

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1128

September Term, 2015

KELLY C. KNIGHT

v.

PATRICIA KNIGHT

Eyler, Deborah S.,
Wright,
Rodowsky, Lawrence F.
(Retired, Specially Assigned),

JJ.

Opinion by Rodowsky, J.

Filed: August 18, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal from the Circuit Court for Baltimore County concerns the obligation of the appellant, Kelly C. Knight (Husband), to pay indefinite alimony to the appellee, Patricia Knight (Wife). The alimony was initially established by a settlement agreement which was incorporated, but not merged, into the parties' divorce judgment of September 14, 2010. In July 2012, the parties consented to an order whereby Husband again agreed to pay indefinite alimony, but at a reduced amount. In January 2014, Husband stopped making payments and Wife filed for contempt. Thereafter, Husband filed a Motion to Modify and/or Terminate Alimony based on a decrease in his income and the Wife's "refusal" to become self-supporting. By order filed January 23, 2015, the circuit court (1) found Husband in contempt due to his failure to make any payments since December 2013, but (2) reduced the alimony amount due to his decrease in income. The court was not persuaded that requiring Husband to continue paying alimony was a "harsh and inequitable result," and therefore declined to terminate alimony on that basis. Husband presents seven questions for review, which we have consolidated as follows:

1. Did the circuit court abuse its discretion by not terminating alimony in order to avoid a harsh and inequitable result?
2. Did the circuit court abuse its discretion by not modifying alimony to a definite term?
3. Did the circuit court err by finding Husband in contempt of the consent order?

We find no error or abuse of discretion, and affirm.

Factual and Procedural Background

The parties were married on September 30, 1994, in a civil ceremony in Westminster, Maryland. On July 21, 2009, the Wife filed for divorce in the Circuit Court for Baltimore County. A judgment of absolute divorce was granted on September 14, 2010, and a marital settlement agreement (the Agreement) was incorporated, but not merged, into the divorce judgment. Paragraph 8.2 of the Agreement provided that the Husband would pay indefinite alimony to the Wife in the amount of \$1,378 per month:

"Husband shall pay directly to Wife, as alimony and for her support and maintenance, the fixed sum of One Thousand Three Hundred Seventy Eight Dollars (\$1,378.00) per month, accounting from and with the first payment being due and payable on the day of the month next following the date of execution of this Agreement and on the day of each month thereafter. Husband's alimony payments shall be payable by cash, check or money order payable on demand. Husband may pay the alimony as weekly payments to Wife, which will be the sum of Three Hundred Eighteen Dollars (\$318.00). Husband's alimony and support payments as set forth in this Paragraph shall continue to be payable only so long as the parties live separate and apart from each other and *shall terminate (except as to accrued arrears, if any) upon the first to occur of any one of the following events: (1) remarriage of Wife; (2) death of Wife; (3) death of Husband; or (4) subsequent agreement by the parties pursuant to the terms of Paragraph 8.3 or determination by a Court of competent jurisdiction.* In no event shall Husband have any liability to make any alimony payments or any payment as a substitute for such payments after the death of Wife."

(Emphasis added).

In Paragraph 8.3 of the Agreement, the parties agreed to "attend mediation and begin negotiations to reconsider and modify alimony," beginning April 2, 2012, and that "[i]f the

parties are unable to reach an agreement, then the parties may submit the issue to a Court of competent jurisdiction for determination."

On July 17, 2012, after one session of mediation at which Husband was represented and Wife appeared *pro se*, the parties consented to an order which reduced the amount of Husband's indefinite alimony obligation to \$1,200 per month. The alimony provisions, as modified, were set forth in an "Addendum to the Marital Settlement Agreement," which was incorporated, but not merged, into the consent order. Paragraph 5.1 of the Addendum provides, in its entirety:

"Effective July 1, 2012, and each month thereafter, Husband shall pay directly to Wife, as alimony and for her support and maintenance, the fixed sum of Twelve Hundred Dollars (\$1200.00) per month. Husband's alimony payments shall be payable by cash, check or money order payable on demand. Husband's alimony and support payments as set forth in this Paragraph shall continue to be payable only so long as the parties live separate and apart from each other and *shall terminate (except as to accrued arrears, if any) upon the first to occur of any one of the following events: (1) remarriage of Wife; (2) death of Wife; (3) death of husband.* In no event shall Husband have any liability to make any alimony payments or any payments as a substitute for such payments after death of Wife."

(Emphasis added).

In the fall of 2013, Wife began receiving only partial payments from the Husband. In November 2013, she received a payment of only \$500. In December 2013, she received a payment of only \$300. By January 2014, the payments ceased entirely. On February 28, 2014, the Wife filed a *pro se* petition for contempt. Subsequently, on April 7, 2014, the Husband filed, through counsel, a Motion to Modify And/Or Terminate Alimony, claiming

that he could no longer afford the current alimony amount due to a decrease in his income.¹ The motion also alleged that the Wife "has made no effort to obtain full time employment or to become self supporting." On September 9, 2014, a hearing was held before a magistrate. Husband was represented by counsel, Wife appeared *pro se*. Both parties testified.

Husband, then forty-eight years old, had remarried on February 29, 2011, and at the time of the hearing was living in North Carolina with his current wife and their daughter. Husband testified that his current wife was self-employed as a real estate agent earning approximately \$10,000 per year, and that she contributed \$500 per month toward household expenses. At the time of the July 2012 Consent Order the Husband had been employed as the general manager and vice president at a freight forwarding company with a yearly gross income of \$141,078.82 – roughly \$11,750 per month. He testified that he lost that job on September 30, 2013, when the freight company was sold and he was not retained by the purchaser.

He testified that on November 3, 2013, he began working as the general manager for a different company, but at a reduced salary. He provided the magistrate with a self-

¹In his brief, Husband claims, "On or about January 3, 2014, [Husband], through counsel, attempted to file a Motion to Modify and/or Terminate Alimony. However, that pleading was never entered by the Clerk of the Court." A similar claim was made in the proceedings below. We share the decision of the circuit court, as referenced in footnote 2 *infra*, to operate with the date that the motion was properly filed.

prepared financial statement as well as several recent paystubs. Based on the paystubs, the magistrate calculated Husband's projected yearly gross income at that time to be \$91,898.28, or \$7,658.19 per month – a decrease of approximately 35% from the time of the consent order. The Husband's financial statement claimed monthly expenses of \$6,113, including, *inter alia*, \$700 for food, \$300 for "Dining Out," \$130 for cable television, \$110 for gifts, and \$65 for clothing, with an "excess" of only \$70.66. The financial statement did not account for his current wife's \$500 monthly contribution to "household expenses." Husband stated that he was asking the court to terminate his alimony obligation under the parties' agreement because his current financial circumstances were "bleak."

The Wife, then forty-nine years old, had not remarried. She testified that she had not received any alimony payments since the partial payment in December 2013 and that her current income was \$0. Although Wife maintained a license in cosmetology, and had worked as a photographer's assistant in the past, she had not worked outside the home since the parties were married in 1994. She explained that she was diagnosed with Type 1 Diabetes while she was pregnant with the parties' son (now emancipated) and that her health was generally poor.

"I have an extreme vitamin D deficiency due to my illness. I take kidney medication to try to maintain my kidneys' function. I have – I take high blood pressure medication for high blood pressure and cholesterol medication. *I give myself five shots of insulin per day. I used to use an insulin pump* which during – while we were kind of going through the divorce I had

a nurse come to my home and teach me to use it *but I had to give that up because it was too expensive to maintain*, so I went back to the shots."

(Emphasis added).

After the divorce, the Wife moved into her sister's home. She paid her sister \$400 in rent, helped to take care of "a new grandchild," and performed household chores to "earn her stay." She testified that "it would not have even been physically possible for me to get a job," and that she applied for social security disability benefits in the fall of 2012 but was denied because she had not had a major organ fail. On August 26, 2013, the Wife moved to Washington state to live with her adult son from a prior marriage. While there, she was employed briefly (less than thirty days) at an assisted living home making \$10 per hour and working twenty-two hours per week. She testified that she "took care of patients," but did not elaborate in terms of any specific job responsibilities. She testified that she lost that job on or about January 2, 2014, when she was taken to the emergency room after becoming "exhausted and dehydrated," and she and her employer agreed that she "wouldn't be able to care for the residents properly."

On or about August 20, 2014, in the weeks leading up to the hearing, the Wife had returned to Maryland and moved into her parents' home to help care for her elderly father who was recovering from surgery. She testified, "They [*i.e.*, her parents] are not paying me. I have not received any money from them. I haven't asked. I'm just living there rent free." She explained that since the alimony payments had ceased she had been meeting personal

expenses by withdrawing from her individual retirement account, which she claimed to have recently depleted. The Wife filled out a financial statement at the magistrate's request at the time of the hearing. That statement reflects an income of \$0 and monthly expenses of \$1,320.

The magistrate's report and recommendations were filed on October 7, 2014. The magistrate found that "the only change since the last consent order is that husband's income decreased, *all other relevant factors remain the same.*" (Emphasis added). It was recommended that (1) Husband be found in contempt for failing to pay alimony as directed; (2) a purge amount be set at \$6,000; (3) Husband's alimony obligation be reduced from \$1,200 per month to \$1,000 per month, to be modified retroactively to May 1, 2014; and (4) Husband's total arrears be set at \$11,400.

The Husband filed numerous exceptions, arguing in effect that (1) he could not be in contempt of the consent order because there was no evidence that he had the ability to pay the full amount, (2) the purge amount was too high, (3) the magistrate failed to give proper weight to his 35% decrease in income, (4) the magistrate should have modified the alimony retroactively to the date of his change in income, (5) the magistrate miscalculated the amount of arrears, (6) the Wife failed to prove a need for \$1,000 per month in alimony, (7) the magistrate should have found the Wife to be voluntarily impoverished, and (8) the magistrate should have terminated alimony.

An exceptions hearing was held in the circuit court on December 2, 2014. By order filed January 23, 2015, the Husband's exceptions were sustained in part and overruled in part. In an opinion accompanying the order, the circuit court agreed with the magistrate's recommendation that the Husband be found in contempt of the consent order for failing to make any alimony payments since December 2013.

"Even if Husband's assertions that he made at least partial alimony payments through January 2014 were accepted by this Court, Husband, by his own admission, has failed to make any alimony payments for a significant period of time. This Court finds that while a modification of alimony is warranted, Husband willfully disobeyed the July 17, 2012 Consent Order by failing to pay any alimony from December 2013 until present."

(Emphasis added).

The court did, however, reduce the recommended purge amount by half to \$3,000. The court also further reduced the Husband's alimony obligation to \$800 per month – a decrease of approximately 33% from the amount agreed to in the consent order. The court applied this reduction retroactively to April 7, 2014, the date that the Husband filed his motion for modification,² and calculated his total arrears to be only \$7,400.

²In Husband's written exceptions, he claimed: "On January 3, 2014, undersigned counsel mailed a Motion to Modify Alimony and supporting documents, including filing fee to the Circuit Court for Baltimore County," but that "[a]s of this date, the check to the Clerk of the Court has never been cashed, the envelope has not been returned, and no one knows what happened to it." The circuit court's opinion declares: "This Court, as an exercise of its discretion, has chosen to modify alimony retroactive to the date that the Motion was properly filed."

The court overruled the Husband's exceptions which argued (1) that the Wife was voluntarily impoverished; (2) that the Wife had failed to prove the need for alimony; and (3) that requiring the Husband to continue to make alimony payments was a "harsh or inequitable result." With respect to the voluntary impoverishment argument, the court found that the Husband had failed to generate sufficient evidence to even allow for such an analysis; specifically, any evidence or testimony (1) tending to contradict the Wife's claim that her illness was an obstacle to employment, (2) the types of employment for which Wife would be qualified, or (3) what income she could potentially earn.

As to Husband's suggestion that the Wife had "failed to prove a need for alimony," the court observed that "the award of alimony to Wife was based upon an agreement reached between the parties," and that it was not the Wife's burden to show why the agreement should be upheld.

"The July 17, 2012 order, a Consent Order, ... indicated Husband's agreement to make indefinite, though reduced, alimony payments. An agreement between the parties as to alimony is 'subject to the same general rules of construction as applicable to other contracts.' *Turner v. Turner*, 147 Md. App. 350, 403 (2002). *Husband is bound by the terms of the agreement and cannot now place the burden on Wife to prove why the contract should be upheld.*"

(Emphasis added).

Finally, in declining to terminate alimony, the court concluded that "[a]pplying the facts presented in this case to the law, this Court finds that requiring Husband to make alimony payments in the amount of \$800.00 is neither harsh nor inequitable."

On January 23, 2015, Husband filed a motion to alter or amend the court's decision pursuant to Maryland Rule 2-534, which focused primarily on the court's conclusion that the Husband had not generated sufficient evidence on the issue of voluntary impoverishment. The circuit court summarily denied the motion. This appeal followed.

Discussion

The Husband raises seven questions presented, which purport to target distinct aspects of the circuit court's decision. Rephrased as contentions, they are: (1) the court improperly placed the burden on Husband to "disprove" Wife's claim of an inability to work when she had not met her initial burden of production on that issue, as articulated in *Hiltz v. Hiltz*, 213 Md. App. 317, 73 A.3d 1199 (2013); (2) the court abused its discretion by failing to find that Wife was voluntarily impoverished; (3) the court abused its discretion by finding Husband had the ability to pay alimony; (4) the court abused its discretion by not terminating alimony to avoid a harsh and inequitable result; (5) the court abused its discretion by failing to modify alimony to a definite term; (6) the court erred, as a matter of law, by finding husband in contempt of the consent order absent evidence that he had the ability fully to comply; and (7) the court abused its discretion by setting a purge amount above what Husband could reasonably be expected to pay.

The Husband's first five questions presented can be distilled into two broad contentions: (1) the circuit court erred by failing to terminate alimony in order to avoid a harsh and inequitable result, and alternatively, (2) the circuit court erred by failing to modify

alimony to a definite term. The final two questions presented amount to what is a decidedly secondary grievance: the Husband could not be found in contempt of an order with which he was unable fully to comply. We discuss each of these broadly stated contentions in turn.

We emphasize, at the outset, that the alimony obligation in this case is not the product of a court's determination, but rather an agreement reached between the parties. As such, the Maryland statutes which govern a court's alimony determination made in the context of a divorce trial, such as Maryland Code (1984, 2012 Repl. Vol.), § 11-106(b) of the Family Law Article (FL) (enumerating twelve factors which a court is required to consider in determining the amount and duration of an award of alimony) are inapplicable. Similarly, our cases reviewing a court's alimony determination at trial based on those statutes, such as *Hiltz*, 213 Md. App. at 342-43, 73 A.3d at 1214 (holding that party seeking indefinite alimony at trial based on illness or disability, pursuant to § 11-106(c)(1), bears the burden of establishing a *prima facie* case), are largely irrelevant in the present context. In other words, this appeal does not require us to evaluate the fairness or equity of a court's alimony award. We are asked simply to review the circuit court's decision not to terminate, or further modify, a pre-existing agreement of the parties.

When the challenged alimony has been established by agreement, we are guided by principles of contract interpretation. As this Court recently articulated in *Bradley v. Bradley*, 214 Md. App. 229, 76 A.3d 395 (2013):

"In interpreting a separation agreement, we apply the rules governing the construction of contracts. *Campitelli v. Johnson*, 134 Md. App. 689, 696, 761 A.2d 369, 372 (2000). Our goal is to 'give effect to the intention of the contracting parties.' *Langston v. Langston*, 136 Md. App. 203, 223, 764 A.2d 378, 389 (2000). Nonetheless, contracts are subject to the law of objective interpretation and we give effect to the plain language of the clear and unambiguous provisions of the contract, 'even when the language is not congruent with the parties' actual intent at the time of the creation of the contract.' *Id.* at 224, 764 A.2d [at] 389. We presume that parties know the law when entering into a contract and read into the agreement all applicable or relevant laws, except where a contrary intention is evidenced. *Lema v. Bank of Am., N.A.*, 375 Md. 625, 645, 826 A.2d 504, 516 (2003)."

Id. at 235, 76 A.3d at 398.

I

The Husband's flagship contention is that the circuit court abused its discretion by failing to terminate his alimony obligation. He relies on FL § 11-108(3) which reads:

"Unless the parties otherwise agree, alimony terminates:

"(1) on the death of either party;

"(2) on the remarriage of the recipient; or

"(3) if the court finds that termination is necessary to avoid a harsh and inequitable result."

This Court has described a "harsh and inequitable result" as "a subjective classification, most appropriately determined by a trial court judge in whose judgment the exercise of sound discretion in such matters is reposed." *Blaine v. Blaine*, 97 Md. App. 689, 706, 632 A.2d 191, 200 (1993) (interpreting the same statutory phrase as it appears in FL § 11-707(a), relating to an extension of alimony). The Husband argues that the factors contributing to such a result in this case are (1) the Wife's voluntary impoverishment; and

(2) the decrease in his income. The combination of these two factors, according to the Husband, renders the alimony obligation a "lifetime pension" to the Wife and "a form of punishment for [Husband]'s adultery." We are not persuaded.

We agree with the astute observation of the magistrate below, that "the only change since the last consent order is that husband's income decreased, *all other relevant factors remain the same.*" (Emphasis added). At the time of the marital settlement agreement the Wife had not been employed outside the home for over fifteen years. The record reflects that she was neither employed nor seeking employment two years later when the parties executed the consent order. Essentially, when the parties filed the consent order on July 17, 2012, they agreed for a second time that the Husband would pay alimony to the Wife indefinitely. There is nothing in the language of the consent order to indicate that the agreement to pay indefinite alimony was based upon the Wife's inability to work such that a present ability to work, even if established, would constitute a change in circumstances. Nor is there anything in the language of the consent order to indicate that Husband's agreement to pay alimony, either with respect to its amount or duration, was in any way contingent upon the Wife becoming (even partially) self-supporting, such that her failure to do so could constitute a change in circumstances, or otherwise create or contribute to a "harsh and inequitable result."

The only material change in circumstances between the time of the consent order and the time that Husband filed his motion was a 35% decrease in the Husband's income. The

circuit court accommodated this by reducing his alimony obligation by 33%, to \$800 per month – less than 11% of his \$7,658.19 gross monthly income. It will not do for the Husband to argue that termination of the parties' alimony agreement is necessary because he has accumulated \$6,113 in monthly expenses and now does not have a sufficient surplus leftover to meet his pre-existing alimony obligation. Requiring Husband to pay the significantly reduced amount of \$800 per month, moreover, hardly amounts to a "lifetime pension" for the Wife, as she articulates in her brief:

"My receiving \$800.00 per month from [Husband] does not put me in a category of being a financially [in]dependent spouse, and in no way would the payments allow me to 'maintain' an accustomed standard of living. There is no question that even if I were to receive the \$800.00 in monthly alimony payments, I would still be living very much below the standard of living that I was accustomed to in the marriage."

The continued enforcement of the parties' agreement, by which the Wife now survives on \$800 a month by living with her parents, depleting her retirement account, and foregoing an insulin pump due to the expense, cannot be "harsh and inequitable" *to the Husband*. The circuit court did not abuse its discretion in declining to terminate the parties' alimony agreement on such a basis.

II

The Husband contends that the circuit court failed to modify the alimony to a definite term. The Husband's theory of error, as articulated in his brief, is:

"The Circuit Court erred by finding the Marital Settlement Agreement and Addendum prohibited that [sic] Circuit Court from modifying alimony to

a definitive term. Specifically, the Circuit Court failed to note a significant part of the agreement of the parties was that alimony is modifiable by the Circuit Court at any time."

Brief of Appellant at 18 (emphasis added).

The circuit court made no such finding. The portion of the court's opinion to which the Husband refers, appears in its discussion of Husband's exception claiming that the Wife had failed to prove a current need for alimony. In overruling that exception, the court observed that the award of alimony to the Wife was based on agreement, and that "Husband is bound by the terms of the agreement and cannot now place the burden on Wife to prove why the contract should be upheld." This language does no more than convey the circuit court's finding that the Wife had no burden to prove a present need for alimony. It does not amount to a conclusion by the circuit court that it was "prohibited" from modifying alimony to a definite term. The court never expressed an opinion as to whether such a modification would have been permitted pursuant to the language of the consent order. It was, in fact, never asked to address that question.

The Husband did not specifically request the modification of alimony to a definite term in his motion for modification of April 7, 2014. Such a modification was neither argued for nor requested at the magistrate hearing, in Husband's written exceptions, or at the hearing on those exceptions. The first, and only time, that the Husband even mentions modifying alimony to a "definitive" term is in the final paragraphs of his January 2015 post-judgment motion, focusing on the circuit court's conclusion that there was insufficient

evidence to conduct a voluntary impoverishment analysis. The motion read, in pertinent part:

"13) The Court should minimally assess minimum wage of \$7.25/hour against [the Wife]. The Court should take judicial notice as it is aware that in the Baltimore/Washington Metropolitan area, a home health aid charges between \$15.00 to \$25.00 per house, which is the service [the Wife] is providing to her parents at this time. [The Wife] is also living at her parents rent and utility free. Thus, she is receiving compensation for her services.

"14) In light of this, the Court should either find that [the Wife] failed to meet her burden pursuant to Family Law Article § 11-108(c) or in the alternative reduce the alimony in light that [the Wife] is receiving compensation *and set a definitive term.*"

(Emphasis added).

The motion concluded with a request that the circuit court

"amend[] its findings of how much [Wife] earns a month considering the benefit she receives by working for her parents compensated with free rent and utilities, amend[] its finding of indefinite alimony to termination or *in the alternative set a definitive date of termination[.]*"

(Emphasis added).

The Husband's motion to alter and amend was summarily denied by the circuit court in two lines of a one-page order. The issue of whether the modification of alimony to a definite term was permitted pursuant to the terms of the parties' agreement – and, if so, whether it was warranted in these circumstances – was not "plainly raised in or decided by the trial court," Md. Rule 8-131(a), and it is not preserved for appellate review.

III

The Husband's final area of complaint concerns the circuit court's contempt finding based on its conclusion that the Husband "willfully disobeyed the July 17, 2012 Consent Order by failing to pay any alimony from December 2013 until present." The Husband's attack on this finding is devoid of merit. He argues that, as a matter of law, he cannot simultaneously be entitled to a reduction in the amount of his alimony obligation yet also be in contempt for failing to make any payments at all for a substantial period of time. We assure him that he can. The applicable rule is Maryland Rule 15-207(e)(3), which provides, in pertinent part:

"The court may not make a finding of contempt if the alleged contemnor proves by a preponderance of the evidence that (A) from the date of the support order through the date of the contempt hearing the alleged contemnor (i) never had the ability to pay more than the amount actually paid and (ii) made reasonable efforts to become or remain employed or otherwise lawfully obtain the funds necessary to make payment[.]"

(Emphasis added).

By making the critical question whether the alleged contemnor had the ability to pay more than the amount *actually paid*, the rule clearly contemplates circumstances in which individuals are unable to meet the full support obligation but should not be found in contempt if they can demonstrate that they paid as much as they were able. The amount "actually paid" by the Husband, between his partial payment of \$300 in December 2013 and the contempt hearing in September 2014, was \$0. That fact was never meaningfully

disputed. Even taking the Husband's own testimony and financial statement at face value, Husband was able to pay more than a total of \$0 during that time frame. The court's finding of contempt was not in error.

Recognizing this, the Husband suggests that his self-prepared financial statement did not actually give the full and complete picture of his expenditures. He requests that this Court remand the matter so that he may be allowed to present evidence of the amount of money he has been paying his attorney to represent him in these proceedings, so as to prove that he, truly, lacked the ability to pay any amount of alimony. He requests the opportunity to demonstrate, in other words, that despite his own evidence to the contrary, he could not have paid more than \$0 in alimony because he was using those funds to pay his attorney to seek the termination of that responsibility:

"[T]he Court should remand to consider the issue of ability to pay and [Husband]'s legal cost. Specifically, *what is not included on [Husband]'s Financial Statement is [Husband] is paying an attorney [for] alimony modification.* While the Circuit Court is capable of taking judicial notice of how much an attorney with undersigned Counsel's experience receives, the matter should be remanded to present the defense of how much he has actually spent on the prosecution of the modification of alimony and the defense of the Petition for Contempt. *If those facts were presented, it would prove that he had no ability to pay the alimony and is not in contempt of Court[.]*"

(Emphasis added).

We decline the Husband's request for an opportunity to impeach his own testimony and financial statement.

Finally, the circuit court did not err by setting a purge amount of \$3,000 for the contempt finding. Husband's monthly income at the time of the hearing was determined to be \$7,658.19. The order directed that Husband pay the purge amount within ninety days. While Husband may have been required to curb his expenses in order to achieve that amount, he nonetheless had an ability to pay it.³ While Husband cannot be required to take on debt or place other assets in jeopardy in order to satisfy a purge amount, *Rivera v. Zysk*, 136 Md. App. 607, 615, 766 A.2d 1049, 1053-54 (2001), there is no requirement that the amount be one which is easy or painless to meet.

**JUDGMENTS OF THE CIRCUIT
COURT FOR BALTIMORE COUNTY
AFFIRMED.**

**COSTS TO BE PAID BY
APPELLANT.**

³We note that Wife, in her appellate brief, claims that "Husband's [counsel] should have been aware that at the date of the filing of Appellant's brief, [Husband] had satisfied the \$3,000.00 purge amount."