

2026 WL 1162579

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UNREPORTED*

Appellate Court of Maryland.

AMPARO TREJO

v.

MIGUEL ANGEL AMAYA HERNANDEZ, et al.

No. 0741, September Term, 2025

|

Filed: April 29, 2026

Editor's Note: This decision contains discussion of citation references that are incorrect or do not actually exist. These invalid citations appeared in the original court opinion and have been preserved as written since they are part of the official record. Any links to these invalid citations have been removed.

Circuit Court for Prince George's County Case No. C-16-FM-24-008161

Reed, Zic, Harrell, Glenn T, Jr. (Senior Judge, Specially Assigned), JJ.

Opinion

Opinion by Reed, J.

*1 The instant appeal arises out of Appellant's Petition for Custody and [Special Immigrant Juvenile Status "SIJS"] Predicate Findings for the Minor¹ in the Circuit Court for Prince George's County, and her subsequent Motion to Expedite Hearing for petitions for SIJS findings because the Minor would soon be turning twenty-one. Appellant is the Minor's Aunt. The Circuit Court for Prince George's County denied Appellant's Emergency Motion to expedite. Thus, on April 16, 2025, Appellant filed a Motion for Order *Nunc Pro Tunc*, requesting equitable relief, which the circuit court also denied. On June 10, 2025, Appellant filed the instant, timely appeal to the circuit court's denial of the Motion for Order *Nunc Pro Tunc*.

In bringing this appeal, Appellant presents two questions for appellate review, which we consolidate and rephrase as follows:

I. Did the circuit court err in denying Appellant's Motion for Order *Nunc Pro Tunc*, concerning Appellant's Petition for Custody and for SIJS predicate findings?

FACTUAL & PROCEDURAL BACKGROUND

The Minor in this case was born on November 25, 2003, in El Salvador. The Minor describes her life in El Salvador as "very difficult[.]" She provides that she had limited access to food and necessities because she didn't have sufficient financial support from her parents. She states that her father spent all his time either at his job as a police officer or out drinking with his friends, and that her mother would often leave the Minor and her sister alone to take care of themselves. The Minor says that she had to make the food, do the laundry, clean the house, and make sure her sister went to school and did her homework. The Minor states that she went to school when she could, and that on the only route available to her to the school she would often be harassed by MS-13 gang members.

In 2021, the Minor decided to leave El Salvador and enter the United States because her situation at home and the harassment from MS-13 gang members had not changed. Specifically, the Minor was aware of a girl who lived near her in El Salvador who was taken and believed to be killed by MS-13 gang members. The Minor feared that this could happen to her as well if she remained in El Salvador.

Once in the United States, the Minor first lived with her uncle in Virginia. In 2022, she went to live with her Aunt Amparo Trejo ("Appellant") in Maryland. The Minor states that since she has been in the United States, her parents have not made much of an effort to communicate with her. The Minor provides that Appellant is "wonderful, kind, [and] loving[.]" that Appellant makes her feel safe and motivated and is more of a mother figure for the Minor than her biological mother. The Minor states that she graduated from high school in May 2024.

On October 10, 2024, Appellant filed a Petition for Custody and [Special Immigrant Juvenile Status "SIJS"] Predicate Findings for the Minor in the Circuit Court for Prince

George's County. Specifically, Appellant alleges that the Minor's parents abandoned and neglected her and that the Minor would suffer severe discrimination and harassment if she had to return to El Salvador. On November 21, 2024, Appellant filed a Motion to Expedite Hearing for petitions for SIJS findings because Minor would be turning twenty-one on November 25, 2024, which would render her ineligible for a SIJS predicate order of factual findings. On November 22, 2024, the Circuit Court for Prince George's County denied Appellant's Emergency Motion to expedite. On April 16, 2025, Appellant filed a Motion for Order *Nunc Pro Tunc*. On May 15, 2025, the Circuit Court denied the Motion for Order *Nunc Pro Tunc*. On June 10, 2025, Appellant filed the instant, timely appeal to the court's denial of the Motion for Order *Nunc Pro Tunc*.²

DISCUSSION

A. Parties' Contentions

*2 Appellant raises four arguments in her brief on appeal.³ First, Appellant argues that the circuit court erred by treating the delay in this case as jurisdictional rather than procedural. Specifically, Appellant argues that because the petition was filed before the Minor's twenty-first birthday, the circuit court had jurisdiction.

Specifically, Appellant argues:

Because the petition was timely filed before the youth turned [twenty-one], the issue was procedural. Maryland courts possess equitably powers to correct procedural lapses *nunc pro tunc*[.] (*Pickeral v. Fed. Land Bank of Balt.*, 177 Md. 601 (1940); *Kiser v. State Roads Comm'n*, 153 Md. 76 (1927); *Kellum v. Smith*, 151 Md. App. 515 (2003)).⁴

Next, Appellant argues that the circuit court had equitable power to enter a *nunc pro tunc* SIJS Order. Specifically, Appellant argues that the Minor was substantively eligible for a SIJS predicate order, and that it was only denied because of

counsel's delay and the court's refusal to expedite. Therefore, Appellant concludes that “[e]quity demands correction so that the child is not deprived of SIJS protection solely due to attorney error.”

Third, Appellant argues that the Circuit Court's denial of *nunc pro tunc* equitable relief deprives the Minor of the “best interests of the child” standard that was “designed to protect her.”

Finally, Appellant argues that the Circuit Court's denial of *nunc pro tunc* relief “defeats Congress's intent [in creating SIJS] by leaving a substantively eligible youth unprotected.”

Based on these four arguments, Appellant requests that this Court reverses and remands this case with instructions for the circuit court to enter the custody and SIJS predicate orders *nunc pro tunc* as of November 22, 2024.

Notably, no Appellee brief has been filed in this case.

B. Standard of Review

This Court recognizes that “[t]rial courts are vested with the common law authority to correct certain errors *nunc pro tunc*.” *Cave v. Elliot*, 190 Md. App. 65, 77 (2010) (citing *Sapero & Sapero v. Bel Air Plumbing & Heating Contractors*, 41 Md. App. 251, 259 (1979)). *Nunc pro tunc* means “now for then” in Latin, meaning “a thing is done now, which shall have the same legal force and effect as if done at the time when ought to have been done.” *See Short v. Short*, 136 Md. App. 570, 578-79 (2001) (citations omitted). “*Nunc pro tunc* entry is an entry made now of something actually previously done to have effect of former date; office being *not* to supply omitted action, but to supply omission in record of action really had but omitted through inadvertence or mistake.” *Id.*

The purpose of a *nunc pro tunc* order is “to correct a clerical error or omission as opposed to a judicial error or omission.” *Cave*, 190 Md. App. at 78 (citing *In re Timothy C.*, 376 Md. 414, 430 n. 10 (2003) (citations omitted); *see also State v. Johnson*, 228 Md. App. 489, 512 (2016)). On numerous occasions this Court has referred to the Wisconsin Supreme Court case, *Bostwick v. Van Vleck*, 106 Wisc. 387 (1900), which set out “[t]he test to be applied in determining whether an error in a judgment is of judicial character, or a mere clerical mistake which may be corrected in the court where

it was made at any time, saving intervening rights of third parties and with due regard to equitable concerns,” as being:

*3 Whether the error relates to something that the trial court erroneously omitted to pass upon or considered and passed upon erroneously, or a mere omission to preserve of record, correctly in all respects, the actual decision of the court, which in itself was free from error. If the difficulty is found to be of the latter character, it may be remedied as a mere clerical mistake, which will not have the effect to change the judgment pronounced in the slightest degree, but merely to correct the record evidence of such judgment.

Id. at 385-86.⁵ In other words, “to determine whether relief can be granted *nunc pro tunc*, we must distinguish whether there was a judicial or clerical error in properly entering the entry for judgment.” *Short*, 136 Md. App. at 579; *see also id.* at 580 (concluding that the Motion for Entry of Judgment *Nunc Pro Tunc* was properly denied because if there was any error, it was more likely a judicial error than a clerical error).

C. Analysis

Here, the circuit court did not err by denying Appellant's Motion for Order *Nunc Pro Tunc*. First, the alleged error, of not entering the order, was not merely clerical. *See e.g. Short*, 136 Md. App. at 579. Entry of the requested order would not simply “supply omission in record of action really had but omitted through inadvertence or mistake[.]” but would actually “supply omitted action[.]” This is not the purpose of *nunc pro tunc* orders. *See id.* In other words, the court's denial of Appellant's motion was not a clerical error that can be corrected *nunc pro tunc*. Rather, Appellant urges the court to use its *nunc pro tunc* power to completely change the outcome the court reached, which is improper. *See id.* at 578-79.

Even if entry of the order *nunc pro tunc* were proper, which it is not, Appellant's argument would still fail because the Minor is not substantively eligible for a SIJS predicate order. Federal

law defines a Special Immigrant Juvenile as an immigrant “who has been declared dependent on a juvenile court [...] or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court[.]” and whose reunification with one or both of their parents is “not viable due to abuse, neglect, abandonment, or a similar basis” under State law. 8 U.S.C. § 1101(a)(27)(J). To be eligible for SIJ status, a petitioner must: (1) be under 21 years of age at the time of filing the petition; (2) be unmarried at the time of filing and adjudication; (3) be physically present in the U.S.; (4) be the subject of a juvenile court order that meets the requirements in 8 C.F.R. § 204.11(c); and (5) obtain consent from the Secretary of Homeland Security to classification as a SIJ. 8 C.F.R. § 204.11(c).

In Appellant's underlying Motion for Order *Nunc Pro Tunc*, Appellant concedes that her Emergency Motion was not requested within the requisite time constraints and argues that the Minor should not be penalized because:

Due to untimely filed the Emergency Motion to Expedite Hearing which was requested a few days before the Minor reached 21 years old due to unforeseeable circumstances, the emergency hearing was denied, and [the Minor] has since reached the age of 21. The failure to file the Emergency motion to Expedite Hearing within the necessary time frame was through no fault of [Appellant] or [the Minor], but the fault of counsel in not filing the emergency motion at least 30 days before the age-out. [Appellant] should not be penalized for counsel's mistake. *See, e.g. Kiser v. State Roads Comm'n*, 153 Md. 76 (1927) (standing for the proposition that courts may issue *nunc pro tunc* orders if the delay was caused by others besides the petitioner, e.g. the court, or clerical errors)[.]⁶

*4 However, on appeal Appellant argues that prong (1) is satisfied because the “Minor” was not yet 21 years old when Appellant's Petition for SIJS findings was filed.

Regardless of Appellant's conflicting arguments concerning prong (1), the Minor would not have been eligible for an SIJS-predicate order because she cannot satisfy prong (4). For prong (4)'s purposes, a "juvenile court" is a court located in the U.S. that "has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles." 8 C.F.R. § 204.11(a). 8 C.F.R. § 204.11(c) (i) provides that a juvenile court "must have made at least one of the following judicial determinations related to the petitioner's custodial placement or dependency[:]"

- (A) Declared the petitioner dependent upon the juvenile court; or
- (B) Legally committed to or placed the petitioner under the custody of an agency or department of a State, or an individual or entity appointed by a State or juvenile court.

Here, the Minor has not received either of these kinds of orders. Appellant sought entry of a custody order over the Minor, but one was never entered. Thus, prong (4) for SIJ

status could not be satisfied for the Minor. Additionally, the "best interests of the child" standard does not overcome the statutory requirements of 8 C.F.R. § 204.11(c).

Therefore, irrespective of any alleged errors by Appellant's counsel in this case, the Minor would not have been substantively eligible for SIJS status.

CONCLUSION

Accordingly, we affirm the judgment of the Circuit Court for Prince George's County.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO BE PAID BY THE APPELLEE.

All Citations

Not Reported in Atl. Rptr., 2026 WL 1162579

Footnotes

- * This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).
- 1 We refer to her as "the Minor" to protect her identity because she was a minor at the outset of this case.
- 2 Notably, this is a final judgment, reviewable by this Court because with this denial, all claims against all parties were disposed of. See *e.g. Silbersack v. ACandS, Inc.*, 402 Md. 673, 678 (2008) (internal citations omitted).
- 3 The Court has identified several issues with the cases cited in Appellant's brief. Of the seven cases cited in Appellant's brief, three of them do not exist. Each of these citation irregularities will be addressed in turn in footnotes.

Additionally, Appellant's brief notably makes many legal assertions without providing citations to support them. For example, the "Standard of Review" section does not contain a single citation.
- 4 We strike the portions of Appellant's brief as it pertains to this argument because the three cases cited as support do not exist.
- 5 While not binding on this Court, this case was acknowledged as persuasive support in the following cases: *Doser v. Dosier*, 106 Md. App. 329, 346-47 (1995); *Short*, 136 Md. App. at 579; *In re Timothy C.*, 376 Md. at fn. 10.

6 As previously noted, this case does not exist.

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