

Circuit Court for Montgomery County
Case No.: 170976FL

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2230

September Term, 2022

CODY LEISTER

v.

JORDAN LEISTER

Reed,
Ripken,
Salmon, James P.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: December 11, 2023

*This is an unreported opinion. It may not be cited as precedent within the rule of stare decisis. It may be cited for 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 Montgomery County granting Jordan Leister (“J. Leister”) a judgment of absolute divorce from Cody Leister (“C. Leister”) on the ground of adultery. The court also awarded J. Leister a monetary award, rehabilitative alimony, and \$1,500 in attorney’s fees. On appeal, C. Leister presents the following questions for our review, which we have rephrased:¹

¹ The issues as presented by C. Leister are:

1. Did the [trial] court err by awarding appellee a divorce on the grounds of adultery and failed to award appellant a divorce on the grounds of cruelty and vicious conduct to appellant and the minor children amounting to the demise of the marriage[?] Md. Code, Fam. Law § 7-103(6)[.]
 2. Did the [trial] court err in not enforcing the contract that both parties made at the end of 2020 in regards to appellant transferring title of 2006 Jeep to appellee once she returned appellant’s 5 high quality knives, 5.56 ammo, and survival gear[?] M[d.] Code, Com Law ... § 2-201. There was an offer and acceptance in formation of contract using appellant[’]s previous attorney and appellee’s attorney through email, also between appellee and appellant through text. (Exhibits a and b)[.]
 3. Did the [trial] court err in awarding appellee alimony[?] Md. Code, Fam. Law § 11-101(c) which states “If a final disposition as to alimony has been made in an agreement between the parties, the court is bound by that agreement as the agreement relates to alimony.”
Md. Code, Fam. Law § 11-104 states “In a proceeding for a limited or absolute divorce, the court may award to the plaintiff alimony as part of a decree granting a divorce or alimony pendente lite, if (2) the court lacks or is unable to exercise personal jurisdiction over the defendant.” Pennsylvania maintains personal jurisdiction over defendant, and retains jurisdiction for child support, and alimony.
 4. Did the [trial] court err in awarding appellee money from a closed TSP account[?] 5 CFR § 1653.2(b) states, “The following retirement benefits court orders are not qualifying and thus are not enforceable against the TSP: (1) An order relating to a TSP account that has been closed;” (exhibits c and d)[.]
 5. Did the [trial] court err in awarding appellee attorney fees[?] MD. Family Law Code Ann. § 11-110 (b-c) “(b) At any point in a proceeding under this title, the court may order either party to pay to the other party an
- (continued)

- I. Did the circuit court err or abuse its discretion in awarding J. Leister a divorce on the ground of adultery and in failing to award C. Leister a divorce on the grounds of cruelty and excessively vicious conduct?
- II. Did the circuit court err in awarding J. Leister rehabilitative alimony?
- III. Did the circuit court err or abuse its discretion in awarding J. Leister a monetary award representing half the value of C. Leister’s Thrift Savings Plan (“TSP”)?²
- IV. Did the circuit court err or abuse its discretion in entering an order, by agreement of the parties, regarding the parties’ 2006 Jeep?
- V. Did the circuit court abuse its discretion in awarding attorney’s fees to J. Leister?

Finding no error or abuse of discretion, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

The parties were married on December 28, 2010.³ The parties have three minor children together, “A.,” “D.” and “R.”⁴ During the marriage, the parties resided in

amount for the reasonable and necessary expense of prosecuting or defending the proceeding. (c) Before ordering the payment, the court shall consider: (1) the financial resources and financial needs of both parties; and (2) whether there was substantial justification for prosecuting or defending the proceeding.”

² The Thrift Savings Plan is “a defined contribution retirement savings and investment plan that offers Federal employees the same type of savings and tax benefits that many private corporations offer their employees under 401(k) plans.” *Thrift Savings Plan*, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT, <https://www.opm.gov/retirement-center/my-annuity-and-benefits/thrift-savings-plan> (last visited Dec. 4, 2023).

³ The court’s oral opinion indicated that the parties were married on December 28, 2012. However, the record supports that the parties were married on December 28, 2010, not 2012.

⁴ To protect the identity of the minor children, we refer to them by their first initials.

Gaithersburg, Montgomery County. The parties separated in July of 2020.

C. Leister filed a complaint for absolute divorce in the circuit court on September 14, 2020 on the grounds of cruelty/excessively vicious conduct. On September 25, 2020, J. Leister responded by filing a counter-complaint for absolute divorce on grounds of adultery and cruelty of treatment/excessively vicious conduct. In her counter-complaint, J. Leister stated that she had “filed and received temporary spousal support and child support from a Pennsylvania Court on September 15, 2020.” C. Leister filed an answer to J. Leister’s counter-complaint and an amended complaint for absolute divorce.

The court held a merits trial on August 4 and August 5, 2021, and December 2 and December 29, 2022.⁵ C. Leister was represented by counsel at trial on August 4 and August 5, 2021, and he was self-represented at trial on December 2 and December 29, 2022. J. Leister was represented by counsel throughout trial.

J. Leister testified that she and the children left the family home in May of 2020 after C. Leister informed her that he had not been in love with her for two years. J. Leister and the children returned to the family home in Maryland after C. Leister assured her that he wanted to stay together and work on their marriage. J. Leister became suspicious of C. Leister, however, when she noticed that he had spent “a lot of money” in Upper Marlboro, Maryland, where he claimed to be helping a male friend remodel his home. C. Leister had also mentioned to J. Leister that he had been working with a woman named Katherine Rivera (“Rivera”). J. Leister discovered through an internet search that Rivera lived in

⁵ It appears based on the record that an additional merits hearing was held on August 25, 2022. However, a transcript was not provided for that date.

Upper Marlboro.

J. Leister also learned that C. Leister had used a guest pass from the parties' family gym membership at One Life Fitness in Rockville to bring Rivera to the gym. In July of 2020, J. Leister and the children were spending a weekend at her sister's house when J. Leister noticed charges on the parties' bank account for a late-night dinner and breakfast in Upper Marlboro. J. Leister confronted C. Leister about the charges, and he responded by asking her if she expected him to "just sit home alone." J. Leister stated that she had determined that C. Leister was involved in a romantic relationship with Rivera when he began spending more of his free time with Rivera than he did with her and their children. On July 30, 2020, J. Leister and the children left the marital home and moved in with her family in Pennsylvania.

J. Leister testified that she had experienced PTSD, generalized depression, anxiety, and stress related to the dissolution of her marriage. J. Leister was employed part-time as a substitute food service worker in the local school district, earning \$12.50 per hour on an as-needed basis. J. Leister had her GED and her work history consisted of working at a gas station and an ice cream shop. J. Leister was paying rent of \$600 per month at her residence at that time in Pennsylvania and receiving \$1166 per month in child support and \$883 per month in spousal support.

At the time of trial, C. Leister was employed by a biomedical contractor in Fort Detrick, earning an annual salary of \$79,000. He previously served in the U.S. Navy for fourteen years, concluding his service on August 26, 2022.

C. Leister testified that J. Leister had neglected their children by failing to cook for

them, failing to encourage their development, and failing to help them brush their teeth. C. Leister blamed J. Leister for the condition of the family’s home, which he described as “filthy and dirty.” According to C. Leister, he had asked J. Leister to keep the house clean “hundreds of times” but “it never happened.” He testified that the parties received an eviction notice due to the poor condition of the apartment and the presence of dog feces on the carpet, which he eventually cleaned.

According to C. Leister, J. Leister “threaten[ed] [him] all the time.” C. Leister had filed a petition for a protective order against J. Leister, alleging that she had threatened him and contacted his supervisors in the military regarding his extra-marital affair with Rivera, but the petition was denied. C. Leister testified that he began helping Rivera remodel her home in July 2020, after he told J. Leister that he did not love her anymore. C. Leister also stated that he had been going to the gym with Rivera prior to J. Leister moving out of the home.

On January 19, 2023, the court delivered an oral opinion as to the divorce and the division of marital property. The court granted J. Leister an absolute divorce on the ground of adultery. With respect to assets, the court awarded J. Leister a monetary award in the amount of \$9,308. The court ordered that C. Leister remove a 2006 Jeep from J. Leister’s home with 60 days, and if he failed to do so, the court ordered that he transfer title of the vehicle to J. Leister. The court awarded J. Leister rehabilitative alimony in the amount of \$800 per month for a period of two years. The court also ordered C. Leister to pay J. Leister attorney’s fees in the amount of \$1,500.

C. Leister filed this appeal.

Motion to Dismiss

J. Leister argues that this appeal should be dismissed because C. Leister failed to set forth a standard of review in his brief and failed to provide an appendix to his brief, in violation of Maryland Rules 8-504(a)(5) and (b). J. Leister asserts that C. Leister’s brief relies on statements not contained in the transcripts, proceedings in Pennsylvania not contained in the record, and arguments not raised at the divorce trial.

C. Leister’s brief included a standard of review, but no appendix.⁶ C. Leister filed a “Record Extract” that contained some, but not all of the transcripts of the divorce trial. Maryland Rule 8-504(c) provides, in part, that “[f]or noncompliance with this Rule, the appellate court may dismiss the appeal or make any other appropriate order with respect to the case”

This Court has “recognize[d] that dismissing an appeal on the basis of an appellant’s violations of the rules of appellate procedure is considered a ‘drastic corrective’ measure,” and resolving an appeal on the merits “is always a preferred alternative.” *Rollins v. Capital Plaza Associates, L.P.*, 181 Md. App. 188, 202 (2008) (first quoting *Brown v. Fraley*, 222 Md. 480, 483 (1960); and then quoting *Joseph v. Bozzuto Mgmt. Co.*, 173 Md. App. 305, 348 (2007)). In the absence of prejudice to the appellee or a deliberate violation of the rules, we ordinarily will not dismiss an appeal. *Rollins*, 181 Md. App. at 202–03 (citation omitted).

⁶ C. Leister included with his reply brief a “Record Extract ‘Appendix,’” containing copies of correspondence between the parties and an excerpt from the Recommendation by the Best Interest Attorney.

We deny the motion and address the merits of C. Leister’s arguments to the extent that they were preserved in the trial court. Where, however, C. Leister relies on documents not included in the circuit court record, or evidence not admitted at trial, those arguments shall not be addressed. *See* Md. Rule 8-131(a) (“[o]rdinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”).

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN GRANTING J. LEISTER A DIVORCE ON THE GROUND OF ADULTERY.

“Pursuant to Maryland Rule 8-131(c), where, as here, an action has been tried without a jury, the appellate court will review the case on both the law and the evidence.” *Friedman v. Hannan*, 412 Md. 328, 335 (2010). We review a trial court’s factual findings under the clearly erroneous standard of review. *Id.* We “accord great deference to the findings and judgments of trial judges, sitting in their equitable capacity, when conducting divorce proceedings.” *Boemio v. Boemio*, 414 Md. 118, 124 (2010). A trial court’s legal conclusions, however, we review *de novo*. *Jackson v. Sollie*, 449 Md. 165, 174 (2016).

C. Leister contends that the circuit court erred in awarding J. Leister a divorce on the ground of adultery and in failing to award him a divorce on the grounds of cruelty and excessively vicious conduct. C. Leister’s argument on the issue of adultery consists of a single statement that “[J. Leister] failed to prove any adulterous activity on [his] part during [the] marriage. In response, J. Leister asserts that the circuit court correctly found that C. Leister committed adultery and that he failed to establish any “ground or fact” to

demonstrate that the court’s decision was clearly erroneous.

“In Maryland, the permissible grounds for divorce are governed by statute.” *Flanagan v. Flanagan*, 181 Md. App. 492, 509 (2008). Sections 7-103(a)(1) and (6) of the Family Law Article (“FL”) of the Maryland Code provided, at the time of trial, that a court may decree an absolute divorce on the grounds of adultery and cruelty of treatment.⁷ Under the version of Family Law section 7-103 in effect at the time of trial, a party seeking a divorce of the ground of adultery was required to produce evidence of both “1) a disposition on the part of the alleged adulterer and the paramour to commit adultery and 2) an opportunity for them to do so. *Wright v. Phipps*, 122 Md. App. 480, 483 (1998). Evidence of adultery “need only be circumstantial by virtue of the fact that because of ‘the clandestine nature of the offense, it is rarely possible to obtain evidence of the commission of the act by the testimony of eyewitnesses.’” *Id.* (quoting *Laccetti v. Laccetti*, 245 Md. 97, 102 (1967)); *see also Breault v. Breault*, 250 Md. 173, 178 (1968) (noting that circumstantial evidence is sufficient to establish adultery).

J. Leister testified that she developed suspicions that C. Leister and Rivera were involved in a romantic relationship when he began spending time in Upper Marlboro, where Rivera lived. J. Leister also noticed bank charges for restaurants in Upper Marlboro.

⁷ On October 1, 2023, significant changes to the Maryland divorce statute, Family Law section 7-103, went into effect and the divorce process in Maryland was overhauled. The major changes included the elimination of limited divorces and changes to the grounds for obtaining an absolute divorce. The grounds of adultery, desertion, conviction of a crime, 12-month separation, insanity, and cruelty of treatment were replaced by only three grounds: 6-month separation, irreconcilable differences, and mutual consent. *See Floor Report*, H.B. 14 at 2.

J. Leister confronted C. Leister about the charges and he did not deny them.

In issuing its opinion, the circuit court stated that C. Leister had worked with Rivera in the same department in the U.S. Navy. The court noted that C. Leister admitted that he was living with Rivera as he had “for some time.” With respect to his living arrangement, C. Leister did not answer directly as to whether he paid rent, responding that he “just gave [Rivera] a bunch of money.” The court noted that there was no lease agreement between C. Leister and Rivera, and C. Leister drove one of her cars in his hour-long commute to work. The court noted that C. Leister had testified on cross-examination that he began seeing Rivera after J. Leister left the home. The court found that “[r]egardless of the exact date that [C. Leister] began to see Ms. Rivera,” there was “plenty of evidence” that C. Leister and Rivera had engaged in an extramarital affair.

As the court observed, the parties had very different views as to what caused the demise of the marriage. Husband had asserted that J. Leister “was not very good with the kids, that [she] was causing trouble at his command, and state[d] that she left the marriage.” J. Leister stated that C. Leister was “controlling and verbally abusive” and “she left the marital home because he was engaging in an affair with his . . . current significant other.”

The trial court is tasked with resolving conflicts in the evidence, assessing the credibility of the witnesses, and making inferences based on credibility. *See Frazelle-Foster v. Foster*, 250 Md. App. 52, 84 (2021) (noting that “[e]valuation of the evidence lies within the sound discretion of the trial court” and the court must determine whether the evidence supports the grant of a divorce on the grounds requested); *Smith v. State*, 415 Md. 174, 185 (2010) (“Because the fact-finder possesses the unique opportunity to view

the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.”). Based on the evidence presented, the circuit court’s conclusion that the evidence supported the inference that C. Leister had engaged in an extramarital affair with Rivera was not clearly erroneous.

The circuit court was not required to make findings on the record as to C. Leister’s claim that the demise of the marriage was due to J. Leister’s negligence and cruelty of treatment. In cases where, as here, the parties asserted multiple grounds for divorce, the court was required to find that the evidence supported only one ground to grant an absolute divorce. *See Welsh v. Welsh*, 135 Md. App. 29, 38 (2000) (“It is ultimately up to the court, based on its fact finding, to declare the grounds for divorce. It is not reasonable that the court be obligated to grant the divorce on the grounds requested when the judge is more persuaded that it is more likely than not that other grounds for the divorce are more justified.”).

II. THE CIRCUIT COURT DID NOT ERR IN AWARDING J. LEISTER REHABILITATIVE ALIMONY.

C. Leister argues that Pennsylvania “maintains and retains jurisdiction” over alimony. He contends that “[o]n January 10, 2023, the parties came to an agreement that [J. Leister] would receive alimony pendente in the amount of \$362.23, and signed the agreement in [t]he Court of Common Pleas [sic] of [Wayne] County, Pennsylvania, Domestic Relations Office.” J. Leister simply argues in response that the circuit court did not err in awarding her alimony.

On appeal, C. Leister filed a copy of a modified child support and “spousal/alimony pendente lite” order from the Court of Common Pleas of Wayne County, Pennsylvania dated January 10, 2023, and an “agreement” regarding child support dated January 9, 2023. At trial, C. Leister did not argue that Maryland lacked jurisdiction to award alimony, nor did he enter evidence of a spousal support/alimony pendente lite order from Pennsylvania. Nonetheless, subject matter jurisdiction can be raised for the first time on appeal. *See* Rule 8-131(a) (“The issues of jurisdiction of the trial court over the subject matter and, unless waived under Rule 2-322, over a person may be raised in and decided by an appellate court whether or not raised in and decided by the trial court.”); *see also Francz v. Francz*, 157 Md. App. 676, 688 (2004) (distinguishing between subject matter jurisdiction, which may be raised at any time, and personal jurisdiction, which may be waived).

The Pennsylvania order requiring C. Leister to pay alimony pendente lite was entered on January 10, 2023, fifteen days prior to the judgment of absolute divorce and order of rehabilitative alimony entered in this. The Divorce Code of Pennsylvania authorizes a court to order “reasonable alimony pendente lite, spousal support and reasonable counsel fees and expenses.” 23 Pa.C.S.A. § 3702(a) (2018). “Alimony pendente lite is based on the need of one party to have equal financial resources to pursue a divorce proceeding, when, in theory, the other party has major assets ‘which are the financial sinews of domestic warfare.’” *Spink v. Spink*, 619 A.2d 277, 279 (Pa. Super. Ct. 1992) (quoting *DeMasi v. DeMasi*, 597 A.2d 101, 104 (Pa. Super. Ct. 1991)). In Pennsylvania, “alimony pendente lite terminates at the time of divorce.” *Id.*

C. Leister further contends that the agreement attached to the January 10, 2023

Pennsylvania order controls the amount of alimony he owes. The agreement is dated January 9, 2023 and states: “I, [J. Leister], agree to a monthly CHILD SUPPORT OBLIGATION of \$1728.08 with a monthly ARREARS OBLIGATION OF 50 EFFECTIVE 12-5-22.”

Family Law section 11-101(c) provides: “If a final disposition as to alimony has been made in an agreement between the parties, the court is bound by that agreement as the agreement relates to alimony.” Because the parties’ divorce action, including J. Leister’s request for indefinite alimony, was pending in Maryland, it is clear that the parties’ January 9, 2023 agreement was not a “final disposition” as to alimony.

The Maryland judgment of absolute divorce awarding J. Leister rehabilitative alimony for two years is a final order, resolving the competing divorce complaints of the parties. In Pennsylvania, a divorce granted in another jurisdiction is enforceable through the Full Faith and Credit clause of the United States Constitution. *See Keating v. Keating*, 855 A.2d 80, 84 (Pa. Super. Ct. 2004). The judgment of absolute divorce is presumptively valid in Pennsylvania because it conclusively adjudicated the issue of alimony. *See id.* at 84 (noting that a foreign divorce judgment is “presumptively valid and is a conclusive adjudication of everything involved therein except the jurisdictional facts on which it is founded.”). Accordingly, the Pennsylvania pendente lite award of alimony terminated upon entry of the divorce judgment in Maryland on January 25, 2023. *See Spink*, 619 A.2d at 279.

III. THE CIRCUIT COURT DID NOT ERR IN AWARDING J. LEISTER A PORTION OF C. LEISTER’S TSP ACCOUNT.

C. Leister argues that the circuit court erred in awarding J. Leister half of the balance of his TSP account because “there was an auto force out and the account was closed.” J. Leister asserts that the court did not err in its determination to split the TSP.

In resolving disputes as to the ownership of personal property upon divorce, the court must first identify which property is marital, and value it. *See* FL §§ 8-203, 8-204; *Abdullahi v. Zanini*, 241 Md. App. 372, 405 (2019). “Marital property” consists of “property, however titled, acquired by 1 or both parties during the marriage.” FL § 8-201(e)(1). The court must determine whether the division of marital property, including investment accounts, according to its title would be inequitable, and if so, the court may grant a monetary award to either party to adjust that inequity. *Abdullahi*, 241 Md. App. at 405–06; *see* FL § 8-205(a). If the court concludes from its analysis that a monetary award is appropriate, the court must consider factors set forth in FL §8-205(b) in determining the amount of the award. *Abdullahi*, 241 Md. App. at 406; *see* FL § 8-205(b).

After reviewing the relevant statutory factors, the court may transfer ownership of an asset, including an investment account or deferred compensation plan, to one or both spouses, grant a monetary award, or both. FL § 8-205(a). The function of a monetary award “is to achieve equity between the spouses where one spouse has a significantly higher percentage of the marital assets titled [in] his [or her] name.” *Long v. Long*, 129 Md. App. 554, 577–78 (2000). The trial court’s decision as whether to grant a monetary award, and the amount of the award, are reviewed for an abuse of discretion. *Flanagan*, 181 Md. App.

at 521.

The circuit court noted that C. Leister’s “Exhibit 8 shows that his TSP balance at the end of November was \$18,789.” With respect to the monetary award, the court explained: “The [c]ourt finds that [C. Leister] has \$19,289 in marital assets of 401k and 2006 Jeep. The [c]ourt will order [C. Leister] to pay the defendant \$9,308 in the monetary award, which is approximately half of the 401k.”

The court’s ruling makes clear that the court ordered C. Leister to pay J. Leister \$9,308, representing her portion of the value of the parties’ total marital property. Because the court did not assign to J. Leister a portion of the actual TSP account, the status of that account, whether open or closed, did not affect C. Leister’s obligation to pay J. Leister the monetary award of \$9,308.

IV. C. LEISTER’S ARGUMENT REGARDING THE 2006 JEEP IS NOT PRESERVED FOR OUR REVIEW.

C. Leister argues that the circuit court erred in failing to enforce a prior agreement reached by the parties “at the end of 2020” and their counsel regarding their 2006 Jeep. C. According to C. Leister, “both parties agreed through text, and through counsel, that the 2006 Jeep that [C. Leister] has the title to would be signed over to [J. Leister] upon returning” certain items of personal property to C. Leister. C. Leister posits that “[t]here was an offer and acceptance in formation of” an enforceable contract as shown by the text messages and email. In support of his argument, C. Leister attached to his brief copies of

text messages⁸ between the parties and an email⁹ pertaining to the Jeep. J. Leister argues that C. Leister did not introduce evidence of any agreement regarding the Jeep at trial.

At trial, C. Leister testified that J. Leister had asked him if he would “sign over the title to the Jeep which we had already agreed that I would once she return[ed] [his] belongings” mainly consisting of “survival gear” and guns. J. Leister testified that she had previously asked C. Leister for the title to their 2006 Jeep. Before issuing its ruling, the following transpired regarding the 2006 Jeep:

THE COURT: The 2006 Jeep. So, [C.] Leister, do you want the Jeep?

[C. LEISTER]: (Unintelligible.)

THE COURT: [The Jeep] can’t just sit in the driveway and just rust, okay? So, I’m going to order, if it’s okay with you, that you got 60 days to go pick it up; or you send [J. Leister] the paperwork and sign it over to her. Does that seem reasonable to you?”

[C. LEISTER]: As long as I can get all my stuff back, that’s, yeah, that’s fine.

THE COURT: Well, I’m not [ordering] that. This is 60 days to go pick up the truck, or you send the - - [title].

⁸ The text messages between the parties, which are not dated, state in relevant part:

[C. Leister]: [J. Leister], I bought that car for our family. Not you specifically.

[J. Leister]: So you’re refusing to sign over the title for the jeep which you’ve already told me you would do.

[C. Leister]: I have no problem signing it over[.]

⁹ The email, dated January 5, 2021, is from C. Leister’s trial attorney to J. Leister’s attorney and provides in relevant part that “[C. Leister] could be amenable to transferring title of the keep to [J. Leister] provided that she returns certain possessions of his.” The email then listed certain items that J. Leister needed “to return in exchange for title to the jeep[.]”

The court then incorporated its oral ruling into the judgment of absolute divorce, which provided the following regarding the 2006 Jeep:

ORDERED, that, upon agreement of the parties, [C. Leister] shall pick up the 2006 Jeep from [J. Leister’s] home . . . within sixty (60) days of this Order; and it is further

ORDERED, that [J. Leister] shall communicate, facilitate, and cooperate with [C. Leister] to coordinate removal of the 2006 Jeep from her home and [J. Leister] shall not obstruct [C. Leister] from removing this automobile; and it is further

ORDERED, that, upon agreement of the parties, if [C. Leister] does not pick up the 2006 Jeep from [J. Leister’s] home within sixty (60) days of this Order, [C. Leister] shall sign and forward a transfer of the title of the 2006 Jeep to [J. Leister] so that [J. Leister] may dispose of or sell the 2006 Jeep...

While there was brief testimony regarding the 2006 Jeep at trial, as indicated *supra*, C. Leister did not introduce as exhibits the text messages between the parties or the email correspondence from his counsel. C. Leister’s testimony that he agreed that he would “sign over the title to the Jeep” does not constitute “an offer and acceptance” or an enforceable contract that he now claims on appeal. The circuit court was not given an opportunity to consider this aspect of C. Leister’s argument, nor did J. Leister have a chance to respond to it. Therefore, because C. Leister has not demonstrated that he presented the issue of an enforceable contract regarding the 2006 Jeep to the trial court, the issue is not preserved for our review and we decline to address this unpreserved issue. *See* Md. Rule 8-131(a). The primary purpose of Rule 8-131(a) is to ensure fairness for all parties in a case by requiring them to bring their positions to the attention of the lower court so that the trial court has an opportunity to rule upon the issues presented. *Wajer v. Baltimore Gas and*

Elec. Co., 157 Md. App. 228, 236–37 (2004) (internal quotation and citation omitted). We note that the rules apply equally to *pro se* litigants. See *Tretick v. Layman*, 95 Md. App. 62, 68 (1993).

V. THE CIRCUIT COURT DID NOT ERR IN AWARDING J. LEISTER ATTORNEY’S FEES.

C. Leister argues that the trial court erred in awarding J. Leister \$1,500 in attorney’s fees because it failed to consider his financial resources and the outstanding costs J. Leister is required to pay him resulting from an earlier appeal. J. Leister contends that the attorney’s fees award was appropriate as the circuit court heard evidence and testimony about the financial resources and needs of both parties in reaching its decision.

Family Law section 8-214 authorizes a court to award “reasonable and necessary expense[s],” including counsel fees and costs, in cases involving disposition of marital property. FL § 8-214(a). Before making an award, the court must consider “(1) the financial resources and financial needs of both parties; and (2) whether there was substantial justification for prosecuting or defending the proceeding.” FL § 8-214(c).

An award of attorney’s fees will not be disturbed on appeal absent an abuse of discretion. *Sang Ho Na v. Gillespie*, 234 Md. App. 742, 756 (2017). In determining whether an award of fees was a proper exercise of the court’s discretion, we evaluate “the judge’s application of the statutory criteria . . . as well as the consideration of the facts of the particular case.” *Petrini v. Petrini*, 336 Md. 453, 468 (1994) (citation omitted). The court should also consider “(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.” *Sczudlo v. Berry*, 129 Md. App. 529, 550 (1999) (quoting *Lieberman v. Lieberman*, 81 Md. App. 575, 601–02 (1990)).

In considering the parties’ financial resources and obligations, the circuit court found that “neither party [was] in a position to pay large sums of attorneys’ fees[.]” The court noted that C. Leister had incurred some attorney’s fees earlier in the litigation, though he was self-represented in the divorce merits portion of the case. With respect to the justification for the proceedings, the court noted that “[t]he custody merits heard prior to the [divorce] case was highly contested[,]” and the case was divided into multiple hearings. The court also noted that “[a]dditional fees were expended because [C. Leister] did not provide some documentation.”

J. Leister submitted evidence that she had incurred attorney’s fees of \$5,496 relating to the case. After reviewing J. Leister’s claims for attorney’s fees, suit money and costs, the court found that the fees charged were reasonable and consistent with those regularly charged by attorneys engaged in the same type of work.

We have recognized that the trial court is in the best position to make determinations concerning an award of attorney’s fees in family law cases. *Ridgeway v. Ridgeway*, 171 Md. App. 373, 388 (2006). In this case, the trial court reviewed evidence of the parties’ incomes and C. Leister’s obligations to pay child support and spousal support. There is no indication in the record that C. Leister presented evidence of his debts at trial, including any court costs owed to him by J. Leister. Given the trial court’s findings as to the parties’ financial resources and needs and the justification for bringing or defending the case, we

perceive no abuse of discretion in the court’s order awarding J. Leister \$1,500 of the \$5,496 she incurred in attorney’s fees.

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