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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1100

Filed 19 August 2026

Currituck County, No. 19 CVD 000299-260

JASON PATWELL, Plaintiff,

v.

ALICIA W. PATWELL, Defendant.

Appeal by Plaintiff from order entered 2 June 2025 by Judge Robert P. Trivette in Currituck County District Court. Heard in the Court of Appeals 4 June 2026.

Pritchett & Burch, PLLC, by Lloyd C. Smith III, for Plaintiff–Appellant.

No brief for Defendant–Appellee, pro se.

MURRY, Judge.

Jason R. Patwell (“Plaintiff” or “Father”) appeals the trial court’s order (2023 Order) modifying his primary physical custody of his three children with Alicia W. Patwell (“Defendant” or “Mother”). He argues that the trial court erred by reaching certain unsupportable findings and incorrect conclusions. For the reasons below, this Court disagrees with Plaintiff and instead affirms the trial court’s 2025 modification of the 2023 Order (2025 Order).

I. Background

Mother and Father married on 11 December 2010, and they had three children: Colin, Eddie, and Wayne.¹ Mother and Father separated on 23 July 2019 and later divorced, at which point Mother moved to Virginia. On 14 August 2023, the trial court entered the 2023 Order finding in relevant part that:

7. Defendant is a registered nurse currently employed by Bon Secours Mercy Health Hospital.
8. All three minor children attend Currituck County Public Schools.
9. Wayne Patwell attends ABA (Applied Behavioral Analysis) therapy for his diagnosis of autism. The parties both agree that this therapy is beneficial to Wayne and should continue.
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16. Plaintiff will enjoy primary physical custody during the school year and Defendant will enjoy primary physical custody during the summer months. The parties agree that this shared custody arrangement will be modified to week on/week off shared physical custody when Defendant moves within 25 miles of Plaintiff's current address.

(Quotation modified.) The trial court concluded in relevant part that “both parties were fit and proper persons to have custody and visitation privileges with the minor children” and that “granting legal and physical custody of them” jointly to the parents would be “in the minor children’s best interests.” (Brackets omitted.) The trial court then ordered the parties to “share decisions concerning the children’s health, education, extracurricular activities and general welfare” on an ongoing basis, and

¹ In accordance with North Carolina Rule of Appellate Procedure 42(b), we refer to the minor children by pseudonyms to protect their identities. *See* N.C. R. App. P. 42(b).

that, “in the event the parties cannot agree on medical treatment for Wayne,” Plaintiff would make any “final medical decisions” at that point. (Brackets omitted.)

After Mother moved to modify the 2023 Order, the trial court conducted a hearing on 3 February 2025. Mother testified that she obtained a more “flexible” work schedule at a different hospital and that her father moved into her house as a secondary caregiver for her children when they visit. Father did not contest this testimony and further admitted to scheduling Wayne’s eye surgery and moving him into homeschool without sufficient notice to Mother.

On 30 May 2025, the trial court entered the 2025 Order finding in relevant part that:

7. The minor children would benefit from having a more equitable amount of time with both parents.
. . . .
9. Since entry of the last Order, Defendant has continued to stabilize her life for herself and her children, including maintaining an appropriate home and a stable job, and generally being in a good place to provide a positive effect on the minor children. The trial court finds her self-improvement and stabilization to be a substantial change that positively affects the children’s welfare.
10. Since entry of the last Order, Plaintiff has made some unilateral decisions for the minor children without consultation with and/or meaningful notice to Defendant. It will benefit the minor children for the parties to discuss decisions affecting the minor children more thoroughly before unilaterally making a decision.

(Quotation modified.) The trial court concluded in relevant part that “both parties are fit and proper persons to have custody with the minor children”; that joint “legal and physical custody of the minor children” would still be “in their best interest”; that,

under “N.C.G.S. § 50-13.7, a substantial change in circumstances affects their welfare of the minor children”; and that “modification of the 2023 Order” would thus be “in their best interests.” (Quotation modified.) The trial court reiterated the same orders documented above in the 2023 Order. Father timely appealed.

II. Jurisdiction

This Court has jurisdiction to hear Father’s appeal of the trial court’s order because it “changes legal custody” of his children. N.C.G.S. § 7B-1001(a)(4) (2025).

III. Analysis

On appeal, Father argues that the trial court erred in modifying the 2023 Order because his children underwent no “material change in circumstances” since its entry. (Brackets omitted.) We review the subsequent modification of a preexisting custody order only for (1) whether “substantial evidence” supports the trial court’s findings of fact and (2) whether those findings, in turn, support its conclusions of law. *Spoon v. Spoon*, 233 N.C. App. 38, 41 (2014) (citing *Shipman v. Shipman*, 357 N.C. 471, 253–54 (2014)). “Absent a *total* lack of substantive evidence . . . , [those] findings will not be disturbed on appeal.” *Pulliam v. Smith*, 348 N.C. 616, 626 (1998) (emphasis added). Having applied these principles here, we disagree with Father and instead affirm the 2025 Order.

Under N.C.G.S. § 50-13.7, a trial court may “modif[y] or vacate[] at any time” a prior custody order “upon motion in the cause and a showing of changed circumstances by either party.” N.C.G.S. § 50-13.7(a). Our courts have long

interpreted this authority to require a “substantial change of circumstances affecting the welfare of the child.” *Shipman*, 357 N.C. at 473 (first quoting *Pulliam v. Smith*, 348 N.C. at 619; and then citing N.C.G.S. § 50-13.7(a)). If the trial court finds this “substantial change . . . , it may only modify the existing custody order if it further concludes that a change in custody is in the child’s best interests.” *Id.* at 474 (quoting *Pulliam*, 348 N.C. at 629–30 (Orr, J., concurring in the result)). The trial court “must consider and weigh *all* evidence of changed circumstances which affect or will affect th[os]e best interests”—good or bad. *Pulliam*, 348 N.C. at 619 (majority op.) (emphasis added).

We first note that the same trial judge entered both the 2023 Order and the 2025 Order. In support of her motion to modify, Mother testified to multiple changes in her daily life since the entry of the 2023 Order. Even though she still lived outside the 25-mile radius, she took up a new ICU management job with a more flexible work schedule and enlisted her father as live-in help with looking after her kids when they visited. Father contested neither of these facts adduced at the hearing. These attestations fall within the “broad discretion over the admission of and credibility accorded to evidence” vested in the trial court. *Conroy v. Conroy*, 291 N.C. App. 145, 161 (2023) (citing *Shipman*, 357 N.C. at 474). They would self-evidently “provide a positive effect on the minor children.”

The record further indicates that Father did indeed “[f]ail to keep . . . [Mother i]nformed of [d]ecisions” related to Wayne’s healthcare treatments. Even though he

retained the ultimate authority to make the “final medical decisions,” the 2023 Order expressly contemplated the parties mutual “agree[ment] on medical treatment for” Wayne—an obligation Father ignored both when he gave a mere three days’ notice to Mother about eye surgery and when he gave no notice whatsoever about homeschooling Wayne. While these unilateral decisions did not harm Wayne, that is not the standard required either by law or by the 2023 Order. Instead, the trial court thoughtfully and deliberately exercised its “broad discretion,” *id.*, to seek material facts on the ground that might indicate *any* “substantial change in condition,” *Blackley v. Blackley*, 285 N.C. 358, 362 (1974) (citing N.C.G.S. § 50-13.7). Thus, we affirm the 2025 Order to the extent it “finds . . . substantial change[s] that . . . affect[] the children’s welfare” and concludes that modification of the 2023 Order would be “in the[ir] best interests.”

IV. Conclusion

For the reasons above, this Court affirms the trial court’s 2025 Order modifying the 2023 Order.

AFFIRMED.

Judges GORE and FREEMAN concur.

Report per Rule 30(e).