

Circuit Court for Baltimore County
Case No. C-03-FM-21-002192

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1874

September Term, 2023

KRYSTAL M. SMALLS

v.

RAFAEL JONATHAN DE GUZMAN

Berger,
Albright,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: October 17, 2024

* 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 arises from an order of the Circuit Court for Baltimore County finding Appellant, Krystal Smalls (“Ms. Smalls”), in contempt of a divorce order, and ordering Ms. Smalls to comply with the order, particularly regarding visitation between Appellee, Rafael de Guzman (“Mr. de Guzman”), and their shared daughter, R. The circuit court additionally awarded attorney’s fees to Mr. de Guzman. This timely appeal by Ms. Smalls followed.

QUESTIONS PRESENTED

Ms. Smalls presents two questions for our review, which we have recast slightly as follows:¹

1. Whether the trial court erred when it barred Ms. Smalls from introducing alleged evidence of abuse as a reason for withholding the child from Mr. de Guzman.
2. Whether the trial court erred when it awarded attorney’s fees to Mr. de Guzman.

For the following reasons, we affirm.

¹ Ms. Smalls phrased the questions as follows:

1. Did the circuit court err in prohibiting Appellant from presenting evidence to establish her reasons for not complying with the visitation provisions of the divorce order?
2. Did the circuit court err in awarding attorney’s fees to Appellee?

BACKGROUND

Ms. Smalls and Mr. de Guzman began a relationship in 2014 or 2015, and share a child, R., who was born in 2019. Ms. Smalls and Mr. de Guzman were married on February 18, 2020. The parties separated on February 2, 2021, and Mr. de Guzman filed for divorce on May 6, 2021. On August 23, 2022, the circuit court entered a decree for absolute divorce, granting the divorce, awarding sole legal and primary physical custody of R. to Ms. Smalls, and granting Mr. de Guzman visitation according to a specific schedule.

The parties have a lengthy and contentious history, including multiple allegations that Mr. de Guzman committed acts of abuse against R. and Ms. Smalls.² Ms. Smalls was awarded a temporary protective order on October 21, 2022. The court, however, declined to issue a final protective order following a hearing on January 24, 2023. During the time the temporary protective order was in place, Mr. de Guzman did not have access to R.

The present appeal stems from Mr. de Guzman's October 12, 2022 petition for contempt. Mr. de Guzman filed an amended petition for contempt on February 23, 2023, and a hearing was held on October 4, 2023. The petitions alleged that Ms. Smalls was late to scheduled visits or withheld R. entirely from Mr. de Guzman on multiple occasions in violation of the August 23, 2022 divorce order. Before the hearing commenced, Mr. de Guzman represented that Ms. Smalls would attempt to introduce into evidence instances

² For a thorough recitation of the parties' history, see *de Guzman v. Smalls*, No. 1275, Sept. Term 2022 WL 5030169 (Md. App. Ct., Aug. 8, 2023).

of alleged child abuse as justification for withholding R. from visitation with Mr. de Guzman. Mr. de Guzman moved to preclude Ms. Smalls from introducing any of these allegations under the doctrine of res judicata³ because those issues had already been raised and decided during the divorce proceedings and the protective order proceedings. The circuit court agreed, and barred Ms. Smalls from introducing in her defense any allegations of abuse that had already been made and decided in the divorce proceedings or protective order proceedings.

Following the hearing, the court found Ms. Smalls in contempt, ordered her to immediately comply with the divorce decree, and ordered Ms. Smalls to provide Mr. de Guzman with additional visitation. The court also ordered Ms. Smalls to pay attorney's fees totaling \$5,800. In arguing for attorney's fees, Mr. de Guzman (through counsel) stated:

I'm going to ask the Court to award attorney's fees. Even if Ms. Smalls' income is 0, we assume that because there's no evidence before the Court, the ability of the parties to pay is merely a factor for the Court to consider. It is not a prohibition on the Court just because the person may have difficulty paying. And there's simply total substantial justification for my client to bring this proceeding, and no substantial justification whatsoever from the day it was filed, which is almost a year ago, of not resuming access to this child.

The court agreed with Mr. de Guzman, stating as follows:

³ As discussed below, Mr. de Guzman used the term res judicata; however, the doctrine of collateral estoppel more aptly applies in this instance. Therefore, we will instead discuss whether Ms. Smalls was correctly prohibited from again raising the abuse allegations under the doctrine of collateral estoppel.

THE COURT: . . . I'm ordering attorney's fees in the case. Based on the lack of financial information on her, I'll give her a substantial period of time to pay it. But the attorney's fees are ordered in the amount of \$5,000, payable at the rate of \$100 per month. All right.

[COUNSEL FOR MS. SMALLS]: Your Honor, and I'm sorry, that is pending -- I guess the Court is kind of maybe holding that sub curia pending and the income information she provides to the Judge.

THE COURT: All right. If she has some information she wants me to modify it, but, I mean, I'm going to order \$5,800 at this point. I mean, if she has some information she wants me to consider, I think \$100 a month is pretty reasonable, even in the absence of additional information. But if you want to speak to her.

[COUNSEL FOR MS. SMALLS]: Oh, no, Your Honor. I -- the Court understands the circumstances of which I am here.

THE COURT: All right. I do.

[COUNSEL FOR MS. SMALLS]: Right.

THE COURT: All right. It's \$5,800 payable at the rate of \$100 a month.

Ms. Smalls appealed the court's decision to prohibit her from entering into evidence allegations of abuse by Mr. de Guzman, and the court's award of attorney's fees for Mr. de Guzman.

STANDARD OF REVIEW

These are two issues raised in this appeal. Both issues involve differing standards of review. When considering the doctrine of collateral estoppel, "whether this doctrine should be applied is ultimately a question of law for the court. Therefore, we examine *de novo* the court's legal determination of whether collateral estoppel should apply based on

the court’s sustainable findings of fact.” *Shader v. Hampton Imp. Ass’n, Inc.*, 217 Md. App. 581, 605 (2014).

We review a court’s decision to award attorney’s fees for abuse of discretion. *Baldwin v. Baynard*, 215 Md. App. 82, 105 (2013). A court abuses its discretion “when no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding rules or principles.” *Santo v. Santo*, 448 Md. 620, 625-26 (2016) (cleaned up). We will not reverse the circuit court’s award of attorney’s fees unless the “court’s discretion was exercised arbitrarily or the judgment was clearly wrong.” *Petrini v. Petrini*, 336 Md. 453, 468 (1994).

DISCUSSION

I. The trial court did not err when it prohibited Ms. Smalls from introducing alleged evidence of abuse as a defense for withholding R. from Mr. de Guzman.

Ms. Smalls first contends that the court committed reversible error when it prohibited her from introducing allegations of abuse as a defense for withholding R. from Mr. de Guzman in violation of the visitation scheduled ordered by the court in the divorce decree. Mr. de Guzman counters that the court correctly determined that Ms. Smalls should not be allowed to reintroduce the allegations, as any issues of domestic violence or child abuse were settled in prior litigation.

At the hearing, Mr. de Guzman requested that the court prohibit Ms. Smalls from introducing such evidence, stating that “any such defense would be subject to the principle

of res judicata⁴ at this point.” Mr. de Guzman continued, arguing that because the Judgment of Absolute Divorce made no finding of abuse committed against either R. or Ms. Smalls, and because Ms. Smalls’ petition for a Final Protective Order was denied, the allegations of child abuse and domestic violence had already been litigated twice and Ms. Smalls should be prohibited from raising the allegations again. The court agreed, finding that “the issues of domestic abuse and child abuse have been fully litigated in this [c]ourt, and they may not be raised in this action.”

Under the doctrine of collateral estoppel, an issue decided in a prior adjudication may not be re-litigated if that issue was “(1) identical to the issue to be decided in the present action; (2) there was a final judgment on the merits in the prior adjudication; (3) the party against whom the doctrine is asserted was a party to the prior adjudication or was in privity with a party to the prior adjudication; and (4) the party against whom the doctrine is asserted had a fair opportunity to be heard on the issue in the prior adjudication.” *Cunningham v. Baltimore Cnty.*, 246 Md. App. 630, 669 (2020) (internal citations omitted).

⁴ At the hearing, Mr. de Guzman used the term res judicata. Res judicata, or claim preclusion, concerns the “legal consequences of a judgment entered earlier in the same cause.” *Colandrea v. Wilde Lake Cmty. Ass’n, Inc.*, 361 Md. 371, 390-91 (2000). In our view, collateral estoppel, or issue preclusion, is more appropriate. Collateral estoppel instead concerns the “issue implications of the earlier litigation of a different case.” *Id.* In our view, the doctrine of collateral estoppel is better applicable than res judicata to the present case, as we are specifically considering the issue of Ms. Smalls’ abuse allegations. Accordingly, we shall only address whether Ms. Smalls was collaterally estopped from raising the issues of abuse as a defense to contempt of the divorce decree ordering visitation between R. and Mr. de Guzman.

Here, the court correctly determined that the doctrine of collateral estoppel barred Ms. Smalls from introducing the alleged acts of abuse to defend her violation of the divorce decree. First, during the divorce proceedings, Ms. Smalls testified regarding various acts of violence and abusive behaviors exhibited by Mr. de Guzman. The court considered Ms. Smalls' testimony when it determined the custody arrangement and created the visitation schedule outlined in the divorce order. Ms. Smalls also testified as to Mr. de Guzman's alleged abuse during the final protective order hearing on January 24, 2023, at which the final protective order was denied. Mr. de Guzman sought to prohibit Ms. Smalls from raising these same allegations of abuse once again because the issues were identical. Second, both the divorce decree and the final protective order denial were final judgments on the merits. Third, both Ms. Smalls and Mr. de Guzman were parties in the previous two actions. Finally, as the court considered Ms. Smalls allegations of abuse when creating the divorce order, Ms. Smalls had ample opportunity to be heard on the allegations of abuse during the divorce proceedings.

Notably, because the court held a hearing at which Ms. Smalls presented evidence of alleged abuse in an attempt to secure a final protective order -- although it was ultimately denied -- Ms. Smalls was also clearly given the opportunity to be heard on the issue at the final protective order hearing. Therefore, the precise issue that Ms. Smalls may have attempted to put forward as a defense was appropriately barred by the doctrine of collateral estoppel, and the trial court did not err in prohibiting Ms. Smalls from re-litigating the issue.

II. The trial court did not err in awarding attorney’s fees to Mr. de Guzman.

Ms. Smalls contends that the trial court erred when it ordered her to pay Mr. de Guzman’s attorney’s fees of \$5,800 because it failed to consider necessary factors when determining whether to award fees. Mr. de Guzman counters that the court’s decision to award attorney’s fees was not an abuse of discretion.

The award of attorney’s fees in this instance is governed by Md. Code (1984, 2019 Repl. Vol.) § 12-103 of the Family Law Article (“FL”). FL § 12-103(a)(2)(iii) provides that a court may award costs and counsel fees in any case in which a party files for proceedings to enforce a decree of custody or visitation. FL § 12-103(b) further provides:

(b) 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.

FL § 12-103(b).

Although not mandated by FL § 12-103(b), the court is also required to consider the reasonableness of the fees requested. *Sczudlo v. Berry*, 129 Md. App. 529, 550 (1999). In determining whether the attorney’s fees are reasonable, the court “must look at (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.” *Lieberman v. Lieberman*, 81 Md. App. 575, 601-02 (1990); *see also Lemley v. Lemley*, 109 Md. App. 620, 633 (1996)

(holding that when determining the reasonableness of the fees request, the court must “tak[e] into account such factors as labor, skill, time and benefit afforded to the client by the attorney, as well as the financial resources and needs of each party”).

Ms. Smalls argues that Mr. de Guzman only made a “passing mention” of the FL § 12-103(b) factors when requesting attorney’s fees and never offered any proof of reasonableness. Ms. Smalls further argues that the court never addressed any of the factors, and similarly failed to address whether Mr. de Guzman’s requested fees were reasonable, and therefore committed reversible error. Mr. de Guzman counters that the court clearly considered Ms. Smalls’ financial situation, and considered the necessity of the contempt action, which addresses the “substantial justification” factor.

As noted, we review a circuit court’s award of attorney’s fees under an abuse of discretion standard, and we will only reverse if the “court’s discretion was exercised arbitrarily or the judgment was clearly wrong.” *Petrini*, 336 Md. at 468. Mr. de Guzman clearly presented evidence that the contempt proceedings were substantially justified after Ms. Smalls withheld R. from visitation following the divorce proceedings. Additionally, the court considered the financial status of the parties, as the court stated that it had limited information about Ms. Smalls’ financial status and would therefore require her to pay the \$5,800 award of attorney’s fees in installments of \$100 per month, which the court stated was “pretty reasonable.” The court further stated that it would modify this award if Ms. Smalls presented information on her finances, indicating its consideration of her financial status. The court, therefore, adequately assessed the FL § 12-103(b) factors.

The court additionally addressed the reasonableness of the \$5,800 fee award. The court stated that paying \$100 per month until the total sum of \$5,800 was paid off was “pretty reasonable.” Mr. de Guzman introduced into evidence as Exhibit 3 a billing statement for work done by his attorney in preparation for the contempt proceedings. Mr. de Guzman testified that the \$400 hourly rate he was charged by his attorney was “fair and reasonable.” Inasmuch as the billing statement was introduced into evidence, the trial court did not err in determining the fees to be reasonable. As noted above, the court considered the financial position of Ms. Smalls in determining whether to award attorney’s fees. Thus, the trial court neither erred nor abused its discretion in its award of attorney’s fees to Mr. de Guzman. We, therefore, affirm.

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