UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1454

September Term, 2016

RAMIN RAD

v.

JENNIFER SATLIN

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 5, 2017

On October 9, 2013, the Circuit Court for Montgomery County granted Ramin Rad ("appellant" or "Father") and Jennifer Satlin ("appellee" or "Mother") a judgment of absolute divorce, which incorporated, but did not merge, the parties' April 16, 2012 Separation and Property Settlement Agreement ("the separation agreement"). The separation agreement provided, *inter alia*, that the parties would share legal custody of the couple's two children, with Mother retaining primary physical custody, as well as setting forth a regular visitation schedule, whereby Father had custody of the children from Sunday morning until the return to school on Tuesday. Father also agreed to pay $3,280 per month in child support.

On September 13, 2015, Father petitioned for a modification of custody and child support, contending that there had been a material change in circumstances, specifically that the children were older, that he had moved to a residence closer to Mother, and that the parents' work schedules had changed. After taking testimony over a span of eight days, the circuit court determined that there had not been a material change in circumstances and denied Father's petition to modify child custody, but decreased his child support obligation to $3,200 per month. Appealing that decision, Father contends that the court erred in permitting Michelle Sarris to testify as an expert witness as to child development, visitation, and access schedules generally and in making a factual finding, in regards to a discussion of child support, that a restaurant known as Mazagan Restaurant and Lounge

("Mazagan") closes for the month of June every year.[1] For the reasons that follow, we affirm.

Expert Witness

At the hearing, Mother offered Sarris as an expert witness as to child development, visitation, and access schedules generally. Over objection, the court accepted Sarris as an expert in the field of child development "encompassing her experience in that area, as well as access generally and stability and continuity for children as it relates to access[.]" On appeal, Father contends that the court abused its discretion in doing so because Sarris never spoke with the children nor the parents in this case. Furthermore, he argues that Sarris's testimony was not about the couple's children, and Sarris never explained her methodology or on what data she based her opinions.

Rule 5-702 provides that "[e]xpert testimony may be admitted . . . if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." "The determination of whether an expert's testimony is admissible . . . lies 'within the sound discretion of the trial judge and will not be disturbed on appeal unless clearly erroneous.'" *Bomas v. State*, 181 Md. App. 204, 208 (2008) (quoting *Wilson v. State*, 370 Md. 191, 200 (2002)), *aff'd*, 412 Md. 392 (2010). Indeed, this Court has remarked that "'[a] trial judge has wide discretion in determining the admissibility of expert testimony. Such decisions rarely constitute[] a basis for reversal.'"

[1] We note that Sarris's name is misspelled as "Sorais" in the transcript.

Ayala v. State, 174 Md. App. 647, 666 (2007) (quoting *Lucas v. State*, 116 Md. App. 559, 578 (1997)).

We are not persuaded that the trial court abused its discretion in admitting the expert testimony of Sarris in this case. The court determined that her testimony concerning changes to visitation schedules and their effect on children, in general, would be helpful to the trier of fact – the court in this case. Sarris readily conceded that she had not examined the couple's children, nor had she met the parties. She had, however, reviewed documents pertaining to the case and observed the majority of the testimony.[2] Father did not challenge Sarris's qualifications as a licensed certified social worker-clinical ("LCSWC"), nor her expertise in the field of child development. Accordingly, we do not perceive an abuse of discretion in the admission of Sarris's expert testimony.

Testimony About Mazagan

In addition to his work as a contractor, Father earned income playing in a band. At the hearing below, Father testified that he had a "regular gig" at Mazagan every Saturday night. Later, however, Father stated that the band's performances at Mazagan had been cancelled because "they had a problem with their entertainment license." On cross examination, Mother's counsel asked if Mazagan closed during Ramadan, and Father responded, "I don't know." Father also stated that he did not know when Ramadan took place.

[2] Sarris admitted she missed one day of testimony, but she reviewed a transcript of that day.

In its written opinion, the court commented on Father's musical performances and specifically noted as to Mazagan: "[Mother]'s cross examination of [Father] on this point revealed that annually, [Mazagan] does not host musical bands for the month of June in observance of the Ramadan religious holiday." Father contends that this statement is a "false assertion," requiring reversal. Mother argues that the court's statement was not clearly erroneous.

Whether or not Mazagan closes during Ramadan is immaterial to the court's judgment or these proceedings. The Court of Appeals has held: "'It has long been the policy in this State that this Court will not reverse a lower court judgment if the error is harmless.'" *Barksdale v. Wilkowsky*, 419 Md. 649, 657 (2011) (quoting *Flores v. Bell*, 398 Md. 27, 33 (2007)). In other words, appellate courts should "'ignore errors that do not affect the essential fairness of the trial.'" *Id.* at 658 (quoting *Williams v. State*, 394 Md. 98, 120 (2006)).

Although the circuit court found Father's testimony as to the future plans of the band "unpersuasive," the court "decline[d] to impute income from [Father]'s musical endeavors into his monthly income[.]" This comment occurred in a discussion of the parties' cross-petitions to modify child support. As such, whatever effect Father's potential additional income from musical performances could have was immaterial to the court's order because the court did not impute additional income to Father. Accordingly, whether or not Mazagan

closes during Ramadan has no effect whatsoever on the court's judgment. Any error in the court's statement is, therefore, harmless.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.