

Father has had primary physical custody of the children since April 2023. **See** Order, 4/13/23. On December 19, 2024, Mother filed a petition for modification of custody in which she sought “sole legal custody and primary physical custody during the school year and shared physical custody during the summer.” Petition for Modification of Custody, 12/19/24, at 3. The trial court explained:

Following a custody conference on the modification petition, a Proposed Order dated February 24, 2025, was entered, and Mother filed timely exceptions. Father did not file exceptions to the Proposed Order.

Given the litigious, ongoing history of this custody matter and the issues being raised, upon petition of Father, on May 22, 2025, the [c]ourt appointed a guardian *ad litem* [GAL], Attorney Gerald V. Benyo. On that same date, upon motion of Mother, without objection, the [c]ourt ordered a comprehensive custody evaluation to be conducted by Eric Bernstein, Psy.D.

After completion of the evaluation, the custody trial occurred on December 15-17, 2025, with the [c]ourt receiving testimony and documentary evidence presented by both parties, and concluded after all three (3) of the minors were interviewed by the [c]ourt in chambers on December 29, 2025, with counsel for both parties present.

TCO at 1-2. The court further observed:

This case involves three children who were compliant in varying degrees with the [existing] custody order at the time of [trial]. The two boys had not visited Mother until the guardian *ad litem* was appointed in May 2025, made recommendations, and assisted the parties. At the time of [trial], M.J. was just initiating visits with Mother, albeit very limited in duration (approximately 2 hours), and with his cousin accompanying him. J.J. simply refused. The boys each presented with individual issues and needs related to their education as well. I.J. was reported by all as a happy, well-adjusted child and was visiting with Mother pursuant to the terms of the [existing o]rder.

Id. at 4.

In addition to considering Mother's custody petition, the trial court heard evidence pertaining to a petition for special relief Mother filed on September 3, 2025, in which she claimed, among other things, that Father was noncompliant with the existing custody order and that his custody should be suspended; the court also considered Father's answer in which he denied the allegations and requested counsel fees for having to respond to allegations that had "no foundation in fact." Answer to Petition for Special Relief, 9/11/25, at 3.

At trial, Mother testified and presented testimony from the court-appointed psychologist, Dr. Bernstein, and another psychologist, Dr. Bruce Chambers, who evaluated the family in 2018.³ Mother also presented testimony from her mother, Janelle Short.

Father testified and presented testimony from Amanda Sobieski, a therapist who became involved with the family in 2024 as a result of M.J.'s truancy; Taylor Milliken, a therapist who began providing the family with weekly home-based therapy in 2023; Raylene Boots, who was familiar with M.J. and J.J. because of her role as a teacher and coordinator of the boys' cyber education; Michael Lucarelli, who was I.J.'s third grade teacher; Rick

³ Mother introduced Dr. Chambers' testimony for "his observations of the parents in 2018 vis-à-vis Dr. Bernstein's [observations]." N.T., 12/16/25, at 140. Father's counsel objected, noting that Dr. Chambers had last seen the children when they were "almost toddlers." **Id.** The trial court permitted Dr. Chambers to testify with the caveat that the court would "not permit him to extrapolate facts that he does not have." **Id.** at 141.

Schiffer, a therapy supervisor at MHY Family Services who became involved with the family in 2024; and Brandy Reagle, who is Father's wife.

As noted above, the trial court interviewed the children individually in chambers, and considered input from the guardian *ad litem*.

On January 20, 2026, the parties and counsel convened for the trial court to verbally communicate its "findings and conclusions, which were incorporated into the written Custody Order entered that same day."⁴ TCO at 2. In its order, the trial court noted its "careful consideration of the custody factors" set forth in 23 Pa.C.S. § 5328(a). Order, 1/20/26, at 1. The court awarded the parties shared legal and physical custody of the children, with Mother having partial physical custody on weekends and Wednesdays, and Father having physical custody "at all other times." *Id.* at 2-3. The court also ordered that both parties participate in co-parenting counseling at the Psychology and Learning Center; that Father enroll in a parenting program at A Child's Place Advocacy Center; and that Mother enroll, along with J.J., in reunification counseling at People In Need, Inc., and enroll or continue with individual counseling. *Id.* at 6-8.

In addition, the trial court found Father owed Mother \$2,450 for his one-half share of Dr. Bernstein's evaluation fee, but directed that Father deduct

⁴ As Father observes, "the transcript of the court's findings and reasoning runs to 45 pages in length." Father's Brief at 3. The court provided a detailed explanation, and in conclusion, advised it would be "in chambers and let my tipstaff know if you [need] clarification or [have] questions, because I did take a lot of time drafting this Order and it does have some provisions that are a little bit unusual but I think this case deserves that." N.T., 1/20/26, at 45.

\$1,000 from that amount after granting his request for counsel fees he incurred in responding to Mother's "groundless, obdurate and vexatious" petition for special relief. ***Id.*** at 8.

On February 17, 2026, Mother filed a notice of appeal and concise statement pursuant to Pa.R.A.P. 1925. Mother raises the following claims:

1. The [trial c]ourt erred and/or abused its discretion when it found in favor of Father regarding the majority of the custody factors, denied Mother's request for primary and/or 50/50 custody of the children, minimized and/or disregarded custody Dr. Bernstein's testimony regarding Father's alienation of the children against Mother, disregarded the evidence of Father's attempts to turn the children against Mother, disregarded Father's mental health issues, disregarded Father's criminal background, including endangering the welfare of the children, disregarded and/or minimized the children's significant truancy during Father's primary custody, disregarded Father's failure to comply with the existing custody orders, and disregarded the evidence that Father leaves the children primarily in the care of the children's stepmother and paternal grandmother.
2. The [trial c]ourt erred and/or abused its discretion when it terminated Mother's weekly overnight custody every Thursday with her three children, without any explanation, when Mother's weekly Thursday overnight custody had been established in paragraph B.1 of the temporary Custody Order dated February 24, 2025 and also established by the prior custody Orders of August 9, 2023 and April 13, 2023.
3. The [trial c]ourt erred and/or abused its discretion when it disregarded Dr. Chambers' testimony that Father's alienation of the children and Father's mental health issues, identified years before in Dr. Chambers' prior evaluation, were still unabated since the time of Dr. Chambers' evaluation of Father, that Dr. Chambers had previously warned the [c]ourt and predicted the dangers of Father's alienating behavior and untreated mental health issues, when Dr. Bernstein had, in Dr. Bernstein's report and testimony, identified the same mental health concerns regarding Father as Dr. Chambers had warned of, including Father's alienation of the children against Mother.

4. The [trial c]ourt erred and/or abused its discretion by refusing to admit the written reports of the custody evaluators into evidence.
5. The [trial c]ourt erred and/or abused the [c]ourt's discretion when the [c]ourt found Mother's Petition for Special Relief to be groundless, obdurate, and vexatious, and awarded Father counsel fees of \$1,000 to respond to Mother's Petition for Special Relief.

Mother's Brief at 12-14.

Discussion

This Court reviews the trial court's custody order for an abuse of discretion. The law is well-settled:

We must accept findings of the trial court that are supported by competent evidence of record, as our role does not include making independent factual determinations. In addition, with regard to issues of credibility and weight of the evidence, we must defer to the presiding trial judge who viewed and assessed the witnesses first-hand. However, we are not bound by the trial court's deductions or inferences from its factual findings. Ultimately, the test is whether the trial court's conclusions are unreasonable as shown by the evidence of record. We may reject the conclusions of the trial court only if they involve an error of law, or are unreasonable in light of the sustainable findings of the trial court.

Wilson v. Smyers, 284 A.3d 509, 515 (Pa. Super. 2022) (citation omitted).

In custody matters, the "paramount concern is the best interests of the children involved." ***A.L.B. v. M.D.L.***, 239 A.3d 142, 148 (Pa. Super. 2020) (citation omitted). When ordering any form of custody, a trial court must determine the best interest of the children by considering relevant statutory factors, and giving substantial weighted consideration to specific factors that affect the safety of the children. **See** 23 Pa.C.S. § 5328(a). "This Court defers to the credibility determinations of the trial court with regard to the witnesses

who appeared before it, as that court has had the opportunity to observe their demeanor.” ***Harcar v. Harcar***, 982 A.2d 1230, 1236 (Pa. Super. 2009) (citations omitted). Pertinently,

the discretion a trial court employs in custody matters should be accorded the utmost respect, given the special nature of the proceeding and the lasting impact the result will have on the lives of the parties concerned. Indeed, the knowledge gained by a trial court in observing witnesses in a custody proceeding cannot adequately be imparted to an appellate court by a printed record.

Ketterer v. Seifert, 902 A.2d 533, 540 (Pa. Super. 2006) (citation omitted).

In her first three claims, Mother assails the trial court’s discretion in weighing the evidence concerning Father. Mother argues that the court “unreasonably disregarded” Dr. Bernstein’s testimony and “erred when it disregarded the testimony of the experts,” Dr. Bernstein and Dr. Chambers, “that the remedy for the alienation of the children is to change the custody situation and flip the custody” to Mother. Mother’s Brief at 51-52. We are not persuaded by Mother’s argument.

First, Mother does not accurately represent the testimony of Dr. Bernstein and Dr. Chambers. The trial court observed that Dr. Chambers “had not evaluated or met with the children or Father” since 2018, and “specifically testified that he could not make any recommendations as he did not perform a custody evaluation before testifying.” TCO at 7. The court “found little value in his testimony and assigned it no weight.” ***Id.*** at 7-8.

As to Dr. Bernstein, the court stated:

I found telling that in the interviews conducted by Dr. Bernstein and [his] testimony, Mother wished to strip Father of as much custody as possible, but Father at that time looked toward a future of sharing custody. I understand that Mother was frustrated with her current situation where [J.J.] refuses to have contact and [M.J.] is finally beginning some contact in the renewal of his relationship with her. Mother blames everyone else for this predicament she is in, but she is not entirely without fault, [and] she cannot acknowledge her own conduct in bringing about how things stand or how to change the trajectory.

N.T., 1/20/26, at 14-15.

While Mother asserts that the trial court disregarded evidence of Father's alienation of the children, the court expressly stated, "I do not believe Father has actively worked to alienate mother." ***Id.*** at 15; TCO at 7 (trial court stating it "did not find" Father alienated the children from Mother). To the contrary, the court stated that despite Mother's "attempt to paint Father as alienating, the [c]ourt finds Mother's hostility and negativity toward Father is the most significant issue facing this family and the ability of them to co-parent." N.T., 1/20/26, at 12. Nonetheless, the court cautioned, "Father must recognize that the [custody o]rder must be followed and if not, then he must address the issue and simply not ignore it, which he has done for the past year." ***Id.*** at 16.

Regarding Father's mental health, the trial court found neither party "has a mental or physical condition that would affect their ability to care for the children." ***Id.*** at 27. With respect to the involvement of Children and Youth Services (CYS) and Father incurring criminal charges as a result of leaving the children unattended, the court found that this evidence favored

Mother, but observed that CYS's involvement and the criminal charges occurred approximately seven years prior, in 2018, and "due to [the children's] young ages, an investigation was undertaken along with criminal charges for endangering [the children]." **Id.** at 8.⁵

Mother also refers to the children being truant, but the record indicates that the boys were enrolled in cyber school at the time of trial, and the court observed that their truancy was due to them "eloping from school" in 2024, after which Father "followed all the recommendations for the intensive multi-systemic therapy ... which benefitted all of the children." **Id.**

Our review of the record reveals no abuse of the trial court's discretion in considering the children's "complex and particular issues" and entering the January 20, 2026 order "to provide both parties with optimal custodial time ... while providing stability and serving [the children's] best interest and welfare." TCO at 5. The court heard from numerous witnesses, addressed the statutory custody factors, and remarked that it took "a lot of time" to make its decision. N.T., 1/20/26, at 45. The court found both parties "adequately equipped" to care for the children "despite their very antagonistic relationship and past questionable decisions." **Id.** at 6. Most significantly, the court found "the best interest of the children would be residing primarily with Father and undertaking steps to re-unify with Mother." TCO at 4. We find no merit to Mother's first three claims.

⁵ The court noted "Father was permitted entry into the ARD program." **Id.**

In her fourth claim, Mother argues that the trial court “erred when it refused to admit the written report of Dr. Bernstein” contrary to Pa.R.C.P. 1915.8. Mother’s Brief at 64.⁶ This claim is unavailing.

The admission of evidence is a matter vested within the sound discretion of the trial court, and the decision will be reversed only upon a showing that the trial court abused its discretion. ***Wilson***, 284 A.3d at 514. Rule 1915.8 states:

(b) Unless otherwise directed by the court, the expert shall deliver to the court, to the attorneys of record for the parties, to any unrepresented party, and to the guardian *ad litem* and/or counsel for the child, if any, copies of any reports arising from the evaluation setting out the findings, results of all tests made, diagnosis and conclusions. **No reports shall be filed of record or considered evidence unless and until admitted by the court.** Any report which is prepared at the request of a party, with or without a court order, and which a party intends to introduce at trial, must be delivered to the court and the other party at least thirty days before trial. If the report or any information from the evaluator is provided to the court, the evaluator shall be subject to cross-examination by all counsel and any unrepresented party without regard to who obtains or pays for the evaluation.

Pa.R.C.P. 1915.8(b) (emphasis added).

Mother asserts that Rule 1915.8(b) “requires the report of the [c]ourt appointed custody evaluator to be admitted into evidence before the trial court can consider the report.” ***Id.*** at 63-64. As indicated above, this is not what the rule says. The trial court is not required to admit the evaluator’s report.

⁶ Mother states that the trial court “abused its discretion by refusing to admit the written reports of the custody evaluators,” but only mentions Dr. Bernstein in her two-paragraph argument. ***Id.*** at 63-64.

The only other authority Mother cites — but does not discuss — is this Court’s decision in ***Ottolini v. Barrett***, 954 A.2d 610 (Pa. Super. 2008). In ***Ottolini***, the trial court directed the parties’ children to submit to a psychological custody evaluation. ***Id.*** at 612. The evaluator did not appear at trial, and his report was not admitted into evidence. ***Id.*** On appeal, the father claimed the trial court “erred in relying on the opinions in [the evaluator’s] expert report without ever admitting the report into evidence, without ever calling [the evaluator] as a witness, and without subjecting [his] opinions to cross-examination.” ***Id.*** at 613 (footnote omitted). We agreed with the father because “the trial court ordered [the evaluator’s] report *sua sponte* and, in doing so, accepted the responsibility for ensuring [the evaluator] was subject to cross-examination in accordance with Rule 1915.8(b).” ***Id.*** at 614. Here, unlike ***Ottolini***, Dr. Bernstein appeared at trial and was subject to direct, cross, re-direct, and re-cross examination. ***See*** N.T., 12/16/25, at 5-137.

In addition, the trial court explained that it declined to admit Dr. Bernstein’s report because it “contained opinions or information which was not testified to” by Dr. Bernstein. TCO at 9. The court also stated that “the testimony provided under oath and subject to cross-examination was the only evidence” the court considered, as the parties did not stipulate to the admission of the report, which contained “hearsay and no exception applied.” ***Id.*** Therefore, trial court did not abuse its discretion in declining to admit Dr. Bernstein’s report.

In her fifth and final claim, Mother argues that the trial court erred in awarding Father \$1,000 for counsel fees he incurred in responding to Mother's petition for special relief. This Court's "ability to review the grant of attorney[s'] fees is limited, and we will reverse only upon a showing of plain error." ***Pelissero v. Seraly***, 247 A.3d 433, 437 (Pa. Super. 2021) (citation omitted). The trial court has great latitude and discretion with respect to an award of attorneys' fees pursuant to a statute. ***Id.***

Mother asserts that the trial court should have held a hearing "to develop the record on the issue of whether Mother's conduct, in light of the relative merits of her claims, was repetitive, vexatious, or in bad faith as a matter of law, and if so, determine a reasonable award of counsel fees to Father." Mother's Brief at 66. Given the content and size of the record, we find this claim to be specious.

In her petition for special relief, Mother sought to "enforce the order requiring Father to cooperate with the GAL, and to suspend Father's custody pending trial." Order, 9/11/25. In his answer to the petition, Father denied Mother's allegations, stating that they had "no basis," and Mother "[r]epeatedly bringing the same allegations serves no purpose except to make it appear that something different is happening or that Father is willfully disobeying a court order." Answer to Petition for Special Relief at 2. Father initially requested "\$900 in counsel fees for having to respond to this petition." ***Id.*** at 3. He explained that in preparing his response, his counsel had to interview the GAL, draft the response and appear for argument at motions

court, where “Mother, through counsel, stated she would withdraw the petition.” Father’s Brief at 27. Father states that the trial court, “after three days of testimony, much of which pointed out Mother’s misapprehensions and profound hostility” properly awarded counsel fees based on Mother’s vexatious and obdurate conduct. ***Id.*** As the record supports the grant of counsel fees without the need for additional evidentiary proceedings, we agree.

The trial court awarded Father counsel fees permitted by the Judicial Code “as a sanction against a participant’s dilatory, obdurate or vexatious conduct during the pendency of a matter.” 42 Pa.C.S. § 2503(7). The trial court explained:

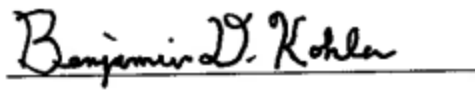
The underlying facts of the petition involved, in part, a custody exchange where the GAL appointed by the court was physically present so as to monitor and assist in the exchange of the minors per the Order. In her petition, Mother accused Father of being uncooperative and as evidence of same, offered that when the children refused to exit Father’s car he “stood by, chatting and smiling.” At the time the motion was presented, it was found that Mother, through her counsel, prepared and noticed her petition without speaking to the Guardian *ad litem*, who was present and who advised the court that this behavior as alleged by Mother did not occur. The petition was verified by Mother. The conduct of Mother ... was vexatious and obdurate and moreover groundless, and the court awarded reasonable counsel fees pursuant to 42 Pa.C.S. § 2503(7).

TCO at 9.

The trial court acted within its discretion awarding counsel fees. For all of the reasons discussed above, we affirm the trial court’s most recent custody order entered on January 20, 2026.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 9/3/2026