

Circuit Court for Garrett County  
Case No.: 11-C-17-015038

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 2153

September Term, 2023

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RYAN ELLSWORTH

v.

LINDSAY GLOTFELTY

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Leahy,  
Kehoe, S.,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: August 9, 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.

Ryan Ellsworth, appellant, appeals from an order by the Circuit Court for Garrett County modifying his child support obligation to Lindsay Glotfelty, appellee. On appeal, Ellsworth presents four issues for our review. *First*, he contends Glotfelty voluntarily impoverished herself. *Second*, he contends the circuit court should not have considered Glotfelty’s childcare costs. *Third*, he contends the circuit court should have considered his support obligation to another child in his home. And *fourth*, he contends he has “exceptional travel expenses not incurred by [] Glotfelty” stemming from custody exchanges that he “would like the courts to consider.” For the following reasons, we shall affirm.

Ellsworth did not raise his claims of voluntarily impoverishment or travel expenses in the circuit court. Under Rule 8-131(a), we will not decide any non-jurisdictional “issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]” At the modification hearing, Ellsworth did not present any evidence of his travel expenses or ask the court to consider them when setting his new support obligation. On the other hand, he did elicit testimony from Glotfelty that she worked only part-time. But he never alleged she had voluntarily impoverished herself by doing so. *See Durkee v. Durkee*, 144 Md. App. 161, 183 (2002). Merely eliciting testimony that Glotfelty worked part-time is not enough to preserve a claim of voluntary impoverishment for appellate review. *See Concerned Citizens of Cloverly v. Montgomery Cnty. Plan. Bd.*, 254 Md. App. 575, 603 (2022) (“[A] passing reference to an issue, without making clear the substance of the claim, is insufficient to preserve an issue for appeal[.]”). Consequently, these issues are unpreserved, and we will not consider them.

We next turn to Ellsworth’s contention that the circuit court should not have considered Glotfelty’s childcare costs when calculating his new support obligation. According to Ellsworth, “[t]here are no childcare costs.” (Emphasis omitted.) At the modification hearing, however, Glotfelty testified that she paid her fiancé’s sister \$500 per month, in cash, for childcare. She also produced receipts corroborating that testimony, which the court admitted into evidence. To be sure, Ellsworth challenged the legitimacy of these receipts at the modification hearing, and he continues that argument on appeal. But he produced no evidence to refute Glotfelty’s claim.<sup>1</sup> We defer to a trial court’s findings of fact and determinations of credibility, as it has “the opportunity to gauge and observe the witnesses’ behavior and testimony during the [hearing].” *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001) (cleaned up). And nothing in the record suggests the court’s factual finding on Glotfelty’s childcare expenses was clearly erroneous. *See id.* Accordingly, it did not err or abuse its discretion in considering them.

Finally, Ellsworth contends that the circuit court erred in refusing to consider the support Ellsworth provides to another of his children. “There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines . . . is the correct amount of child support to be awarded[,]” Md. Code Ann., Family Law (“F.L.”) §12-202(a)(2)(i), but that “presumption [of correctness] may

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<sup>1</sup> Ellsworth attached to his brief, filed in this Court, additional documents that he asserts refute Glotfelty’s claim for childcare expenses. These documents were never presented to the circuit court, however, and are not part of the record on appeal. Accordingly, we will not consider them. *See Franklin Credit Mgmt. Corp. v. Nefflen*, 208 Md. App. 712, 724 (2012).

be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case[.]" F.L. § 12-202(a)(2)(ii). Section 12-202(a)(2)(iii) of the Family Law Article sets forth a non-exhaustive list of factors that may be brought to the circuit court's attention by the parent seeking to rebut the presumption of correctness of the guidelines. Among other things, the court may consider "the presence in the household of either parent of other children to whom that parent owes a duty of support[.]" F.L. § 12-202(a)(2)(iii)(2).

Ellsworth testified at the modification hearing that he shares equal custody and expenses for another child with that child's mother. The circuit court refused to allow Ellsworth to present any evidence of support he was providing to his other child, however, because he was providing it without having been ordered to do so by a court. Although it is unclear whether a "duty of support" must be imposed by a court order to warrant consideration as a factor in this analysis, *cf., e.g.*, F.L. § 5-203(b)(1) ("The parents of a minor child . . . are jointly and severally responsible for the child's support, care, nurture, welfare, and education[.]"), we need not resolve that issue here because the court found no other reason to deviate from the guidelines. And a parent's duty of support to another child in their household "may not provide the *sole* basis for rebutting the presumption that the child support guideline is correct." *Beck v. Beck*, 165 Md. App. 445, 450 (2005) (citing F.L. § 12-202(a)(2)(iv)). In other words, even if the court had allowed evidence of Ellsworth's support to his other child, that evidence, alone, could not have justified any

deviation from the guidelines. Consequently, any error in excluding the evidence was harmless. *See Sumpter v. Sumpter*, 436 Md. 74, 82 (2013).

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