

Circuit Court for Montgomery County
Case No. 163425FL (consolidated with
Case No. 97874FL)

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2137

September Term, 2023

AHMED MAREGN MOHAMED

v.

ZEMZEM BEDADA

Zic,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: November 26, 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 establishing a child support arrearage. Appellant has presented six questions on appeal, which we have consolidated into one:

Did the circuit court err in granting the request to establish a child support arrearage?¹

For the reasons to follow, we shall affirm the judgment of the circuit court.

¹ Rephrased from:

1. Why [did] the trial court fail[] to ask the Appellee the reason for filing the contempt for failing to pay child support on July 24, 2023 for a child support that she stopped receiving since November 1, 2019 when there is a recorded Court Order . . . filed by the Appellant to modify child support delivered to the Appellee by first class mail, email and text message as a PDF using the contact information on the Courts record while the Appellee was represented by attorneys who have access to the court's record online[].
2. Was the use of the Prince George's County Sheriff's Department to deliver the summon for the alleged Contempt to Pay Child Support petition of the Appellee both on August 26, 2023 and on November 22, 2024 justifiable when the Appellant was a victim of parental right violation both [] by Appellee and the [t]rial [c]ourt for over five years at the time?
3. As a family division of the [t]rial [c]ourt, it is the responsibility of the [c]ourt to ask the Appellee what she did to marital properties that was solely left in her custody before allowing her to file the petition for the contempt to pay child support. Why [did] the [t]rial [c]ourt fail[] to ask this question both on July 24, 2023 and during the hearing on December 22, 2023?
4. Why did the trial [c]ourt ignore[] all the information in the [c]ourt's record as well as the additional information filed by the Appellant in response to the July 24, 2023 contempt to pay child support and allow[] the Appellee to file the contempt and finally decid[e] in favor of the Appellee on [the] December 22, 2023 hearing?
5. During the trial for property division in the Circuit Court of Montgomery County and the subsequent appeal[] of the case in the Court of Appeals, the Appellee was represented by more than one attorney. Why did the Appellee file[] the Contempt to pay child support by herself and the Court end up granting her child support amount that was not even requested by the Appellee?
6. What was the real intention of filing the petition for Contempt to Pay Child Support by the Appellee that started on July 24, 2023 and was concluded on December 22, 2023 granting the Appellee unjustifiable monetary award?

FACTUAL AND PROCEDURAL BACKGROUND

Ahmed Mohamed (“Father”) and Zemzem Bedada (“Mother”) were married in 2001. The parties had two children, born in 2001 and 2003. In 2011, Mother initiated an action for absolute divorce, or in the alternative, limited divorce. In July of 2013, the circuit court entered a consent custody order memorializing the parties’ agreement as to custody, visitation, and marital property. Under this agreement, Mother retained sole legal and physical custody of the children. The order did not address child support.

In August of 2018, Father filed a motion seeking to modify the 2013 consent custody order. Mother responded, seeking child support from Father. On April 10, 2019, the circuit court entered a new consent custody order that provided Father with visitation with the children every other weekend and required Father to pay child support to Mother in the amount of \$1,468 per month on the first of each month.

Father filed a complaint for absolute divorce in July of 2019 (“the Lead Case”). Mother filed a counter complaint for absolute divorce in September of 2019, seeking payments from Father to support the parties’ two children. In October of 2019, Father filed a motion to modify child support, stating that his income had substantially decreased due to being laid off from employment. However, the relief he sought was not a decrease in child support payments; instead, he requested that the circuit court order child support be paid directly to the person who has custody, or for any other appropriate relief.

Following Father’s motion to modify child support, the circuit court consolidated the two pending cases. As part of the consolidation order, the court indicated that Father’s request for modification “shall follow the schedule of events outlined in [the Lead Case].”

It does not appear from the record that the circuit court ruled on Father's motion to modify child support during the pendency of these matters.

In July of 2023, Mother filed a petition for contempt, asserting that Father had failed to make child support payments from October of 2019 through June of 2021 (when the parties' second child graduated from high school). As a remedy, Mother sought back payment of child support.

Father responded to the contempt petition in September of 2023. After addressing some of the procedural history, Father acknowledged that due to various financial hardships and job losses starting in October of 2019, he had not made all the child support payments. He indicated that in December of 2019, after he obtained employment, he had "reached out to [Mother] to resume the child support on condition that [Mother] meets her obligation of making the children accessible for visitation[.]" He further indicated that he had reached out to the children to offer direct financial support to them. He also stated that he had made payments for several months towards a vehicle for one of the children, which he believed should qualify as child support in lieu of payments ordered to be made to Mother per the child support order.

On December 22, 2023, the circuit court conducted a hearing on the contempt petition. Mother contended that Father had not paid any child support since October of 2019. Father contended that he should be excused from making child support payments because he had been laid off from employment during portions of the period requested, and because the children had not attended his parenting time. He also informed the court that no ruling had been made on his request to modify child support.

The circuit court found that although Father had not made payments, there were times when Father “did not have the ability to pay more than the amount that he actually did pay.” Therefore, the circuit court did not find Father in contempt of the child support order. However, the circuit court stated that “under the request . . . to pay back child support under the [request for] appropriate relief,” the court would issue a judgment establishing the child support arrearage.

On December 29, 2023, the circuit court issued a written order granting in part and denying in part Mother’s petition for contempt, wherein it established a child support arrearage of \$30,468.00 which were represented to be Father’s missed child support payments from October 1, 2019 through June 30, 2021. The circuit court did not order any prejudgment interest. Father noted a timely appeal to this court.

DISCUSSION

A. Party Contentions

Father contends that the circuit court erred in establishing the child support arrearage. He argues first that the circuit court should not have ordered a child support arrearage because Father had requested modification of his payment obligation, and that request remained pending. He also contends that he should not have been required to make child support payments for months when visitation was refused. He next asserts that the circuit court erred in establishing the child support arrearage because it did not consider the marital award or the parties’ comparative financial statuses. Finally, he argues that the

circuit court’s order was in error due to the absence of supporting documents used to calculate the arrearage.²

Mother did not file a brief in this appeal.

B. Standard of Review

“Generally, this Court will not disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed.” *Kowalczyck v. Bresler*, 231 Md. App. 203, 209 (2016) (citing *Gertz v. Md. Dept. of Env’t*, 199 Md. App. 413, 424 (2011)). An abuse of discretion may occur “where 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.” *Sumpter v. Sumpter*, 436 Md. 74, 85 (2013) (quoting *North v. North*, 102 Md. App. 1, 13–14 (1994)) (further citation and quotation marks omitted). Where an order involves interpretation and application of statutory and case law, the standard of review is de novo. *Kowalczyck*, 231 Md. App. at 209. “A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it.” *Senez v. Collins*, 182 Md. App. 300, 322 n.14 (2008) (quoting *Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 576 (2007)).

C. Analysis

The core of Father’s argument is that the circuit court erred or abused its discretion in establishing the child support arrearage because it declined to afford any weight to the

² Father also states that the purpose of Mother’s filing the petition for contempt “was to [] create a public scene[.]” However, nothing in his discussion of this statement concerns the circuit court’s ruling or order, and therefore we decline to address this issue.

justifications Father contended should have excused his lack of payment. We address each of his contentions in turn.

- i. The circuit court did not abuse its discretion in establishing the arrearage because the motion to modify child support did not request relief in the form of a decrease in child support.*

Father first argues that because he had filed a request for a modification of child support payment that was not ruled on, the circuit court erred in establishing the child support arrearage.

Per Maryland Code (1984, 2019 Repl. Vol.), § 12-104(a) of the Family Law Article (“FL”), a court “may modify a child support award subsequent to the filing of a motion for modification and upon a showing of a material change of circumstance.” In general, “[a]n application to the court for an order shall be by motion which . . . *shall set forth the relief or order sought.*” Md. Rule 2-311(a) (emphasis added).

In this matter, Father filed a form document titled motion for modification, stating that his income had substantially decreased due to employment loss. In the portion of the form that provided parties an opportunity to indicate the relief being sought, Father did not request a decrease in his child support obligation, which was one of the available options. Instead, he selected an option requesting that the circuit court order child support be paid “[d]irectly to the person who has custody.” Pursuant to the custody order, Mother had primary custody of the children, and the terms of that existing order did require Father to pay child support directly to Mother. Therefore, the motion for modification did not seek any additional or new relief.

The circuit court did not abuse its discretion in establishing a child support arrearage as of October of 2019 because Father’s request for modification did not seek the relief he now seems to request.

- ii. *The circuit court did not abuse its discretion in establishing the arrearage because child support may not be unilaterally withheld when parenting time is denied.*

Maryland courts have long held that parents have a legal obligation to support their children. *Houser v. Houser*, 262 Md. App. 473, 490 (2024). The child support obligation of a parent is a legal obligation imposed by law. *Middleton v. Middleton*, 329 Md. 627, 633 (1993). This obligation “is not perfunctory, to be performed only at the voluntary pleasure or whimsical desire of the parent.” *Id.* (quoting *Palmer v. State*, 223 Md. 341, 351 (1960)). Further, “a parent may not willfully fail to provide support of [their] minor child.” FL § 10-203(a). The requirement that parents support their children may not be avoided in instances where parenting time is denied or not exercised. *See Houser*, 262 Md. App. at 490; *Middleton*, 329 Md. at 633; FL § 10-203(a); *see also Stancill v. Stancill*, 286 Md. 530, 537 (1979) (holding that enforcement of child support and parenting time are distinct, and “the well-being of a child should not be rendered dependent on the virtuous performance of all obligations by each parent.”). Courts in other states have held the same.³

³ *Welch v. Welch*, 519 N.W.2d 262, 271 (Neb. 1994) (holding that “the custodial parent’s right of support and the noncustodial parent’s right of visitation are entitled to separate enforcement. A failure to pay child support does not justify a parent’s unilateral withdrawal of visitation rights, and a failure to allow visitation does not justify a parent’s unilateral nonpayment of support.”); *Matter of Adoption of CJML*, 458 P.3d 53, 55 (Wyo. 2020) (holding that “[i]t is undisputed that denial of visitation does not excuse a parent from payment of child support.”); *Sampson v. Johnson*, 846 A.2d 278, 287 (D.C. 2004) (stating

Here, Father argued to the circuit court that he was justified in not paying the child support order because Mother did not provide him access to the children. The circuit court correctly disregarded this argument, as enforcement of child support and parenting time are distinct and not contingent upon each other. *See Stancill*, 286 Md. at 537.

The circuit court did not abuse its discretion in establishing a child support arrearage because child support may not be unilaterally withheld when parenting time is denied.

iii. The circuit court was not required to consider the marital award when entering judgment based on Father’s failure to make child support payments.

Under Maryland Rule 2-648(a), “[w]hen a person fails to comply with a judgment mandating the payment of money, the court may . . . enter a money judgment to the extent of any amount due.” Pursuant to this rule, “a circuit court may enter a money judgment to the extent of any amount due if a party fails to comply with a judgment mandating the payment of money.” *Kona Properties, LLC v. W.D.B. Corp.*, 224 Md. App. 517, 540 n.22 (2015).

In this case, the circuit court was not charged with reviewing the parties’ assets, debts, or other property. What was at issue in the contempt hearing was whether Father had

that “[p]ublic policy requires the treatment of support of children and visitation rights as distinct problems.”); *Resnick v. Zoldan*, 520 N.Y.S.2d 434, 436 (N.Y. App. Div. 1987) (holding that a parent’s unilateral withholding of support due to child’s refusal to visit is an “improper reason” to fail to pay support); *In re PS*, 535 So.2d 1052, 1056 (La. Ct. App. 1988) (holding that “[t]he support of a child is one of the strongest obligations the law imposes upon a parent[,]” and that “[d]enial of visitation privileges does not justify the failure to pay child support.”); *Coleman v. Burnett*, 312 S.E.2d 627, 628 (Ga. App. 1983) (holding that “[d]enial of visitation rights does not justify nonpayment of support money.”).

complied with the court’s April 2019 order requiring him to pay child support, which he admitted he had not done. The amount of the marital award was unrelated to that analysis.

Because the marital award was unrelated to Father’s lack of compliance with the child support order, the circuit court did not abuse its discretion in not considering the marital award.

iv. The circuit court acted within its discretion in calculating the amount of the judgment.

Father’s argument centers around the absence of supporting documentation used to calculate the arrearage. He compares the circuit court’s calculation of the missed child support payments with the process to establish the child support payments initially, where both parties’ paystubs were considered. Father’s contention is misplaced.

Under Maryland Rule 2-648(a)—one of the rules cited in Mother’s form petition for contempt—“[w]hen a person fails to comply with a judgment mandating the payment of money, the court may . . . enter a money judgment to the extent of any amount due.” Pursuant to this rule, “a circuit court may enter a money judgment to the extent of any amount due if a party fails to comply with a judgment mandating the payment of money.” *Kona Properties, LLC*, 224 Md. App. at 540 n.22. Nothing in this rule requires a court to reexamine the parties’ respective incomes as it would when entering an initial child support order⁴ or when modifying a child support obligation.⁵ All that is required is for the court to

⁴ See FL § 12-203(b).

⁵ See FL § 12-204; see also *Cutts v. Trippe*, 208 Md. App. 696, 710 (2012) (“Once a material change in circumstances has occurred, the [circuit] court must apply the guidelines

determine whether a person has failed to comply with the order mandating the payment of money.⁶ Md. Rule 2-648(a); *Kona Properties, LLC*, 224 Md. App. at 540, n.22.

In Maryland, “[a]n individual who has attained the age of 18 years and who is enrolled in secondary school has the right to receive support and maintenance from both of the individual’s parents” until, as relevant here, the individual graduates from secondary school or reaches the age of 19 years. Md. Code (2014, 2019 Repl. Vol.), Gen. Provis. § 1-401(b). In addition, where a child support order is for more than one child and one child reached the age of majority, a party ordered to pay child support must continue to “pay the full amount of the award until the younger child attains majority or until the amount is modified by the court.” *Quarles v. Quarles*, 62 Md. App. 394, 403 (1985). Finally, the determination of whether a party’s unilateral decision to give payments directly to children in lieu of child support should be credited as child support is a decision left to the discretion of the circuit court. *See Bradford v. Futrell*, 225 Md. 512, 518–19 (1961).

The circuit court was within its discretion to enter a monetary judgment to the extent Father failed to comply with the order mandating his child support payments. The April 10, 2019 order required Father to pay \$1,468 per month. Although the order did not specify when the payments would stop, the parties’ second child’s right to receive support did not

in Sections 12-202 to 12-204 of the Family Law Article to determine the level of support to which the child is currently entitled.”) (internal citation and quotation marks omitted).

⁶ In addition, before a court may hold an alleged contemnor in constructive civil contempt in a support enforcement action, it must also consider the alleged contemnor’s ability and efforts to pay the support obligation, as well as limitations. Md. Rule 15-207(e). This Rule is inapplicable to the current case, as the circuit court declined to hold Father in contempt.

end until June of 2021, when he graduated from high school. The payments missed by Father represented twenty-one months, beginning with the first missed payment in October of 2019 through the high school graduation of the parties' second child in June of 2021. The sum of these payments would equal \$30,828.00 (i.e., 21 x \$1,468 = \$30,828.00). However, the circuit court apparently elected to decrease that sum by \$360.00 in Father's favor, resulting in a judgment of \$30,468.00.⁷

The decision regarding whether to credit the in-kind gifts—consisting of payments towards an automobile that Father unilaterally provided one of the children between June of 2020 and May of 2021—as qualifying in lieu of the child support obligation was left to the discretion of the circuit court. We find no abuse of discretion in the court's election not to do so. *See Bradford*, 225 Md. at 518–19.

Because the circuit court correctly applied the law, we see no error or abuse of discretion with respect to the circuit court's order establishing a child support arrearage.

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

⁷ Mother did not file a brief challenging the circuit court's reduction of the award in favor of Father. Therefore, because it was not raised, we will not address the issue. *Westminster Mgmt., LLC v. Smith*, 486 Md. 616, 674 (2024) (“If a point germane to the appeal is not adequately raised in a party's brief, the court may, and ordinarily should, decline to address it.”) (internal citation and quotation marks omitted).