

Circuit Court for Montgomery County
Case No. 156040FL

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0156

September Term, 2023

ADAM SOLOMON

v.

CARYN SOLOMON

Reed,
Zic,
Getty, Joseph M.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Reed, J.

Filed: February 27, 2025

*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).

This case concerns a dispute between divorced parties – Appellant, Adam Solomon, and Appellee, Caryn Solomon. They disagree on the appropriate amount of child support Appellant must pay. After a trial judge in Montgomery County set a child support amount and required Appellant to pay for Appellee’s attorney’s fees, this appeal followed.

In bringing his appeal, Appellant presents three questions for our review:

- A. Did the trial court abuse its discretion in strictly applying the child support guidelines set forth in Maryland Code, Family Law § 12-204 when the parties’ combined income far exceeds the guidelines and the needs of the children have been met?
- B. Alternatively, if the trial court was correct in strictly applying the child support guidelines set forth in Maryland Code, Family Law § 12-204, did it err by averaging Appellant’s income from 2019-2021 and failing to account for Appellee’s alimony award?
- C. Did the trial court abuse its discretion in its determination that Appellee’s attorney’s fees were reasonable?

We answer each question in the negative and affirm the rulings of the trial court.

BACKGROUND

The parties in this case, Adam Solomon, Appellant, and Caryn Solomon, Appellee, divorced on September 12, 2018. They have three children together. The parties entered into a Separation and Marital Settlement Agreement (hereinafter “the Agreement”) on February 6, 2019. Appellant, who owns a technology recruiting business, makes significantly more money than Appellee, who is a public-school teacher. As a result, Appellant is required to pay Appellee child support. Appellant is also required to pay Appellee \$2,000 each month in alimony.

Appellant’s income is variable year-to-year. As a result, the Agreement requires

periodic recalculation of Appellant's child support obligation. These calculations were supposed to occur on October 1 in 2019, 2020, 2022, and 2024.

Unfortunately, the parties disagreed on the very first recalculation in October 2019. Much time passed before the parties ultimately entered an agreement on October 11, 2022, which resolved much of their disagreement. The unresolved issues included 1) the calculation of Appellant's child support arrears from October 2019 through December 2021, and 2) who would pay for attorney's fees. Argument on these issues was heard by the trial court on January 11, 2023.

The trial court determined Appellant's child support arrears pursuant to the Maryland Child Support guidelines. The trial court created two child support worksheets – one covering the period between October 1, 2019, and September 1, 2020, and another covering the period between October 1, 2020, and December 1, 2021.

To calculate child support, the trial court needed to determine each party's income. Appellant provided little evidence of his income, and his income varied significantly from year to year. As a result, the trial judge had to determine a system for calculating his income, which we discuss in greater depth later in this opinion. *See infra* at 8. The trial court ultimately found Appellant's monthly income to be \$33,500 and used this income on both child support worksheets.

The parties' combined monthly income was greater than the largest income contemplated by the Maryland child support guidelines at the time. Therefore, the trial judge needed to set an appropriate child support amount herself. She set child support at \$4,491 per month for the period between October 1, 2019, and September 1, 2020, and at

\$3,704 per month for the period between October 1, 2020, and December 1, 2021. Appellant’s arrears were calculated by multiplying these monthly amounts by the number of months in each period.

The trial court also ordered Appellant to pay Appellee \$98,000 for Appellee’s attorney’s fees.

STANDARD OF REVIEW

All questions Appellant presents are reviewed for an abuse of discretion. Child support “awards made under § 12–204(d) will be disturbed only if there is a clear abuse of discretion.” *Voishan v. Palma*, 327 Md. 318, 331 (1992). A trial court’s “award of attorney’s fees will not be reversed unless a court’s discretion was exercised arbitrarily, or the judgment was clearly wrong.” *Petrini v. Petrini*, 336 Md. 453, 468 (1994).

DISCUSSION

Parties’ Contentions

Appellant first argues that in determining the monthly child support amounts, the trial judge abused her discretion because she “strictly applied an extrapolation of the guidelines” instead of considering “the parties’ financial circumstances, reasonable expenses for the children, and the parties’ station in life, the parties’ age and physical condition, and expenses in educating the child.”

Appellee disagrees, and states that Appellant’s claim “that the trial court engaged in a ‘strict’ extrapolation of the child support guidelines is incorrect and unsupported by the record.” Appellee blames any failure to consider Appellant’s childcare expenses on his failure to provide relevant evidence.

Appellant next argues that his income was miscalculated because it was calculated by averaging his income from 2019, 2020, and 2021. He argues that because his income increased each year, his income for the period between October 1, 2019, and September 1, 2020, was overestimated. Appellee contends generally that “the decisions a trial court makes about what evidence to credit or disregard in calculating actual income represent an important way that it exercises its discretion,” and that no cited caselaw prohibited the trial court from averaging Appellant’s three years of income.

Appellant also believes that the child support calculation failed to consider the \$2,000 in monthly alimony he pays Appellee, while Appellee argues that the \$2,000 was in fact deducted in the initial calculation of Appellant’s salary.

Finally, Appellant argues that Appellee’s attorney’s fees were unreasonable, emphasizing that the legal expenses were greater than the award sought, and that Appellee’s attorneys were significantly more expensive than Appellant’s. In defense of the fee award, Appellee points to the lengthy explanation the trial judge gave on the record which explained her basis for awarding Appellee attorney’s fees.

Analysis

A. The Child Support Calculation

Md. Code Ann. Family Law 12-204(e) provides a table showing the total child support obligation based on the parties’ combined adjusted actual income. When the combined income of the parties, as here, exceeds the amounts listed in Md. Family 12-204(e), Md. Family 12-204(d) states that trial courts “may use their discretion in setting the amount of child support.”

In exercising this discretion, trial courts may extrapolate the child support obligation based on the amounts in the table to guide them in determining an appropriate child support amount. *Voishan*, 327 Md. at 329 (“Extrapolation from the schedule may act as a ‘guide,’ but the judge may also exercise his or her own independent discretion....”). In other words, trial judges can get a sense of an appropriate child support amount by “extending” Md. Family 12-204(e)’s table to include larger incomes.

Appellant does not argue trial courts are categorically prohibited from extrapolating high income parties’ child support obligation from Md. Family 12-204(e). Rather, Appellant complains that the trial judge failed to consider the parties’ “reasonable expenses for the children, and the parties’ station in life, the parties’ age and physical condition, and expenses in educating the children.” Appellant concedes that the trial judge considered the parties’ financial circumstances.

The factors Appellant claims the trial judge was required to consider originate from *Unkle*, a child support case which predates our current child support guideline scheme. *Unkle v. Unkle*, 305 Md. 587, 597 (1986) (“Factors which should be considered when setting child support include the financial circumstances of the parties, their station in life, their age and physical condition, and expenses in educating the children.”).

But following Maryland’s transition to a guidelines-based child support system, the *Voishan* court did not appear to have adopted them whole cloth as required factors. Instead the court commented “these principles expressed in the pre-guidelines *Unkle* decision are consistent with the underlying concept that the child’s needs be met as they would have been absent the parents’ divorce.” *Voishan*, 327 Md. at 329. Later in *Voishan*, the Court

again cites *Unkle* to support this general principle, not to invoke a rigid list of mandatory factors: “As quoted from *Unkle* above, courts were to balance the best interests and needs of the child with the parents’ ability to satisfy those needs, and to make awards based on the circumstances of each individual case.” *Id.* at 331.

The *Voishan* court’s conclusion ultimately only adopted the general principles from *Unkle* – that courts should balance the child’s needs with the parents’ resources and ensure the child’s standard of living does not decline because of the divorce. *Voishan* does not go so far as to require that every factor listed in *Unkle* be considered or discussed on the record for a child support award to be upheld:

“...the guidelines do establish a rebuttable presumption that the maximum support award under the schedule is the minimum which should be awarded in cases above the schedule. Beyond this the trial judge should examine the needs of the child in light of the parents’ resources and determine the amount of support necessary to ensure that the child’s standard of living does not suffer because of the parents’ separation.”

Voishan, 327 Md. at 331-32.

Maintaining the same standard of living post-separation was the first thing the trial judge mentioned in her ruling:

The Court first wants to say that, fortunately, these children do not want for anything. All of their needs are being met, but that does not mean that payments are necessarily being made proportionately in the right manner; and that’s what the Court is asked to address today. It does appear that the children are living financially the lives, at least close to the lives they would have been living if the parties had remained together, which the Court is happy to see happening and see for the children.

We disagree with Appellant’s claim that the trial judge “strictly applied an extrapolation of the guidelines.” The trial judge clearly followed *Voishan* and was guided

by its underlying principles in her ruling. Having properly weighed the fact that the children’s standard of living had not suffered because of the divorce, she nonetheless reasonably exercised her discretion in determining the child support obligation based on the combined adjusted actual income of the parties. The trial judge commented that although the children’s needs are being met, “that does not mean that the payments are necessarily being made proportionally in the right manner....” Considering the appropriate size of the payment in the context of the children’s needs comports with the guidance from *Voishan* that trial judges must consider the child’s needs in light of the parents’ resources.

Moreover, while Appellee provided the court with detailed documentation of her child related expenses, Appellant provided no such documentation. The same is true for expenses in educating the children. The trial judge could not adjust child support to compensate for education expenses without the cost of education in evidence. In short, any shortcomings in considering the child related expenses were born of Appellant’s failure to provide relevant evidence, not of judicial abuse of discretion.

B. Calculating Appellant’s Income

1. Averaging Appellant’s Yearly Earnings

The evidence Appellant provided of his income was confusing. The trial judge noted this, stating that while he argued his income in October of 2019 was \$23,000 a month, “no documents were produced to substantiate the income of that amount.” Moreover, “the income tax returns and company bank account shows something different from the \$23,000 a month...” Complicating matters, Appellant’s records made it difficult to determine the income of the business:

...when a party is self-employed, the actual income from the business should be the gross receipts minus ordinary and necessary expenses required to produce that income. The plaintiff offered no evidence to explain what ordinary and necessary expenses were required to produce his income.

Rather than blindly trusting Appellant's explanations of his annual incomes, the trial court applied a consistent system for calculating Appellant's income each year based on the evidence available to her:

The Court performed...the following calculations to get all three years' incomes to then average. The Court in each year used the W-2 amount from the income taxes, added in any IRA distributions, pension incomes, as well as dividends. In 2020, the Court did subtract the business loss of \$69,355 that was listed on the Schedule C. The Court then reviewed the bank records and the ledger for the business, and added in the following categories of payments that would count for income according to Family Law Statute 12-201(b)(3)(16). AT&T. The plaintiff didn't bear his burden to say which portion was ordinary and necessary for the business, and did say that the business pays both his and his children's phone and Internet services. Merrill payments, American Express payments. Again, he testified that this was his personal card that was paid for through his business. Payments by transfer to his ex-wife, although the alimony was not added back in to avoid any doublecounting since it would have been a deduction for tax purposes. Banner Life payments, Honda payments, as he testified that his cars and his kid's cars are paid for by the business. Comcast and health insurance. As well, BMW car payments and motorcycle rentals. The Court then, also, reviewed the ledger of the company for each year in question and added in motorcycle rentals and charitable contributions, as well as health insurance payments that were not already accounted for in the bank account for the business each year.

The trial judge proceeded to walk through this process in detail for each year in question, and determined that Appellant's income was \$329,482.42 in 2019, \$384,775.99 in 2020, and \$491,762.80 in 2021. The trial judge then averaged these figures to reach an average annual income of \$402,007, or an average monthly income of \$33,500.

Appellant argues that including his 2021 income in the average results in the child support calculations for the period between October 1, 2019, and September 1, 2020, assumes too high an income. Appellant’s argument stops short of its logical conclusion – because his lower 2019 income was included in calculating his actual income for the second period from October 1, 2020, to December 1, 2021, the second child support calculation was underestimated, resulting in him underpaying. As a result, there is no meaningful difference between either method.

2. Including Alimony in Calculating Appellant’s Income

The trial judge’s explanation also made clear that Appellant’s \$2,000 monthly alimony obligation was not included in the child support guidelines worksheet because it was considered by reducing the total calculation of Appellant’s income by \$2,000. *See supra* at 8. As the trial court correctly noted, subtracting the \$2,000 alimony again during the child support calculation would have been “doublecounting.” Though this is not strictly how the child support worksheet intends alimony to be considered, we find any error caused by the trial judge’s approach to be harmless.

C. Attorney’s Fees

Appellant argues that the amount he was ordered to pay for Appellee’s attorney’s fees was unreasonable. The award of legal expenses in a child support matter is governed by Md. Family 12-103(b), which states:

Before a court may award costs and counsel fees under this section, the court shall consider:

- (1) the financial status of each party;
- (2) the needs of each party; and

(3) whether there was substantial justification for bringing, maintaining, or defending the proceeding.

Appellant doesn't argue that the trial court's order of attorney fees violated Md. Family 12-103(b). Although Md. Family 12-103(b), "does not expressly mandate the consideration of reasonableness of the fees...evaluation of the reasonableness of the fees is required." *Sczudlo v. Berry*, 129 Md. App. 529, 550 (1999). Therefore, Appellant argues that the size of the award was unreasonable under *Lieberman v. Liberman*, 81 Md. App. 575 (1990). *Lieberman* guides trial judges, by giving them four factors to consider when determining whether the amount awarded for attorney's fees is reasonable: "(1) whether the [award] was supported by adequate testimony or records; (2) whether the work was reasonably necessary; (3) whether the fee was reasonable for the work that was done; and (4) how much can reasonably be afforded by each of the parties." *Id.*

In considering each factor, we find that the amount of attorney's fees the trial judge awarded was reasonable. First, the award was supported by adequate testimony and records – the trial judge depended on testimony from Appellee's attorneys and from legal billing records in determining the award.

Second, the work was necessary. As the trial judge pointed out, "this suit was necessary to determine [Appellant's] income. Although there were no novel concepts, the way that [Appellant] runs his personal affairs out of his business account, it was tedious for [Appellee] to determine, or to try to determine, an amount of income for the [Appellant]." Without initiating this action, Appellee would not have been able to

accurately ascertain Appellant’s income, and thus would be unable to receive an appropriate child support award.

Third, the fee was reasonable for the work done. This was a protracted legal dispute which spanned over 3 years. In determining the award, the trial judge had access to all of Appellee’s legal billings. In reviewing them, the trial judge noted a number of cost saving decisions. First, “some work was written off, meaning that they didn’t charge the client for work that was actually done.” Second, “if the team was working on something together, they didn’t charge the rate of all of them.” Third, when Appellee’s counsel increased their hourly rate, “she didn’t charge the client that, but maintained her prior fee schedule.” Expensive though it was, Appellee’s counsel clearly made efforts to minimize the overall cost of litigating this case. In spite of their best efforts, there was substantial work required to complete discovery in this case. The trial judge noted, “[Appellant] turned over approximately 6,000 pages of discovery.” Reviewing such voluminous discovery is time consuming and expensive.

Fourth, our prior discussion of Appellant’s income makes clear he has significant resources and can afford litigation costs in this case.

We do not accept Appellant’s arguments that the fees were unreasonable because they were greater than Appellant’s own legal costs, or because the Appellee’s legal fees were greater than the ultimate award Appellee received. We agree with the trial judge that a ruling to the contrary would risk preventing a party “from taking action simply because it is going to be costly [to litigate].” Moreover, we agree with the trial judge that

“[Appellee] had a right to the attorney of her choice, and the right to present her case in a way that both she and her attorneys feel is strategically appropriate.”

We find the amount of legal fees awarded were reasonable in this case, so the trial judge did abuse her discretion.

CONCLUSION

Accordingly, we affirm the rulings of the trial court.

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