

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

Jared M.,
Petitioner Below, Petitioner

v.) No. 24-315 (ICA No. 23-ICA-271)

Molly A.,
Respondent Below, Respondent

MEMORANDUM DECISION

Petitioner father Jared M. appeals the memorandum decision of the Intermediate Court of Appeals (“ICA”) affirming the Family Court of Monongalia County’s May 25, 2023, order modifying the parties’ parenting plan to reflect a 50-50 custodial allocation.¹ *See Jared M. v. Molly A.*, No. 23-ICA-271, 2024 WL 1464058 (W. Va. Ct. App. Apr. 4, 2024) (memorandum decision). On appeal, the petitioner argues that the family court erred in failing to modify child support and consider all of the evidence presented and that the ICA erred in affirming the same. Upon our review, we determine that oral argument is unnecessary and that a memorandum decision summarily affirming the ICA’s decision is appropriate. *See* W. Va. R. App. P. 21.

Prior to the instant appeal, the proceedings below came before this Court on two occasions. *See Jared M. v. Molly A.*, No. 19-0764, 2020 WL 7233165 (W. Va. Dec. 7, 2020) (memorandum decision); *Jared M. v. Molly A.*, 246 W. Va. 556, 874, S.E.2d 358 (2022). Briefly, the parties were never married and share one child, E.M., who was born in February 2012. E.M. was diagnosed with a brain tumor in 2013, which necessitated extensive caretaking and medication. In September 2014, the parties entered into an agreed parenting plan that designated the mother as the child’s primary residential parent with the father receiving parenting time every Wednesday and Thursday and every other weekend. The parenting plan also required the father to pay monthly child support.

In December 2017, the father filed a motion to modify the parenting plan and child support, alleging that a substantial change of circumstances had occurred. After a hearing on modification, the family court entered an order in January 2019 finding that there was no substantial change in circumstances that warranted modification of the parenting plan and bifurcating the issues of child support and attorney’s fees. Shortly thereafter, in February 2019, the family court entered an order modifying the father’s child support to \$303.87 per month and ordering the father to pay the mother’s attorney’s fees. The father appealed both orders to the circuit court, specifically on the issues of custody and attorney’s fees. The circuit court consolidated the appeals and entered an

¹ The petitioner appears pro se. The Respondent appears by counsel Alyson A. Dotson and Michelle L. Bechtel. Additionally, we use initials where necessary to protect the identities of those involved in this case. *See* W. Va. R. App. P. 40(e).

order affirming the family court's orders in August 2019. The father then appealed the circuit court's order to this Court. In July 2020, while the father's appeal was pending, the father filed a separate petition for expedited modification² of child support which the family court granted, reducing the father's child support amount to zero. In December 2020, this Court entered a memorandum decision remanding the circuit court's August 2019 order, with instructions to enter a new order containing sufficient findings of fact and conclusions of law to support its ruling. The circuit court then entered an amended order with more detailed findings of fact and conclusions of law but ultimately maintained its decision to affirm the family court's January and February 2019 orders. The father again appealed, resulting in this Court's April 2022 decision, namely, a signed opinion reversing and remanding the family court's January 2019 order. We explained that the parents' change in employment, the child's improved medical condition, and the child's age constituted a substantial change in circumstances and that the family court erred in denying the father's December 2017 motion to modify the parenting plan and in awarding attorney's fees. Upon remand, the family court entered an order on May 25, 2024, finding that the mother did not rebut the presumption for 50-50 custodial allocation under West Virginia Code § 48-9-206 and modifying the parenting plan to reflect shared equal custody between the parties. The family court also declined to address child support on remand because no petition to modify child support had been filed. The father appealed this ruling to the ICA, which affirmed the family court. The father now appeals the ICA's affirmance.

On appeal of a family court's final order from the ICA, this Court reviews the family court's findings of fact for clear error, the family court's application of the law to the facts for an abuse of discretion, and questions of law de novo. Syl. Pt. 3, *Christopher P. v. Amanda C.*, 250 W. Va. 53, 902 S.E.2d 185 (2024). Before this Court, the father argues that the family court erred by failing to address child support and consider all of the evidence presented when ordering a 50-50 custodial allocation. In response, the mother argues that the family court did not err because there was no petition to modify child support pending before the family court on remand and the family court considered all evidence presented. Having considered the record and the briefs, we find no reversible error and therefore summarily affirm the ICA's decision. *See* W. Va. R. App. P. 21(c).

Affirmed.

ISSUED: August 25, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan

² The family court denied the father's request to expedite but ultimately granted the motion for modification.