

Circuit Court for Prince George's County
Case No.: C-16-FM-23-007337

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1189

September Term, 2024

KENTON GRAHAM

v.

AFEIA GRAHAM

Berger,
Beachley,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: February 18, 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).

Appellant, Kenton Graham (“Mr. Graham”), appeals an order, by the Circuit Court for Prince George’s County, that he pay half of appellee Afeia Graham’s (“Ms. Graham”) unsecured credit card debt as part of a monetary award. Mr. Graham also appeals the denial of his motion to reconsider his request for alimony. He presents three questions,¹ which we have rephrased and consolidated as follows:

1. Did the circuit court err in ordering Mr. Graham to pay half of Ms. Graham’s unsecured credit card debt because the credit card debt was not “marital debt”?
2. Did the circuit court abuse its discretion in denying Mr. Graham’s motion to reconsider his request for alimony?

For the reasons that follow, we reverse the judgment of the circuit court on both grounds and remand for further proceedings consistent with this opinion.

BACKGROUND

Mr. Graham and Ms. Graham were married in a civil ceremony in Hampton, Virginia, on August 8, 2001. The parties have two children from the marriage, one of whom was twenty-two years old at the time of trial, and one of whom was sixteen years old. Shortly after the marriage, Ms. Graham joined the United States military and was initially stationed in Williamsburg, Virginia. Her military service required the parties to move

¹ Mr. Graham phrased his questions as follows:

1. Did the judge err in defining Appellee’s unsecured credit card debt as “marital debt” when there is no evidence that ties the debt to the acquisition of specific marital property?
2. Did the judge err in ordering that Appellant pay half of Appellee’s unsecured credit card debt for which Appellee was solely liable?
3. Did the judge err in refusing to consider Appellant’s request for alimony after Appellant pointed out that the Judge had not heard him correctly?

several times, meaning that Mr. Graham frequently had to find new employment. Mr. Graham’s work history includes operating a mobile tire service, catering for events, DJing, and buying and selling cars. Mr. Graham has also been employed as a mechanic by Enterprise Rental Car, and at the time of the trial he was employed as a mechanic by Vector Management.

Mr. Graham testified that he was the primary caregiver of the children, and that during Ms. Graham’s deployment abroad, he was solely responsible for getting the children to school, caring for them after school, and feeding them. However, Ms. Graham testified that Mr. Graham has a drinking problem, which is why she was seeking a divorce. She testified that Mr. Graham has “had multiple DUIs,” including one that resulted in a “head-on collision” with two teenagers on March 10, 2023.

During the marriage, Ms. Graham accumulated \$107,791.00 in credit card debt through purchases of gasoline, building materials for the marital home, dining out, and by paying for their eldest daughter’s college expenses. Mr. Graham and the parties’ eldest daughter were also authorized to use the credit cards, but Ms. Graham was the sole party to the credit card agreement. This was because Ms. Graham’s “credit was better.” Additionally, as a member of the armed services, Ms. Graham had a Thrift Savings Plan (TSP) Account worth \$92,515.00.

At the time of the trial in this case, the parties had separated. Mr. Graham was living in his car while Ms. Graham continued to reside in the marital home with their youngest daughter.

Ms. Graham filed a Complaint for Absolute Divorce, Child Custody, Support and Other Relief against Mr. Graham on October 3, 2023. At trial on June 12, 2024, Ms. Graham asked that the court split the marital property evenly between herself and Mr. Graham, except for her retirement account, which she asked to be offset by Mr. Graham’s business earnings. The court ultimately awarded primary physical custody of the parties’ minor child to Ms. Graham, awarded joint legal custody to the parties, with neither side having tiebreaking authority, and granted liberal access with the child to Mr. Graham. The court awarded the “marital portion” of Ms. Graham’s military pension to Mr. Graham and ordered that both the TSP account and the equity in the marital home be split evenly between the parties, but permitted Ms. Graham to buy out Mr. Graham’s portion of the equity in the marital home within six months of the judgment. The court also found that the unsecured credit card debt was marital debt, and ordered the parties to split it evenly. Additionally, the court ordered Mr. Graham to pay \$535 per month in child support.² These rulings were re-stated in the Judgment of Absolute Divorce entered on July 16, 2024.

After the court announced its ruling from the bench, Mr. Graham inquired about alimony, which the court had not ruled on. The court stated that it did not rule on alimony because Mr. Graham had not made a request for alimony during the presentation of his case. The court advised Mr. Graham that, if he could show the court where in the trial transcript he requested alimony, the court would reconsider its ruling. Mr. Graham

² In its oral ruling from the bench, the circuit court announced that Mr. Graham’s child support obligation would be \$598 per month, but that figure was changed to \$535 per month in the Judgment of Absolute Divorce.

thereafter filed a motion for reconsideration on July 10, 2024, attaching as an exhibit an excerpt of the trial transcript purportedly showing where he requested alimony. The court summarily denied this motion on July 29, 2024.

Mr. Graham filed a timely notice of appeal on August 13, 2024.

STANDARD OF REVIEW

Maryland Rule 8-131(c) permits us to review cases that have been tried without a jury on both the law and the evidence. *McCleary v. McCleary*, 150 Md. App. 448, 456-57 (2002). Under Md. Code Ann., Fam. Law (FL), § 8-205(a), whether to grant a monetary award is generally a decision within the sound discretion of the trial court. *Id.* In making this decision, the court must follow a three-step process:

First, for each disputed item of property, the court must determine whether it is marital or non-marital. Second, the court must determine the value of all marital property. Third, the court must determine if the division of marital property according to title will be unfair; if so, the court may make an award to rectify the inequity.

Collins v. Collins, 144 Md. App. 395, 409 (2002) (citations omitted).

On review of a court’s determination as to marital property, “it is a question of fact as to whether all or a portion of an asset is marital or non-marital property.” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 229 (2000). “Findings of this type are subject to review under the clearly erroneous standard embodied by Md. Rule 8-131(c); we will not disturb a factual finding unless it is clearly erroneous.” *Id.* However, whether a purchased item meets the definition of “property” is a question of law that we review *de novo*. See *Deering v. Deering*, 292 Md. 115, 125 (1981) (defining “property” as “everything which has exchangeable value or goes to make up a man’s wealth”).

“[T]he ruling on a motion for reconsideration is ordinarily discretionary.” *Wilson-X v. Dep’t of Human Resources*, 403 Md. 667, 674-75 (2008). “[T]he standard of review in such a circumstance is whether the court abused its discretion in denying the motion.” *Id.* “An abuse of discretion occurs where no reasonable person would take the view adopted by the trial court ... or when the court acts without reference to any guiding principles, and the ruling under consideration is clearly against the logic and effect of facts and inferences before the court ... or when the ruling is violative of fact and logic.” *Sibley v. Doe*, 227 Md. App. 645, 658 (2016).

DISCUSSION

I. The Circuit Court Erred in Finding that Ms. Graham’s Unsecured Credit Card Debt is Marital Debt

Mr. Graham argues that the circuit court erred as a matter of law in finding that Ms. Graham’s unsecured credit card debt is marital debt. He contends that this was an error of law because the credit cards were only used to purchase gasoline, for dining out, for their elder daughter’s college expenses, and for other household expenses. In his view, these should not be considered “property” for purposes of determining marital debt. In response, Ms. Graham argues that the credit cards were used to make purchases that maintained and supported the daily needs and expenses of the family unit, of which Mr. Graham was a part. Therefore, she argues, the circuit court correctly found that the credit card debt is marital debt.

“[A] ‘marital debt’ is a debt which is directly traceable to the acquisition of marital property.” *Schweizer v. Schweizer*, 301 Md. 626, 636-37 (1984). “Conversely, a

‘nonmarital debt’ is a debt which is not directly traceable to the acquisition of marital property.” *Id.* A court may not order one spouse to pay the sole, nonmarital credit card debt of the other. *See* Md. Code Ann., FL § 4-301(b).³ Thus, the primary question to be answered here is whether Ms. Graham’s credit cards were used to acquire “marital property.” If not, then Mr. Graham could not be ordered to pay any portion of the credit card debt.

Marital property is defined at Md. Code Ann., FL § 8-201(e), which states:

- (1) “Marital property” means the property, however titled, acquired by 1 or both parties during the marriage.
- (2) “Marital property” includes any interest in real property held by the parties as tenants by the entirety unless the real property is excluded by valid agreement.
- (3) Except as provided in paragraph (2) of this subsection, “marital property” does not include property:
 - (i) acquired before the marriage;
 - (ii) acquired by inheritance or gift from a third party;
 - (iii) excluded by valid agreement; or
 - (iv) directly traceable to any of these sources.

There is no dispute in this case that the credit card purchases were made by one or both parties during the marriage. Thus, the only question is whether the credit card was used to purchase “property.”

³ A husband is not liable:

- (1) for a tort that is committed:
 - (i) separately by his wife; and
 - (ii) without his participation or sanction; or
- (2) on a contract made by his wife in her own name and on her own responsibility.

“The term property, ‘when considered in a broad sense, is a term of wide and rather comprehensive signification.... It has been stated that the term embraces everything which has exchangeable value or goes to make up a man’s wealth—every interest or estate which the law regards of sufficient value for judicial recognition.” *Deering*, 292 Md. at 125 (quoting *Diffendall v. Diffendall*, 239 Md. 32, 36 (1965)). “Property is an ‘interest or estate which the law regards of sufficient value for judicial recognition.” *Reese v. Dep’t of Health and Mental Hygiene*, 177 Md. App. 102, 153 (2007) (quoting *Dodds v. Shamer*, 339 Md. 540, 548 (1995)). “Generally, the common law concept of property refers to the right and interest a person has in an object, which extends beyond ownership and possession to include the lawful, unrestricted right of use, enjoyment, and disposal of the object.” *Id.* “A protected property interest can take a number of forms and is not ‘uniform.’” *Id.* (quoting *Dodds*, 339 Md. at 549).

Under this definition, the credit cards were not used to purchase “property” during the marriage. The parties used the credit cards to pay for gasoline, food when dining out, their eldest daughter’s college expenses, and materials that were used to renovate the bathroom, kitchen, siding, and roofing of the marital home. Food from a restaurant, gasoline, and a college education do not have “exchangeable value,” *Deering*, 292 Md. at 125. Unlike items such as furniture, appliances or motor vehicles, which would undoubtedly meet this definition, food from a restaurant and gasoline are items that are quickly exhausted and not capable of a secondary exchange. Additionally, a college education is not a tangible item that can be exchanged either. Similarly, building materials that have already been used to renovate parts of the house are not exchangeable, because

they have become fixed parts of the home.⁴ Therefore, the credit cards were not used to acquire marital property, so the credit card debt is not marital debt. The circuit court erred in finding otherwise and in ordering Mr. Graham to pay any portion of the credit card debt.

Based on the erroneous premise that Mr. Graham would pay half of the credit card debt, the circuit court awarded him half of the equity in the marital home, half of Ms. Graham’s TSP account, and “the marital portion” of Ms. Graham’s military pension. Since we are vacating the court’s order that Mr. Graham pay half of the credit card debt, we remand to allow the court to revisit the monetary award in light of the FL § 8-205 factors.⁵

II. The Circuit Court Abused its Discretion when it Summarily Denied Mr. Graham’s Motion for Reconsideration Despite Evidence of a Transcription Error in the Trial Record

Mr. Graham argues that the circuit court abused its discretion in refusing to consider his request for alimony. Ms. Graham, however, argues that the court did not err because Mr. Graham never requested alimony.

In his counter-complaint, Mr. Graham clearly included a request for alimony. He also contends that he made a verbal request for alimony during the trial. However, when it announced its oral ruling from the bench, the court did not include any decision on alimony.

⁴ To the extent a party could show that building materials used in the renovation increased the value of a marital home, that debt could potentially be “marital.” No such evidence exists here.

⁵ A remand for reconsideration of the monetary award is particularly appropriate here since we are also remanding for reconsideration of Mr. Graham’s request for alimony. *See St. Cyr v. St. Cyr*, 228 Md. App. 163, 198 (2016) (“The factors underlying such awards ‘are so interrelated that, when a trial court considers a claim for any one of them, it must weigh the award of any other.’” “Therefore, when this Court vacates one such award, we often vacate the remaining awards for reevaluation.”) (quoting *Turner v. Turner*, 147 Md. App. 350, 400 (2002)).

When the court asked if there were any questions, Mr. Graham asked about alimony. In response, the court stated that it had not heard Mr. Graham make a request for alimony at any point during the presentation of his case. The court advised Mr. Graham that if he could produce the trial transcript and show the court where he requested alimony, then the court would reconsider its ruling.

Mr. Graham followed the court’s advice and diligently filed a motion for reconsideration, including as an exhibit an excerpt of the trial transcript that included the following remarks from Mr. Graham:

So all I am asking for is *whatever I deserve* for being in this relationship for 25 years. I would like all the money. I would like the percentage of the house. *I just need a start*, Your Honor. *I don’t have nothing*. I don’t have no one in my corner, nothing. So *I just need a start* to start over back because I give my family my whole 25 years.

Mr. Graham underlined the words “all the money” to point out the court reporter’s transcription error. He contends that he requested alimony, but that the word alimony was recorded as “all the money” due to his Jamaican accent.

While Mr. Graham’s request was recorded as being for “all the money,” court reporters are not infallible. They are human, and sometimes they make mistakes. Where a party alleges an error or omission in the trial transcript, he “must establish that the missing material rendered his appeal meaningless, *i.e.*, that he was deprived of meaningful appellate review.” *Wilson v. State*, 334 Md. 469, 477 (1994). “To accomplish this, he has to show that the omission is not inconsequential, but is ‘in some manner’ relevant to the appeal.” *Id.* He must also “be diligent in his attempt to reconstruct the missing testimony.” *Smith v. State*, 291 Md. 125, 138 (1981).

First, Mr. Graham acted diligently, filing his motion for reconsideration less than a month after the court’s ruling. Additionally, the alleged error in the trial transcript is not inconsequential. On the contrary, the allegedly errant portion of the transcript involved an issue that goes to the very heart of this appeal, *i.e.*, whether Mr. Graham made a request for alimony.

Nowhere else in the transcript does Mr. Graham ask for “all the money.” In fact, when viewed in context of his surrounding statements, his request for “all the money” seems out of place. For example, Mr. Graham stated, “So all I am asking for is whatever I deserve,” “I just need a start,” and “I don’t have nothing.” These statements do not appear to be motivated by greed, like a request for “all the money.” Rather, it appears that Mr. Graham was in a dire situation following his separation from Ms. Graham, and was simply asking for enough money to help get him back on his feet.

This reading of the transcript is also supported by the fact that Mr. Graham was living in his car at the time of the trial, that he could afford no more than \$500 for rent, and that he actually included a request for alimony in his counter-complaint. Thus, it is far more likely that Mr. Graham requested alimony, and the court reporter mistakenly recorded this request as one for “all the money,” than it is that Mr. Graham actually requested “all the money.” By denying his motion for reconsideration in spite of this evidence, the circuit court abused its discretion. On remand, the circuit court should consider Mr. Graham’s request for alimony, and explain its reasoning for granting or denying that request.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY IS
REVERSED. CASE IS REMANDED FOR
FURTHER PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS ARE TO BE
PAID BY APPELLEE.**