trial courts are uniquely positioned to make parenting determinations because they observe the witnesses, assess their credibility, and evaluate the numerous factual considerations bearing on the child’s best interests. *Id.* Accordingly, appellate courts do not reverse a trial court’s parenting decisions merely because reasonable minds could reach a different conclusion or because the appellate court might have fashioned a different residential schedule. *Id.*; *Eldridge v. Eldridge*, 42 S.W.3d 82, 85, 88 (Tenn. 2001).

The trial court’s ultimate decisions regarding the designation of the primary residential parent and allocation of residential parenting time are reviewed for an abuse of discretion. *Armbrister*, 414 S.W.3d at 693 (citing *Eldridge*, 42 S. W. 3d at 88). A trial court abuses its discretion when it applies an incorrect legal standard, reaches an illogical conclusion, bases its decision on a clearly erroneous assessment of the evidence, or employs reasoning that causes an injustice to the complaining party. *Id.* (quoting *Gonsewski v. Gonsewski*, 360 S.W.3d 99, 105 (Tenn. 2011)); *Kelly*, 445 S.W.3d at 692. We will reverse only when the ruling falls outside of the spectrum of results that might reasonably follow from applying the correct legal standards to the evidence in the record. *Kelly*, 445 S.W.3d at 696 (quoting *Armbrister*, 414 S.W.3d at 693).

Tennessee courts employ a two-step analysis when asked to modify a permanent parenting plan. *Armbrister*, 414 S.W.3d at 705-06. The court first determines whether a material change in circumstances has occurred and, if so, whether modification is in the child's best interest under Tennessee Code Annotated section 36-6-106(a). *Id.*

Mother does not challenge the trial court's finding of a material change in circumstances. Accordingly, the dispositive issue is whether the trial court properly determined that modification is in the child's best interests.

The child's best interest is the paramount concern in fashioning the parenting plan. *Armbrister*, 414 S.W.3d at 693 (citing Tenn. Code Ann. § 36-6-401(a)); *Maupin v. Maupin*, 420 S.W.3d 761, 770 (Tenn. Ct. App. 2013). In making that determination, the trial court must consider the applicable factors set forth in Tennessee Code Annotated section 36-6-106(a). *Armbrister*, 414 S.W.3d at 706. Because the best interest analysis is particularly fact-intensive, the relevance and weight of each statutory factor depend on the unique circumstances of the case. *Grissom v. Grissom*, 586 S.W.3d 387, 393 (Tenn. Ct. App. 2019).

The statutory best interest factors are not a scorecard. Trial courts are not expected to perform "a rote examination of each factor and tally up those in favor of each party." *Bean v. Bean*, No. M2022-00394-COA-R3-CV, 2022 WL 17830533, at *6 (Tenn. Ct. App. Dec. 21, 2022). Rather, the relevance and weight of each factor depends on the circumstances of the case, and any one factor may prove determinative. *Id.* (citing *Grissom v. Grissom*, 586 S.W.3d at 393).

Mother challenges the trial court's findings concerning five of the statutory best interest factors: Tennessee Code Annotated section 36-6-106(a)(4), (5), (6), (7), and (14). Tennessee Code Annotated section 36-6-106(a) directs the court to consider, among other factors:

...

(4) The disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care;

(5) The degree to which a parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities;

(6) The love, affection, and emotional ties existing between each parent and the child;

(7) The emotional and developmental needs of the child;

...

(14) Each parent's employment schedule, and the court may make accommodations consistent with those schedules

Tenn. Code Ann. § 36-6-106(a)(4), (5), (6), (7), (14) (effective March 18, 2022 to April 22, 2024).

Factor (4) concerns the disposition of each parent to provide the child with food, clothing, medical care, education, and other necessary care. The trial court weighed this factor neutrally. It reasoned that “[b]oth parties have provided the necessary things for the child when the child is in their care.” Mother argues that Father was absent from in-person visitation with the child for an extended period of time, and that because the child has primarily been in her care, she has provided most of the necessary care. However, testimony also established that Father also cared for the child while exercising his parenting time with the child.

Disposition¹ refers to “the tendency of something to act in a certain manner under given circumstances.” Disposition, Merriam Webster’s Collegiate Dictionary (10th ed. 1997). In a usage that traces back to the Fourteenth Century and that endures into the present, “disposition” is understood as “[t]he state or quality of being disposed, inclined, or ‘in the mind’ (*to* something, or *to do* something); inclination (sometimes = desire, intention, purpose); state of mind or feeling in respect to a thing or person” *Disposition*, *The Oxford English Dictionary* <https://www.oed.com> (last visited Aug. 25, 2026). A person’s disposition looks to the person’s “[t]emperament or character; personal makeup.” *Disposition*, *Black’s Law Dictionary* (7th ed. 1999).

As originally adopted, this consideration was part of a single factor joined with consideration of who was the primary caregiver of the child. 1995 Pub. Acts, ch. 428, § 2, (effective June 12, 1995) (“The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver.”). In 2014, the General Assembly disaggregated disposition and past primary caretaker status, splitting them into two separate factors rather than one conjoined consideration. 2014 Pub. Acts, ch. 617, § 4 (effective July 1, 2014).

Mother is correct that past conduct is an appropriate consideration in assessing a parent’s disposition to provide for the child’s needs going forward. Here, the trial court

¹ When interpreting statutory language, we consider “contemporaneous dictionary definitions” and “also usages and historical practices at the time of the adoption of the text.” *Coblentz v. Tractor Supply Co.*, __ S.W.3d __, 2025 WL 3704465, at *10, *12 (Tenn. Dec. 22, 2025) (quoting *McNabb v. Harrison*, 710 S.W.3d 653, 658 (Tenn. 2025)). The disposition language was adopted in 1995. 1995 Pub. Acts, ch. 428, § 2 (effective June 12, 1995).

considered past conduct and arrived at the conclusion that both parents have an equal disposition to ensure that the child's needs for food, clothing, medical care, education, and other necessary care are satisfied. Mother insists that the evidence preponderates against this finding. We cannot agree that the record preponderates against the trial court's assessment that both parents have equal dispositions to ensure that the child's needs are met.

The second factor at issue is factor (6), the love, affection, and emotional ties existing between each parent and the child. The trial court's findings as to this factor are as follows:

[Mother] stated that the child is emotionally attached to her and that she co sleeps with the child. She stated the child did not want to go with the father during visitation. This is not surprising considering her actions and is not encouraging behavior on her part, nor does she encourage a positive relationship with the father.

[Father] is concerned that the child's life is not going to be healthy, or stable. He described the child cursing the Mother, and running from her and being disrespectful to the mother during a video call.

[Mother] continues to move from State to State with the child. [Mother] has moved from Tennessee, to New Hampshire, to Arizona, to Texas and then asked [Father] did he want to move to Florida. This shows a pattern of instability on the mother's behalf.

This factor . . . weighs in favor of [Father].

Mother argues that the evidence, when properly assessed, "blatantly comes to the opposite conclusion" and that, at a minimum, this factor should be equal rather than weighing in favor of Father. In advancing this contention, Mother argues that M.W.V. loves both parents. The trial court did not disagree with that contention. The trial court instead was focused on what the trial court regarded as aspects of Mother and M.W.V.'s relationship that were unhealthy, at least in comparison with M.W.V.'s relationship with Father.

Factor 6 is not a simple measurement of emotional intensity but considers the healthiness of the emotional ties between parent and child. The trial court concluded that aspects of the emotional relationship between parent and child with Mother and M.W.V. undermined an appropriate parent-child relationship. We cannot say that the record preponderates against such a conclusion or that the trial court erred by considering the healthiness of the parent-child emotional attachment in its analysis of this factor.

Mother contends that the trial court erred in its assessment of factor 7, regarding the emotional and developmental needs of the child. Regarding this factor, the trial court found as follows:

This child is entitled to stability. At an early age he is showing signs of being disrespectful to [Mother], even curses the mother (which the mother denies). [Father] does not allow this type of behavior and redirects the child. At one point, the child ran away from the mother while she was at a fair.

[Mother] stated the child is in the 90th percentile for reading and 70th percentile for math. Despite the movements with [Mother] and the different people in and out of his life, he continues to do okay.

This factor [is] neutral.

Mother asserts that the trial court erred in reaching this conclusion. Her contention is predicated upon Father's wife's testimony that M.W.V. is a well-behaved child and upon the emotional intensity of M.W.V.'s relationship with Mother, with whom he has spent significantly more time than Father. Insofar as Mother tries to refute the trial court's finding about M.W.V.'s disrespectful behavior toward her, Father explained, and the court credited, that the child is well-behaved while in Father's home. Father noticed the child's negative behavior was occurring while under the care of Mother and not in Father's home. The evidence does not preponderate against the trial court's factual findings. With regard to the emotional intensity of the relationship between Mother and M.W.V., the trial court's findings are not inconsistent with this contention. The factor, however, is addressed to the child's emotional needs. Here, the trial court is identifying something problematic in the nature of Mother's relationship with the child that is adversely impacting meeting the child's needs with regard to shaping of behavior. We cannot say that such consideration is misplaced in assessing the emotional needs of the child.

Mother also asserts that the trial court erred as to its assessment of factor 14, which considers each parent's employment schedule. Regarding this factor, the trial court's findings are as follows:

[Father] is in the Army active duty. The work hours are from 7-3. [Father] moved to Missouri from California to be closer to the child.

[Mother] is not employed allowing her to travel with the child to and from the visitation. The mother has chosen to remain in Texas.

This factor is neutral.

Mother argues that this factor should weigh in her favor of her because she is a stay-

at-home parent. In contrast, she notes that Father continues to be employed and has occasionally missed or rescheduled parenting time due to his work obligations. Father testified that he works from 7:00 a.m. to 3:00 p.m. during the work week and that he and his wife are generally “homebodies.” The trial court’s determination is essentially that neither parent’s employment schedule impaired his or her ability to parent. If we assumed for purposes of argument that this factor should have favored Mother, any relative advantage for Mother as to a school age child is not of such significance, given the hours Father works, so as to meaningfully shift the overall best interest analysis in the present case.

We turn next to factor 5, which is addressed to which parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities. Addressing this factor, the trial court stated the following:

The mother has been the primary residential parent of the child and the parties agreed for her to remain as the primary residential parent in the first hearing in 2022. A schedule was set for the parties, but the Mother has continued to thwart the father’s efforts at visitation.

This factor weighs in favor of the Father.

Mother argues that this factor favors her as she was the primary caretaker of M.W.V. The trial court’s opinion reflects that the trial court agreed that Mother was the primary caretaker for the child but that the trial court weighed this factor in favor of Father because Mother had thwarted Father’s efforts at visitation.

On appeal, Mother argues that she was the primary caretaker and that the trial court erred by concluding to the contrary. The trial court, however, did not disagree with her on this point. To the contrary, the trial court agreed with Mother that she was the primary caretaker of M.W.V. Indeed, rather than finding Father to be the primary caregiver, the trial court found this factor to favor Father because of Mother thwarting Father’s efforts at visitation. Mother’s argument on appeal fails to counter the trial court’s actual reasoning. Her arguments slips past the trial court’s reasoning without engaging with it. “It is not the role of the courts, trial or appellate, to research or construct a litigant’s case or arguments for him or her” *Sneed v. Bd. of Pro. Resp. of the Sup. Ct. of Tenn.*, 301 S.W.3d 603, 615 (Tenn. 2010). Furthermore, any impact of such error on the trial court’s overall conclusion is ultimately not significant in the present case because the trial court both found and considered that Mother had been the primary caretaker in assessing the child’s best interest.

Mother also contends that the trial court improperly “double counted” two of the statutory best interest factors, specifically factors (9) and (10), by discussing them twice in the best interest portion of its memorandum. In its analysis, the trial court wrote:

i)The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;

The step mother testified that she has a positive relationship with the child and that she does not interfere with the father and the child's relationship. She described the child as a good boy, well behaved and happy, acts silly, loves to play Legos, go to sky zone, and loves his dog. She and the father encourage him to talk to his mother all of the time and when the mother calls he is allowed to talk to her every day.

The Mother did not describe the child's relationship with herself or any other people. She did not describe his relationship with her spouse or another other persons in her life, even though she has stated she was engaged on two occasions in addition to the spouse.

This factor weighs in favor of the father.

The trial court wrote on the very next page of its memorandum:

(1) The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;

The child has a good relationship with father's wife. The father has another child prior to this child and he is the alternative parent of that child. [The child] has a good relationship with that child.

There is no testimony about his relationship with the significant persons in the mother's life. This factor weighs in favor of the father.

The trial court also repeated its analysis of factor (10). It wrote:

j) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

The child has always lived primarily with the mother. The mother has previously moved from Tennessee to Texas. She planned to move to New Hampshire, planned to move to Arizona, but never moved to either of those states. She stated she was engaged to a person in Arizona, but did not divulge

her marriage occurred in 2022. There is some proof that the instability may be having some effect on the child with his behavior.

This factor weighs in favor of the father.

...

(m) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

The child has not had continuity while in the mother's care. The Mother has consistently attempted to thwart the father's visitation and has actually moved from state to state in the court's opinion to prevent the father from being close to the child to exercise his visitation.

This factor weighs in favor of the father.

We agree that the trial court unnecessarily repeated its analysis of the two factors. Statutory best interest analysis is not, however, a mathematical exercise, and trial courts do not determine custody by mechanically tallying the statutory factors. *Cali v. Cali*, No. W2024-00773-COA-R3-CV, 2025 WL 3474133, at *5 (Tenn. Ct. App. Dec. 3, 2025); *see also Grissom*, 586 S.W.3d at 393 (explaining that the relevance and weight of the statutory factors depend on the circumstances of the case and that any one factor may prove determinative). The trial court's analysis does not reflect that its determination was made based upon counting.

While the trial court's analysis is not without flaws, the trial court's ultimate best interest conclusion does not constitute an abuse of discretion. Based upon our review of the record and trial court's final order, it is apparent that the trial court's ruling was driven by three core concerns. One, the trial court made findings and expressed concern about Mother's pattern of instability, including her repeated attempted and actual relocations, overlapping relationships involving bringing a different spouse and fiancé into and out of the child's life, and lack of honesty with Father and the trial court as to these matters. On appeal, Mother notes that Father also moved, referencing his move to Missouri; however, Father's move to Missouri was to be closer to M.W.V. Two, the trial court also was plainly concerned about Mother repeatedly thwarting Father's efforts to exercise quality parenting time with the child, including placing excessive barriers of her own creation between Father and M.W.V. The record supports the trial court's findings with regard to this concern. Three, the trial court was also concerned with the nature of Mother's relationship with the child because, while the relationship was emotionally strong, Mother was not well-positioned for correcting misbehavior by the child. Ultimately, the question before this court is not whether the members of this court would have reached the same decision as the trial court. The question is instead whether the trial court abused its discretion. We

conclude that the trial court did not.

III.

Father requests his attorney's fees on appeal pursuant to Tennessee Code Annotated section 36-5-103(c). The statute provides:

A prevailing party may recover reasonable attorney's fees, which may be fixed and allowed in the court's discretion, from the nonprevailing party in any criminal or civil contempt action or other proceeding to enforce, alter, change, or modify any decree of alimony, child support, or provision of a permanent parenting plan order, or in any suit or action concerning the adjudication of the custody or change of custody of any children, both upon the original divorce hearing and at any subsequent hearing.

Tenn. Code Ann. § 36-5-103(c).

An appeal is a "subsequent hearing" under statute. *Colley v. Colley*, 715 S.W.3d 293, 315 (Tenn. 2025). When a party requests a discretionary award of fees, "the Court of Appeals should analyze any such request by exercising its discretion to determine whether an award to the prevailing party is appropriate." *Eberbach v. Eberbach*, 535 S.W.3d 467, 477 (Tenn. 2017). In making a determination of whether to award attorney's fees to a prevailing party, this court has considered the parties' economic circumstances, whether the appeal was in good faith, and any other equitable factor relevant in the particular case. *See, e.g., Blount v. Blount*, 720 S.W.3d 295, 357 (Tenn. Ct. App. 2024); *Chase v. Chase*, 670 S.W.3d 280, 305 (Tenn. Ct. App. 2022); *Baxter v. Rowan*, 620 S.W.3d 889, 897-98 (Tenn. Ct. App. 2020); *Ellis v. Ellis*, 621 S.W.3d 700, 709 (Tenn. Ct. App. 2019). "Concerning *appellate* attorney's fees, it is within the sole discretion of this Court whether to award said fees." *Ford v. Ford*, No. M2023-01762-COA-R3-CV, 2026 WL 125827, at *11 (Tenn. Ct. App. Jan. 16, 2026).

Father requests attorney's fees incurred on appeal. Father's brief asserts the correctness of the trial court's conclusion as to the merits of the underlying case but does not develop an argument for why attorney's fees are warranted in the present case in accordance with the jurisprudence of this court. Father offers no evidence or argument addressing the parties' relative economic circumstances. He does not assert Mother's appellate arguments were frivolous or asserted in bad faith. To the contrary, while Mother did not prevail, she presented thoughtful arguments in support of her positions. Father does not present any other equitable consideration that would support an award of attorney's fees. In exercising our discretion in light of the record and arguments before us, we conclude that this is not a case in which an award of attorney's fees to Father is warranted.

IV.

For the aforementioned reasons, we affirm the judgment of the Juvenile Court for Montgomery County. Costs of this appeal are taxed to the Appellant, Jessica Trimble, for which execution may issue if necessary. The case is remanded for such further proceedings as may be necessary and consistent with this opinion.

s/ Jeffrey Usman

JEFFREY USMAN, JUDGE