

Circuit Court for Baltimore County
Case No.: 03-C-15-010584

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 247

September Term, 2024

KENNETH DUCKETT

v.

TAMIKO DUCKETT

Arthur,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned)
JJ.

PER CURIAM

Filed: December 5, 2024

* This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Appellant, Kenneth Duckett (“Father”), filed a motion for contempt against appellee, Tamiko Duckett (“Mother”) in the Circuit Court for Baltimore County. After a hearing, the circuit court denied Father’s request for contempt and ordered that the parties engage in mediation prior to filing future motions for contempt. On appeal, Father raises two questions for our consideration, which we rephrase as follows:

1. Did the court err in ordering the parties to engage in mediation prior to future filings for contempt?
2. Did the court err in determining that Mother was not in contempt?

For the reasons set forth below, we answer the first question – the only question properly before us – in the affirmative. Accordingly, we vacate the mediation provision and otherwise affirm the judgment of the circuit court.

BACKGROUND

The parties are parents to ten-year-old “K.” In February of 2017, the circuit court entered a judgment of absolute divorce between Father and Mother and ordered Father’s payment of child support to Mother. In December of 2018, the court entered a consent order which terminated child support and ordered that the parties split the cost of K.’s private school.

At some point thereafter, Father became disabled and began collecting disability payments from the Social Security Administration. As a result of Father’s disability, in May of 2019, K. began receiving derivative Social Security Disability Insurance (“SSDI”)

benefits totaling \$1,200 per month, deposited directly into Mother’s bank account.¹ On January 6, 2021, the court entered an order providing that, by agreement of the parties, the parties would split K.’s SSDI payments equally. Accordingly, Mother was ordered to pay Father half of the monthly SSDI payment deposited into her account.²

In April of 2023, the court found that Father owed Mother over \$4,500 “with respect to payment of the child’s private school tuition[,]” and found Father in contempt. The court ordered that Father pay Mother \$229.45 per month towards the balance, no later than the 15th of each month, to purge the contempt. The order further provided that “every month that Father fails to pay \$229.45 to Mother on or before the due date, Mother shall be authorized to deduct \$229.45 per month from Father’s next 50% share of the child’s monthly derivative SSDI payment until Father’s obligation is paid in full[.]”

Later that year, in December of 2023, Father filed a petition for contempt against Mother, asserting that the month prior, she failed to pay his portion of the SSDI payment. On March 6, 2024, the court held a hearing, where Mother acknowledged that she had forgotten to pay Father his share of the SSDI payment in November of 2023 and testified that she had since made the payment. She added that Father had not yet purged the April 2023 contempt, and further, that he was failing to make the monthly payments to purge the contempt. Accordingly, she asserted that she was deducting \$229.45 from the SSDI

¹ The derivative SSDI payment is subject to cost-of-living increases. Mother testified in January of 2023 that it had, at that time, increased to \$1,309 per month.

² The language of the order asserts that Mother is to pay Father “\$600 without any deductions[.]” Neither party disputes that Father is owed half of the total derivative benefit.

payment owed to Father each month, as provided in the April 2023 order. Father did not dispute that he had not purged the contempt or that Mother was “up to date” on the SSDI payments.

Finally, Mother requested that the court order the parties to engage in mediation prior to any future filings for contempt. The court denied Father’s request for contempt and granted Mother’s request, ordering that:

[P]rior to any future filings for contempt, the parties shall make good faith efforts to resolve their disputes, and if after those attempts the parties cannot resolve their disputes, the parties shall participate in court mediation, costs to be split between the parties.

Father timely noted the instant appeal.

DISCUSSION

An order “mandating or prohibiting a specified act” is considered an injunction. Md. Rule 15-501(a). We review both the form and substance of an order to determine whether it constitutes an injunction. *See* Md. Rule 15-502(e) (“An order granting an injunction shall (1) be in writing (2) be specific in terms, and (3) describe in reasonable detail, and not by reference to the complaint or other document, the act sought to be mandated or prohibited.”); *see also* *LOOC, Inc. v. Kohli*, 347 Md. 258, 267 (1997) (noting that a provision within an order was “[i]n substance” an injunction). Ordinarily, “the grant or denial of an injunction lies within the sound discretion of the circuit court[.]” *Maryland Comm'n on Hum. Rels. v. Downey Commc'ns, Inc.*, 110 Md. App. 493, 521 (1996). However, “even with respect to a discretionary matter, a trial court must exercise its

discretion in accordance with correct legal standards.” *Alston v. Alston*, 331 Md. 496, 504 (1993).

Here, because the mediation provision satisfies the three form requirements in Md. Rule 15-502(e) and “mandate[es]... a specified act[.]” – for the parties to participate in mediation prior to any future filings for contempt – it constituted an injunction. However, nowhere within the rule on contempt, or elsewhere, is mediation required or anticipated as a prerequisite to the filing of a contempt petition. *See* Md. Rule 15-206(b)(2). Instead, the Rule expressly provides that “[a]ny party to an action in which an alleged contempt occurred ... may initiate a proceeding for constructive civil contempt by filing a petition with the court against which the contempt was allegedly committed.” Md. Rule 15-206(b)(2). Accordingly, the provision requiring that the parties engage in mediation prior to filing future requests for contempt is contrary to the intent manifested by the plain language of the Rule and shall be vacated.³

Finally, Father’s appeal of the court’s decision against holding Mother in contempt is not appealable. *Pack Shack, Inc. v. Howard Cnty.*, 371 Md. 243, 254 (2002) (“[T]here is no right of appeal by a party who unsuccessfully seeks to have another party held in contempt.”) (quotation marks and citation omitted). Father is “the party who unsuccessfully sought to have the other adjudged in contempt[.]” thus, his appeal of the court’s finding

³ We are not unsympathetic to the court’s interest in curbing further litigation in a case that has been ongoing for nearly ten years and has included several contempt filings by both parties. We note that the court need not hold a hearing to the extent that any party files a contempt petition that is “frivolous on its face[.]” Md. Rule 15-206(c)(2).

that Mother was not in contempt is not properly before us. *Kemp v. Kemp*, 42 Md. App. 90, 101 (1979), *rev'd on other grounds*, 287 Md. 165 (1980).

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY VACATED
IN PART AND AFFIRMED IN PART.
COSTS TO BE EQUALLY DIVIDED
BETWEEN APPELLANT AND APPELLEE.**