

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

VILMA LAJARA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
THOMAS MCMENAMIN	:	No. 323 EDA 2026

Appeal from the Order Entered January 6, 2026
In the Court of Common Pleas of Delaware County Civil Division at
No(s): CV-2016-011079

BEFORE: PANELLA, P.J.E., NICHOLS, J., and NEUMAN, J.

MEMORANDUM BY NEUMAN, J.:

FILED OCTOBER 14, 2026

Vilma Lajara ("Mother") appeals from the January 6, 2026 order entered in the Court of Common Pleas of Delaware County, which awarded Mother and Thomas McMenamin ("Father") limited joint legal custody of the parties' minor child, B.M. ("Child") (born in January 2015), and set forth the terms of the parties' custody agreement. After careful review, we affirm in part and vacate in part.

Background¹

Mother and Father met in 2013 and dated approximately one year before Mother became pregnant with Child. Mother's Exhibit 3 at 7 (Custodial

¹ Father contends Mother's brief should be quashed, or alternatively, the Statement of the Case in Mother's brief should be disregarded, because Mother failed to conform to Pa.R.A.P. 2117. **See** Father's Brief at 2-3. We decline to quash Mother's brief on this basis, but note the following case background is summarized from our independent review of the record.

Evaluation Report by Dr. Chloe Haaz). Mother and Father never married, and their relationship ended when Child was eleven months old. **Id.** Maternal grandparents, uncle, and cousins reside in the Dominican Republic, and additional extended family on Mother's side resides in New York. **Id.** at 14-15. Both paternal grandparents are unfortunately deceased, and Father does not have a close relationship with his brother who resides in Springfield, Pennsylvania. **Id.** at 21-22.

Mother currently resides in a two-bedroom apartment in Secane, Pennsylvania, with her husband and Child. N.T. Trial Day 1, 9/11/25, at 80-81. Father lives approximately 20-30 minutes away in Havertown, Pennsylvania. **Id.** at 82; N.T. Trial Day 2, 12/3/25, at 23. Father owns a four-bedroom, single family home where Child resides during Father's custody periods. N.T. Trial Day 2 at 24. Child attends school in Father's district and his elementary school is located about a mile away from Father's house. N.T. Trial Day 1 at 85, 102. Mother owns a commercial and residential cleaning service. **Id.** at 82. Mother testified she works from home and her schedule is flexible, although she sometimes works until 8:00 or 10:00 p.m. **Id.** at 82-83. Father is currently employed as an outside sales representative for Lifetime Tool Building Products. N.T. Trial Day 2 at 22. Although Father travels some locally and has overnight trips to trade shows a couple times a year, he testified he otherwise works from home and his schedule is flexible. **Id.** at 22-23.

The parties have been engaged in extensive and contentious litigation since Mother filed her initial complaint for custody in December 2016. Thus, we briefly summarize the case's procedural history as it relates to the current appeal. Since May 2019, Mother and Father have shared joint legal custody and 50/50 physical custody on a week-on/week-off basis. **See** Final Custody Order, 5/3/19, at 1. On December 18, 2023, Mother filed a Petition for Modification of Custody, seeking primary physical custody of Child. Petition for Modification of Custody, 12/18/23, at 1-2 (unpaginated). On January 29, 2024, Mother made an oral request for a custody trial. Trial Court Opinion ("TCO"), 3/6/26, at 2.² Initially, a hearing on Mother's modification petition was held on January 15, 2025. At that time, the trial court heard testimony from Child's therapist, Ms. Jane Iannuzzelli. N.T. Hearing, 1/15/25, at 7-54. The trial court also briefly talked to Child off the record, in the presence of both attorneys. **Id.** at 73. After consultation between the trial court and the parties, it was agreed proceedings would be paused to permit family therapy to occur between Father and Child. **Id.** at 83; **see also** Order, 1/15/25, at 1 (ordering Mother's request for trial *de novo* "is held in abeyance [and] the trial record shall remain open"). Proceedings on Mother's modification petition subsequently occurred on September 11, 2025, and December 3, 2025.

² A pre-trial conference was scheduled for May 1, 2024, and trial was scheduled for September 23, 2024; however, trial was continued by joint request due to the unavailability of a witness. **See** Application for Continuance, 9/19/24, at 1 (single page).

On January 6, 2026, the trial court entered an extensive 40-page order which, *inter alia*, granted Mother and Father limited joint legal custody of Child for medical emergencies and non-routine medical care. Final Custody Order (“FCO”), 1/6/26, at ¶ 1 (footnotes omitted).³ Regarding physical custody, the trial court ordered the following:

22. School year:

a. Father shall have primary physical custody subject to Mother’s partial physical custody as follows:

i. Every other weekend from Friday school pick up by Mother to Sunday pick up at 8PM by Father at Mother’s home.

2. If school is closed on Friday, Mother shall pick up [C]hild at Father’s home at 9AM.

ii. Every Wednesday dinner visit from school pick up to drop off at Father’s home at 8PM.

1. If school is closed on Wednesday, Mother shall pick up [C]hild at Father’s home at 4PM.

2. If [C]hild has an afterschool sport or extracurricular activity on Wednesday, Mother shall pick up [C]hild from the sport or activity location.

23. Summer:

a. Parents shall have shared physical custody of ... [C]hild on an alternating weekly schedule Sunday at 4PM to Sunday at 4PM.

³ The trial court specified that “Child’s school enrollment, religious/faith[-]based attendance[,], and sports/recreation are not within the purview of the above ordered joint legal custody, and are not modifiable except by [o]rder of [c]ourt.” FCO at ¶ 1a.

Id. at 4-5. It further directed, as relevant to the issues raised herein:

80. Non-custodial parent is **prohibited** from directly or indirectly making contact with, or attempting to make contact with, ... Child during the other parent's custodial period, including but not limited to in[-]person, phone calls, texts, emails[,] or video calls, with the exception of custodial exchange arrival notification....

84. Child may initiate communication with non-custodial parent at any time and without restriction.

85. Parents shall inform Child that he may call non-custodial parent when he chooses, except that no phone call shall be made during school hours.

86. Non-custodial parent shall ensure that no conversation with Child exceeds fifteen (15) minutes by positively and calmly advising Child that the phone call must end.

a. Non-custodial parent shall not engage in a phone call received from Child during school hours and if a phone call is received from Child, non-custodial parent shall calmly and positively ascertain whether Child is calling due to physical abuse, criminal activity[,] or imminent medical emergency, and if not, shall end phone contact.

b. Custodial parent shall not direct Child to end a phone call even if it has exceeded the fifteen (15) minute period nor shall custodial parent engage in any discussion with ... Child about limiting the time of the phone calls.

c. Custodial parent shall ensure that Child is alone and out of hearing distance of parent or any other individual during Child's contact with non-custodial parent.

d. Custodial parent shall ensure that Child does not speak with non-custodial parent on speaker phone or in any manner which would allow the conversation to be heard or broadcast.

e. Non-custodial parent shall not question Child as to his surroundings, whether anyone is present in his immediate area, or whether the custodial parent has attempted to

influence or restrict him from calling the non-custodial parent.

87. Non-custodial parent is ***prohibited*** from directing Child to call him or her at specific times so that a schedule develops for phone calls from Child to parent, or to direct Child to call him or her repeated times during a specific time period.

111. Child may decline to attend any religious or faith[-]based services/activities/event[s] beginning at the age of fourteen (14).

a. Parents are prohibited from taking any action meant to influence, restrict[,] or limit ... Child's participation in religious or faith[-]based services/activities/events before or after he reaches the age of fourteen (14).

Id. at 16-18, 23 (emphases in original; some capitalization modified).

On January 28, 2026, Mother filed a timely notice of appeal, along with her concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(a)(2)(i). On March 6, 2026, the trial court filed an opinion pursuant to Rule 1925(a)(2)(ii), which addressed the issues raised by Mother in her concise statement and referred to its custody factor analysis in its January 6, 2026 final custody order.

Issues

On appeal, Mother presents the following issues for our review:

1. Whether the trial court erred and/or abused its discretion in its analysis of the custody factors in 23 Pa.C.S.[] § 5328(a) when it determined legal and physical custody, specifically factors (1), (2), (3)/(4), (6), (9), (10), (11), and (16)[?]⁴

⁴ Mother clarifies she is actually raising an issue with custody factors (7), (14), (15), and (16) which were labeled by the trial court as custody factors (6), (Footnote Continued Next Page)

2. Whether the trial court erred and/or abused its discretion by prohibiting Mother from contacting ... [C]hild during Father's custodial time[?]
3. Whether the trial court erred and/or abused its discretion in ordering that ... [C]hild[] may decline to attend any religious or faith-based services/activities/events beginning at the age of 14[,] and that the parents were prohibited from taking any action meant to influence, restrict, or limit ... [C]hild's participation in religious or faith-based services[,]activities[, or]events before or after he reaches the age of 14.

Mother's Brief at 5 (footnotes and unnecessary capitalization omitted).

(9), (10), and (11) in its January 6, 2026 order. **See** Mother's Brief at 5 n.2. Mother also misidentified the factors she is challenging in her Rule 1925(b) statement, which caused confusion for the court. **See** TCO at 3 ("Mother's concise statement claims that this trial court's final custody order contained multiple errors of law and abuses of discretion[;] however, [it] does not describe in any discernable detail what those alleged errors are, other than ... identify[ing] the [f]actors (including an unknown factor 16). As such it is difficult for this [t]rial [c]ourt to determine how best to respond to these claims....") (some capitalization modified). We remind Mother the Pennsylvania Rules of Appellate Procedure dictate a Rule 1925 statement "shall concisely identify each error that the appellant intends to assert with sufficient detail to identify the issue to be raised for the judge." Pa.R.A.P. 1925(b)(4)(ii); **see also S.S. v. T.J.**, 212 A.3d 1026, 1031 (Pa. Super. 2019) (directing "the statement must be concise and sufficiently specific ... as to allow the trial court to understand the allegation of error and offer a rebuttal"). "Rule 1925 is a crucial component of the appellate process because it allows the trial court to identify and focus on those issues the parties plan to raise on appeal." **Kanter v. Epstein**, 866 A.2d 394, 400 (Pa. Super. 2004) (citation omitted). "[T]his Court may find waiver where a concise statement is too vague." **In re A.B.**, 63 A.3d 345, 350 (Pa. Super. 2013) (citation omitted). While Mother's misidentification of the custody factors in her 1925(b) statement created some confusion, her identification was drawn from the listing of custody factors in the trial court's January 6, 2026 order. Additionally, the trial court ultimately addressed Mother's challenge to the custody factors by relying on its prior analysis, and Father does not suggest Mother has waived consideration of these factors due to this deficiency. Given the foregoing, and because Mother's concise statement is not so vague as to impede our ability to conduct meaningful appellate review, **see id.**, we decline to find Mother's challenge to these factors waived.

Discussion

We review custody determinations under the following scope and standard of review:

[O]ur scope is of the broadest type and our standard is abuse of discretion. 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.

A.D. v. M.A.B., 989 A.2d 32, 35-36 (Pa. Super. 2010) (citations and quotation marks omitted). "Moreover, '[t]he paramount concern in a child custody case is the best interests of the child, based on a consideration of all factors that legitimately affect the child's physical, intellectual, moral[,] and spiritual well-being.'" **Landis v. Landis**, 869 A.2d 1003, 1011 (Pa. Super. 2005) (quoting **Wheeler v. Mazur**, 793 A.2d 929, 933 (Pa. Super. 2002)). "This determination is to be made on a case[-]by[-]case basis." **Id.** Additionally, we note,

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).

Ultimately, a trial court must determine the child's best interest by considering the relevant statutory factors, giving weighted consideration to those affecting the safety of the child. **See** 23 Pa.C.S. § 5328(a). The statutory factors used by the trial court included:

(1) Which party is more likely to ensure the safety of the child.

(2) The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.

(2.1) The information set forth in [23 Pa.C.S. §] 5329.1(a) (relating to consideration of child abuse and involvement with protective services).

(2.2) Violent or assaultive behavior committed by a party.

(2.3) The level of cooperation and conflict between the parties, including:

(i) which party is more likely to encourage and permit frequent and continuing contact between the child and the other party or parties if contact is consistent with the safety needs of the child; and

(ii) the attempts by a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party's good faith and reasonable effort to protect the safety of a child or self shall not be considered evidence of unwillingness or inability to cooperate with the other party. A party's reasonable concerns for the safety of the child and the party's reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child's deficient or negative relationship with a party shall not be presumed to be caused by the other party.

(3) A willingness and ability of a party to prioritize the needs of the child by providing appropriate care, stability[,] and

continuity for the child, considering the parental duties performed by the party on behalf of the child in the past and whether the party is willing and able to perform the duties in the future, and attend to the daily physical, emotional, developmental, educational[,] and special needs of the child.

(4) The need for stability and continuity in the child's education, family life[,] and community life, except if changes are necessary to protect the safety of the child or a party.

(6) The child's sibling and other familial relationships.

(7) The well-reasoned preference of the child, based on the child's developmental stage, maturity[,] and judgment.

(11) The proximity of the residences of the parties.

(12) Each party's employment schedule and availability to care for the child or ability to make appropriate child-care arrangements.

(14) The history of drug or alcohol abuse of a party or member of a party's household.

(15) The mental and physical condition of a party or member of a party's household.

(16) Any other relevant factor.

23 Pa.C.S. § 5328(a) (effective Aug. 29, 2025).⁵ While a court's consideration of the Section 5328 custody factors is mandatory, "it is within the trial court's

⁵ We acknowledge an initial hearing on Mother's modification petition occurred prior to the August 29, 2025 amendment to Section 5328; however, the trial court explained to the parties before beginning the September 11, 2025 *(Footnote Continued Next Page)*

purview as the finder of fact to determine which factors are most salient and critical in each particular case.” ***E.B. v. D.B.***, 209 A.3d 451, 468 (Pa. Super. 2019) (citation omitted).

I. Burden of Proof and Weight of the Evidence

proceeding that it would only take into consideration evidence presented from that point forward. Specifically, the trial court stated:

[T]his [c]ourt is only going to take into consideration ... the evidence that’s presented here today.

So[,] when you say that Ms. Iannuzzelli’s position has not changed, you need to determine what, if any, evidence needs to come in of the unchanged position. However, if you believe that her position is clearly stated, or clearly stated in your opinion, for the [c]ourt to consider at other places in the prior trial record, that could be testimony, it could be documents that were moved into the record, then you can reference that as ... you see fit.

I’m just letting you know that unless I have some evidence of [Ms. Iannuzzelli’s] position, however way that you want to present it, or feel that it needs to be presented, then you should do that.

N.T. Trial Day 1 at 5; ***see also id.*** at 6 (trial court’s explaining, “the parties want all the evidence before the [c]ourt to [be] consider[ed], but the [c]ourt c[an] only consider actual evidence that’s presented as opposed to a suggestion of a position of a certain individual.”). Having informed the parties prior evidence would not be considered, and receiving no objection, the trial court deemed the trial on Mother’s petition to commence on September 11, 2025, and thus used the version of the custody factors effective August 29, 2025, in its analysis. ***See*** TCO at ¶ 6 (“On September 11, 2025, the [c]ustody trial commenced before the [t]rial [c]ourt.”). Although Mother challenges the trial court’s consideration (or lack thereof) of the evidence presented at the hearing on January 15, 2025, as discussed *infra*, she does not challenge the trial court’s use of this version of the custody factors.

In Mother's first issue, she raises a challenge to the trial court's analysis under Section 5328, alleging it is

significantly flawed, as many of its conclusions are based upon a capricious disregard or disbelief of the evidence presented at trial and/or are entirely unsupported by the record. Based upon the evidentiary record, including the testimony of mental health professionals [Ms.] Iannuzzelli and Dr. ... Haaz, the trial court should have awarded Mother primary physical custody of ... [C]hild and sole legal custody regarding ... [C]hild's medical and mental health decisions. ... [C]hild's best interests are not served by spending more time with Father than Mother.

Mother's Brief at 25. Specifically, Mother argues the trial court erred in its analysis of Sections 5328(a)(1), (2), (2.1), (2.2), (2.3), (3), (4), (7), (14), (15) and (16). **Id.** at 25 n.4.⁶ In support, she claims the trial court completely disregarded and/or selectively weighed the testimony of Ms. Iannuzzelli and Dr. Haaz related to multiple custody factors, including *inter alia* the physical and emotional safety of Child, Mother's alcohol usage, and the parties' mental health conditions. **Id.** at 28-31, 42, 44, 47. Mother also suggests the trial court's characterization of her behavior is entirely unsupported by the record,

⁶ Initially, we note that despite addressing them in the argument portion of her brief, Mother does not mention Sections 5328(a)(2.1), (2.2), or (2.3) in her statement of questions involved. Sections 5328(a)(2.1), (2.2), and (2.3) are separate and distinct factors from Section 5328(a)(2); thus, we conclude Mother's arguments regarding these factors are waived. **See** Pa.R.A.P. 2116(a) ("No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby."). Further, Father does not list these Sections in his brief when discussing the factors raised by Mother on appeal, supporting our conclusion that Mother's arguments regarding these factors are not fairly suggested by her statement of questions involved and are therefore waived. Nevertheless, we will briefly summarize the trial court's findings regarding these factors *infra*, since they also relate to other custody factors challenged by Mother.

or alternatively, if it is supported there was still no evidence it has had a negative impact on Child. ***Id.*** at 37-38. Additionally, Mother maintains the trial court's statement it did not interview Child is incorrect, "constitut[ing] an abuse of discretion in and of itself." ***Id.*** at 40. For the following reasons, we conclude no relief is due on these claims.

Upon commencing the trial on Mother's petition on September 11, 2025, the trial court heard testimony from Dr. Haaz, Mother, Father, and Kristen Wells, Father's paramour.⁷ Assessing their credibility and weighing the evidence presented, the trial court considered all the custody factors set forth in Section 5328(a) of the Custody Act. It addressed its findings as to each factor in its January 6, 2026 final custody order, and ultimately concluded the custody schedule set forth *supra* would serve Child's best interests. ***See generally*** FCO at 28-39. We summarize the trial court's determinations regarding the factors discussed in the argument portion of Mother's brief — namely, custody factors 1, 2, 2.1, 2.2, 2.3, 3, 4, 7, 14, 15, and 16 — as follows.

Custody factor 1 requires the trial court to consider "[w]hich party is more likely to ensure the safety of the child." 23 Pa.C.S. § 5328(a)(1). The trial court found this factor favored both parents, concluding, "there was no

⁷ The trial court also heard testimony from Julia Harkins, Child's third and fourth grade teacher, who testified solely regarding an email Mother alleged Father forged; therefore, her testimony is not germane to the issues raised on appeal.

credible evidence []either parent has failed to ensure the physical safety of ... [C]hild.” FCO at 28. It acknowledged there had been contact with Child and Youth Services (“CYS”) and Mother had filed a Protection from Abuse (“PFA”) petition, pursuant to 23 Pa.C.S. §§ 6101 *et seq.*, against Father, but the court concluded the CYS investigations were unfounded and there was no credible evidence the PFA allegations included physical or emotional abuse to Child.

Id.

Custody factor 2 concerns “[t]he present and past abuse committed by a party or member of the party’s household, which may include past or current protection from abuse or sexual violence protection orders where there has been a finding of abuse.” 23 Pa.C.S. § 5328(a)(2). The trial court found this factor favored both parents, opining:

There was no evidence of present or past physical abuse committed by either parent or a member of a parent’s household. Although there was contact with [a] PFA court, there was no credible evidence of any actual physical abuse committed by either [parent], against each other or ... [C]hild.

FCO at 29.

Custody factor 2.2 addresses any “[v]iolent or assaultive behavior committed by a party.” 23 Pa.C.S. § 5328(a)(2.2). The trial court found this factor favored Father. FCO at 29.⁸ The trial court explained, “[t]here was

⁸ Despite Mother’s contention the trial court also determined custody factor 2.1 regarding “[t]he information set forth in [23 Pa.C.S. §] 5329.1(a) (relating to consideration of child abuse and involvement with protective services)” favored Father, **see** Mother’s Brief at 33, it is clear the trial court made no additional findings regarding this factor since it had already discussed the (*Footnote Continued Next Page*)

credible evidence that Mother has engaged in assaultive behavior towards Father and in the presence of ... [C]hild, specifically at sports events....” **Id.**

Custody factor 2.3 pertains to

[t]he level of cooperation and conflict between the parties, including:

(i) which party is more likely to encourage and permit frequent and continuing contact between the child and the other party ... if contact is consistent with the safety needs of the child; and

(ii) the attempts by a party to turn the child against the other party, except in cases of abuse where reasonable safety measures are necessary to protect the safety of the child. A party’s good faith and reasonable effort to protect the safety of a child or self shall not be considered evidence of unwillingness or inability to cooperate with the other party. A party’s reasonable concerns for the safety of the child and the party’s reasonable efforts to protect the child shall not be considered attempts to turn the child against the other party. A child’s deficient or negative relationship with a party shall not be presumed to be caused by the other party.

23 Pa.C.S. § 5328(a)(2.3). The trial court concluded this factor favored neither parent. FCO at 29-30. Specifically, the trial court stated:

Unfortunately, and absolutely detrimental to the best interests of ... Child, there has been an extremely lengthy high level of conflict between the parents, that has effectively hamstrung their ability to engage in cooperative co-parenting[,] and which has resulted in both covert and overt manipulation of ... Child. Both ... parents have engaged in tremendously petty and vindictive tactics meant

unfounded CYS allegations. **Compare** FCO at 29 (listing custody factor 2.1 before proceeding to custody factor 2.2 where the trial court stated “[t]his factor favors Father”) **with id.** at 31 (setting forth custody factors 3 and 4 and declaring “[t]hese factors favor Father...”). Nonetheless, as set forth in footnote 6, Mother’s arguments regarding this factor are waived.

to deny the other the right to parent and to maintain a healthy relationship with ... Child, and have sought to unnecessarily influence and control both ... Child[’s] and the other parent’s behavior (although this was slightly done more by Mother). It is extremely concerning to this court the levels [to which] both parents have sunk in order to malign the other in the eyes of ... Child. Neither parent has been appropriately concerned about ... Child’s emotional and psychological well[-]being, and both have completely ignored and suppressed ... Child’s needs in order to prioritize their own. There was simply no evidence that either parent has made any substantial or even superficial attempts to treat each other with even a modicum of respect or that they have encouraged ... Child to have a strong relationship with the other.

Id. at 30 (some capitalization modified).

Custody factor 3 requires the trial court to consider the willingness and ability of a party to prioritize the needs of the child by providing appropriate care, stability[,], and continuity for the child, considering the parental duties performed by the party on behalf of the child in the past and whether the party is willing and able to perform the duties in the future, and attend to the daily physical, emotional, developmental, educational[,], and special needs of the child.

23 Pa.C.S. § 5328(a)(3). Custody factor 4 involves “[t]he need for stability and continuity in the child’s education, family life[,], and community life, except if changes are necessary to protect the safety of the child or a party.”

23 Pa.C.S. § 5328(a)(4). The trial court analyzed these factors together, concluding they favored “Father, but only extremely slightly.” FCO at 31-36.

The trial court acknowledged both parents provide Child with basic necessities, but it pointed out that neither prioritizes Child’s emotional needs or “stability and continuity for ... [C]hild, especially as it relates to cooperating as parents to ensure that he is comfortable in his activities of daily life.” ***Id.*** at 31. The trial court elaborated as follows:

Mother's all-consuming need to control Father's relationship with ... Child shifts the weight of this factor, by only [to] an extremely slight degree, in favor of Father. She has a credible history of an overwhelming need to control ... Child's physical space, travel, and activities of daily living, for the sole purpose of excluding Father from ... Child's life completely. Significant weight is placed on the credible evidence of Mother's extreme and inappropriate emotional dependency on ... Child (comparing him to her husband and having him sleep in her bed), multiple attempted cover up[s] of school tardies and absences with false excuses, removing ... Child from both the jurisdiction and the country without Father's knowledge or [the] consent of this court, her failure to set boundaries for ... Child with his step-father, her obsessive and unreasonable objection to ... Child['s] walking to and from school, and her physically aggressive conduct in front of ... Child.

Id. at 31-32 (some capitalization modified).

Custody factor 7 concerns "[t]he well-reasoned preference of the child, based on the child's developmental state, maturity[,] and judgment." 23 Pa.C.S. § 5328(a)(7). The trial court found this factor favored neither parent and noted, "the [c]ourt did not interview the child during the trial and neither parent requested [it do so]." FCO at 36. The court recognized it had previously talked to Child and noted Child was interviewed during Dr. Haaz's evaluation. ***Id.*** It found "[C]hild's age and maturity level and his interview results with the evaluator support the finding that ... [C]hild has a close bond with both parents and that if he wants to have phone contact[,] ... he is capable of initiating [it]." ***Id.***

Custody factor 14 relates to "[t]he history of drug or alcohol abuse of a party or member of a party's household." 23 Pa.C.S. § 5328(a)(14). The trial court found this factor slightly favored Father. FCO at 37. It explained, "[t]here was credible evidence ... Mother has engaged in violent and combative

co-parenting contact with Father[, allegedly involving alcohol use], in ... [C]hild's presence[;] however[,] there was no evidence of actual alcohol abuse." **Id.** Therefore, the trial court ordered Mother to undergo an alcohol evaluation to "determine whether there is any risk to ... [C]hild's safety in her physical custody...." **Id.** at 38.

Custody factor 15 concerns "[t]he mental and physical condition of a party or member of a party's household." 23 Pa.C.S. § 5328(a)(15). The trial court found this factor slightly favored Father as "there was no evidence of any condition for either parent" but noted it was "concerned that both parents' irrational and unbalanced behavior could continue to affect their ability to provide ... [C]hild with emotional stability and safety." FCO at 38.

Custody factor 16 relates to "[a]ny other relevant factor." 23 Pa.C.S. § 5328(a)(16). Under this factor, the trial court addressed Dr. Haaz's custody evaluation stating:

The court attached significant weight to multiple findings of the custody evaluator, Dr. ... Haaz, and balanced those findings in light of the totality of the evidence to enter terms in the best interest of ... Child pursuant to the factors. Overall, this court found credible Dr. Haaz's findings that Father has engaged in manipulative tactics, often involving ... Child, has prevented phone contact with ... Child by Mother, and delayed or stalled therapy for ... Child. Dr. Haaz also credibly reported that Child has a close and loving bond with Father. Dr. Haaz also made credible findings that ... Child is sometimes resistant to calling the non[-]custodial parent....

Although Dr. Haaz reports that Mother demonstrated some insight and self-reflection on how she would have done things differently and regretted her actions in public confrontations, in light of the court's credibility assessment of Mother, no weight was attached

to these findings. Mother also reported to Dr. Haaz an incident that allegedly took place when ... Child was six (6) when Father punched ... Child in the thigh and her provision to Dr. Haaz of those records[;] however[,] the evidence supports this court's findings that Mother['s] "regret" is feigned in an attempt to bolster her position that Father is a physical safety threat.

Dr. Haaz also found that Mother was more attentive and in tune to ... Child's medical needs and that she should be awarded the sole right to make those decisions. The evidence does not support Dr. Haaz's opinion regarding sole medical legal custody to Mother. The court finds that Father has been somewhat excluded from decision making, mainly as a result of the parent[']s['] contentious relationship and their mutual unwillingness to include the other as it related to medical situation[s].

Overall, this court finds that Mother, unlike Father, has been able to mask her true intentions regarding co-parenting and that she has a greater ability than Father to present as inclined to cooperate and communicate. ... Mother's credibility is severely affected by her contrary actions to how she presents, and this court finds that she is extremely more calculating than Father, who tends to be more clumsy and brazen in his behavior. As such, it does not surprise this court that Dr. Haaz had a more favorable opinion of Mother than Father and found her credible.

FCO at 38-39 (some capitalization modified). The trial court therefore determined this factor favored neither parent. ***Id.*** at 38.

Additionally, regarding the parties' credibility, the trial court opined:

Mother displays what could only be described as an "ice cold" expression in her physicality and demeanor meant to mask her defiance, which has been exhibited multiple times in open court. She attempts to appear as an innocent victim when she is actually a willing and calculating participant in the drama. Father's tone and demeanor [are] best described as feigned and superficial shock at the manner in which his conduct is portrayed, as if he is surprised that anyone could think that he would resort to such lowbrow tactics.

Neither Father [n]or Mother can claim that they have not acted intentionally or with motivation to hurt the other, and neither was credible in demeanor, attitude[,], or presentation at trial.

Id. at 33.

The trial court further clarified it “has made findings in the best interest of ... [C]hild” after considering “the entire case record, as well as the totality of the evidence received during two (2) days of trial[.]” **Id.** at 34. It added:

Mother’s requested relief is for primary physical custody whereas Father has requested shared 50/50 physical custody[;] however[,] the evidence does not support a finding in either of their favored result[s], as neither would best serve the best interests of ... Child. In this order, Father has been granted primary physical custody during the school year because the evidence and trial record, in their totality, supports the finding that he is more likely to establish and maintain overall stability for ... Child, as this court placed significant weight on the extensive history o[f] tardies and absences in Mother’s custody, her physical behavior in public settings[,] and her failure to advise Father of ... Child’s whereabouts. Granting Father primary custody during the school year does **not** mean that Father bears no responsibility for the current situation, as the evidence supports the finding that Father has used delay tactics/stonewalling when information has been requested of him, made derogatory statements about Mother in Child’s presence, discouraged Mother’s selected athletics, and unilaterally altered the parenting schedule without agreement or adequate notice. However, Mother’s conduct has been slightly more manipulative and controlling than Father’s and since ... Child **cannot** continue to be subjected to the combative behavior of []his parents[,] this court finds ... it is only through granting one parent, Father, primary custody [that] ... this court [can] stem the tide of constant parental conflict.

The court also limits herein the legal custody of both parents to medical emergencies only, effectively eliminating the opportunity for either of them to bicker over the pettiest of issues.

Neither parent should conclude that any term of this order favors one over the other, because **none** do. Every term of the order herein favors ... Child and his best interests **only**. Although one parent may be more satisfied with a term of this order than the other, no term is meant to satisfy either parent or injure either

parent. Both parents must accept that it is solely their behavior that has led to these findings.

Id. at 34-36 (emphases in original, some capitalization modified).

In challenging the trial court's findings under Section 5328, Mother's primary contention is that the trial court erred in its analysis of the custody factors because it "capriciously disregarded or disbelieved competent evidence of record in its analysis." Mother's Brief at 27, 29, 31-32, 47. Specifically, Mother alleges the trial court ignored evidence regarding Father's failure to ensure Child's physical safety, Father's anger and physical violence, Child's preference regarding custody, and failed to address Child's emotional safety. Mother's Brief at 28-32, 40-41. Mother also claims the trial court erred by selectively relying on Dr. Haaz's evaluation. **Id.** at 45-47.

To the extent Mother suggests the trial court ignored the testimony of Ms. Iannuzzelli and Child's interview from January 15, 2025, which involved many of the topics she raises, we note that as discussed *supra* in footnote 5, at the beginning of the September 11, 2025 proceeding, the parties were informed by the trial court that "[t]his [c]ourt is only going to take into consideration of the factors the evidence that's presented here today." N.T. Trial Day 1 at 5. The trial court added, "... unless I have some evidence of [Ms. Iannuzzelli's] position, however way that you want to present it, or feel that it needs to be presented, then you should do that." **Id.** Mother did not seek clarification, nor did she object to the trial court's ruling that only newly presented or referenced evidence would be considered. Under Pennsylvania law,

[i]t is settled that an appellant's "failure to raise a contemporaneous objection to evidence at trial waives that claim on appeal." **Commonwealth v. Thoeun Tha**, 64 A.3d 704, 713 (Pa. Super. 2013) (citation omitted); **see Commonwealth v. Baumhammers**, ... 960 A.2d 59, 73 ([Pa.]2008) (to preserve issue for appellate purposes, party must make timely and specific objection to ensure trial court has opportunity to correct alleged error); **Keffer v. Bob Nolan's Auto Service, Inc.**, 59 A.3d 621, 645 (Pa. Super. 2012) (citations omitted) (emphasis added) ("one must object to errors, improprieties or irregularities **at the earliest possible stage** of the adjudicatory process to afford the jurist hearing the case the first occasion to remedy the wrong and possibly avoid an unnecessary appeal to complain of the matter."); **see also** Pa.R.E. 103(a) (providing that an "[e]rror may not be predicated upon a ruling that admits or excludes evidence unless ... a timely objection ... appears of record."); Pa.R.A.P. 302(a) ("Issues not raised in the lower court are waived and cannot be raised for the first time on appeal.").

Commonwealth v. Radecki, 180 A.3d 441, 455 (Pa. Super. 2018) (emphasis in original). Since Mother did not object, any of her arguments regarding testimony stemming from the January 2025 hearing which was not otherwise referenced at trial in September or December 2025 are waived.⁹

Regarding Mother's argument that Father is a physical safety threat to Child due to Father's anger and physical violence, which the trial court would be statutorily required to give greater weight, **see** 23 Pa.C.S. § 5328(a) ("[T]he court shall determine the best interest of the child by considering all relevant factors, giving substantial weighted consideration to the factors

⁹ We further point out any statements made by Child on January 15, 2025, occurred off-the-record. **See Note** to Pa.R.A.P. 1921 ("Ultimate responsibility for a complete record rests with the party raising an issue that requires appellate court access to record materials."). Because Mother did not ensure Child's interview occurred on-the-record, her claims regarding any statements made by Child during it are also waived on this basis.

specified under paragraphs (1), (2), (2.1)[,] and (2.2) which affect the safety of the child....”), it is evident the trial court viewed Father’s actions as a physical form of discipline rather than an actual safety threat. **See** N.T. Hearing at 94 (trial court’s instructing Father, “No corporal punishment. That speaks for itself. That’s no popping, no smacking, no nothing. No threats of doing that. There are other ways to discipline children.”).

Additionally, insofar as Mother seemingly suggests the trial court’s opinion was not detailed enough, since it did not discuss how every piece of testimony presented at trial relates to every custody factor, we have previously explained:

In expressing the reasons for its decision, “there is no required amount of detail for the trial court’s explanation; all that is required is that the enumerated factors are considered and that the custody decision is based on those considerations.” **M.J.M. v. M.L.G.**, 63 A.3d 331, 336 (Pa. Super. 2013). A court’s explanation of reasons for its decision, which adequately addresses the relevant factors, complies with [23 Pa.C.S. §] 5323(d). **Id.**

D.Q. v. K.K., 241 A.3d 1112, 1118 (Pa. Super. 2020) (quoting **A.V. v. S.T.**, 87 A.3d 818, 822-23 (Pa. Super. 2014)). Here, the trial court issued a detailed forty-page order where it spent twelve pages explaining its reasoning under each of the custody factors. Despite Mother’s contention the trial court did not analyze Child’s emotional safety with either parent under custody factor 1, **see** Mother’s Brief at 30-32, the impact each party’s behavior has on the child and their respective relationships, **id.** at 37, or “how limiting legal custody and shifting primary physical custody of ... [C]hild to Father during

the school year will affect ... [C]hild" under custody factors 3 and 4, **id.**, our review shows the trial court clearly addressed each of these issues in its analysis as set forth *supra*.

Mother next claims the trial court erred and/or abused its discretion in issuing the final custody order because its findings are unsupported by the record. **See** Mother's Brief at 37, 42-43. In support of her argument, she claims there was no evidence: (1) she has tried to control Father's relationship with Child, (2) she has any issues with alcohol use, or (3) she "has any mental or physical condition impacting her ability to parent ... [C]hild." **Id.** Our thorough review of the record demonstrates the trial court's factual determinations are supported by the evidence.

First, regarding Mother's need for control, the trial court, having reviewed Mother's phone log exhibits, **see** Mother's Exhibits 6-8, stated:

If your son wants to talk to you, he'll talk to you[,] because I can't imagine what you would need to talk to him about[,] that you need to call him every day. He knows you love him. He knows you miss him.

You don't need to do it every day because what I suspect to be true, ma'am, is that you're doing it for you. But this isn't about you. It's about [Child].

N.T. Trial Day 1 at 170. The trial court also reviewed Mother's Exhibits 10-13 which were screenshots from the app Mother uses to track Child. In response, the trial court declared:

The level of control that Mom wants is not as extreme as the level of control that Dad wants, but it is extreme. Why are you tracking

your son? I don't know ... where your mind is, ma'am. And as a parent, you have every right under the law to set rules for your child. So[,] if you don't want him walking home from school, that's your rule. If Dad lets him walk home from school, that's Dad's rule.

But you want to track him? You want to object?

Ten-year-old boys walk home from school. You want to be able to tell Dad and minimize his parenting, but you want the world to explode when he does the same to you.

Id. at 174. Further, the trial court's finding that Mother is emotionally dependent on Child was supported by her own testimony when she said, "this one time I was talking to [Child] and I was like, 'Oh, hey, lovebug. Like, I'm so lonely. I'm going to sleep by myself here in the bed.' Because usually when my husband travels, [Child] sleeps with me." **Id.** at 119. Based on this evidence, the trial court's characterizations of Mother's need for control and emotional dependence are supported by the record. This evidence also supports the trial court's finding regarding Mother's mental condition under custody factor 15. In discussing custody factor 14, Mother acknowledges there was evidence presented at trial regarding concern for her alcohol use, but she argues the trial court's acceptance of Father's testimony is unreasonable. Mother's Brief at 42. Thus, Mother is effectively challenging the trial court's credibility determinations.

Having reviewed each of Mother's claims, it is clear Mother is essentially asking this Court to re-find facts, re-weigh evidence, and/or re-assess credibility to her view of the evidence, which we will not do, particularly where

the trial court has presided over the parties' case for more than 5 years. Under the applicable standard of review, we are not permitted to disturb the trial court's findings of fact and determinations regarding credibility and weight of the evidence absent an abuse of discretion. **See A.D., supra.** As we have previously stated,

[i]n a custody appeal, the sheer fact that a trial court could have found for the appellant is not a sufficient basis to reverse the court's decision. Deference must be given to the trial court, who viewed the parties, the witnesses, and the evidence firsthand. It is not the role of this Court to re-find facts, re-weigh evidence, and re-assess credibility.

Carrero v. Lopez, 300 A.3d 494, 501 (Pa. Super. 2023). Moreover, it is not this Court's function to determine whether the trial court reached the "right" decision; rather, we must consider whether, "based on the evidence presented, given due deference to the trial court's weight and credibility determinations," the trial court erred or abused its discretion in its custody determination. **Hanson v. Hanson**, 878 A.2d 127, 129 (Pa. Super. 2005). Additionally, this Court has observed, "[t]he evidentiary record of a custody appeal will often support a conclusion different than the one reached by the lower court." **White v. Malecki**, 296 A.3d 1210, 1215 (Pa. Super. 2023). That the trial court could have found for Mother is not a sufficient basis to reverse the court's decision. **See id.** "Deference must be given to the trial court, who viewed the parties, the witnesses, and the evidence firsthand." **Id.**

Ultimately, after careful review, we conclude the trial court's findings are supported by competent evidence in the record, its conclusions are not

unreasonable as shown by the evidence, and we discern no error or abuse of discretion in its analysis of the custody factors under Sections 5328(a)(1), (2), (3), (4), (7), (14), (15) and (16). **See Carrero, supra; A.D., supra.** Thus, Mother has failed to state a valid reason to overturn the trial court's decision.

Nonetheless, even if we had found the trial court erred regarding one or two of the claims raised by Mother, she would still have failed to state a reason why the trial court's decision should be disturbed, given the totality of the circumstances. The trial court indicated it "placed significant weight on the extensive history o[f] tardies and absences in Mother's custody, her physical behavior in public settings[,] and her failure to advise Father of ... [C]hild's whereabouts[,] " evidence which was not addressed in Mother's Brief. FCO at 35. "It is within the trial court's purview as the finder of fact to determine which factors are most salient and critical in each particular case." **E.B.**, 209 A.3d at 468. Thus, the trial court acted within its purview and the statutory requirements in making its custody determination.

II. Prohibition on Non-custodial Parent Initiated Phone Contact

In her second issue, Mother claims the trial court abused its discretion by "prohibiting Mother from contacting ... [C]hild during Father's custodial time as the evidence at trial clearly showed that Father does not allow ... [C]hild to contact Mother at his home." Mother's Brief at 47 (citation to the record omitted); **see also** FCO at 16-18. Mother argues, "Father cannot be trusted to allow ... [C]hild to contact Mother during his custodial time, so it is likely that Mother will only be able to speak to ... [C]hild during Father's custodial

time if she initiates contact.” Mother’s Brief at 47-48. Mother maintains the provisions set forth by the trial court regarding phone contact with Child disproportionately affect her based on the custody schedule and may severely diminish her relationship with Child. ***Id.*** at 48. Mother therefore insists these provisions were not in Child’s best interest and thus, the trial court erred. ***Id.*** at 48-49.

In its March 6, 2026 opinion, the trial court explained its decision to institute a prohibition on contact initiated by the non-custodial parent as follows:

This trial court assessed all of the evidence presented of the high[-]conflict level and concluded that the substantial evidence of past conflict regarding non-custodial parent phone contact supported the finding that it is in ... Child’s best interests to terminate non-custodial[,] parent[-]initiated phone contact with Child. The evidence supports the finding that both parents have engaged in a long[-]standing campaign to deny each other the unimpeded phone contact with ... Child, although more by Father than Mother.

This trial court is convinced that the need to control each other’s physical custody time with ... Child is the underlying sole cause of the malicious and petty tactics used by both parents to restrict ... Child from receiving calls from the non-custodial parent, and both parents have wielded the ability to deny incoming calls as a weapon to injure the other, all to the absolute detriment and harm [of] ... Child. Both parents have inflicted emotional and possibly psychological harm to ... Child[,] who has been consistently caught in the middle of this battle over phone calls, to the extreme point that he has decided not to call a parent and has lied about phone calls to both parents.

Neither parent presented any credible evidence that non-custodial[,] parent[-]initiated phone calls to ... Child are in [his] best interest[,] and all of the evidence supports the finding that ... Child is mature enough to call the non-custodial parent if he feels the need to do so. This trial court found several conclusions of

the custody evaluator, Dr. ... Haaz[,] to be supported by the evidence and to be directly on point with the issue of phone calls, including that both parents have “played games” with each other, [they] have both instructed ... Child to lie on different occasions and for different reasons, [and they] have created ongoing stressors for ... Child related to [his] sports schedule and transportation, all of which has created a cycle of mistrust and retaliation placing ... Child in the middle of the co-parenting dispute. Mother failed to present any credible evidence that her purpose in wanting the phone calls is for ... Child’s interests and not for her own overwhelming need to control ... Child’s physical space when he is in Father’s custody. The evidence supports the finding that Mother has an almost obsessive emotional connection with ... Child, which although described by Dr. Haaz as “child-centered” appears more to this trial court as extreme emotional dependence combined with a need to have ... Child in her presence at all times — none of which is healthy for ... Child or in his best interest. This trial court also finds Dr. Haaz credible in opining that Mother has extremely heightened anxiety levels and struggles with impulsivity and anger management and Father has demonstrated a pattern of oppositional behaviors creating confusion for ... Child. Finally, this trial court finds Dr. Haaz’s finding that “both parents seem to overstep at times in an effort to protect [Child] and/or exert control” to be credible in light of the entire trial record, and as such it supports the finding that there is no necessity for phone calls to be initiated by the non-custodial parent.

In light of all of this evidence, this trial court found that there was no reason pursuant to the factors to permit either parent to contact ... Child during their non-custodial periods, but to limit non-custodial contact solely to phone calls initiated, without restriction or limitation, by ... Child.

TCO at 4-6 (some capitalization modified). Having reviewed the record, we determine the trial court’s conclusion is not unreasonable and is supported by the evidence. **See A.D., supra.** Therefore, we conclude the trial court did not err or abuse its discretion in setting forth provisions which limit phone contact initiated by the non-custodial parent in favor of unfettered phone contact initiated by Child.

III. Provision Regarding Religious or Faith-based Events

In her third and final issue, Mother argues the trial court erred by entering paragraph 111 of the final custody order, which allows Child to decline attendance at religious or faith-based events beginning at the age of 14, and prohibits both parents from influencing, restricting, or limiting Child's participation in those events before or after age 14. Mother's Brief at 49. In doing so, Mother claims this provision "infringe[s] upon the parties' First Amendment right to the free exercise of religion and the parties' fundamental right to parent their child." *Id.* at 52.

Preliminarily, we note Mother's challenge presents a question of law, and thus our standard of review is *de novo* and our scope of review is plenary. ***E.C.S. v. M.C.S.***, 256 A.3d 449, 454 (Pa. Super 2021) (citations omitted). Next, we observe a parent's right to raise a child in accordance with certain religious beliefs has often been referred to as a "hybrid" matter – one existing at the intersection between the First and Fourteenth Amendments. ***See Shepp v. Shepp***, 906 A.2d 1165, 1172 (Pa. 2006) (citing ***Employment Div. Dep't of Human Res. of Oregon v. Smith***, 494 U.S. 872, 882 (1990) (reaffirming a higher level of scrutiny for cases involving a free exercise claim made in conjunction with other constitutional protections, such as the right of a parent to direct the upbringing and education of their child)). Protections afforded by the First Amendment are made applicable to the states through the Fourteenth Amendment. ***See, e.g., S.B. v. S.S.***, 342 A.3d 90, 104 (Pa. 2020).

Under the Due Process Clause of the Fourteenth Amendment, a parent has a fundamental right “to make decisions concerning the care, custody, and control of the child.” **D.P. v. G.J.P.**, 146 A.3d 204, 210 (Pa. 2016); **see also Troxel v. Granville**, 530 U.S. 57 (2000). Under the Free Exercise Clause of the First Amendment, an individual has a right to religious freedom. **Zummo v. Zummo**, 574 A.2d 1130, 1138 (Pa. Super. 1990); **see also Wisconsin v. Yoder**, 406 U.S. 205 (1972). Read together, parents have the constitutionally-protected “right to direct the religious upbringing of their children.” **Shepp**, 906 A.2d at 1169 (citing **Yoder** 406 U.S. at 233).

In support of her argument, Mother points to **Shepp, Hicks v. Hicks**, 868 A.2d 1245 (Pa. Super. 2005), and **Zummo**. Mother’s Brief at 50-52.¹⁰ In **Shepp**, our Supreme Court addressed a trial court order which prohibited a fundamentalist Mormon father from teaching his child about polygamy, plural marriages, or multiple wives. **Shepp**, 906 A.2d at 1168. After evaluating the relevant law, it concluded:

[A] court may prohibit a parent from advocating religious beliefs, which, if acted upon, would constitute a crime. However, pursuant to **Yoder**, it may do so only where it is established that advocating the prohibited conduct would jeopardize the physical or mental health or safety of the child, or have a potential for significant social burdens.

¹⁰ We recognize **Zummo**’s precedential value is in question. In this three-judge panel decision, one judge wrote for the majority, one concurred in the result, and one dissented. This court subsequently cited it as authoritative in **Hicks**. Our Supreme Court has noted that the lead opinion in **Zummo** did not garner another vote, thus depriving it of precedential effect. **Shepp**, 906 A.2d at 1178 n.6 (Baer, J. dissenting).

Id. at 1174. Further, it remarked that any restriction put in place must pass the strict scrutiny test, *i.e.* it must be narrowly tailored to achieve a compelling end. **Id.** Ultimately, our Supreme Court struck down the trial court's order stating, "[w]here, as in the instant matter, there is no finding that discussing such matters constitutes a grave threat of harm to the child, there is insufficient basis for the court to infringe on a parent's constitutionally protected right to speak to a child about religion as he or she sees fit." **Id.**

In **Zummo**, this Court considered a trial court order which obligated a father, who was raised Roman Catholic but attended services only sporadically, to arrange for his children's attendance at their Jewish Synagogue's Sunday School and prohibited him from taking them to any religious service contrary to the Jewish faith. **Zummo**, 574 A.2d at 1142. This Court held,

each parent must be free to provide religious exposure and instruction, as that parent sees fit, during any and all period of legal custody or visitation without restriction, unless the challenged beliefs or conduct of the parent are demonstrated to present a substantial threat of present or future, physical or emotional harm to the child in absence of the proposed restriction.

Id. at 1154–55. It emphasized, "this standard requires proof of a 'substantial threat' rather than 'some probability[,]'"" and added:

While the harm involved may be present or future harm, the speculative possibility of mere disquietude, disorientation, or confusion arising from exposure to 'contradictory' religions would be a patently insufficient 'emotional harm' to justify encroachment by the government upon constitutional parental and religious rights of parents, even in the context of divorce.

Id. Accordingly, while this Court affirmed the trial court's order with respect to the requirement to take the children to religious school, it reversed the prohibition on the father's ability to take the children to religious services of his choosing. **Id.** at 1157-58.¹¹ Finally, in **Hicks**, this Court applied the standard set forth in **Zummo** to a trial court order which prohibited a mother from having her child baptized, concluded no substantial threat existed, and reversed the trial court's order. **Hicks**, 868 A.2d at 1252-53.

We now turn back to the instant matter. In this case, the trial court specifically limited the parents' ability to control Child's religious or faith-based attendance after he reaches the age of 14 by allowing him to decline attendance; and further prohibited the parents from taking any action "meant to influence, restrict[,] or limit ... Child's participation" in such activities before or after Child reaches the age of 14. **See** FCO at ¶ 111. As noted by Mother, "[n]either party in this matter requested the trial court order any form of relief regarding the exercise of their religious beliefs or ... [C]hild's attendance and participation in religious activities. No evidence regarding either party's religion or ... [C]hild's attendance and participation in religious activities was

¹¹ This Court explained that ordering the father to present his children at Sunday School was a permissible accommodation which "essentially carves out a time period each Sunday during which the mother has the right to custody of the children." **Zummo**, 574 A.2d at 1157 (citing **Rinehimer v. Rinehimer**, 485 A.2d 1166, 1168 (Pa. Super. 1988) (approving a similar provision)).

presented at trial.” Mother’s Brief at 49. The trial court explained its reasoning for this provision, stating:

This trial court was forced to anticipate, to the best of its ability and in light of the factors proscribing stability and consistency for ... Child, that a high level of conflict is more than likely to arise as it pertains to religious activities. To put it simply, these parents have demonstrated that any disagreement or dispute has and can easily escalate quickly into full scale conflict that does nothing more than cause instability and emotional trauma to ... Child. As such, this trial court proactively prescribed a solution to any issues that may arise regarding ... Child’s attendance and participation in religious activities. This trial court acknowledges that neither parent raised the issue of religious activities[;] however, the tumultuous history of this case does not produce any optimism on the part of this trial court that they will be able to communicate and cooperate if religious participation becomes an issue. As such, it is in ... Child’s best interests to preemptively place parameters on his attendance and participation in religious activities....

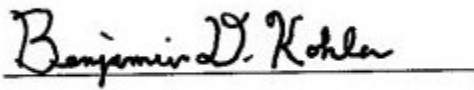
TCO at 6-7 (some capitalization modified). Though we recognize the parties’ behaviors do not produce optimism that religion will not become an issue in the future, based on the record before us, the restrictions set forth in paragraph 111 are contrary to our case law since there is no indication the parties’ religious beliefs or practices present a “grave threat of harm,” “a substantial threat of present or future, physical or emotional harm to the child[,]” or that the physical or mental health, or safety of the child would be jeopardized absent a restriction. **See Shepp**, 906 A.2d at 1174; **Zummo**, 574 A.2d at 1154. Accordingly, the trial court erred in setting forth paragraph 111 of its January 6, 2026 order. Consistent with precedent, both parents shall be permitted to practice his or her religion with Child during their

respective periods of custody, so long as there is no substantial threat of present or future physical or emotional harm to Child.

Based upon the foregoing, we vacate paragraph 111 of the January 6, 2026 order and affirm the custody order in all other respects.

Order affirmed in part and vacated in part. Jurisdiction relinquished.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/14/2026