

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2020-CA-00080-COA

**IN THE MATTER OF THE GUARDIANSHIP OF
T.D., P.D., S.C.D., AND S.J.D., MINORS BY AND
THROUGH THEIR NATURAL FATHER AND
NEXT FRIEND PIERRE D'ANJOU**

APPELLANT

v.

VALERIA AUSTIN

APPELLEE

DATE OF JUDGMENT:	12/16/2019
TRIAL JUDGE:	HON. DENISE OWENS
COURT FROM WHICH APPEALED:	HINDS COUNTY CHANCERY COURT, FIRST JUDICIAL DISTRICT
ATTORNEY FOR APPELLANT:	NICKITA SHANTA BANKS
ATTORNEY FOR APPELLEE:	S. MALCOLM O. HARRISON
NATURE OF THE CASE:	CIVIL - CUSTODY
DISPOSITION:	AFFIRMED - 07/20/2021
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE CARLTON, P.J., LAWRENCE AND SMITH, JJ.

LAWRENCE, J., FOR THE COURT:

¶1. The Hinds County Chancery Court awarded custody of Pierre D'Anjou's four minor children to their maternal grandmother after the death of the children's mother. D'Anjou appeals, arguing that the chancery court erred in finding that the natural-parent presumption had been rebutted, misapplied the *Albright* factors,¹ and failed to set a specific visitation schedule. Finding no error, we affirm the ruling of the chancery court.

FACTS AND PROCEDURAL HISTORY

¹ *Albright v. Albright*, 437 So. 2d 1003 (Miss. 1983).

¶2. Between 2002 and 2016, Pierre D’Anjou and Stephanie Austin had four children together. In 2002, Stephanie gave birth to a girl, T.D.² D’Anjou and Stephanie were married three years later on July 7, 2005, and a son, P.D., was born later that month. They were granted a divorce on June 22, 2010, on the ground of irreconcilable differences. After the divorce, they had two more children, a girl, S.C.D., born in 2013, and a boy, S.J.D., born in 2016. They all lived in a home Stephanie purchased in Byram, Mississippi.

¶3. On February 5, 2019, Stephanie died suddenly while working at the University of Mississippi Medical Center. After Stephanie’s death, D’Anjou lived in Stephanie’s house with the children. D’Anjou applied for Social Security benefits for the children and filed a petition in the Hinds County Chancery Court for appointment as guardian and approval of contracts for counsel for a potential workers’ compensation action as a result of Stephanie’s death. On March 5, 2019, the chancery court granted the motion and appointed D’Anjou as guardian of the four minor children.

¶4. On March 13, 2019, Stephanie’s mother, Valeria Austin, filed a motion to intervene and appoint a substitute guardian. Because Austin alleged neglect, the chancellor found that it was in the best interest of the children to appoint a guardian ad litem (GAL). Third-year law students from the Mississippi College School of Law student-GAL program Tommy Brown and Hailey Faulkner were appointed as co-guardians at litem and supervised by Professor Shirley Kennedy.

¶5. On March 26, 2019, T.D. and P.D. executed an election of minors, choosing to live

² Initials are used to protect the identities of the minor children.

with Austin, their maternal grandmother. On June 20, 2019, the chancellor held an emergency hearing in chambers and ruled that T.D. would remain with Austin until a final hearing. On July 15, 2019, a temporary custody order was entered granting temporary custody of T.D. to Austin, and on August 14, 2019, an agreed visitation order was entered granting Austin visitation with the other three children.

¶6. On August 27, 2019, Austin filed an emergency motion for modification and custody. A hearing was held on November 14 and 18, 2019. D’Anjou and Austin were both represented by counsel. The chancellor heard testimony from Austin, T.D., D’Anjou, the GALs, and Professor Kennedy. At the time of the hearing, the children were ages 16, 14, 6, and 3.

¶7. Austin testified first at the hearing. Austin owned a home in Byram three miles from Stephanie’s home. She testified that prior to Stephanie’s death, she frequently came to Stephanie’s home to help her with the children while Stephanie worked. She would spend the night because Stephanie worked the night shift and because Austin “never [knew] when [D’Anjou] was going to show up.” She testified that “he would be gone so long, months at a time,” and then when he came home, he would do so unannounced and leave unannounced. Austin was specifically asked to describe D’Anjou’s absences from the home between 2010 (the year the couple divorced) and 2012. She testified that during this time, he came home “maybe every two or three months and stay[ed] a week or two.” Austin stated that between 2010 and 2012, she attended T.D.’s and P.D.’s school functions and parent-teacher conferences because D’Anjou never went. She stated that D’Anjou never helped the children

with their homework or bought groceries. She testified that between 2012 and 2015, he continued to not participate with the children and did not help Stephanie financially. She testified that he never helped the children with their homework or bought groceries. Instead, she said he would “sit around and watch porn on the Internet and he would never log out” when he left the computer. Finally, she was asked about the period of time between 2015 and Stephanie’s death in 2019. She testified that after the younger two children were born, D’Anjou would “come around . . . [p]robably every other month. . . . He would come on her days off, and when she got to go back to work, he’ll leave. So sometimes two days, sometime he’ll stay a week.”

¶8. Austin testified that after Stephanie’s death, she stayed with the children in Stephanie’s home and did not see D’Anjou until Stephanie’s funeral when he showed up with a girlfriend. After the funeral, D’Anjou moved into Stephanie’s home with the children, and Austin moved back to her house. When asked why she left, she stated, “he forced himself in the home on us. I was not going to live in the house with him. So I went back to my own house.” T.D. refused to live with D’Anjou and moved in with Austin. Austin testified that although D’Anjou moved into Stephanie’s house with the children after Stephanie’s death, D’Anjou did not care for the children. Rather, he would drop the children off at her house. During the times that D’Anjou had the children in his custody after Stephanie’s death, the children frequently missed school or were tardy. Austin testified that she would often take the children to school because D’Anjou would drop the children off at her house the night before and show up late to take them to school the next morning.

¶9. Austin testified that she had witnessed D’Anjou smoke marijuana in front of the children multiple times prior to Stephanie’s death and once after Stephanie’s death. She testified that he “was always doing drugs.”

¶10. The GALs testified next as to their report and recommendation, which was submitted on November 7, 2019, a week prior to the hearing. Neither party filed an objection to the report. The report shows that the GALs interviewed twelve people, reviewed various documents, and visited D’Anjou’s and Austin’s homes five times each. In their report and testimony, the GALs noted their findings that D’Anjou was frequently absent from the children’s lives, had an extensive arrest record, used marijuana in front of the children, brought multiple women around the children, and had chronic paranoid schizophrenia, for which he did not take prescribed medication. The GALs’ thorough report is 100 pages long and contains twenty-one exhibits. The report and recommendation was adopted by the chancellor.

¶11. The GALs found that D’Anjou had been in and out of the hospital for mental illness since 2005 and was diagnosed with chronic paranoid schizophrenia. He was prescribed medication, but the medical records showed he had not taken it in months or possibly years. This was corroborated by his ex-girlfriend and his mother, who both stated that he did not take his medication.

¶12. The GALs also reported that D’Anjou had a history of arrests from 1998 to 2019, including failure to obey a police officer, destroying public property, domestic violence (simple assault), resisting arrest, trespassing, disturbance of a family, simple assault, public

drunk, disorderly conduct, malicious mischief, shoplifting, petit larceny, and burglary. Local police told the GALs that they were familiar with D’Anjou, as they had been frequently called to his house, including after Stephanie’s death, and knew him by name. Police had witnessed D’Anjou under the influence of marijuana and other drugs. D’Anjou was directed to submit to a court-ordered drug test, but he refused.

¶13. On one of their visits to Stephanie’s home, the GALs noticed that the home smelled of marijuana, and they discovered what appeared to be a marijuana cigarette on the kitchen table. Tommy, one of the co-GALs, testified that when asked about it, “[D’Anjou] became abrupt and I would say also violent when we attempted to talk to him about it. . . . He snatched the marijuana cigarette from Hailey’s hand and when Professor Kennedy went to talk . . . about it, he bristled up, and I felt I had to step in and calm him down before things may have escalated.”

¶14. Tommy testified that during this same visit, the GALs were present in the home for two to three hours, and at one point, Tommy could see through a window that the two younger children, S.C.D. and S.J.D., were left unsupervised outside. Tommy testified that six-year-old S.C.D. was “was chasing [two-year-old S.J.D.] through the middle of the street where cars [were]—it was a residential area, so cars were coming up and down. And when [Tommy] told [D’Anjou] about it, he didn’t go get the children. He simply closed the blind.” After “about three to five minutes,” D’Anjou’s girlfriend Equitta, who was present at the house, went outside and got the children and brought them inside. Tommy testified that the two younger children continued to be rambunctious inside, and D’Anjou “still didn’t say

anything to them.” Tommy testified that an incident then occurred where S.C.D. was hurt. Tommy described the incident, D’Anjou’s reaction, and Tommy’s opinion of this situation as follows:

And I saw [S.J.D.] take a toy car about 12 inches by 8 inches. It was a fairly substantial toy car and hit [S.C.D.] in the face with it. [S.C.D.] held her nose and cried and when she ran to [D’Anjou] to tell him about, he literally brushed her off. She grabbed his leg and he brushed her to the side, and she went and sat on the couch and held her nose and cried. That could—that is dangerous to a child mentally and emotionally to see that her parent may not have cared about her in her time where she felt she needed him.

¶15. The GALs further reported that the home where D’Anjou lived with the children after Stephanie’s death was in “complete disarray.” They reported: “The house is unkempt, unclean, and nasty. The kitchen and bathrooms were filthy and unsanitary. Dirty dishes, spoiled food, empty food containers, fly strips and live insects were in most every area of the house. There is bedding in the garage and it appears someone may be sleeping there. The clutter in the house was worse each time we visited.”

¶16. The GALs’ report as well as Austin’s testimony showed that the children, especially S.C.D., were not doing well in school. According to S.C.D.’s teacher, the child frequently showed up to school dirty, wearing stained clothes, and without necessary school supplies. The teacher stated that she had even purchased school uniforms and supplies for S.C.D., but she still arrived at school in the same dirty clothes and without school supplies. The teacher stated that she had tried to contact D’Anjou many times, but he did not answer the phone or return her calls.

¶17. On December 16, 2020, the chancery court entered an order granting custody of the

minor children to Austin and setting a visitation schedule for D’Anjou. D’Anjou appeals, raising the following issues: (1) the chancellor erred in finding that the natural-parent presumption was rebutted by clear and convincing evidence; (2) the chancellor erred in finding that the *Albright* factors favored Austin; and (3) the chancellor erred by not setting a specific visitation schedule.

STANDARD OF REVIEW

¶18. “A chancellor’s custody decision will be reversed only if it was manifestly wrong or clearly erroneous, or if the chancellor applied an erroneous legal standard.” *Smith v. Smith*, 97 So. 3d 43, 46 (¶8) (Miss. 2012). “The best interest of the child is paramount in any child-custody case.” *Id.*

DISCUSSION

I. Natural-Parent Presumption

¶19. “In custody battles between a natural parent and a third party, it is presumed that it is in the child’s best interest to remain with his or her natural parent.” *Id.* In order for a third party to gain custody, “the third party must first clearly rebut the natural-parent presumption or preference” *Id.* “The natural-parent presumption can be rebutted by a clear showing that (1) the parent has abandoned the child; (2) the parent has deserted the child; (3) the parent’s conduct is so immoral as to be detrimental to the child; or (4) the parent is unfit, mentally or otherwise, to have custody.” *Id.*

¶20. If the third party successfully rebuts the natural-parent presumption, the chancellor must then examine the case under the factors set out in *Albright* to determine whether

custody with the third party serves the best interest of the child. *Id.* “[A] finding of unfitness is necessary to award custody to a third party against a natural parent and must be done before any analysis using the *Albright* factors.” *In re Custody of M.A.G.*, 859 So. 2d 1001, 1004 (¶6) (Miss. 2003).

¶21. In the GALs’ report and recommendation, which was adopted by the chancellor, the GALs determined D’Anjou had abandoned or deserted his children due to extended absences from the home and his failure to exercise parental rights prior to Stephanie’s death, and his behavior was immoral and detrimental to the children.

¶22. D’Anjou argues that the GALs incorrectly reported that he abandoned or deserted the children. He argues that no evidence exists that he was absent prior to the divorce. Rather, he asserts that any absences were due to his employment and the fact that after the couple divorced, Stephanie was awarded the home and custody of the children, and he was not required to be present at all times. However, as evidence of D’Anjou’s absence, the GALs relied on their interviews with the children, who told them that D’Anjou was continually absent from their lives, sometimes up to three months at a time, and that D’Anjou never supported them or attended their sporting events. Regarding D’Anjou’s assertion that he was absent due to work, the GALs asked D’Anjou “numerous times” to provide W-2s or 1099 statements to show his employment and income, but he never provided any and D’Anjou was also unable to provide a clear answer when asked where he worked. Austin testified that she had known D’Anjou for seventeen years, and she had “never known [D’Anjou] to have a job in the past [seventeen] years.”

¶23. The GALs reported that interviews with the children and others also showed that D’Anjou had never supported the minor children, financially or otherwise. D’Anjou disputes this, arguing that he gave Stephanie money for bills. But despite being asked “numerous times” by the GALs for proof that he supported the children, he provided no documentation or evidence to support his assertion. At the hearing, the testimony from D’Anjou, T.D., and Austin only showed that D’Anjou paid T.D.’s cell phone bill. Austin, T.D., and P.D. told the GALs that D’Anjou did not provide any other financial support. D’Anjou argues that neither Austin, T.D., or P.D. would know if he provided support to Stephanie because “[t]he only . . . person [other than D’Anjou] to know if Stephanie received support from D’Anjou is Stephanie.” But Stephanie is deceased, and D’Anjou failed to provide any evidence that he financially supported the children despite the GALs’ requests that he provide such information.

¶24. D’Anjou contends that the GALs’ report put “a lot of weight” on his relationships with other women in finding that D’Anjou engaged in immoral conduct that was detrimental to the children. Specifically, the GALs noted that D’Anjou had multiple girlfriends present at Stephanie’s home before and after Stephanie’s death and that children were conceived with two different women at the same time. D’Anjou and Equitta have two children together who were ages 7 and 2 at the time of trial. D’Anjou and Stephanie’s two youngest children were ages 6 and 3. D’Anjou argues that the various women were only “friends” with the exception of Equitta. He points out that regardless, he was “a single man” after his divorce from Stephanie and at the times of the conceptions of the two youngest children with

Stephanie, as well as his two children with Equitta.

¶25. The GALs visited the home on five occasions, and each time, they encountered different women or “girlfriends” in the home. On one occasion when D’Anjou’s girlfriend “Kim” was there, the GALs could smell marijuana. When they asked Kim if anyone at the home was smoking marijuana, Kim stated that she had to “plead the Fifth.” D’Anjou then drove up to the house while the GALs were there, and the GALs could see that D’Anjou’s eyes were red and that he was disoriented.

¶26. During one of the GALs’ visits in July 2019, D’Anjou was present at the home with his girlfriend Equitta, her mother, and Equitta and D’Anjou’s two children. Equitta later told the GALs that D’Anjou was unable to care for their children on his own and should not have custody of his and Stephanie’s children. She stated that he does not take care of their two children, and he has to have a woman present to help him care for his and Stephanie’s four children. Equitta stated that in August 2019, D’Anjou was arrested after he came to her home while she was sleeping and started destroying her property and spraying mace and throwing bleach on Equitta and her friend. He spent two weeks in jail for this incident at a time when he had custody of three of his and Stephanie’s minor children. During the hearing, D’Anjou denied that he threw bleach on Equitta; rather, he stated that it was “dishwater.” D’Anjou admitted that he was arrested on August 24, 2019, for failure to comply with a law enforcement officer and destruction of county property in Claiborne County. At the time of the hearing, there was an active warrant for his arrest in Claiborne County.

¶27. The testimony at the hearing further showed that all the minor children, as well as the GALs, had witnessed marijuana use in the home. The chancellor noted the children not only were aware that D’Anjou used marijuana in the home but that others were coming to the home and using marijuana, and the children were being exposed to it. Austin testified that D’Anjou consistently used marijuana in the home with the children present, and she had witnessed this use occur once after Stephanie’s death. When asked why she did not intervene or say anything to D’Anjou, Austin replied, “I have nothing to say to [him]. I cannot tell him what to do.” T.D. testified that her father smoked marijuana at the house “[m]any times. That was like his smoke place was in the garage on the back porch and in the laundry room.” D’Anjou admitted that he smoked marijuana at the house but denied ever smoking in front of the children.

¶28. T.D. testified that D’Anjou became angry with her on one occasion and pushed her down some stairs. She testified that she was pregnant when the incident occurred. She stated that he started “cussing and fussing” at her, and she testified that she said, “[W]hat’s wrong with you? And then he pushed me down the stairs. And then I catch my balance, and then I was like why. I was crying. I was like why are you acting like this? And then he starts pulling on my hood and dragging me up to grandma[’s] house.”

¶29. D’Anjou admitted that he pushed T.D., but he stated it was one time and he would never “hurt [his] daughter.” T.D. testified that she did not want to be around D’Anjou because he was dangerous and often “not in his right state of mind” due to drug use. She had witnessed a fight between D’Anjou and P.D. where they were “pushing and shoving” one

another, and “P.D. was trying to get [D’Anjou] off of him.”

¶30. T.D. testified to one instance after her mother passed away where D’Anjou took the other three children to Texas, and P.D. sent a video showing none of the children wearing a seatbelt and one child sitting on top of a cooler.

¶31. D’Anjou was diagnosed with chronic paranoid schizophrenia in February 2019, and the evidence showed that D’Anjou failed to obtain treatment to control his mental illness and failed to take the required medication to control it. The chancellor found his failure to take medication has created “a situation where . . . D’Anjou is displaying behavior, which [has] result[ed] in him being arrested on multiple occasions.”

¶32. The chancellor further looked at the children’s school records. The evidence showed that while the three youngest children were in D’Anjou’s care the year after Stephanie’s death, the children were poorly dressed, had poor hygiene, did poorly in school, and went to school without the necessary supplies. The report showed that P.D. had missed eight days of school between August and October and had sixteen tardies. The GALs noted that the school counselor and teachers had specifically expressed concerns over six-year-old S.C.D.’s care, appearance, and academic performance, and one of her teachers was so concerned that the teacher along with other teachers and parents purchased school uniforms, shoes, socks, a backpack, and school supplies for her. Despite the school’s efforts, the teacher reported that she still came to school poorly dressed and without school supplies. When asked why she did not wear her new clothes, she told the teacher that her dad could not find them. Austin also testified that the two younger children were unkempt in D’Anjou’s custody,

stating: “I know that my granddaughter is nasty when she comes over. Her clothes are nasty. Her shoes—I picked up my grandson from school and the bottom of his shoes was coming off when he tried to walk. Now, you don’t send no child to school. He can’t even play like that.”

¶33. Considering the totality of the circumstances, the chancellor found that these facts were clear and convincing evidence of neglect sufficient to rebut the natural-parent presumption. D’Anjou’s long absences from the home showed a pattern of abandonment or desertion; his continued drug use and his failure to take prescribed medication for his mental illness provided sufficient proof of immoral conduct detrimental to the children and mental unfitness. Thus, the chancellor did not err in finding that the natural-parent presumption was rebutted.

II. *Albright* Factors

¶34. When determining child custody, “[t]he polestar consideration is the best interest and welfare of the child.” *Tedford v. Tedford*, 312 So. 3d 420, 425 (¶16) (Miss. Ct. App. 2021) (quoting *Albright*, 437 So. 2d at 1005). In *Albright*, the supreme court set out certain factors for a chancellor to consider when determining the best interest and welfare of the child:

(1) the age, sex, and health of the child; (2) the continuity of care prior to the separation; (3) the parenting skills of each parent; (4) the willingness and capacity to provide primary child care; (5) the employment of the parents and the responsibilities of that employment; (6) the physical and mental health and age of the parents; (7) emotional ties of the parent and the child; (8) the moral fitness of each parent; (9) the home, school, and community record of the child; (10) the preference of the child; (11) the stability of the home environment; and (12) other factors relevant to the parent-child relationship.

Id. (citing *Albright*, 437 So. 2d at 1005).

¶35. Here, the chancellor found that the *Albright* factors “overwhelmingly weigh in favor of [Austin] and that the minor children should be in [her] care and custody.” The following factors were found to be neutral: age, sex, and health of the children; continuity of care; employment and responsibilities of that employment; and the home, school, and community record of the children. The remaining factors were found to favor Austin. D’Anjou argues that the following factors should have been found neutral or weighed in his favor.

1. Parenting Skills

¶36. D’Anjou argues the chancellor erroneously found that the parenting-skills factor favored Austin. He argues that the GALs’ report only references one visit to Austin’s home and provides no support for the statement that Austin raised “three self-sufficient children,” and D’Anjou points out that T.D. became pregnant “while on her watch.” He asserts that with “a little assistance,” such as a parenting class, this factor could have favored him at the time of trial.

¶37. Despite D’Anjou’s assertions to the contrary, there was ample evidence that supported a finding in Austin’s favor on this factor. Austin testified that she has been involved in the children’s lives since they were born. She stayed with the children while Stephanie worked, took them to doctor’s appointments, and attended school functions.

¶38. There was likewise ample evidence that D’Anjou had been absent from the children’s lives, did not support them financially, rarely came to the children’s birthday parties, did not attend school events, and did not help them with homework. Equitta, the mother of two of D’Anjou’s children, told the GALs that D’Anjou was unable to care for the children on his

own and should not have custody of his and Stephanie's children. She reported that he does not take care of their two children, ages 7 and 2, and he has to have a woman present to help him care for his and Stephanie's four children.

¶39. When one of the GALs observed S.C.D. and S.J.D. through a window outside, alone and running in the street, D'Anjou "simply closed the blind," and it was D'Anjou's girlfriend Equitta who brought them inside. The children continued to be rambunctious inside, but D'Anjou "still didn't say anything to them." Their behavior resulted in the three-year-old child hitting the six-year-old in the face with a toy car that was approximately twelve inches by eight inches. She "held her nose and cried and when she ran to [D'Anjou] to tell him about it, he literally brushed her off. She grabbed his leg and he brushed her to the side, and she went and sat on the couch and held her nose and cried."

¶40. During another visit to the home, the GALs knocked on the door and encountered a woman named Kim. The GALs' report states that when Kim opened the door to the home, "a large smell of marijuana poured out the door." When Kim was asked if she was smoking marijuana at the time, she said no, but when asked if D'Anjou was smoking marijuana in the house, she stated that she was "pleading the Fifth." Once inside the house, the GALs confronted D'Anjou about what appeared to be a marijuana cigarette on the kitchen table. He became angry and jerked the cigarette out of one of the GALs' hands. The GALs noted that "he was visibly high when he arrived with the children and he was the one driving the car. He was visibly high during our visit, and no one was supervising the children. [P.D.] was asleep in his room, and the two women present also did nothing to supervise the young

children.” D’Anjou was ordered to submit to a drug test but failed to do so.

¶41. The GALs interviewed six-year-old S.C.D.’s teacher. The teacher stated that she was very concerned for S.C.D. She stated that S.C.D. would often arrive at school dirty, wearing stained clothes, and without her bookbag or school supplies. The teacher told the GALs that she had attempted to contact D’Anjou on numerous occasions, but he would not answer her calls or respond to messages. She told the GALs that she created another phone number and called D’Anjou, and he answered. But when she called from the school’s phone, he never answered.

¶42. In contrast to the GALs’ visit with the children when they were with D’Anjou, the GALs reported that when they visited Austin’s home, the children were calm and well-behaved. The GALs noted that Austin raised three children of her own who provided for themselves as adults, including Stephanie until her death. Austin cared for the children while Stephanie worked, and after Stephanie’s death she stayed in Stephanie’s home to ensure the children were cared for and had stability and some sort of normalcy. Austin also kept the children when D’Anjou was arrested in August 2019. Austin stated that she had been willing to help the children with their schoolwork but was prevented from doing so because D’Anjou would leave the children’s backpacks and schoolwork at his house in the evenings when he dropped the children off at Austin’s house, and D’Anjou had Austin’s name removed from the school’s contact list, so she was not able to call the school and talk to anyone about the children.

¶43. We find the chancellor did not err in finding the parenting skills factor favored Austin.

2. Willingness and Capacity to Provide Primary Care

¶44. D’Anjou argues that the GALs incorrectly reported that he was not willing to provide primary care for his children. He points out that he stayed with the children in Stephanie’s home after her death, took them to and from school, and took some of the children to counseling. D’Anjou admits that he often takes the children to Austin’s home, but he states that is because Austin wanted to visit with her grandchildren. He asserts that “[t]his situation is no different” than when Austin assisted Stephanie in caring for the children. However, Austin assisted Stephanie with the children when Stephanie worked because they “never [knew] when [D’Anjou] was going to show up.” To the contrary, Austin stated that D’Anjou would drop the children off without calling first, and she would not know when he planned to return. This situation is clearly different than D’Anjou’s dropping the children off with Austin so he could come and go as he pleases.

¶45. Austin testified that she was willing and able to provide care and custody of the children. She lives near Stephanie’s home in Byram and is able to get the children to and from school. Because Austin’s home is in the same school district, the children would be able to attend the same school and continue to utilize the bus route. Austin was sixty-five years old and retired. She worked from 8 a.m. to 12 p.m., Monday through Friday, which would allow her to make sure the children got to and from school or daycare. She testified, “Whatever they need, I’m there.” She owns a three-bedroom home, which she testified had ample space for the children and T.D.’s infant son.

¶46. To the contrary, it was unclear where D’Anjou lived. At the time of the hearing, he

appeared to be staying in Stephanie’s house, although D’Anjou’s name does not appear on the warranty deed or mortgage to the home. But D’Anjou could not provide an answer to where he lived prior to Stephanie’s death. At times, he stayed at his mother’s home in Lorman, Mississippi, although there was testimony that his mother had since moved to a hotel in Byram. He also stayed at his father’s home in Jackson. The GALs reported that they were concerned about D’Anjou’s capacity to provide housing for the children. The mortgage payments had fallen behind on Stephanie’s home, which the GALs reported will “presumably” be inherited by the children through intestate succession. Further, the GALs found that the condition of the home had deteriorated over the course of their investigation. The front window of the home was broken and taped together, the front security door was missing, the toilet in the master bedroom was wrapped in a sheet because it did not work, and the door to one of the bedrooms had been kicked in, leaving splintered wood exposed. At various points, the GALs’ report described the home as “unkempt,” “unclean,” “nasty,” “filthy,” and “unsanitary.” The GALs found dirty dishes, empty food containers, fly strips, and live insects throughout the house. The house was cluttered, and there was bedding in the garage that appeared to be used by someone to sleep there.

¶47. While D’Anjou states that he is willing to provide primary care for the children, the evidence clearly supports the finding that this factor favored Austin.

3. Physical and Mental Health and Age of the Parties

¶48. Austin is sixty-five years old and testified that she took medication for high blood pressure but had no other health issues. D’Anjou argues that Austin provided “no medical

records” to support her physical health. D’Anjou is forty-one years old and says he has no health issues other than his diagnosis of chronic paranoid schizophrenia. Despite his diagnosis, he asserts that there was no evidence presented of his mental health since February 2019, and “[w]ithout updated medical confirmation of [his] mental state, it cannot be determined that this factor favors Austin.”

¶49. The GALs found that D’Anjou had been in and out of the hospital since 2005 due to his chronic paranoid schizophrenia. He was prescribed medication, but the medical records showed he had not taken it in months or possibly years. This was corroborated by his ex-girlfriend and his mother, who also stated that he did not take his medication. D’Anjou told the GALs that his mental illness prevents him from holding a job, and the GALs observed that the home where he kept the children was in “complete disarray.” The GALs reported that they did not know if the state of the home was attributable to his mental condition. He also did not seem to have the ability to help the children with their homework, “nor [did] he seem to care.” He was not able to hold a coherent conversation with the GALs or answer their questions, but instead he would “ramble[] on about other subjects.”

¶50. Despite D’Anjou’s concerns with the lack of medical records supporting Austin’s health, the GALs reported that during their multiple visits to Austin’s home, she had no issues taking care of the children, cooking for them, watching them play, keeping them cleaned and bathed, and getting them to school on time. We cannot find that the chancellor erred in finding that this factor favored Austin.

4. Emotional Ties

¶51. While acknowledging that both D’Anjou and Austin love the children, the GALs found that Austin had stronger emotional ties with them. The GALs reported that T.D. and P.D. are “distant” from D’Anjou. T.D. chose to live with Austin, and P.D. appeared to either stay in his bedroom or outside to avoid D’Anjou when both were present at Stephanie’s house. D’Anjou seems to blame Austin for his lack of relationship with his children, arguing that Austin did not care for his relationship with Stephanie. D’Anjou implies that this led the older children to have animosity toward him. However, T.D. stated that she held animosity toward D’Anjou because he never supported her or her siblings. Further, D’Anjou’s extended absences from the children negatively affected his relationships with them. We find the chancellor did not err in finding that this factor favored Austin.

5. Moral Fitness

¶52. D’Anjou states that in considering the moral-fitness factor, “much weight” was put on his marijuana use, relationships with multiple women, and fathering multiple children at the same time with different women. He argues it should be considered that his marijuana use occurred in the garage away from the children and that he was a single man after his divorce from Stephanie. He further asserts that Stephanie was aware of his children with the other woman and still continued a relationship with him and allowed her children with D’Anjou to be around these other women.

¶53. As stated, there was extensive evidence of D’Anjou’s drug use in front of the children, arrests, extended absences from the home, failure to support the children, and relationships with various women whom the children did not know but who were allowed to stay in the

home with the children present. The GALs reported that there were different women present each time they visited the home, and it appeared that some of the women were staying at the home. D’Anjou admitted that both Stephanie and Equitta were pregnant at the same time with his children on two occasions.

¶54. Austin attends church and takes the children to church when they are with her. The GALs reported that there was no reason to question Austin’s moral fitness. The evidence clearly supports the chancellor’s finding that this factor favored Austin.

6. Other Factors

¶55. Finally, D’Anjou lists the following three factors—preference of the children, stability of the home environment and employment of each parent, and other factors relevant to the parent-child relationship—and then states, “Both parties agree that the children need counseling. Both parties have family that can assist with the children. The fact that [T.D.] elects to live with Austin is, alone, not enough to have this factor favor Austin.” D’Anjou’s argument is unclear on this point. Nevertheless, the testimony at trial and the thorough report submitted by the GALs clearly supports a finding under the *Albright* factors in favor of Austin. We find no clear error or abuse of discretion in the chancellor’s award of custody to Austin.

III. Visitation Schedule

¶56. At the conclusion of the custody hearing, the chancellor stated that “a visitation or co-parenting . . . plan needs to be worked out to provide the natural father with substantial time and interaction with the minor children. . . . And so I need an order to that effect, which also

I want to encompass the financial issues that were raised.” The final judgment sets the following “standard visitation” schedule: every second and fourth weekend of every month beginning at 5 p.m. on Friday until 5 p.m. on Sunday; Christmas Day 12 p.m. to 6 p.m.; and three hours on each child’s birthday.

¶57. D’Anjou states that he was granted “less than ‘standard’ visitation” and that the visitation he was granted has consistently been denied by Austin. Whether D’Anjou has been denied visitation under the schedule set by the chancellor is not before this Court. Further, as to D’Anjou’s argument that he was given “less than ‘standard’ visitation,” he cites no caselaw and provides no clear argument for this assignment of error. He does not propose any legal authority as to what visitation he believes he should have received under the law or why the visitation schedule set by the chancellor was reversible error. Therefore, we find this issue is waived. *Burgess v. Williamson*, 270 So. 3d 1031, 1035 (¶14) (Miss. Ct. App. 2018) (stating that the failure to cite authority or develop an argument waives the issue on appeal).

CONCLUSION

¶58. The GALs’ report and witnesses at trial presented ample evidence that the natural-parent presumption was rebutted and that, under the *Albright* factors, the children’s best interests would be served by awarding custody to their maternal grandmother, Austin. We further find that D’Anjou’s argument regarding the visitation schedule is waived for lack of legal support or an argument as to how and why the visitation schedule was erroneous. Therefore, the chancellor’s decision is affirmed.

¶59. **AFFIRMED.**

BARNES, C.J., CARLTON, P.J., GREENLEE, WESTBROOKS, McDONALD, McCARTY, SMITH AND EMFINGER, JJ., CONCUR. WILSON, P.J., CONCURS IN PART AND IN THE RESULT WITHOUT SEPARATE WRITTEN OPINION.