

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

MATTHEW HEPBURN	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
SUZEL OCHOA	:	No. 292 EDA 2026

Appeal from the Order Entered January 5, 2026
In the Court of Common Pleas of Delaware County Civil Division at
No(s): CV-2025-003915

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

MEMORANDUM BY NEUMAN, J.: **FILED SEPTEMBER 29, 2026**

Matthew Hepburn ("Father") appeals from the January 5, 2026 order entered in the Court of Common Pleas of Delaware County, which granted the request of Suzel Ochoa ("Mother") to relocate from Pennsylvania to Texas with the parties' minor child, M.H. ("Child") (born in May 2023), and set forth the terms of the parties' custody agreement. After careful review, we affirm.

Background

Mother and Father are married. Father's Brief at 7.¹ When Mother and Father first met, Mother was living in New York and Father was living in Philadelphia. N.T., 12/11/25, at 154. Once together, Mother and Father lived in New Jersey and then Conshohocken, Pennsylvania, before finally settling in Newtown Square, Delaware County, Pennsylvania. *Id.* at 154, 260. Paternal

¹ It is unclear from the record how long Mother and Father have been married.

grandparents reside in Bucks County, Pennsylvania, and Child's paternal aunt and cousins also reside near the marital residence. Father's Brief at 11. Mother's extended family resides in El Paso, Texas. Mother's Brief at 7-8. Mother's extended family includes Child's maternal grandparents, two of Child's great-grandmothers, twelve of Mother's aunts and uncles, and thirty-nine of Mother's cousins. **Id.**

During their marriage, Father was the primary wage earner, although Mother also worked a full-time job remotely from home while caring for Child with the assistance of a part-time nanny. **Id.** at 6; Father's Brief at 10. Father currently operates his own financial services business. Father's Brief at 18. He typically works from 9:30 a.m. to 7:00 p.m., but has complete control over his schedule. Trial Court Opinion ("TCO II"), 2/24/26, at 5. Father typically spends one to two days a week visiting his clients in person, requiring him to travel around Harrisburg, Lancaster, Allentown, Scranton, Philadelphia, and New Jersey. Father's Brief at 10. At the time of the hearing, Mother was unemployed. **Id.** However, both Mother and Roberto Ochoa ("Maternal Grandfather") testified that Mother has a job waiting for her with Maternal Grandfather's company in El Paso, Texas. TCO II at 4. Mother could work remotely to start, and then eventually take over the business once Maternal Grandfather retires and Child is in school. **Id.**

The parties separated in April 2025. **Id.** at 2 n.5 ("Although the parties did not agree upon their date of separation[,], the [trial court] inferred from the testimony that the parties separated on or about April 2025...."). The

parties' separation was caused, at least in part, by domestic abuse, which the trial court detailed as follows:

The parties' marriage was described as "toxic," volatile, and "tumultuous[.]"[] N.T. at 100, 300, ... 307. Mother credibly described Father as being Dr. Jekyll/Mr. Hyde-like. Father was loving and supportive one day[,] but angry, controlling, and abusive the next. [*Id.*] at 185. Both attorneys represented it was probably better that the parties ... were "separated." [*Id.*] at 309. The evidence established that Father was emotionally and physically abusive to his wife.... During closing arguments, Father's lawyer described Father's actions during the marriage as "reprehensible." [*Id.*] at 313.

Significant physical, emotional, and verbal abuse occurred during the marriage. The overwhelming majority of the abuse was perpetrated by Father against Mother.¹⁷ Some of the abuse occurred in the presence of ... Child. Mother's Exhibit 10, which was admitted into evidence[,] documented written exchanges between the parties from April 2025 through July 2025[, after the parties' separation.] The exchanges were riddled with demeaning, emotionally abusive, and racist language.^[2] Father described Mother[,] or her actions[,] as "retarded," "stupid," "crazy," "self-centered," "a failure[,]" and "as a plague of a person." [*Id.*] at 145-[]49. Father also accused Mother[,] without evidence[,] of "sleeping with his friends" and texting his friends inappropriately. [*Id.*] at 149. From April 2025 through July 2025, Father texted Mother:

"You're a disgusting person with no feelings or a heart."
[*Id.*] at 145.

² We note this demeaning and emotionally abusive language was not exclusive to the post-separation period, since it is also prevalent in the text messages contained in Father's Exhibit 3, which took place as early as May 2024. For example, on May 13, 2024, Father referred to Mother as "[w]hat a fucking psycho, who does that." **See** Exhibit F-3 at 3 (unpaginated). He also referred to her as a combination of "mean," "nasty," and "angry" on multiple occasions, including August 22, 2024, and September 13, 2024. **See id.** at 8, 10, 15, 24, 28-29 (unpaginated).

"You are a self-centered narcissist[.]" [**Id.**]

"You suck off everyone's success[.]" [**Id.**]

"You'll keep the ring because you're Jewish. You're so Jewish, it's hilarious. Whole life revolves around money ... nose job makes sense now."¹⁸ [**Id.**] at 146-[]47.

You "are a plague of a person ... that is who you have become[,] a plague of a person who thrives off misery." [**Id.**] at 147.

"...fucking retard." [**Id.**] at 149.

"Actions have consequences, good luck." [**Id.**]

Father's comments to his wife and the mother of his child were inappropriate and inexcusable. Although Father did not deny making the comments, he argued that [they] were taken out of context and/or resulted from provocation. The [trial court] could not conceive or imagine an appropriate context or provocation.

¹⁷ Father testified that on one occasion[,] several years ago[,] ... Mother th[rew] a vase at him that left him scarred.

¹⁸ Mother is not Jewish in faith nor heritage.

Mother credibly testified that Father also regularly verbally abused her. Father called her names, criticized her appearance, and verbally made demeaning comments to her. The [trial court] was concerned that if this is how Father communicated with his wife, a person he presumably once loved deeply, that he may react and communicate similarly with ... Child, when ... Child g[ets] older and disobey[s], frustrate[s], or disappoint[s] Father.

Father's abuse of Mother was not just verbal, psychological, and emotional. Father physically assaulted Mother on April 14, 2025 ("April 2025 Assault"). [**Id.**] at 118. Mother described the April 2025 Assault as follows:

During a discussion[,] ... Father started to get very verbally aggressive with me. So, I started to covertly record him on my cell phone.¹⁹ I don't think he realize[s] how aggressive he sounds when speaking with me. During the discussion, Father said multiple things to me, such as, ["Do you want me to kill you? Do you want me to kill myself?"] When

Father realized I was recording him, he became enraged, very enraged. I've never seen him that way.

¹⁹ No recording from Mother's cell phone was produced at trial nor considered by the [trial court].

Father took my phone from me, and he ran downstairs ... to delete [the video.] ... He [came] back upstairs with my phone [and] ... at some point we [met] in the upstairs hallway near the baby's room. ... Father grab[bed] me very aggressively and pin[ned] me up against the wall[,] ... my head, my face was pretty much slammed on the edge of the wall. And he [was] just yelling at me[,] ... ["I'm not scared. I can[t] wait to divorce you. I'm going [to] kick you down the steps."] It was very violent.

Father then grabbed me and body slam[m]ed [me] to the bed and he was on top of me. I[was] faced [sic] up. And he continued to just yell as he [was] pinning me down. Father ran out of the room. ... Child [was] in our bedroom. He[was] present. ... Child watched and heard all of this. ... Child listened to this[.] ... I locked myself in the baby's room with ... Child because we had a camera in there.

[**Id.**] at [118-]19.

Mother was injured during the April 2025 Assault. Mother sustained a bruise on the left side of her face and forehead from "the force" Father used when slamming Mother's face into the wall and the pressure he applied while pinning Mother against the wall. [**Id.**] at 120-[21[;] **see [also]** Exhibit M-13.

Counsel for Mother asked...[,]"Did Father make any threats against you during the April 2025 Assault?" N.T. at 120. Mother responded[,]"Yes, he told me he would kick me down the F [sic] steps. ... That he wanted to kill me." **Id.** Father admitted [to] making the threat. [**Id.**] at 271.

A portion of the April 2025 Assault was captured on an audio recording on the parties' nanny cam.²⁰ The recording was played at trial over Father's objection. The audio recording confirmed much of Mother's description of the April ... 2025 Assault. Most memorably[,]"the audio recording captured Mother's screams of terror and tears. The recording captured precisely what ... Child would have heard during the assault.

²⁰ The brand name of the parties' nanny cam was Nanit. The nanny camera was acquired by the parties around the time of ... Child's birth[,] and was placed in ... Child's room with both parties' knowledge and consent. By design[,] the nanny camera is triggered and begins recording when it senses motion or noise in the area. The recordings are accessible by an App that each party had access to. Each party knew[,] or should have known[,] their interactions in or near ... Child's bedroom were subject to being recorded by the nanny camera.

Father's dismissal or characterization of the April 2025 Assault as a "bad day" or an isolated "one[-]time" misunderstanding was not supported by the evidence nor credible. [*Id.*] at 266. Mother testified that a few days before the April 2025 Assault, Father "pushed her while [she was] holding ... Child."²¹ [*Id.*] at 133. Mother testified that Father punched doors and broke belongings when upset. [*Id.*] at 134. In 2024, Father assaulted and bruised Mother while they were on vacation in the Dominican Republic. [*Id.* at] 133[;] **see also** Exhibit M-14. Father confirmed the incident in the Dominican Republic[,] although he characterized it as a mere "argument[.]" N.T. at 272. A few months before the Dominican Republic incident, Mother testified that while she was feeding ... Child, Father entered the kitchen[,] grabbed her and dragged her through the house to a couch where he "pinned her down and yelled at her." [*Id.*] at 134. Father's abusive behavior was ongoing and escalating. The [trial court] believes the abuse would have continued without the parties['] separating and family intervention.

²¹ Father got upset and "stripped the entire bedroom[,] removing all blankets, pillows, [and] linens[,] and locked them and himself in the guest bedroom. When Mother went to get bedding to go to sleep, Father pushed her into the wall. [*Id.*] at 133-[]34.

TCO II at 7-11 (some formatting and capitalization modified).

The relevant post-separation procedural history of this matter was summarized by the trial court as follows:

Following the April 2025 Assault[,] Father and Mother separated. Initially, Father moved out of the parties' Newtown Square home. Mother eventually moved to her family in El Paso[, Texas]. There

was ... disagreement about whether Mother's move to El Paso was with Father's knowledge and consent.^[3] There is no question Father was aware in advance of Mother's plan to move and that he did nothing to stop her until after she had moved.

Shortly after Mother's arrival in Texas, Mother filed for an Order of Protection in Texas.²⁴ Father filed a counter-...petition in Texas against Mother.²⁵ Father also filed a petition for special relief in Delaware County, P[ennsylvania,] asking the court to require Mother to return with ... Child to Delaware County. [**See** Emergency Petition for Special Relief, 4/28/25, at 1-2 (unpaginated)]. The parties negotiated an agreement with the [trial court]'s assistance, whereby Mother returned to Pennsylvania and the parties entered into a nesting agreement to share physical custody of ... Child and possession of the Newtown Square home. The parties shared physical custody and possession of the home on a week-on/week-off basis. [Mother provided Father with her formal notice of relocation on August 22, 2025. **See** Father's Brief at 8.⁴] Upon request of Mother[,] and agreement of counsel, the undersigned changed the schedule to alternating 2-week blocks of time and allowed Mother to exercise her physical custody of ... Child in El Paso, Texas[,] with her family.^[5]

³ Prior to leaving for Texas, Mother did not provide Father with a notice of relocation pursuant to 23 Pa.C.S. § 5337(c); however, the trial court found Father had signed a letter dated March 24, 2025, consenting to Mother's relocating with Child, although he later recanted this consent. **See** Trial Court Opinion ("TCO I"), 1/5/26, at 18-19; **see also** Exhibit M-2. Despite raising it in his Pa.R.A.P. 1925 concise statement, Father now withdraws his claim challenging the trial court's disregard of his handwriting expert, who had testified it was not Father's signature on the letter. Father's Brief at 6.

⁴ Father also withdraws his claim of error regarding Mother's failure to provide proper notice of relocation. **Id.** at 6.

⁵ The only pre-trial custody order of record was filed August 21, 2025, and set forth the biweekly custody schedule mentioned by the trial court. Stipulation/Order, 8/21/25, at 1-3. As discussed *infra* in relation to Father's third issue raised on appeal, there is no order of record permitting Mother to (Footnote Continued Next Page)

²⁴ ...The next business day following her arrival in El Paso, Mother filed a motion for a protective order.... Mother filed in Texas because she intended to remain with ... Child in Texas. Mother's motion was accepted by the Texas court on May 2, 2025. Mother was eventually granted a temporary protection order by the Texas court on July 8, 2025. A full hearing was continued multiple times. Initially[,] it was continued for lack of service, then [it] was continued by Father and his Texas counsel on five separate occasions.... The parties ultimately agreed to have the abuse case transferred to Delaware County, P[ennsylvania]. A full hearing on the [motion] was never held in [either state]. ... The [trial court] understands that the parties have agreed to the entry of a one-year final [protection order,] without admission[,] against Father.... ... Child is not a protected party.

²⁵ Father's counter[-]petition was withdrawn....

The relocation and custody trials were consolidated and held on December 11, 2025. All parties appeared and were represented by counsel.

Id. at 11, 13-14 (unnecessary capitalization omitted).

By order filed January 5, 2026, the trial court granted Mother's relocation request, granted the parties shared legal custody, and granted Mother primary physical custody. **See** Order, 1/5/26, at ¶¶ 2-3, 8. It further directed, in pertinent part:

Effective February 1, 202[6], Father shall enjoy partial physical custody of ... Child as follows:

- a. **One Week a Month** — Father shall have physical custody of ... Child one week per month beginning the

exercise her periods of custody in Texas. Nevertheless, we note the August 21, 2025 order permits the custody schedule to be modified by agreement of the parties, and Father acknowledges an off-the-record discussion occurred regarding Mother's exercising her custody in El Paso. **See id.** at ¶¶ 2, 12; **see also** Father's Brief at 56.

second ... Saturday of each month at 12:00 p.m. and concluding on the following Sunday at 12:00 p.m. Father may exercise his monthly week-long period of physical custody in Pennsylvania or other-mutually agreeable location.^[6]

- b. **One Weekend a Month - Every Other Month** — Father shall have physical custody of ... Child the last Friday of the month from Friday at 6:00 p.m. until the following Sunday at 4:00 p.m. or other mutually agreeable time based on available flights. Father shall exercise this period of physical custody in the state of Texas, unless Mother agrees in writing to the contrary at least one week in advance. Father's weekend custody shall begin January[,] 2026[,] and continue every other month thereafter.

- c. **August Custody** — In addition to the partial physical custody set forth above[,] Father shall have physical custody of ... Child every August as set forth herein:
- i. Starting August 1st and continuing until the Thursday before Labor Day Weekend, or ... Child's first day of school, whichever is sooner....

- d. The parties understand and agree that this order and Father's physical custody schedule, as well as the holiday schedule shall need to be modified or updated in advance of ... Child['s] starting school.
- e. Father may also be entitled to such other periods of physical custody as Mother may agree in writing and in advance.

Id. at ¶ 9 (some capitalization modified).

⁶ The trial court established that exact exchange times may be modified by advanced written agreement of the parties, in consideration of available flight schedules. **See** Order, 1/5/26, at 3 n.2.

On January 20, 2026, Father filed a timely notice of appeal, along with his concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(a)(2)(i). On February 24, 2026, the trial court filed an opinion pursuant to Rule 1925(a)(2)(ii), which addressed, at length, the issues raised by Father in his concise statement and referred to its analysis in its January 5, 2026 opinion.

Issues

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

1. Whether the trial court erred as a matter of law and/or abused its discretion in analyzing the relocation factors in 23 Pa.C.S.[] § 5337(h), specifically factors (1), (2), (3), (5), (8), (9), and (10)[?]
2. Whether the trial court erred as a matter of law and/or abused its discretion in analyzing the custody factors in 23 Pa.C.S.[] § 5328(a), specifically factors (1), (2), (3), (4), (5), and (8)[?]⁷

⁷ Father clarifies he is actually raising an issue with custody factors (6) and (12), which were labeled by the trial court as custody factors (5) and (8) in its January 5, 2026 opinion. **See** Father's Brief at 5 n.3. We remind Father 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 Father's identification of custody factors (5) and (8), which no longer exist, created further confusion and forced the trial court to speculate about (Footnote Continued Next Page)

3. Whether the trial court erred as a matter of law and/or abused its discretion by stating that it allowed [Mother] to exercise her custodial time in Texas prior to its December 31, 2025 [o]rder[?]⁸
4. Whether the trial court erred as a matter of law and/or abused its discretion by considering evidence of [Mother's] exercising custody in Texas and conferring a presumption in favor of the relocation[?]

Father's Brief at 5-6 (footnotes and unnecessary capitalization omitted).⁹

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

which custody factors were being challenged, his identification was drawn from the listing of custody factors in the trial court's January 5, 2026 opinion. Additionally, the trial court ultimately addressed Father's challenge to custody factors (6) and (12), and Mother does not suggest Father has waived consideration of these factors due to this deficiency. Given the foregoing, and because Father's concise statement is not so vague as to impede our ability to conduct meaningful appellate review, **see id.**, we decline to find Father's challenge to these factors waived.

⁸ Although the trial court's order was dated December 31, 2025, it was not entered on the docket until January 5, 2026.

⁹ Father withdraws his challenges to the trial court's analysis of relocation factors (8) and (9), as well as custody factors (1) and (2) on appeal. **See** Father's Brief at 5 n.2, n.3.

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.

E.D. v. M.P., 33 A.3d 73, 76 (Pa. Super. 2011) (citation omitted). With any child custody case, this Court has long stated that the paramount concern is the best interests of the child. **Landis v. Landis**, 869 A.2d 1003, 1011 (Pa. Super. 2005). This standard requires a case-by-case assessment of all of the factors that may legitimately affect the “physical, intellectual, moral[,] and spiritual well-being” of the child. **Id.** When a custody dispute involves a request by a party to relocate, we have explained, “there is no black letter formula that easily resolves relocation disputes; rather, custody disputes are delicate issues that must be handled on a case-by-case basis.” **Baldwin v. Baldwin**, 710 A.2d 610, 614 (Pa. Super. 1998).

C.R.F. v. S.E.F., 45 A.3d 441, 443 (Pa. Super. 2012).

Pursuant to Section 5337 of the Child Custody Act, 23 Pa.C.S. §§ 5321–5340, a parent with custody rights to a child may not relocate unless “every individual who has custody rights to the child consents to the proposed relocation” or “the court approves the proposed relocation.” 23 Pa.C.S. § 5337(b)(1) and (2). In other words, a parent seeking to relocate (“the relocating parent”) cannot unilaterally relocate. The relocating parent must provide notice of the proposed relocation to the other custodial party or parties (“the nonrelocating party”) in compliance with subsection (c). 23 Pa.C.S. § 5337(c). The nonrelocating party “may file with the court an objection to the proposed relocation and seek a temporary or permanent order to prevent the relocation.” 23 Pa.C.S. § 5337(d). If the nonrelocating party “objects to either relocation or modification of the custody order, a hearing shall be held

as provided in subsection (g)(1).” **Id.** The failure to provide reasonable notice of a proposed relocation may be considered by the trial court as,

- (1) a factor in making a determination regarding the relocation;
- (2) a factor in determining whether custody rights should be modified;
- (3) a basis for ordering the return of the child to the nonrelocating party if the relocation has occurred without reasonable notice;
- (4) sufficient cause to order the party proposing the relocation to pay reasonable expenses and counsel fees incurred by the party objecting to the relocation; and
- (5) a ground for contempt and the imposition of sanctions against the party proposing the relocation.

23 Pa.C.S. § 5337(j). At the same time, “any consideration of a failure to provide reasonable notice ... shall be subject to mitigation if the court determines that such failure was caused in whole, or in part, by abuse.” 23 Pa.C.S. § 5337(k).

Section 5337(h) sets forth ten factors a trial court must consider in determining whether to grant or deny a proposed relocation, “giving weighted consideration to those factors which affect the safety of the child[.]” 23

Pa.C.S. § 5337(h). Those factors are:

- (1) The nature, quality, extent of involvement[,], and duration of the child’s relationship with the party proposing to relocate and with the nonrelocating party, siblings[,], and other significant persons in the child’s life.
- (2) The age, developmental stage, needs of the child[,], and the likely impact the relocation will have on the child’s physical, educational[,], and emotional development, taking into consideration any special needs of the child.

(3) The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's preference, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party.

(6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit[,] or educational opportunity.

(7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit[,] or educational opportunity.

(8) The reasons and motivation of each party for seeking or opposing the relocation.

(9) The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.

(10) Any other factor affecting the best interest of the child.

Id. "The party proposing the relocation has the burden of establishing that the relocation will serve the best interest of the child as shown under the factors set forth under subsection (h)." 23 Pa.C.S. § 5337(i)(1). "Each party has the burden of establishing the integrity of the party's motives in either seeking the relocation or seeking to prevent the relocation." 23 Pa.C.S. § 5337(i)(2).

"If the proposed relocation will result in a change in custody, the court must also consider the custody factors in Section 5328(a)." **S.S. v. K.F.**, 189

A.3d 1093, 1098 (Pa. Super. 2018). At the time of the relevant proceedings, those factors 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). The trial court must give "substantial weighted consideration to the factors specified under paragraphs (1), (2), (2.1)[,] and (2.2) which affect the safety of the child." ***Id.***

While a court's consideration of the Section 5328 custody factors is mandatory, "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. v. D.B.***, 209 A.3d 451, 460 (Pa. Super. 2019) (citation omitted). Moreover, we observe several of the Section 5337(h) relocation factors "are

encompassed, either directly or implicitly, by the custody factors of [S]ection 5328(a).” **K.F.**, 189 A.3d at 1098 (citation omitted). “A court should avoid dissociating the issue of primary custody from the issue of relocation[] and should instead decide the two issues together under a single umbrella of best interests of the child[.]” **Id.** (internal quotation marks and citation omitted).

I. Burden of Proof and Weight of the Evidence

In Father’s first two issues, he raises a challenge to the trial court’s findings under Sections 5337 and 5328, alleging they are “wholly unsupported by the evidentiary record and/or based upon a capricious disregard or disbelief of the evidence presented at trial.” **See** Father’s Brief at 19. Specifically, Father argues the trial court erred in its analysis of Section 5337(h)(1), (2), (3), (5), and (10) and Section 5328(a)(2.3)(i), (3), (4), (6), and (12). **Id.**¹⁰ In support, he claims the trial court’s findings were pulled from Mother’s pretrial brief, not evidence of record, and were also improperly based upon Mother’s post-relocation evidence. **Id.** Father suggests the trial court “discounted Father’s role in the child’s life[,]” “overstated Father’s ability to

¹⁰ Initially, we note Father does not mention Section 5328(a)(2.3) in his statement of questions involved. Section 5328(a)(2.3) is a separate and distinct factor from Section 5328(a)(2); thus, we conclude Father’s claim regarding Section 5328(a)(2.3) is 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.”). Even if Section 5328(a)(2.3) were to be considered a subsection to Section 5328(a)(2), Father explicitly withdrew his claim to that Section. Nonetheless, we briefly discuss *infra* the trial court’s findings under this factor because its analysis is also relevant to the issues Father raises regarding relocation factor 5.

maintain his close bond with the child[,]” “hyper-focused on Mother’s desire to live closer to her family[,]” failed to consider “the strong support Mother already had from her family ... and [her] ability to maintain those relationships without moving[,]” “ignored evidence of the child’s relationships with Father’s family[,]” and “overlooked the fact that the child has resided in Pennsylvania ... his entire life.” ***Id.*** at 19-20. Father contends therefore that, in essence, the trial court shifted the burden of proof to Father to show Mother’s proposed relocation was not in Child’s best interest, rather than placing the burden on Mother. ***Id.*** at 20. For the following reasons, we conclude no relief is due on these claims.

The trial court heard testimony from Mother, Father, Maternal Grandfather, and Michael General Hepburn (“Paternal Grandfather”).¹¹ Assessing their credibility and weighing the evidence presented, the trial court considered all the custody and relocation factors set forth in Sections 5328(a) and 5337(h) of the Custody Act. It addressed its findings as to each factor in its January 5, 2026 opinion, and ultimately concluded Mother established the proposed relocation would serve Child’s best interest. ***See generally*** TCO I at 9-19 (finding 6 factors favoring relocation); ***id.*** at 19-25 (finding 10 custody factors favoring Mother); ***see also*** Order, 1/5/26, at ¶ 2 (granting Mother’s proposed relocation). We summarize the trial court’s determinations

¹¹ The trial court also heard testimony from Joseph Rowoski, Father’s handwriting expert, whose testimony is not germane to the issues raised on appeal.

regarding the factors Father challenges on appeal — namely, relocation factors 1, 2, 3, 5, and 10, and custody factors 2.3(i), 3, 4, 6, and 12 — as follows.

Relocation factor 1 requires the trial court to consider “[t]he nature, quality, extent of involvement[,] and duration of the child’s relationship with the party proposing to relocate and with the nonrelocating party, siblings[,] and other significant persons in the child’s life.” 23 Pa.C.S. § 5337(h)(1). The trial court found this factor favored relocation, observing “Mother was always ... Child’s primary caretaker” who “managed the lion’s share of ... Child’s daily care and needs.” TCO I at 9. It acknowledged Mother had a part-time nanny’s assistance after she returned to work from maternity leave, and that Father attended doctor’s appointments and assisted with routine childcare when he was home. ***Id.*** The trial court found that since separation, Mother has “maintained her responsibilities during her custodial time[,]” while Father has “relied on caretakers to provide for ... Child while [he is] working, traveling, and working out.” ***Id.*** Regarding Child’s relationships with other significant persons, the trial court noted Child had developed a close relationship with Mother’s family, as the parties took frequent, extended trips to El Paso to visit. ***Id.*** at 10. Thus, the trial court concluded “Child has spent considerably more time with and was more bonded with Mother’s family than Father’s family.” ***Id.***

Relocation factor 2 concerns “[t]he age, developmental stage, needs of the child[,] and the likely impact the relocation will have on the child’s physical, educational[,] and emotional development, taking into consideration

any special needs of the child.” 23 Pa.C.S. § 5337(h)(2). The trial court found this factor favored relocation, opining that due to Child’s age, Child has not established any connection to the community in Pennsylvania. TCO I at 10. It recognized the distance between El Paso, Texas, and Newtown Square, Pennsylvania, “presents a significant obstacle to Father’s ability to parent ... Child[,] as well as for his family’s ability to interact with ... Child[,]” but believed Father had the financial means and schedule flexibility to overcome this obstacle in conjunction with modern technology and the custody plan issued. **Id.** at 10-11. The trial court stated in moving to El Paso, Child will “be living in a border community where he can be immersed in both American and Mexican culture[,]” and this access and familiarity with both cultures “shall enhance his confidence, self-worth, [and] cultural identity.” **Id.**

Relocation factor 3 pertains to “[t]he feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.” 23 Pa.C.S. § 5337(h)(3). The trial court found this factor to be neutral. TCO I at 11-12. The trial court admitted a relocation would alter Father’s relationship with Child. **Id.** at 12. Nonetheless, the trial court explained that “[p]ending the start of school, Father shall be able to spend consistent and extended periods of time with ... Child[,]” because under the custody order he has custody for one week a month, one weekend every other month, and at least three weeks in August, in addition to the holiday schedule. **Id.** Father is also entitled to daily phone/video contact and regular updates

and photos. ***Id.*** In its Rule 1925(a) opinion, the trial court reiterated that Father has the financial resources and flexibility in his schedule to overcome the obstacle created by physical distance. ***See*** TCO II at 16-17. It also expressed that Father had testified regarding moving or expanding his business to El Paso, which would take two or three years, coinciding with Child's starting school. ***Id.*** at 17.

Relocation factor 5 concerns "[w]hether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party." 23 Pa.C.S. § 5337(h)(5). The trial court found this factor favored relocation. It opined:

For the months since Mother was allowed to exercise her periods of physical custody in Texas, Mother has transported and exchanged ... Child as ordered, without incident. Father did not claim to have any issues communicating with ... Child by phone or video during Mother's periods of physical custody. Mother also sent photographs and updates to Father about ... Child's emotional and physical well-being. Mother testified and Father confirmed that Mother had offered Father additional custodial time. Mother and her family also offered to reasonably assist Father, if he would choose to exercise his physical custody of ... Child in the El[]Paso area. Specifically, Mother and her family offered Father the use of a motor vehicle during his visits in Texas, lodging at one of her family's properties in the area, and to provide Father all essential items Father may need for ... Child, including diapers, wipes, and food.

Following separation and the [c]ourt[']s allowing Mother to exercise her physical custody in Texas, Father changed the locks to the marital residence and blocked Mother from calling or video conferencing with ... Child. Father testified he unilaterally blocked Mother because he believed Mother had attempted to communicate with ... Child while she was out in a bar or restaurant and had been drinking. Father decided it was not an appropriate environment for Mother to communicate with ... Child. Mother

testified when Father has allowed her to communicate with ... Child[,] Father has spoken harshly to her and made inappropriate comments in the presence of ... Child.

Father directed an escalating pattern of physical, emotional, and verbal abuse towards Mother. The [trial court] infers f[ro]m Father's abusive behaviors as well as his admitted unilateral "blocking" of Mother's telephone and digital communications with ... Child, that Father is unlikely, without counseling, to encourage and permit frequent[] contact between ... Child and Mother[] going forward.

TCO I at 13-14.

Relocation factor 10 relates to "[a]ny other factor affecting the best interest of the child." 23 Pa.C.S. § 5337(h)(10). In its January 5, 2026 opinion, the trial court used this factor to discuss Mother's claim that Father had consented to relocation and the letter contained in Exhibit M-2. **See** TCO I at 18-19. It found the validity of the letter was of limited significance and stated its decision was made "after balancing all the credible evidence presented at trial, including the escalating physical[] and emotional abuse perpetrated by Father." **Id.** at 19. In its Rule 1925(a) opinion, the trial court used relocation factor 10 to reiterate the cultural benefits relocation would have for Child, as discussed in relocation factor 2 *supra*, and its view of what the consequences would be for Mother and Child if relocation were denied. **See** TCO II at 20-21.

Custody factor 2.3(i) pertains to "[t]he level of cooperation and conflict between the parties, including: 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[.]" 23 Pa.C.S. §

5328(a)(2.3)(i). The trial court concluded this factor favored Mother for the reasons discussed *supra* regarding relocation factor 5. **See** TCO I at 20-21. Additionally, the trial court noted Mother postponed her and Child's initial flights to Texas so Father could enjoy a monster truck rally with Child. **Id.** at 20.

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). The trial court found this factor favors Mother. TCO I at 21. In its factor analysis, the trial court again noted Mother has been Child's primary caretaker. **Id.** It acknowledged Father's testimony that he "ha[s] complete flexibility in his work schedule and [is] ... able to work around ... Child's needs[,] " but pointed out that when Father was offered additional time with Child, "he was unable to take advantage of it because of work commitments." **Id.** at 22. Based on this, the trial court concluded "[i]t is inevitable that if Father was awarded primary physical custody[,] ... he would be heavily dependent on third party caregivers to meet ... Child's daily needs." **Id.** The trial court therefore expressed,

Mother and her family are better positioned than Father to meet ... Child's daily needs and ensure that ... Child is fully engaged in age[-]appropriate and stimulating activities, become[s] immersed in both Mexican and American culture, and ... learn[s] Spanish and

English, while simultaneously maintaining a healthy and consistent relationship with Father.

Id.

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 found this factor favored Mother and referenced its analysis of relocation factor 2 as discussed *supra*. TCO I at 22. The trial court emphasized the parties’ lack of roots in Delaware County and Child’s bond with Mother’s family in El Paso. ***Id.*** In the trial court’s Rule 1925(a) opinion, it added that any negative impact resulting from relocation would be “more than offset by the protection, safety, and security provided to Mother and ... Child by Mother’s large supportive family....” TCO II at 24.

Custody factor 6 concerns “[t]he child’s sibling and other familial relationships.” 23 Pa.C.S. § 5328(a)(6). The trial court declared, “The evidence demonstrated ... Child has developed loving relationships with Mother’s family, including his maternal grandmother, with whom he shall reside with in El Paso, and ... [M]aternal [G]randfather, with whom ... he spends a lot of time....” TCO I at 22. Further, in its Rule 1925(a) opinion, the trial court referred to its analysis of relocation factors 2, 6, and 10. TCO II at 24. It also stated, “Mother’s large family not only shall provide Mother and ... Child with safety and security[,] but also help[s] immerse ... Child into his Mexican American heritage and [the] culture of El Paso.” ***Id.*** at 25. Thus, the trial court concluded this factor favored Mother. TCO I at 22.

Custody factor 12 relates to “[e]ach party’s employment schedule and availability to care for the child or ability to make appropriate child-care arrangements.” 23 Pa.C.S. § 5328(a)(12). The trial court found this factor favored Mother. TCO I at 23. In making this determination, the trial court referred to its discussion of relocation factor 5 and custody factor 3. ***Id.*** It explained that Mother has a standing job offer with Maternal Grandfather’s company which would primarily be remote and includes the opportunity of her taking over the business upon his retirement. ***Id.*** The trial court noted that due to Father’s recently starting his own business, his focus is on building and maintaining the business, and if he was awarded primary custody, he would rely heavily on third-party assistance. ***Id.***

The trial court further explained its reasoning for granting Mother’s proposed relocation in its Rule 1925(a) opinion, emphasizing it “crafted a custody order that advanced the best interests of the Child, gave [M]other the safety and security she deserved[,] and provided Father with joint legal custody and substantial partial physical custody.” ***See*** TCO II at 25. It added:

The relocation allowed Mother and Child to escape an escalating pattern of verbal, emotional, and physical abuse by [Father] to the safety and security of Mother’s large family in El Pas[.]o, Texas. El Paso, Texas[,] is a border community that shall afford ... Child a unique opportunity to immerse himself in his Mexican American culture. The custody order provided Father with joint legal and significant partial physical custody. The custody order allows Father the opportunity to maintain and build his relationship with ... Child despite the distance.

Id. at 1-2 (unnecessary capitalization omitted).

Pertinent to the factors concerning abuse and the safety of Child, the trial court noted, *inter alia*:

[Relocation factor 9] overwhelmingly favored relocation. Mother was the victim of domestic abuse. [The trial court] believed that if Mother did not relocate to the safety and security of her family[,], the abuse would have continued. Compelling evidence of abuse was presented at trial. Mother's description of the April 2025 Assault and the other incidents of physical abuse was credible. Father's excuses or explanations were not credible. The April 2025 Assault was not an aberration or one[-]time incident. Father's on-going physical assaults, threats, name calling, and antisemitic comments[] were reprehensible.

Id. at 20 (footnote omitted). The trial court added:

As discussed above[,], Father has been physically and emotionally abusive to Mother. Multiple incidents of abuse, including the April 2025 Assault, occurred in the presence and ear shot of ... Child. ... Child heard Mother's screams and tears as captured on the nanny cam. If Father could physically assault and make such comments to his wife, the [trial court] was concerned that Father would react similarly when ... Child disobeys, challenges, or disappoints Father. No child should grow up in an atmosphere of abuse.

Id. at 21 (unnecessary capitalization omitted).

In challenging the trial court's findings under Sections 5337 and 5328, Father first claims the trial court erred and/or abused its discretion by granting Mother's relocation request and issuing the final custody order as its findings are unsupported by the record. **See** Father's Brief at 19-55. In support of his argument, he presents a litany of examples from the trial court's January 5, 2026 and Rule 1925(a) opinions which he believes lack evidentiary support. **See *id.*** We need not restate each of those examples here, because our thorough review of the record demonstrates the trial court's factual

determinations are supported by the evidence. Nevertheless, we briefly address a few of Father's examples. For instance, regarding relocation factor 1 and custody factors 3 and 12, Father alleges there was no evidence to support the trial court's conclusion that Mother prioritizes Child's needs and was the primary caregiver, that "Father heavily relies upon third party caretakers to meet ... [C]hild's daily needs[,] " or that Father rejected additional custody time. **See** Father's Brief at 22-23, 46-47, 53-54.¹² At trial, Mother testified she took five months of maternity leave. N.T. at 93. Once

¹² Here and throughout his brief, Father mischaracterizes and distorts the plain language of the trial court's opinions. **See** Father's Brief at 37-38 (Father's quoting the trial court's Rule 1925(a) opinion regarding relocation factor 5 which stated, *inter alia*, "Father unilaterally decided that a bar or restaurant was not an appropriate environment for Mother to communicate with ... Child, so he blocked her from future calls" and then arguing "there was no testimony that Father blocked Mother ... from **all** future calls after Mother Facetimed ... Child from a bar or restaurant") (emphasis added); **id.** at 52 (Father's arguing the trial court's conclusion that "Mother and ... Child should move to El Paso to maintain their bond with Mother's family represents a capricious disbelief of the evidence" where at no point in either of its opinions did the trial court ever make such a conclusion); **id.** at 56-57 (Father's claiming the trial court made inconsistent statements in its Rule 1925(a) opinion, as it acknowledged the parties had agreed Mother would be precluded from introducing post-relocation evidence at trial, yet found that the introduction of such evidence did not prejudice Father, whereas the trial court actually opined, "Allowing Mother to exercise her physical custody in El Paso did not prejudice Father in any way. Mother was specifically precluded from arguing or offering any evidence at trial of any benefit to the Child that occurred or resulted from" Mother's exercise of custody in El Paso pending trial). Regarding custody factors 3 and 12, Father claims the trial court concluded "Father heavily relies upon third party caretakers to meet ... [C]hild's daily needs" where the trial court had actually stated, "**if Father was awarded primary physical custody**[,] ... he would be heavily dependent on third party caregivers...." **See id.** at 46, 54; **see also** TCO I at 22 (emphasis added).

she returned to work in October 2023, Mother worked remotely while taking sole care of Child during the day. **Id.** at 94. When a nanny was hired in February 2024, Mother had assistance for 10-15 hours per week. **Id.** Mother explained,

[she] worked on west coast hours, so [she] was able to take [Child] in the morning. [She] would do little play dates. [She] would do daycare at the gym. [She] would take [Child] to story times in the mornings. [She] pretty much focused [her] time with [Child] in the mornings, and then [she] had help three days a week. [The] nanny would come in around noon, and [Mother] would ... work from noon to five, and then [the nanny] would leave, and [Mother] would just kind of step in until [Father] would get home, and [she] would put [Child] to sleep. [She] would feed [Child], do bedtimes, and put him down, and then [she] would continue working ... on [her] phone or ... laptop.

Id. at 97. At the time of trial, Mother was unemployed; however, she had an offer to work remotely for Maternal Grandfather's company with occasional in-office days. **Id.** at 95-96. Meanwhile, Father typically worked from 9:00 or 9:30 a.m. to 7:00 p.m. **Id.** at 99. Father started his own business during summer 2024. **Id.** at 239-40. Father testified none of his work is remote and he travels one to two days a week to visit his clients in their homes. **Id.** at 243. Father agreed that Mother had offered him additional time with Child, which he claimed he had to turn down due to "opportunities" he had to take, and because Mother's offer was made only 48 hours in advance; however, the evidence showed it was a week's notice. **Id.** at 233, 290. Based on this evidence, it is clear the trial court's findings were supported by the record.

Similarly, Father challenges relocation factor 5 and custody factor 2.3(i), arguing the trial court incorrectly stated Mother invited Father to the Child's

birthday in El Paso, that Father changed the locks to the marital residence, and that Father blocked Mother from video conferencing with Child when there was no evidence to support those statements. Father's Brief at 36-38, 43-45.¹³ In Mother's Exhibit 10, Mother texted Father "You are welcome to come to elp [*sic*] for [Child's] 2nd birthday." Exhibit M-10 at 11 (unpaginated). At trial, Mother testified she does not have access to the marital residence. N.T. at 87. Text messages sent between Mother and Father between June 22, 2025, and June 29, 2025, demonstrate Father's strict requirements for Mother's entrance to the marital home to retrieve her personal belongings; that when Mother eventually did enter the residence, Paternal Grandfather was present to supervise her; and that after she asked Paternal Grandfather to leave so she could take a shower, he subsequently returned with police. **See** Exhibit M-10 at 54-55, 61-62 (unpaginated). Mother also testified at trial that Father blocked or disabled her calls twice, denying he did so because she was drunk. N.T. at 157, 162. Father conceded he blocked her call because he believed she was overseas where it was much later than 6:00 p.m. EST, she was in a loud environment, and he believed she had been drinking. **Id.** at 227-28. Given the foregoing, the trial court's statements that Mother invited Father for Child's birthday and that Father blocked Mother from communicating with Child are clearly supported by the record. We

¹³ Although Father's claim under custody factor 2.3(i) is waived, **see** footnote 10 **supra**, he raises the same arguments under relocation factor 5.

acknowledge we could not find any specific evidence Father changed the locks to the marital residence; however, it is clear from the evidence that, except when required to permit Mother access under the nesting agreement, Father has taken steps to exclude Mother from the marital residence, supporting the trial court's conclusion.

Father's second contention is that the trial court erred in granting Mother's relocation because it "capriciously disregarded or disbelieved competent evidence of record in its analysis." Father's Brief at 19, 21, 42.¹⁴ Specifically, Father alleges, *inter alia*, that the trial court ignored evidence

¹⁴ As noted by Mother,

[t]hroughout his brief, Father asks this Court to find that the trial court committed "capricious disbelief" — one of "the most serious charges that can be hurled against a judge." ***In re Pusey's Estate***, 184 A. 844, 850 (Pa. 1936). Father attempts to conflate capricious disbelief with simply declining to credit Father's evidence over Mother's evidence on certain issues, where record evidence went both ways. But[] "capricious disbelief is not merely disbelieving a witness. ... It must be a wil[l]ful..., deliberate disbelief of an apparently trustworthy witness, whose testimony one of ordinary intelligence could not possibly challenge or entertain the slightest doubt as to its truth. ... [I]t must be so flagrant as to be repugnant to a man of reasonable intelligence." ***Id.*** Father does not point to anything close.

Mother's Brief at 25 n.6. We agree. In his brief, Father repeatedly makes bald accusations that the trial court committed capricious disbelief, yet he fails to provide any explanation as to how the trial court committed "a willful, deliberate disbelief of an apparently trustworthy witness[.]" ***Pusey's Estate, supra***. In both of its opinions, the trial court expressly concluded Father's testimony, at least in regard to the abuse committed against Mother, was not credible, thus Father is hardly "an apparently trustworthy witness[.]" ***See*** TCO I at 7, 18; TCO II at 10, 20.

regarding his parenting of Child, Child's relationship with paternal relatives, his efforts to assist Mother with the nesting arrangement, Mother's threats to release the audio of the April 2025 Assault to Child and withholding of Child from Father, and that Child has lived in Delaware County his entire life. Father's Brief at 25-27, 36, 38, 49.

To the extent Father seemingly suggests the trial court's opinion was not detailed enough since it did not discuss every piece of testimony presented at trial, 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 twenty-five-page opinion in support of its decision where it explained its reasoning under each custody and relocation factor. Father is therefore essentially asking this Court to re-find facts, re-weigh evidence, and/or re-assess credibility to his view of the evidence, which we will not do. 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 C.R.F., 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 Father 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 relocation factors under Section 5337(h)(1), (2), (3), (5), or (10), or custody factors under Section 5328(a)(2.3)(i), (3), (4), (6), or (12). **See Carrero, supra; C.R.F., supra; E.D. v. M.P., supra.** Thus, Father has failed to state a valid reason to overturn the trial court's decision.

Nonetheless, even if we had found the trial court's statements regarding one or two factors to be unsupported by the record, Father would still have failed to state a reason why the trial court's decision should be disturbed, given the totality of the circumstances. On appeal, Father did not challenge the trial court's conclusions under relocation factors 6 (benefit of relocation to Mother), 7 (benefit of relocation to Child), or 9 (abuse committed by a party), or custody factors 1 (which party will ensure safety of Child), 2 (present or past abuse committed by a party), 2.2 (violent behavior committed by a party), 15 (mental conditions of the parties), or 16 (any other factor), which the trial court concluded all favored relocation and Mother. Many of these factors address the abuse committed by Father, which the trial court emphasized was the primary reason for granting Mother's relocation. **See** TCO II at 1 ("The relocation allowed Mother and Child to escape an escalating pattern of verbal, emotional, and physical abuse by [Father]...."); TCO I at 19 ("The [trial court] based [its] decision to approve the relocation after balancing all the credible evidence presented at trial, including the escalating physical[] and emotional abuse perpetrated by Father.").¹⁵ "It is within the trial court's purview as the finder of fact to determine which factors are most

¹⁵ In his brief, Father's only mentions of the word "abuse" in relation to Mother are in his condensed chronological statement where he discusses how Mother's petition for an order of protection was never adjudicated, and how no petition was ever filed against him while Mother and Father lived together. Father's Brief at 14, 18. Father denies ever hitting or physically assaulting Mother. **Id.** at 18. However, the trial court found credible Mother's testimony he assaulted her, and the record supports the court's decision.

salient and critical in each particular case.” **E.B.**, 209 A.3d at 468. Further, the trial court is statutorily required to give factors involving the safety of the child greater weight than other factors. **See** 23 Pa.C.S. § 5337(h) (“In determining whether to grant a proposed relocation, the court shall consider the following factors, giving weighted consideration to those factors which affect the safety of the child[.]”); 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 specified under paragraphs (1), (2), (2.1)[,] and (2.2) which affect the safety of the child....”). Thus, the trial court acted within its purview and the statutory requirements in making its determination to grant Mother’s relocation.

II. Allowance

In his third issue, Father claims the trial court abused its discretion by stating:

Shortly after Mother’s arrival in Texas[,] ... [t]he parties shared physical custody and possession of the home on a week on, week off basis. Upon request of Mother[,] the [trial court] changed the schedule to alternating 2-week blocks of time and allowed Mother to exercise her physical custody of ... Child in El Paso, Texas[,] with her family...[(“Allowance”)].

Father’s Brief at 55 (internal citation omitted). Father argues this statement is factually inaccurate and, “although counsel for the parties did have an off-the-record discussion with the trial court regarding Mother’s custody time being exercised in El Paso in September 2025, no order or agreement of record was ever entered allowing Mother to exercise her custody in El Paso. **Id.**

Mother contends Father's argument fails for four reasons. Mother's Brief at 56. Mother argues: (1) Father waived this issue by failing to raise it before the trial court, (2) Father waived this issue by failing to ensure the September conference was placed on the record, (3) Father's issue fails on the merits as the August 21, 2025 custody order allowed amendments if the parties agreed, and (4) Father fails to explain "how the trial court's statements regarding the case's procedural history bore on its final judgment...[.]" **Id.** at 56-58. The trial court also suggests Father's issue here is waived as it was not raised at trial, and also concludes it fails on the merits. **See** TCO II at 25-26.

First, we note that Father does not appear to be alleging that Mother's exercise of her custodial periods in El Paso between the time of the Allowance in September and the trial court's decision on January 5, 2026, was improper.¹⁶ Rather, Father is seemingly challenging the trial court's mention of the Allowance in its opinions. For this reason, we decline to deem Father's issue waived for failure to raise it before the trial court because it was raised at the first opportunity after the issuance of the January 5, 2026 opinion.

¹⁶ To the extent Father is arguing Mother improperly exercised her periods of custody in El Paso, we would agree with Mother and the trial court that this issue is waived as it was not raised before the trial court. **See** Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."). Alternatively, this issue would also fail on the merits since, although Father argues Mother was not "formally allowed to exercise her custodial time El Paso," he does not deny an oral agreement existed, modifying the August 21, 2025 order, as explicitly permitted by that order. Father's Brief at 56, **see also** footnote 5 **supra**.

However, we conclude this issue is nevertheless waived based on Father's failure to develop his argument. Our Supreme Court has held,

[w]here an appellate brief fails to provide any discussion of a claim with citation to relevant authority or fails to develop the issue in any other meaningful fashion capable of review, that claim is waived. It is not the obligation of an appellate court to formulate [an] appellant's argument for him.

Commonwealth v. Armolt, 294 A.3d 364, 377 (Pa. 2023) (quoting ***Banfield v. Cortés***, 110 A.3d 155, 168 n.11 (Pa. 2015)). Here, Father provides no argument as to how the trial court's mere acknowledgment of an off-the-record agreement, which Father does not deny occurred, in the procedural history of its opinion, had any bearing on the overall outcome of the matter. As Father provides no relevant authority in support of his claim and fails to fully develop it, we conclude it is waived.

III. Post-Relocation Evidence and Presumption

In his fourth and final issue, Father raises two distinct claims. He first argues the trial court "erroneously considered evidence of Mother[s] exercising her physical custody of ... [C]hild in El Paso, Texas[,] after the parties expressly agreed such evidence would be precluded from trial...." Father's Brief at 58. Specifically, Father directs our attention to the trial court's Rule 1925(a) opinion regarding relocation factor 5 where the trial court stated, "[s]ince Mother was allowed to exercise her periods of physical custody in Texas...[,] before it analyzed the parties' cooperation with each other. ***Id.*** at 57 (citing TCO II at 17-18).

Regarding this claim, Mother contends Father waived any issue pertaining to post-relocation evidence by not objecting at trial, and by failing to create a record regarding the scope of any agreement between the parties. Mother's Brief at 59. Mother further suggests Father conflates an agreement precluding the introduction of post-relocation evidence regarding any benefit to the child with a bar on all post-relocation evidence, where Father's example relates to the cooperation between the parties and not any benefit to Child. ***Id.*** The trial court concurs, explaining, "[i]f any [post-relocation] evidence [was] presented at trial, it was not objected to and was therefore not preserved for appeal. All the evidence of the parties' trips to El Paso and the Child's strong relationship or bond with Mother's family were from before the Allowance." TCO II at 27. In reply, Father argues he "properly preserved these arguments on appeal as there was no legal basis to object to the introduction of Mother's post-relocation evidence at trial[,] since there was no court order allowing her to exercise her custodial time in Texas at the time of trial." Father's Reply Brief at 7.

After considering the arguments, we determine the court did not err in deeming Father's claim waived. Our review of the record shows that at no point did Father object to any evidence at trial on the basis that it violated the parties' off-the-record agreement. ***Gaudio v. Ford Motor Co.***, 976 A.2d 524, 547 (Pa. Super. 2009) (failure to object to admission of evidence during trial results in waiver of issue on appeal). Father also does not point to any authority other than the parties' off-the-record agreement which would

preclude the introduction of post-relocation evidence. Therefore, given that any agreement by the parties and the scope thereof cannot be found in the record, Father's argument is waived. **See Armolt, supra; see also** 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.").

Father's second claim regarding this issue is that the trial court "inappropriately conferred a presumption in favor of Mother's relocation" and shifted the burden onto him to disprove that Mother's relocation was in Child's best interest, in violation of 23 Pa.C.S. §§ 5337(i) and (l). Father's Brief at 58-59.¹⁷ Father argues:

[T]he trial court granted Mother's relocation based upon very little evidence about Mother's parenting and relationship with ... [C]hild. Additionally, ... many of the trial court's conclusions in favor of Mother and her proposed relocation were entirely unsupported by the evidentiary record.... The trial court also heavily relied upon Mother's post-separation and post-relocation evidence in El Paso without emphasizing evidence of Father's conduct in Pennsylvania.

Contemporaneously, the trial court capriciously disbelieved and disregarded the evidence Father presented at trial.

Id. at 59.

Mother avers "Father's argument that any consideration of post-relocation evidence is akin to a presumption in favor of relocation is foreclosed

¹⁷ Section 5337(l) states, "[i]f a party relocates with the child prior to a full expedited hearing, the court shall not confer any presumption in favor of the relocation." 23 Pa.C.S. § 5337(l).

by this Court's past decisions." Mother's Brief at 59. In support, Mother quotes **B.K.M. v. J.A.M.**, 50 A.3d 168 (Pa. Super. 2012), which held:

The trial court, in making its ultimate determination, stated that it was bound to disregard [post-relocation] evidence, in order to avoid conferring a presumption in favor of relocation. This interpretation of [S]ection 5337(l), however, evinces a misunderstanding of the meaning of the word "presumption," and acts to convert a statutory provision on the allocation of burdens into what amounts to an extreme sanction on relocations that occur prior to a full expedited hearing. Moreover, by disregarding any evidence arising during the relocation, the trial court, in essence, conferred a presumption against relocation. The plain meaning of [S]ection 5337(l) supports neither the sanction enforced by the trial court by its refusal to consider a substantial portion of the record, nor the *de facto* presumption against relocation.

Id. at 175. Therefore, Mother contends "the trial court was not only **permitted** to consider post-relocation evidence under [Section] 5337(l)[, but] it was [also] **required** to consider [that] evidence to the extent relevant to the best interests of the child." Mother's Brief at 60 (emphasis in original). Mother argues that the trial court did not apply a presumption in favor of relocation, and that "Father merely takes issue with the trial court's factual findings and credibility determinations." **Id.** The trial court confirmed "[n]o presumption in favor of relocation was conferred." TCO II at 27.

As noted by Mother, this Court in **B.K.M.** held:

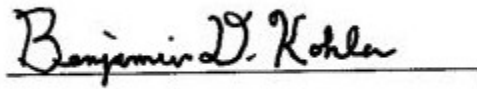
[S]ection 5337(l) ... preserv[es] the allocation of burdens set forth in [S]ection 5337(i), even in the presence of an existing relocation. ... [T]he trial court must apply the same consideration of the best interests of the child, and impose the same allocation of burdens, even where a relocation occurs prior to a full expedited hearing.

B.K.M., 50 A.3d at 175. Thus, the trial court was required to consider all evidence prior to and after relocation to the extent it impacted Child's best interests. Father again invites this Court to re-find facts and re-weigh evidence in his favor, which we will not do. **See Carrero**, 300 A.3d at 501 ("It is not the role of this Court to re-find facts, re-weigh evidence, and re-assess credibility.") (internal quotation marks and citation omitted). Just because the trial court **could** have found in favor of Father is not a sufficient basis for reversal of the trial court's decision. **See id.** "We must accept the findings of the trial court, so long as those findings are supported by competent evidence of record." **Id.** (citation omitted). As discussed *supra*, the trial court's findings in this case are supported by the evidence of record. Further, it is clear the trial court considered **all** the factors set forth in Sections 5328(a) and 5337(h), including those not challenged by Father related to his abusive behavior, which the trial court relied on most heavily in reaching its determination to grant Mother's relocation. TCO I at 19; TCO II at 1-2, 20-21, 25; **see also E.B.**, 209 A.3d at 460 (noting "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"). Father has provided no evidence that the trial court conferred a presumption in favor of relocation, and in fact the court denied conferring any presumption. We discern no error of law or abuse of discretion in the trial court's decision.

Accordingly, we affirm the trial court's January 5, 2026 order granting Mother's request to relocate and modifying the terms of custody.

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: 9/29/2026