NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

SHANTEL SINGH	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
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	:	
v.	:	
	:	
	:	
OMAR EL SAHLAH	:	No. 1078 EDA 2026

Appeal from the Order Entered March 12, 2026
In the Court of Common Pleas of Monroe County Civil Division at No(s): 002921-CV-2024

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

MEMORANDUM BY McLAUGHLIN, J.: **FILED NOVEMBER 9, 2026**

Shantel Singh ("Mother") appeals *pro se* from the final custody order awarding Omar El Sahlah ("Father") partial physical custody of their three minor children (born in 2021, 2022, and 2023). Mother argues, *inter alia*, the court violated her right to procedural due process, failed to adequately consider the proper statutory factors, and failed to explain its reasoning. We affirm.

Mother filed a custody complaint in March 2024, seeking to formalize her primary physical custody of the children. At that time, the children had been living with Mother and visiting Father for a few hours, a few times a week.

Following a conciliation conference in July 2024, the conciliator recommended the parties share legal custody, and that Mother be awarded primary physical custody. The conciliator recommended Father exercise

partial physical custody during the day on alternating weekends, and on Monday evenings. The conciliator's recommendation was adopted by the court as an interim custody order, and a review conference was scheduled for October 2024. Following the October conference, the conciliator entered a substantially similar recommendation, adding overnight custody for Father on Father's weekends. The recommendation was adopted by the court as an interim custody order.[1]

The following year, in March 2025, Mother filed a petition for modification of custody. She alleged that Father had relocated to California and had stopped exercising the periods of partial custody allowed to him under the interim order. Mother requested the order be modified to remove Father's then-existing custody periods "and instead provide for periods of custody upon request to be exercised in Pennsylvania." Petition for Modification, March 5, 2025, at ¶ 8.

A conciliation conference was held in May 2025.[2] The conciliator recommended that Father have partial physical custody, to be exercised in

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[1] To the extent that Mother's petition for primary custody should have been heard by a judge, ***see McGee v. McDowell***, 333 A.3d 383, 390 (Pa.Super. 2025), neither party has raised that issue. Moreover, any irregularity has been waived by the parties' failure to appeal from the orders resulting from the conciliation conferences.

[2] As opposed to actions for primary custody, an action for partial custody may be heard by a conciliator or conference officer. ***See*** Pa.R.Civ.P. 1915.1 (providing a conciliator is the equivalent of a conference officer); 1915.4-1, 1915.4-2, and 1915.4-3 (providing for the appointment of a conference officer to hear actions for partial custody).

California on eight consecutive weeks during the summer, and in Pennsylvania on one weekend per month. The recommendation was adopted as an interim order of the court, and an evidentiary hearing was scheduled to be held before a Custody Hearing Officer the next month.[3]

Following the hearing, the Custody Hearing Officer issued a Proposed Order and Recommendation. The Officer considered the custody factors of 23 Pa.C.S.A. § 5328(a) (eff. Aug. 13, 2024, to Aug. 28, 2025).[4] ***See*** Proposed Order, June 24, 2025, at 3-15. The Officer recommended the parties share legal custody of the children, and that Mother maintain primary physical custody. The Officer also recommended Father have partial physical custody in California for six weeks during the summer, in two three-week periods,

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[3] Mother's counsel withdrew after the May 2025 conciliation conference. Mother retained new counsel prior to the June 2025 evidentiary hearing before the Custody Hearing Officer. ***See*** Docket at Nos. 46, 69. In the interim, she filed several *pro se* motions, which were denied.

[4] Amendments to Section 5328(a) took effect on August 29, 2025, after the evidentiary hearing held by the Custody Hearing Officer but before the trial court's entry of a final order. ***See*** 23 Pa.C.S.A. § 5328(a) (eff. Aug. 29, 2025). Mother has not argued the court should have considered the changes to the statute, or that any of the amendments rendered the final order an abuse of discretion. We will therefore consider the Section 5328(a) factors as they existed prior to the August 2025 amendments as controlling for the purposes of this case. ***See Robbins v. Robbins***, No. 1746 MDA 2025, 2026 WL 2654870, at *5 n.4 (Pa.Super. filed Sept. 9, 2026) (unpublished mem.) (finding appellant waived issue of whether trial court had applied correct version of Section 5328(a)); ***Garnand v. Garnand***, No. 185 MDA 2026, 2026 WL 2186269, at *7 (Pa.Super. filed July 29, 2026) (unpublished mem.) (same); ***cf. Curtis v. Curtis***, ---A.3d ----, 2026 WL 1982961 (Pa.Super. filed July 7, 2026) (remanding where court applied expired version of Section 5328(a), and appellant argued the misapplication affected the court's custody award).

separated by a minimum of two weeks, and one optional weekend per month, to be exercised in Pennsylvania, with notice to Mother. The Officer further recommended that the Children have a nightly one-hour phone call with the non-custodial parent.

Mother filed timely exceptions in July 2025. Both parties filed briefs, and the trial court held argument in February 2026. It denied Mother's exceptions and adopted the Custody Hearing Officer's Proposed Order and Recommendation as a final custody order. ***See*** Order, March 12, 2026, at 1.[5]

Mother filed a *pro se* notice of appeal.[6] Mother raises the following issues:

> I. Whether the trial court committed an error of law by concluding that Father's voluntary interstate relocation from Pennsylvania to California did not require application of the relocation provisions of 23 Pa.C.S. § 5337, where the resulting custody order fundamentally restructured the parties' existing custody arrangement and required the children to reside in California during recurring extended periods of physical custody[.]
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> II. Whether the trial court abused its discretion or committed an error of law by failing to properly apply the statutory best-interest factors set forth in 23 Pa.C.S. § 5328(a), and by entering a

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[5] In September 2025, while Mother's exceptions were pending, she filed a Petition for Special Relief. The Petition raised safety concerns, and requested the court terminate Father's exercise of custody in California. The February 2026 argument before the trial court on Mother's exceptions also addressed Mother's Petition for Special Relief. The court granted the Petition in part and ordered Father's partner to undergo various background checks before further contact with the children. The court denied Mother's request to terminate Father's exercise of partial custody in California. Mother has not appealed this decision.

[6] Mother's counsel subsequently withdrew from representation.

physical custody schedule that was not adequately reconciled with its own findings concerning Mother's role as the children's primary caregiver and source of stability, continuity, and daily care[.]

III. Whether the trial court abused its discretion by authorizing recurring extended interstate travel and multi-week separations for very young children without adequately explaining how their developmental needs, emotional well-being, continuity of care, and established routines were considered under 23 Pa.C.S. § 5328(a)(10).

IV. Whether the trial court erred as a matter of law by concluding that it had satisfied its independent judicial responsibility under Pa.R.C.P. 1915.4-2 despite disposing of several preserved legal challenges without fully addressing their substantive merits.

V. Whether the trial court abused its discretion by finding that Mother attempted to alienate the children from Father under 23 Pa.C.S. § 5328(a)(8), where the finding was not supported by competent evidence demonstrating conduct sufficient to support that statutory factor.

VI. Whether the trial court abused its discretion by authorizing extended interstate physical custody where the evidentiary record concerning third-party supervision, household composition, and proposed caregiving arrangements was insufficient to support the custody determination.

VII. Whether the trial court committed an error of law by concluding that Mother's preserved procedural due process claim became moot solely because a subsequent evidentiary hearing occurred, without determining whether that hearing actually cured the alleged constitutional deficiencies associated with the proceedings that produced the operative interim custody order.

VIII. Whether the trial court erred by entering a final interstate custody order where the particular interstate custody arrangement ultimately awarded was not fairly framed by the pleadings or otherwise clearly placed at issue before the evidentiary hearing.

IX. Whether the written custody decisions contain material factual statements that are difficult to reconcile with the certified record and that bear directly upon the statutory custody analysis supporting the Final Custody Order.

Mother's Br. at 9-11 (format altered, suggested answers omitted).

"In reviewing a custody order, our scope is of the broadest type and our standard is abuse of discretion." ***K.B. v. M.F.***, 247 A.3d 1146, 1150 (Pa.Super. 2021) (citation omitted). "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." ***Id.*** (citation omitted).

Where the parties have filed exceptions to the report of a hearing officer on the issue of partial custody, "the trial court is required to make an independent review of the record to determine whether the hearing officer's findings and recommendations are appropriate." ***Id.*** (citation omitted). "[T]he hearing officer's report and recommendations are given the fullest consideration particularly on the issue of credibility of witnesses, which the trial court is not empowered to second-guess." ***Id.*** (citation omitted).

"When a trial court orders a form of custody, the best interest of the child is paramount." ***P.J.P. v. M.M.***, 185 A.3d 413, 417 (Pa.Super. 2018) (citation omitted). The court must consider the custody factors of Section 5328(a), but it may ascribe the weight to be assigned each factor based on the facts of the case. ***M.J.M. v. M.L.G.***, 63 A.3d 331, 339 (Pa.Super. 2013); ***see also A.V. v. S.T.***, 87 A.3d 818, 820 (Pa.Super. 2014) ("The parties cannot dictate the amount of weight the trial court places on evidence. . . . Appellate interference is unwarranted if the trial court's consideration of the best interest of the child was careful and thorough, and we are unable to find any abuse of discretion" (citation omitted)).

In her first issue, Mother contends the court erred in denying the exception she took based on the Custody Hearing Conference Officer's failure to weigh the relocation factors under Section 5337(h). ***See*** 23 Pa.C.S.A. § 5337(h). Mother argues the trial court erred in concluding the relocation factors were irrelevant because it found the primary residence of the children has not changed. Mother asserts that Father's relocation met the statutory definition of Section 5322(a) and required consideration of the relocation factors because it "required the trial court to abandon the parties' existing Pennsylvania parenting schedule and replace it with recurring extended periods of physical custody in California." Mother's Br. at 17. She points out that prior to Father's relocation, the interim custody order provided Father would exercise custody on alternating weekends and Monday nights, and it was Father's relocation that rendered this custody schedule unworkable. She argues the court did not merely adjust the schedule following Father's relocation, but "replaced alternating weekend custodial periods exercised in Pennsylvania with recurring multi-week custodial periods exercised approximately 2,500 miles away in California[.]" ***Id.*** at 21.

Mother argues the Child Custody Act "does not define relocation solely by reference to a parent's decision to move," but "centers upon whether the proposed custodial arrangement significantly impairs the exercise of custodial rights." ***Id.*** at 20 (citing ***C.M.K. v. K.E.M.***, 45 A.3d 417, 422, 426-27 (Pa.Super. 2012)). She contends that "[t]he relocation statute reflects the Legislature's recognition that extended geographic separation presents

concerns distinct from those addressed by the general custody factors." ***Id.*** at 21. In her view, it "require[s] courts to evaluate not only the children's best interests under § 5328, but also the practical consequences of significant distance upon the parent-child relationship." ***Id.***

In denying this exception, the trial court gave the following reasoning.

> Mother . . . contends that Hearing Officer failed to analyze the relocation factors under 23 Pa. C.S. § 5337(h). A relocation is defined as "a change in a residence *of the child* which significantly impairs the ability of a nonrelocating party to exercise custodial rights." 23 Pa. C.S.A. § 5322 (emphasis provided). In the case at hand, the Children have not changed their residence with Mother. Father moved to California alone, without the Children. Hearing Officer's Proposed Order and Recommendation would allow Father to have partial physical custody of the Children for six (6) weeks during the summer, to be exercised in two, non-consecutive, three-week periods. The Children visiting Father for two, three-week periods during the summer clearly does not amount to a change in their residence, and therefore, we conclude the Hearing Officer did not need to consider the relocation factors under 23 Pa. C.S. § 5337(h).

Opinion, March 12, 2026, at 3.

The trial court did not err or abuse its discretion in denying the exception. The Child Custody Act defines a "[r]elocation" as "[a] change in a residence of the child which significantly impairs the ability of a nonrelocating party to exercise custodial rights." 23 Pa.C.S.A. § 5322(a).

Here, under the previous order, the children were residing with Mother, who had primary custody, subject to one overnight with Father every other week and Monday evenings. In response to Mother's petition for modification, Father proposed changing the custody order so he could exercise a few longer

periods of partial custody in California, rather than the shorter, but more frequent, periods of partial custody in Pennsylvania. In ordering the children to visit Father for two non-consecutive three-week periods every summer, the court did not change the "residence" of the Children. Nor did the change in Father's partial custody periods significantly impair Mother's ability to exercise her right to primary custody, which she enjoys the other 46 weeks of the year, subject at most to Father's optional monthly weekend visits. Thus, the change did not qualify as a "relocation" under the statute. ***Cf. C.M.K.***, 45 A.3d at 426 (where the mother had primary custody of the child and father had partial custody, and mother sought to move to another county with the child, finding the move constituted a relocation because it "significantly impairs [the f]ather's ability to exercise his custodial rights" in that it "break[s] the continuity and frequency of [the f]ather's involvement with [the c]hild").

Where a change in custody is not necessitated by the relocation of either parent under the statutory definition, a court must nevertheless consider the relocation factors when it shifts custody from one parent to another and this change requires the children "to move to a significantly distant location." ***D.K. v. S.P.K.***, 102 A.3d 467, 468, 477 (Pa.Super. 2014). Under the facts of the instant case, however, custody has not shifted to Father,[7] and the children

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[7] Father's six weeks of custody time in California constitute less than the amount of time he had been allowed in Pennsylvania under the preceding interim order (*i.e.*, every other weekend and Monday evenings). Only if Father also frequently visits Pennsylvania under the terms of the new order will he exceed his previous allowance of custodial time.

have not moved. ***Cf. id.*** (where the mother, who had already been exercising partial custody in a different state, filed a petition for primary custody, finding there was no "relocation" under the statutory definition, but holding court was nonetheless required to consider the relocation factors); ***accord L.J.G. v. E.B.***, No. 1261 MDA 2022, 2023 WL 4044173, at *3-5 (Pa.Super. filed June 16, 2023) (unpublished mem.) (where the parties had shared custody of the child and the father, who lived in Florida, was granted primary custody for nine months of the year, holding court should have assessed the relocation factors). Furthermore, Mother has not identified any relocation factor that the court ostensibly failed to consider that would render its custody decision an abuse of discretion.

We will discuss Mother's second and third issues together. In her second issue, Mother argues that while the court's opinion denying her exceptions recognizes her "central role in the children's daily lives" and "made numerous findings favorable to Mother" — particularly under custody factors 3, 4, and 10 — it does not adequately explain how these findings support the Custody Hearing Officer's decision to award Father weeks of custodial time in California. Mother's Br. at 24, 25. Mother argues this violates Section 5323(d), which requires a court to delineate its reasoning for a custody order. ***See*** 23 Pa.C.S.A. § 5323(d). Mother contends that, as a result, this Court is "left to infer how the trial court reconciled its findings regarding Mother's primary caregiving role, the children's established stability in Pennsylvania, and Father's relocation with the recurring six-week interstate custody schedule

ultimately imposed." Mother's Br. at 26. She stresses that "[m]eaningful appellate review cannot rest upon inference." ***Id.*** at 27.

Similarly, in her third issue, Mother argues the court failed to explain how the tenth custody factor — addressing "[w]hich party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child" — supports the Custody Hearing Officer's decision to award Father weeks of custodial time in California. ***See*** 23 Pa.C.S.A. § 5328(a)(10) (eff. Aug. 13, 2024 to Aug. 28, 2025). She contends the Hearing Officer expressly credited the evidence regarding the children's daily needs, and the importance of "maintaining consistency in the children's daily routines, educational environment, therapeutic services, and medical care." Mother's Br. at 29. Mother argues that the Hearing Officer and the court failed to "sufficiently articulate why extended interstate custodial periods appropriately accommodate the individualized developmental circumstances the court expressly found to exist." ***Id.*** at 30.

Mother did not raise in her exceptions her arguments that the Custody Hearing Officer failed to articulate her reasoning, or that in awarding Father custodial periods in California, it gave short shrift to the children's daily needs and Mother's role as their primary caregiver. ***See*** Exceptions, 7/9/25, at 1-4 (unpaginated). Accordingly, the trial court did not address these issues in its opinion denying Mother's exceptions. ***See*** Opinion at 1-10. These issues are therefore waived. ***See*** Pa.R.A.P. 302(a); Pa.R.Civ.P. 1915.4–2(b)(4).

Mother did take a somewhat similar exception: "The Hearing Officer failed to realize the disruption to the children[']s stability and routine by recommending extended periods of partial physical custody in California." Exceptions at ¶ 18(a)(1). The court denied this exception on the following basis:

> Mother in her final exception asserts that Hearing Officer failed to recognize that the recommended periods of partial physical custody for Father would constitute a major disruption to the Children's stability and structure. In the Proposed Order and Recommendation, the Hearing Officer found that though the distance between the parties makes any custody arrangement challenging, it is unrealistic for the Children to only be allowed to see Father in Pennsylvania when he lives in California, where they were all born. Hearing Officer also determined that the factor regarding the Children's need for stability and continuity favored Mother. Further, Hearing Officer acknowledged Mother's concerns about how the Children's absence while visiting Father may disrupt placement for their school, but found that it was not a reason to deny Father custodial time in his home state.
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> We find that Hearing Officer did not fail to realize the potential disruption to the Children's stability and routine by recommending that Father be granted partial physical custody in California. In fact, she acknowledged and discussed Mother's concerns on the subject, but ultimately found that Mother's concerns were not a reason to deny Father's exercise of custodial time in his home state. Notably, under Hearing Officer's Proposed Order and Recommendation, Father would merely be entitled to two (2) three-week periods with the Children in California during the summer, which also required Children to spend a minimum of a two (2) weeks with Mother between these periods with Father. Though this might temporarily disrupt the Children's routine in the summer, it appears highly unlikely to have a significant effect on the Children's educational performance during the school year, nor upon their stability in the long term. In all, we do not find any error or abuse of discretion on behalf of Hearing Officer in this instance. We find the Hearing Officer provided well-reasoned analysis as to this factor which is supported by competent evidence of record. The final exception will thus be denied.

Opinion at 8-9. The court did not abuse its discretion in denying the exception.

In her fourth issue, Mother argues the court "did not substantively resolve several preserved legal questions" raised in her exceptions, in violation of Rule 1915.4-2. Mother's Br. at 32. She asserts the court has a duty to independently review the custody hearing officer's determinations, which are merely advisory in nature. She argues the court erred in concluding that "certain arguments—including assertions concerning Father's employment history, financial circumstances, childcare arrangements, and challenges characterized as relating to the weight of the evidence—did not constitute proper exceptions because they allegedly failed to identify a specific legal error or abuse of discretion by the Hearing Officer." ***Id.*** at 34.

In its opinion denying Mother's exceptions, the court stated the following:

> . . . Mother includes several statements in her Exceptions to Custody Hearing Officer's Recommendations that appear unconnected to any allegation of error or abuse of discretion by Hearing Officer. Specifically, Mother separately states that the babysitter was not properly vetted; Father misrepresented his relationship with the babysitter; Father has an unstable employment history and financial instability; and the Order is against the weight of the evidence. None of these cited statements are proper exceptions as they do not identify any purported error or abuse of discretion on behalf of Hearing Officer in her findings, nor do these various statements present any associated legal argument or analysis. Thus, as these issues were not properly expressed or analyzed, the Court deems each of them to be waived.

Opinion at 3-4.

We find this issue waived by Mother's failure to develop it on appeal. Mother does not identify the exceptions she made that were not addressed by the court, or explain their substance and why they should warrant relief. Furthermore, we find Mother's presentation of her exceptions difficult to discern, and we agree with the trial court that these issues are also waived by Mother's failure to cogently present them in her exceptions as claims of error.

In her fifth issue, Mother argues the trial court abused its discretion in finding that the eighth custody factor under Section 5328(a), regarding parental alienation, weighed against Mother. She argues that there were three categories of evidence the court considered to be relevant to this determination: (1) disagreements regarding telephone communication following Father's relocation, (2) disagreements regarding Father's exercise of custody in Pennsylvania following his relocation, and (3) Father's reports that Mother told the children that "they would not see her again if they traveled to California, that they would have to choose between their parents," causing the children to be reluctant to travel. Mother's Br. at 38. Mother argues that even taken as true, Father's allegations do not make out intentional parental alienation as contemplated by the statute, but instead reflect high-conflict co-parenting and the practicalities of long-distance parenting.

In denying this exception, the trial court stated the following:

> Mother next contends that Hearing Officer erred when finding that Mother attempted to alienate the Children from Father, alleging that the finding is unsupported by the evidence. In the Proposed Order and Recommendation, Hearing Officer takes into account Father's various testimonies regarding Mother's

impact on his relationship with the Children as well as Mother's insistence that Father's custodial time occur in Pennsylvania.

The Court finds that considerable evidence was presented to the Hearing Officer which supports her determination of this factor. Father testified that he has had difficulty contacting the Children since his move. [N.T., 6/17/25,] at 64. When he is able to talk to the Children on the phone, Mother often interrupts the calls, gets angry with Father during them, or abruptly hangs up on him. ***Id.*** Father's last visit with the Children prior to the June 2025 hearing was in February 2025. ***Id.*** at 74. Father testified that he visited the Children in Pennsylvania at that time and Paternal Grandmother came with him. However, he stated that Mother threatened to deny Father from seeing the Children if Paternal Grandmother was with him, and that Mother even forced her way into his hotel room to see if she was there, so Father did not tell her that Paternal Grandmother was with him. ***Id.*** at 74-75. Father further testified that he feels Mother has been alienating the Children from him. ***Id.*** at 66. The Children had previously expressed excitement about visiting Father in California, but the oldest child has recently started saying that she does not want to go, and Father testified that she appears to look towards Mother for approval when talking with Father. ***Id.*** at 84-85. Father also testified as to Mother telling the Children that if they were to go to California, they would not see her anymore, and that they had to choose between Mother and Father. ***Id.*** at 66. Additionally, Mother testified that she only wants Father to talk to the Children three (3) to four (4) times a week and only wants him to see the Children in Pennsylvania. ***Id.*** at 48-49.

Based on the cited testimony, we find that the Hearing Officer correctly considered and weighed this factor and articulated her reasoning for the finding in deciding the factor. A review of the evidence does not show error or abuse on behalf of Hearing Officer. Father testified as to his difficulty contacting the Children, Mother's threats to withhold the Children if Father does not allow her to exert control over the circumstances in which he sees them, and Mother's own testimony about ways in which she wants to limit Father's contact with the Children.

Moreover, the officer before whom the record hearing is held is in the best position to observe the proceedings and the demeanor of the witnesses and, therefore, to determine the credibility and motive of each party. [***Swope v. Swope***, 689 A.2d 264, 265 (Pa. Super. 1997)]. Thus, we will not disturb the Hearing

> Officer's findings here as we conclude, after reviewing the testimony and evidence presented, she did not err or abuse her discretion in this instance, and this exception will be denied.

Opinion at 6-7.

The court did not abuse its discretion. While Father's move may be responsible for some of Mother's reactions, there was sufficient evidence for the Custody Hearing Officer to conclude that Mother was also exacerbating the issue and thwarting Father's relationship with the children. Furthermore, while the Custody Hearing Officer found this factor favors Father, it does not appear that the Custody Hearing Officer or the court placed undue weight on this factor, as Mother's custodial periods have not been reduced.

In her sixth issue, Mother argues the court abused its discretion in ordering the children to spend six weeks in Father's care because there was insufficient evidence regarding who would care for the children during Father's working hours. Mother recounts Father's testimony that he arranged for childcare with the children's paternal grandmother, extended family, and the help of a nanny or babysitter. However, she argues, "the court should possess sufficient information regarding the identities of the individuals who would provide [the] day-to-day care, the practical operation of Father's proposed childcare plan, and the manner in which the children's daily needs would be met while Father remained at work[.]" Mother's Br. at 42. She relatedly asserts the court's opinion reflects that while it "carefully considered" Father's testimony regarding his childcare plans for the children, the opinion "does not

sufficiently explain why the evidentiary record before the court adequately established the practical operation of those arrangements[.]" ***Id.*** at 44.

Mother did not raise in her exceptions whether the Custody Hearing Officer erred in failing to elucidate further specifics regarding Father's anticipated childcare arrangements, and the court did not address this issue. The issue is therefore waived. Mother also fails to present any authority requiring the Custody Hearing Officer to make such an inquiry.

Seventh, Mother argues the court abused its discretion in denying her exception asserting a violation of procedural due process. She states the court concluded her claim was moot because it claimed a denial of due process at the May 2025 conciliation conference, and any defect in that process had been cured by the June 2025 evidentiary hearing before the Custody Hearing Officer. Mother argues that she timely raised, through *pro se* motions filed following the May conciliation conference, that "she was not permitted to participate in the custody conference, never met with the conciliator, [and] never discussed the proposed recommendation[.]" Mother's Br. at 46. Mother argues that on June 6, the court denied her motions and ordered that Father's exercise of custody would begin following the June 17 evidentiary hearing, but never resolved her constitutional complaints regarding the May hearing. Mother acknowledges that the June hearing "unquestionably afforded Mother a full opportunity to present evidence, cross-examine witnesses, and advocate her position regarding the parties' competing custody requests." ***Id.*** at 48. However, she argues, "interim custody orders frequently establish the

practical *status quo* governing the parties and may carry significant consequences notwithstanding their temporary character." ***Id.*** at 49 (citing ***E.B. v. D.B.***, 209 A.3d 451 (Pa.Super. 2019)).

In her exceptions, Mother alleged, "At the time of the May Custody Conference, both parties were represented by counsel, but neither party had an opportunity to speak with the [conciliator]." Exceptions at ¶ 7. She further stated, "On May 12, 2025, [the conciliator] made a Recommendation to the Court which is full of inaccuracies and recommendations which were never discussed between the parties." ***Id.*** at ¶ 8.

In denying this claim, the trial court explained,

> . . . Mother contends that she was deprived of due process at the Custody Conciliation Conference level when she was not permitted to address the Conference Officer at the May 12, 2025, Custody Conciliation. This assertion is irrelevant to the matter at hand; custody conciliations are non-record proceedings, and further, Mother was represented by counsel at such Conciliation, who never raised this objection at the time thereof pursuant to the Recommendation. Lastly, this matter is moot since, as noted above, after said conciliation occurred, a *de novo* evidentiary hearing was held before Custody Hearing Officer on June 17, 2025.

Opinion at 3.

We agree that no relief is due. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." ***E.B.***, 209 A.3d at 463 (citation omitted). Counsel represented Mother at the May 2025 conciliation conference. Even assuming *arguendo* that Mother's due process rights were violated at the conciliation

hearing and that Mother's subsequent *pro se* filings preserved this claim, any irregularity in the conciliation proceedings resulting in the interim order was mooted the very next month, in June, when the Custody Hearing Officer held an evidentiary hearing at which Mother participated. Mother has not alleged that the May order established the *status quo* such that it affected the outcome of the June hearing. Nor has she argued an exception to the mootness doctrine applies here. ***Cf. E.B.***, 209 A.3d at 462 (finding challenge to interim order that had been superseded by final order was capable of repetition and apt to elude appellate review, and therefore excepted from mootness doctrine, because, "The history of this case suggests that these parties are likely to litigate continually aspects of their custody arrangement, and the trial court might again try to resolve their issues without conducting a full trial").

Mother's eighth issue is whether the trial court violated her right to procedural due process by entering a custody arrangement that had not been contemplated by the parties, and therefore not meaningfully litigated. Mother's Br. at 51. She argues her petition for modification did not contemplate Father's exercise of custody in California, and Father did not file an answer or counterclaim for custody relief. Mother acknowledges that Father was "free to oppose Mother's requested modification and advocate for an alternative custody arrangement at the evidentiary hearing." ***Id.*** However, she argues that "the specific proposal for extended California custody first emerged during the conference process rather than through the pleadings" ***id.***, and "procedural due process requires that the parties receive fair notice

of the proposal actually being adjudicated so that they may fully develop the factual record relevant to that proposal." ***Id.*** at 53. She contends material provisions of the proposed custody schedule were altered throughout the proceedings, "including the duration of Father's summer custodial periods, the division of those periods into separate intervals, the allocation of transportation expenses, airfare responsibilities, and additional implementation provisions[.]" ***Id.***

This is waived. While Mother's exceptions stated, "It should be noted that Father never filed an Answer to Mother's Petition to Modify and never raised the issue of 8 consecutive weeks of partial physical custody with a pleading," Exceptions at ¶ 6, Mother made this statement in the "Procedural History" section of the filing, rather than in the "Exceptions" section. The statement did not alert the trial court that Mother took exception on the basis that the evolution of the custody arrangement after the pleadings stage was a violation of her due process. Because Mother did not raise this issue as an exception, it is waived.

Even if it were not waived by her failure to take an exception, it would be waived by Mother's failure to present any authority restricting the court to imposing a custody arrangement that had been proposed by one of the parties in a pleading. We also disagree that Mother did not have notice of the proposed custody schedule, and note that Father filed a pre-trial memorandum requesting eight weeks of partial custody of the children in California during the summer months. ***See*** Pre-Trial Memorandum, 6/11/25, at 2. We further

observe Mother had the opportunity to litigate any "surprises" in the Proposed Order and Recommendation through her exceptions. Mother also fails to advance any substantive argument she would have lodged against any provision of the custody order, if she had had more notice. No relief is due.

In her final issue, her ninth, Mother argues there is inconsistent record evidence on the residential history of the family, *i.e.*, whether they resided in Pennsylvania and/or California prior to Father's recent move, and the court's finding that the parties solely lived in California prior to 2024 may be inaccurate. She further argues the court's narrative that the parties had only recently moved to Pennsylvania affected its custody analysis. She argues the "factual inconsistencies should not be viewed in isolation but rather as part of the broader context in which the challenged custody determination was reached." Mother's Br. at 56.

The Custody Hearing Officer's Proposed Order and Recommendation states that "[t]he parents resided in California prior to relocating to Monroe County, PA in March of 2024." Proposed Order at 7. Mother did not take an exception raising this alleged error, and it is waived.[8]

Order affirmed.

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[8] Mother presents a tenth issue, arguing: "THE CUMULATIVE EFFECT OF THE LEGAL, PROCEDURAL, AND STATUTORY ERRORS IDENTIFIED THROUGHOUT THIS APPEAL WARRANTS VACATUR AND REMAND." Mother's Br. at 56. Because Mother did not include this issue in her questions presented, it is waived. ***See*** Pa.R.A.P. 2116(a).

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/9/2026