

SUPREME COURT OF MARYLAND

Clarke v. Gibson

490 Md. 81 (2025) · No. No. 1, September Term, 2025 · Decided November 24, 2025

SUMMARY

The Supreme Court of Maryland held that Philip Clarke did not preserve for appellate review his challenge to the scheduling of a final protective order hearing more than seven days after service of a temporary protective order. The Court further held that service of the temporary protective order generally satisfied procedural due process and rejected Clarke’s argument that he also had to be served with the petition. The Court vacated the Appellate Court’s judgment regarding the sufficiency of the evidence because the circuit court’s negative credibility determination, standing alone, did not establish by a preponderance of the evidence that abuse occurred, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Maryland
WRITING FOR THE COURT	Eaves, J.; Fader, C.J.; Watts, J.; Booth, J.; Biran, J.; Gould, J.; Killough, J.
JURISDICTION	Supreme Court of Maryland
DECIDED	November 24, 2025
DOCKET	No. 1, September Term, 2025
DISPOSITION	other
PROCEDURAL POSTURE	Philip Clarke sought review of an Appellate Court of Maryland decision affirming a final domestic-violence protective order entered by the Circuit Court for Anne Arundel County. The Supreme Court of Maryland granted certiorari and affirmed in part, vacated in part, and remanded.
STANDARD OF REVIEW	Procedural-due-process determinations are reviewed de novo. Sufficiency of the evidence is independently reviewed by applying the law to the facts, while the circuit court's factual findings are accepted unless clearly erroneous. Appellate courts generally defer to trial-court credibility determinations, but a negative credibility determination alone is not affirmative evidence sufficient to meet a party's burden of proof.

PRECEDENTIAL VALUE	published
PARTIES	Philip Clarke v. Chinyere Gibson

TOPICS

appellate procedure preservation of error domestic violence procedural due process evidence

PRACTICE AREAS

appellate procedure family law domestic violence constitutional law evidence

QUESTIONS PRESENTED

1. Whether Clarke preserved for appellate review his challenge to the circuit court's scheduling of the final protective-order hearing more than seven days after service of the temporary protective order without expressly stating on the record that good cause existed.
2. Whether procedural due process required Clarke to be served with the underlying petition in addition to the temporary protective order when the temporary protective order identified the acts of abuse and the hearing information.
3. Whether the Appellate Court erred in affirming the final protective order solely because the circuit court did not find Clarke's testimony credible.

HOLDINGS

1. Clarke failed to preserve for appellate review his challenge to the scheduling of the final protective-order hearing more than seven days after service of the temporary protective order, and the Supreme Court declined to exercise its discretionary authority to reach the issue.
2. Where a temporary protective order identifies the reasonable grounds supporting the order and provides the required hearing and potential-relief information, service of the temporary protective order generally satisfies the respondent's procedural-due-process right to notice; due process does not additionally require service of the underlying petition.
3. The Appellate Court erred by affirming the final protective order solely on the basis that the circuit court did not find Clarke's testimony credible. A negative credibility determination alone is not affirmative evidence sufficient to satisfy the petitioner's burden to prove abuse by a preponderance of the evidence.

KEY QUOTATIONS

“Negative credibility determinations—alone—are never enough to sustain a party’s burden of proof.” (at 28)

“Stated another way, a denial of a fact cannot constitute affirmative evidence of that fact.” (at 28)

“where, as here, the temporary protective order itself provides adequate notice of the reasonable grounds the court finds to believe abuse has occurred, service of such a temporary protective order on a respondent satisfies the respondent’s procedural due process right to notice.” (at 18)

FACTUAL BACKGROUND

Chinyere Gibson petitioned for protection from child abuse on behalf of the parties' two children, alleging threats of violence and mental injury. After an ex parte hearing, the Circuit Court for Anne Arundel County issued a temporary protective order identifying alleged physical abuse and scheduled the final hearing more than seven days after service to allow the Department of Social Services to investigate. Following the final hearing, the circuit court entered a final protective order, relying substantially on its conclusion that Clarke's testimony was not credible. The Appellate Court of Maryland affirmed, and the Supreme Court of Maryland granted certiorari.

PROCEDURAL HISTORY

The Circuit Court for Anne Arundel County issued a temporary protective order for Clarke's children and later entered a final protective order after a hearing. The Appellate Court of Maryland affirmed in an unreported opinion. The Supreme Court of Maryland granted certiorari, held that Clarke failed to preserve his challenge to the scheduling of the final hearing, rejected his procedural-due-process challenge, and vacated and remanded the sufficiency-of-the-evidence issue.

DISPOSITION

other

REMAND INSTRUCTIONS

The Appellate Court of Maryland must revisit the sufficiency of the evidence, evaluate the entire record before the circuit court, and consider the admissibility of witness testimony in light of new arguments raised by the amicus party.

CASES CITED

- Clarke v. Gibson, No. 143, 2024 WL 4490368, at *1, *5-*8 (Md. App. Ct. Oct. 15, 2024)
- Hartman v. State, 452 Md. 279, 299 (2017)
- Chaney v. State, 397 Md. 460, 468 (2007)
- State Commission on Human Relations v. Freedom Express/Domegold, Inc., 375 Md. 2, 17-18 (2003)
- Md. Bd. of Nursing v. Nechay, 347 Md. 396, 406 (1997)
- Woodlin v. State, 484 Md. 253, 294 n.26 (2023)
- Peterson v. State, 444 Md. 105, 125-26 (2015)
- Zukowski v. Anne Arundel County, 490 Md. 243, 274 (2025)
- In re Special Investigation Misc. 1064, 478 Md. 528, 545-46 (2021)
- Piper v. Layman, 125 Md. App. 745, 754 (1999)
- C.M. v. J.M., 258 Md. App. 40, 58 (2023)
- Johnson v. Md. Dep't of Health, 470 Md. 648, 686-87 (2020)
- Mathews v. Eldridge, 424 U.S. 319, 334 (1976)

- Mercer v. Thomas B. Finan Ctr., 476 Md. 652, 702-07 (2021)
- Rhoads v. Sommer, 401 Md. 131, 159-64 (2007)
- Motor Vehicle Admin. v. Lytle, 374 Md. 37, 70-72 (2003)
- N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen, 597 U.S. 1, 8-10 (2022)
- In re Marriage of Houser, 490 Md. 592, 610-11 (2025)
- Coburn v. Coburn, 342 Md. 244, 252, 257-58, 260-61 (1996)
- Barbee v. Barbee, 311 Md. 620, 623 (1988)
- In re Marriage of Malwitz, 99 P.3d 56, 63 (Col. 2004)
- Bausch & Lomb Inc. v. Utica Mut. Ins. Co., 355 Md. 566, 588 (1999)
- VF Corp. v. Wrexham Aviation Corp., 350 Md. 693, 711 (1998)
- Att'y Grievance Comm'n of Md. v. Sheinbein, 372 Md. 224, 275 (2002)

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