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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2018-2019

2170693

Helen Elizabeth Sylvester

v.

Gregory Joseph Cartee

Appeal from Madison Circuit Court
(DR-06-1729.01)

DONALDSON, Judge.

Helen Elizabeth Sylvester ("the mother") appeals from a judgment of the Madison Circuit Court ("the trial court") that, among other things, granted her and Gregory Joseph Cartee ("the father") joint physical custody of K.C. ("the

2170693

child") and declined to award child support following postdivorce modification proceedings.

Facts and Procedural History

The mother and the father were divorced on January 19, 2007. Pursuant to the parties' settlement agreement, which was incorporated into the divorce judgment, the mother was granted sole physical custody of the child and the father was ordered to pay \$948 per month in child support to the mother.

On May 6, 2016, the father filed a petition seeking to modify his child-support obligation and to hold the mother in contempt. The father later amended his petition to request a modification of the child's custody. The mother filed an answer and, later, a petition seeking a finding of contempt against the father.

The trial court held a trial on January 29 and 30, 2018. The child was 12 years old at the time of the trial.

The father testified that, at the time of the trial, he was employed as an engineer earning \$115,000 annually. The father also testified that he lived with his current wife and their 10-month-old daughter and that they have visitation with the child and with his wife's 8-year-old daughter.

2170693

The father testified that he and the mother divorced when the child was a little over one year old. Before the child started school, the father followed the visitation schedule set forth in the parties' divorce judgment. After the child started school and became involved in extracurricular activities, the father's time with the child increased as he participated in those activities with the child. In particular, the father coached the child's soccer team and helped with his baseball and basketball teams.

The father testified that his relationship with the mother had been "rocky" and "challenging" and that the mother had not been co-parenting well. The father testified that the mother had enrolled the child in activities without informing him, had made medical decisions about the child without his input, had harassed him, and had refused to allow him certain visitation. The father testified that he believed that the mother had "done a lot to poison" and undermine his relationship with the child. The father testified that the mother had also undermined his disciplinary methods in front of the child. In support of his assertions, the father testified that the mother often degraded him in front of the

2170693

child and that the mother had told him that the child hates him. The father also testified that he had heard the mother tell the child that the father is mean to him. The mother had sent multiple text messages to the father that were admitted into evidence in which she accused him of various things, including stalking her, being obsessed with her, being a bad father, and ignoring the child.

The father also testified that the mother had verbally attacked him and his wife in front of the child and had called his wife names and had said other unpleasant things to her. The father offered into evidence audio recordings in which he claimed the mother could be heard engaging in name-calling, making derogatory comments, and "bad-mouthing" him in front of the child. He claimed that the audio recordings demonstrated typical behavior for the mother. In one of those recordings, the mother yelled at the father in front of the child in a parking lot after the child's karate practice regarding the father's plan to have his friend care for the child the following day. The mother involved the child in the argument by asking the child what he wanted. The mother stated that the person the father wanted to leave the child with was the

2170693

father's "random hookup," and she told the father: "This is a fucking joke." The father responded: "I'm not going to sit here and do this in front of him." The mother also stated, in a loud tone: "If you love our child like I love our child you will bring him to his stepfather which is where he wants to be." The father again told the mother to stop speaking in that manner in front of the child, and the mother, again, asked the child what he wanted to do. The child softly responded, but it is not clear what he said.

The father testified that the mother had also filed a false report with the local department of human resources regarding the father and had requested that the police do a welfare check when the child was in his custody because she had not received a response for a few hours. The father testified that he believes that the mother's behavior negatively impacts the child.

According to the father, the child is in the sixth grade and is "significantly underperforming." The father testified that, although the child's final grades had included low B's and some A's, the child had made numerous C's and D's on assignments throughout the school year and that those grades

2170693

are "way under his potential." The father testified that he had attempted to address those issues with the mother but that she had not been receptive to his concerns. The father asserted that the child had performed more poorly on tests and homework while he was in the mother's care and that "there has been a continual pattern of him not having assignments done that he was supposed to at school and being prepared for tests on days that she has him the night before." The father testified that the mother had sometimes refused to send the necessary materials for the child to study or to work on assignments while at the father's house. The father also testified that the mother had not provided him with copies of report cards or progress reports or with notice of school events.

The father testified that the child had exhibited behavioral issues in class and had been removed from his usual seat in the classroom and had been made to sit in a different part of class by himself "for bullying other kids or just not paying attention or talking."

The father testified that the child has a minor medical issue but that he is otherwise healthy. According to the

2170693

father, the child had been seen by a specialist to address his medical issue and the father had implemented measures to address it, but the mother had not done the same. The father also testified that the mother had begun giving medication to the child without telling the father. The father asserted that the child eats unhealthy food and spends the majority of his time playing video games while at the mother's house.

With regard to their interactions involving extracurricular activities, the father testified that the mother had previously refused to take the child to a baseball tournament if the father attended, even though the father was helping to coach the team. As a result, the father had watched the child's last baseball game from the parking lot. The following season, the father enrolled the child in a basketball program despite the mother's disagreement, and the mother did not attend any of the child's basketball practices or games.

The father testified that the mother had refused to allow him to have any extra visitation with the child and had also refused to allow him to exercise his scheduled visitation on multiple occasions. According to the father, the mother had

2170693

scheduled the child's karate practice for Wednesday nights, which interfered with his visitation, despite having the option of scheduling the practice on five other days. The father testified that the mother had not allowed him to have the child for a fall-break or spring-break visitation since 2015. In addition, the father testified that the mother had threatened to withhold visitation for upcoming events on occasions when the father had not conceded to her various scheduling demands. The father also testified that the mother had often scheduled her family gatherings during the father's visitation periods with the child.

The father testified that all of those events are negatively impacting the child, his performance in school, and his behavior at school and at the father's house. The father also testified that he had witnessed the child bullying animals at his house, at his wife's family's house, and at his parents' house. The father testified that the child does not care about his grades or finishing assignments and that the child seems emotionally immature for his age. According to the father, he has to "hold [the child's] hand, figuratively speaking, for more things than [he] should have to." The

2170693

father testified that, because of the child's issues and the mother's behavior toward the father, he had attempted to enroll the child in counseling but that the mother would not agree. Instead, he asserted, the mother told him that if he thinks something is "wrong" with the child he should just bring the child home to her house.

The father testified that he had initiated this modification action because he wanted the child to

"grow up and become a good man and to be a productive member of society and to have good morals and to not lie and to not end up in prison. ... I don't think that is possible without him maintaining a strong relationship with both of his parents. And I think to have that strong relationship with me, that I feel his mother has been poisoning nonstop, he needs more influence from me and less influence from her. And that means that he needs to be with me more and less with her"

The father testified that he would like sole physical, or at least joint physical, custody of the child.

The father's wife, Kathleen Rachel Hilt Cartee ("the stepmother"), testified that the father has a very loving relationship with the child and that he puts a lot of thought into planning activities for the child. According to the stepmother, the father sent text messages to the mother in

2170693

November 2017 regarding the child's school grades but the child had thereafter continued to fail various assignments.

Pamela Ann Cartee ("the paternal grandmother") testified that the father had never inappropriately disciplined the child. The paternal grandmother also testified that the father had telephoned her on more than one occasion "in tears" about the way the mother had spoken to him in front of the child.

The mother testified that she and the father had shared a pretty good co-parenting relationship until around 2016. The mother testified that she believed that the custodial and visitation schedule should remain unchanged. The mother denied that she had refused the father any of his scheduled visitation, and she asserted that the father had refused to allow her reasonable telephone access to the child while he is in the father's custody. On one such alleged occasion, the mother said, she contacted law enforcement to do a "welfare check" because the child had contracted poison ivy and she had not received a response from the father or the child for a few hours. The trial court later asked the mother whether she believed that the child should have any 24-hour period with the father in which she does not have telephone access to him,

2170693

to which she responded that she should be able to speak with the child every day.

When questioned about making a report regarding the father to the department of human resources, the mother testified that, when the child was much younger, he had returned from visitation with the father with a handprint on his back. According to the mother, she repeatedly asked the father to explain what happened, but, she said, he would not respond. That same day, the mother contacted law enforcement and took the child to the hospital. The mother testified that the hospital contacted the department of human resources. The mother testified that she had continued to have concerns about the way the father disciplined the child, although she had not addressed those concerns through legal action.

The mother acknowledged that she had behaved inappropriately in some of her interactions with the father, but she asserted that the father had talked to her "really poorly and called [her] plenty of names." The mother testified that she does not belittle the father, but she admitted that she has sent multiple text messages in which she has called him, among numerous other names, "nuts," "crazy," "demonic,"

2170693

"psycho," and "a monster" and that she had told him that he is "not as smart as he thinks he is." Exhibits containing those text messages indicate that the father did not respond when the mother sent those messages.

The mother denied that she has problems controlling her anger and stated: "I have a temper like everyone else has a temper." The mother acknowledged that she had been "written up" at least three times at the hospital in which she had been employed for engaging in inappropriate workplace behavior and conflict. The mother also acknowledged that she no longer speaks with her husband's sister because of an "incident."

The mother testified that she had wanted the child to be in counseling "for years" but that she had not taken him because the child would not agree to attend if the father attended, and, she said, she knew that the father would attend. The mother admitted that she had told the father that the child needed counseling as a result of being his son.

The mother acknowledged that the father had told her that he believed that the child had bullied other children and animals, but, she testified, she had never seen him be cruel toward an animal. The mother testified that she and her

2170693

husband have two cats, three chickens, one horse, and two ponies and that the child loves the animals.

The mother disagreed with the father's assertions that the child was having problems in school. The mother testified that the child is on the honor roll, that she is very proud, and that "[m]aybe he just wasn't meant to be forever, you know, a top scholar." The mother also testified that she does not believe the father's assertions that the child's teachers were having problems with the child's behavior. The mother testified that she attends all the child's school events and that the father does not attend the child's school events during the day; specifically, she stated the father did not attend a spelling bee and an awards banquet. The mother testified that the father had typically attended events held in the evenings, but she made sure to point out that the father "still manages to arrive late to the vast majority of them."

The mother testified that she had taken the child to a specialist for his medical issue and that she had purchased equipment and medication for the child, but she did not believe that either had made a difference. The mother

2170693

testified that she did not begin administering medication to the child without informing the father.

With regard to the child's extracurricular activities, the mother testified that she decided not to take the child to his end-of-the-season baseball games because, she asserted, the father had insulted and berated the child during the games. The mother also testified that the father had enrolled the child in basketball after "the decision was made that [the child] wasn't going to play" but the father "didn't accept that for an answer." Because of that, the mother testified, she "never supported it at all." The mother also testified, however, that she had recently enrolled the child in a Christian-centered basketball program in which scores are not kept and that she did not inform the father because she believed that he would not approve of the program.

The mother testified that the child lives with her and her husband and that her husband has a child with whom he has visitation. The mother testified that the child does not play video games all day and that he stays active with the rest of his family by bike riding, swimming, and participating in other activities.

2170693

A clinical manager at the hospital at which the mother had been employed testified that the mother was very "well-thought-of" in the hospital community and that the mother had agreed to remain employed on an "as needed" basis. The clinical manager testified that the mother had not been "written up" at work but that she had had oral warnings regarding communication issues. The clinical manager explained that assisting in surgical settings can create stressful situations that can contribute to communication issues.

Chris Sylvester ("the stepfather") testified that he and the mother had been married for five years. The stepfather testified that he gets along very well with the child and that they participate in many activities together. The stepfather testified that he has a farm with animals and that he had never seen the child abuse any animals. The stepfather also testified that he had seen the mother help the child with homework and school projects.

According to the stepfather, the father used to communicate well with him and the mother and used to come to the door when picking up the child to help the child carry items. The stepfather testified that the father's behavior

2170693

changed once he married the stepmother. The father's attorney questioned the stepfather about whether he had reviewed the mother's deposition testimony because, the attorney asserted, certain phrases he had used were identical to the mother's deposition testimony. The stepfather testified that he had not discussed the mother's deposition testimony with her and stated: "We connect really well."

The stepfather also testified that he had been present for an altercation that occurred between the mother and the father in a parking lot during which, he asserted, the father was cursing at the mother. The father's attorney questioned whether the stepfather was present for the entirety of the altercation because, in the audio recording of the incident that was admitted into evidence, the mother stated that she was calling the stepfather to come to that location, which indicates that he was not present. The stepfather admitted that, at some point that is not clear from his testimony, he told the father that he would "like to beat his ass," but, he said, he had since apologized.

On February 9, 2018, the trial court entered a final judgment that made specific findings of fact and provided, in part:

"By competent proof, the Court, having closely observed the parties and witnesses, including the demeanor of the parties and witnesses, the presentation of the testimony and evidence, FINDS and ORDERS as follows:

"The Father met the [Ex parte] McLendon[, 455 So. 2d 863 (Ala. 1984),] standard. Stated plainly: The Father has amply demonstrated his fitness as a custodian; there has been material changes in circumstances since the entry of the Final Decree of Divorce, which said changes affect the welfare of the minor child; that it is now in the minor child's best interest and welfare to modify the custody provisions as set out in the Final Decree of Divorce, that a change in the custody provisions of the Final Decree of Divorce will materially promote the child's welfare and best interests; and the positive good brought about by the change in custody will more than offset any disruptive effect. The Court finds that the record contains sufficient and supplementary proof of the same, including but not limited to the following:

"A. The current custody arrangement was set by the Court when the child was 1 year old. The child is now a young man of 12 years old. The evidence showed that as the child is now entering adolescence and his teenage years and his behaviors that have been exhibited warrant more time with both parents. The Court finds that it is undoubtedly in the child's best interest to have more time with his father at this critical juncture in his life.

"B. That the current custodial arrangement does not work well for the healthy parenting of the child due to the father and mother failing to adequately communicate regarding the daily and long term physical and emotional needs of the child. The parents have failed to communicate maturely and cordially about even the most basic physical and emotional issues related to the child.

"C. That the Mother behaved in a confrontational, immature, and unreasonable manner in various interactions with the Father and has continuously communicated with the Father in an inappropriate manner, both individually and in the presence of the minor child. The Mother's poor judgment and inappropriate behavior has often been without cause and in stark contrast to the minor child's well-being.

"D. The Mother has engaged in behavior designed to frustrate and thwart the Father's relationship with the minor child, by word and by deed, all to the detriment of the minor child.

"E. The Mother has also prevented the minor child from spending quality, uninterrupted time with the Father when the minor child is in the Father's care, custody, and control.

"F. The Father has remarried, had another child, and established a stable and suitable home environment, all of which will greatly benefit the minor child.

"G. The Father has provided for the child's physical, medical, emotional, moral, musical, and academic needs.

"H. The Mother and [the] Father, having both relocated since the entry of the Final Decree of Divorce, live within a few miles of one another.

"I. The Court finds the quality ... of the child's contact with both the Mother and the Father would be better served by a modification of custody. Based upon the above, the entirety of the record and careful consideration of the burden of McLendon, the welfare of the minor child, and the demeanor of the parties throughout the proceedings, the Court finds that the benefits to the minor child from a change in custody outweigh the presumption against such a change.

"....

"6. The Court finds that no child support is due to be paid by either party to the other. It is the Court's determination that the application of the guidelines of Rule 32 of the Alabama Rules of Judicial Administration would be inappropriate due to the joint custodial arrangement that is Ordered herein. The Court finds that a deviation is appropriate from the guidelines as is provided for by Rule 32(A)(1)(a) of the Alabama Rules of Judicial Administration.

"....

"11. The parties shall immediately take all steps and action necessary to enroll themselves and their minor child ... in counseling with a licensed counselor. The parties are ORDERED and directed to cooperate in, participate and follow all recommendations of the counselor, including anger management counseling, and shall keep all appointments scheduled for either or both of the parties and/or their child. The Court hopes that said counseling for the parties would include appropriate training in communication skills, which will hopefully empower the parties to resolve their own differences in the future and to minimize the need for judicial intervention in their family affairs. The counseling shall further focus on the hostility that the Mother has shown and continues to show towards the Father, which is adversely affecting the minor child. The parties shall each be responsible for and pay one-half (1/2) of the cost of the participation of the parties' minor child, and the cost of his or her own participation in said program, if same is not covered by available insurance coverage."

On February 14, 2018, the trial court amended the judgment to include a holiday custody schedule. On February

2170693

26, 2018, the mother filed a motion seeking to alter or amend the judgment. The father also filed a postjudgment motion seeking to clarify what he described as conflicting language in the judgment.

On March 12, 2018, after a hearing, the trial court entered an order in which it granted the parties' postjudgment motions in part and in which it amended the judgment to include a provision ordering the father to pay \$343.25 to the mother for the child's unpaid lunch fees. The trial court also prohibited the parties from "audio or video taping conversations between themselves and the minor child or between themselves and/or the child during any period in which the parties are exchanging the minor child." The mother filed a notice of appeal to this court on April 20, 2018.

Discussion

On appeal, the mother argues that there is no evidence, other than the father's assertions in his testimony, that would demonstrate that a material change in circumstances had occurred. The mother also argues that, even if the trial court believed the father's assertions, there is no evidence to demonstrate that spending additional time with the father

2170693

would benefit the child. Additionally, in her thorough appellate brief, the mother appears to challenge almost every factual finding that the trial court made in its judgment.

To the extent the trial court entered its judgment after resolving disputed issues of fact, the standard of review is well settled.

"When evidence in a child custody case has been presented ore tenus to the trial court, that court's findings of fact based on that evidence are presumed to be correct. The trial court is in the best position to make a custody determination -- it hears the evidence and observes the witnesses. Appellate courts do not sit in judgment of disputed evidence that was presented ore tenus before the trial court in a custody hearing. See Ex parte Perkins, 646 So. 2d 46, 47 (Ala. 1994), wherein this Court, quoting Phillips v. Phillips, 622 So. 2d 410, 412 (Ala. Civ. App. 1993), set out the well-established rule:

""Our standard of review is very limited in cases where the evidence is presented ore tenus. A custody determination of the trial court entered upon oral testimony is accorded a presumption of correctness on appeal, Payne v. Payne, 550 So. 2d 440 (Ala. Civ. App. 1989), and Vail v. Vail, 532 So. 2d 639 (Ala. Civ. App. 1988), and we will not reverse unless the evidence so fails to support the determination that it is plainly and palpably wrong, or unless an abuse of the trial court's discretion is shown. To substitute our judgment for that of the trial court would be to reweigh the evidence. This Alabama law does not allow. Gamble v. Gamble, 562 So. 2d 1343 (Ala.

2170693

Civ. App. 1990); Flowers v. Flowers, 479 So. 2d 1257 (Ala. Civ. App. 1985).""

Ex parte Bryowsky, 676 So. 2d 1322, 1324 (Ala. 1996). Because the mother had previously been granted sole physical custody of the child, the standard set forth in Ex parte McLendon, 455 So. 2d 863 (Ala. 1984), applies. The McLendon standard requires that

"the noncustodial parent seeking a change of custody must demonstrate (1) "that he or she is a fit custodian"; (2) "that material changes which affect the child's welfare have occurred"; and (3) "that the positive good brought about by the change in custody will more than offset the disruptive effect of uprooting the child." Kunkel v. Kunkel, 547 So. 2d 555, 560 (Ala. Civ. App. 1989) (citing, among other cases, Ex parte McLendon, 455 So. 2d 863, 865-66 (Ala. 1984) (setting forth three factors a noncustodial parent must demonstrate in order to modify custody))."

"McCormick v. Ethridge, 15 So. 3d 524, 527 (Ala. Civ. App. 2008). It is not sufficient for a noncustodial parent seeking a modification of custody to show that he or she is a fit custodian. Id. The noncustodial parent must prove all three McLendon factors in order to warrant a modification of custody. Id."

Walker v. Lanier, 180 So. 3d 39, 42 (Ala. Civ. App. 2015).

The mother cites C.A.H. v. J.B.S., 49 So. 3d 205 (Ala. Civ. App. 2010), as "wholly analogous" support for her

2170693

position. In C.A.H., however, the trial court did not make specific findings of fact and this court assumed that the trial court had determined "that the mother's environment [in that case] had changed in such a way that it "endanger[ed] the child's physical or emotional health, safety, or well-being."" 49 So. 3d at 210 (quoting Cochran v. Cochran, 5 So. 3d 1220, 1226 (Ala. 2008) (quoting in turn K.E.W. v. T.W.E., 990 So. 2d 375, 380 (Ala. Civ. App. 2007)). This court explained that we could not reconcile such a finding with an award of joint physical custody. In addition, the father in C.A.H. did not present evidence regarding his personal situation or evidence demonstrating that the child's best interests would be promoted by a change in custody. Id. at 211. In this case, the trial court made specific findings of fact that, as explained below, are supported by the evidence in the record, and the father presented evidence from which the trial court could have found that an alternating joint-physical-custody arrangement would promote the child's best interest.

The evidence indicated that the parties divorced and entered into their custodial arrangement when the child was

2170693

less than two years of age. It was undisputed that, since that time, the parties' relationship and ability to communicate with one another had deteriorated. The mother sent numerous text messages to the father that the trial court could have considered to be harassing in nature. In addition, an audio recording admitted into evidence memorializes an occasion in which the mother yelled at the father and berated him in front of the child and in which the mother involved the child. The father testified that such behavior was typical for the mother, which the mother denied. The father testified that the mother's behavior was negatively impacting the child. The father's testimony indicated that the child had begun exhibiting, among other issues, behavioral issues at school and at the father's house. That evidence supports the trial court's finding that the mother had communicated with the father in an inappropriate manner in the child's presence, that the mother had engaged in behavior designed to frustrate and thwart the relationship between the father and the child, and that the mother's behavior had been detrimental to the child's best interest.

Although the mother's testimony and version of events differed from the father's, as we have explained, "[i]n cases where the evidence conflicts, the trial court is free to choose which evidence it believes and it is up to the [trial] court to resolve the conflicts." Seifert v. Houlditch, 583 So. 2d 274, 275 (Ala. Civ. App. 1991). See also Petrey v. Petrey, 989 So. 2d 1128, 1134 (Ala. Civ. App. 2008) ("It [i]s the duty of the trial court, as the trier of fact, to resolve any conflicts in the evidence.").

As mentioned, the mother also argues that, even if the trial court believed the father's assertions, there is no evidence to support a finding that a change in custody would benefit the child. The father testified that he believed that the child had been earning grades below his academic potential, while the mother testified that "[m]aybe [the child] just wasn't meant to be ... a top scholar." The father also voiced concerns about the child's behavior, while the mother asserted that the child had no behavioral issues. Moreover, the father testified that he wanted to have the child participate in counseling, but, he asserted, the mother would not agree. The trial court had the opportunity to

2170693

witness the mother and the father testify, and the ore tenus "presumption is based on the trial court's unique position to directly observe the witnesses and to assess their demeanor and credibility. This opportunity to observe witnesses is especially important in child-custody cases." Ex parte Fann, 810 So. 2d 631, 633 (Ala. 2001). The trial court could have found from the evidence that the mother did not recognize that the child could perform better academically and behaviorally or that he needed counseling and, thus, that a change in custody would allow the father the opportunity to work with the child on improving his academic performance and behavioral issues, in addition to affording the child the opportunity for counseling.

Furthermore, based on the trial court's finding that the mother had worked to thwart the relationship between the father and the child, the trial court could have found that a change in custody would allow the child and the father additional, unhindered time in which to strengthen their relationship. Despite the mother's behavior, the trial court could have found that, because the child had been in the mother's sole physical custody most of his life, granting sole

2170693

physical custody of the child to the father would be detrimental to the child but that granting joint physical custody would serve to promote the child's best interest. Based on the evidence in the record, the trial court could have found that a change in custody would materially promote the child's best interest and that it would outweigh the inherently disruptive effect of a custody modification.

The mother also challenges the trial court's decision not to award child support.

"'Actions concerning child support, although guided by the mandatory application of Rule 32, Ala. R. Jud. Admin., are still committed to the sound discretion of the trial court, and its decision on such matters will not be disturbed on appeal absent a finding that the trial court's award is a palpable abuse of its discretion. Peck v. Peck, 581 So. 2d 1119 (Ala. Civ. App. 1991); Belser v. Belser, 558 So. 2d 960 (Ala. Civ. App. 1990).'

"Hutchins v. Hutchins, 637 So. 2d 1371, 1373-74 (Ala. Civ. App. 1994)...."

Bonner v. Bonner, 170 So. 3d 697, 705 (Ala. Civ. App. 2015).

Rule 32(A)(1), Ala. R. Jud. Admin., permits a trial court to deviate from the child-support guidelines when the parties share physical custody. See also Shewbart v. Shewbart, 19 So.

2170693

3d 223, 231 (Ala. Civ. App. 2009) ("Shared physical custody is a recognized basis for ... a deviation" from the child-support guidelines.). "Moreover, when a trial court properly orders joint physical custody to the parties, payment of child support by one spouse to the other is not mandatory." Bonner, 170 So. 3d at 705-06 (citing McElheny v. Peplinski, 66 So. 3d 274, 282 (Ala. Civ. App. 2010)). The trial court granted the parties joint physical custody of the child, and it was therefore not required to order any amount of child support. See McElheny, 66 So. 3d at 282; see also Allen v. Allen, 966 So. 2d 929, 932 (Ala. Civ. App. 2007); and Boatfield v. Clough, 895 So. 2d 354, 357 (Ala. Civ. App. 2004). Accordingly, we cannot say that the trial court palpably abused its discretion in deciding not to award child support.

Conclusion

Based on the foregoing, the trial court's judgment is affirmed.

AFFIRMED.

Pittman, Thomas, and Moore, JJ., concur.

Thompson, P.J., concurs in part and dissents in part, with writing.

2170693

THOMPSON, Presiding Judge, concurring in part and dissenting in part.

I dissent to that portion of the main opinion affirming the Madison Circuit Court's decision not to award Helen Elizabeth Sylvester, the mother, child support from Gregory Joseph Cartee, the father. See my special writing in Rigby v. Rigby, [Ms. 2170370, Aug. 3, 2018] ___ So. 3d ___, ___ (Ala. Civ. App. 2018) (Thompson, P. J., concurring in the result in part and dissenting in part).