

Circuit Court for Frederick County
Case No. 10-C-14-003284

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1177

September Term, 2022

STEPHEN GEORGE WHITESIDE

v.

LEILA WHITESIDE

Berger,
Leahy,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: November 28, 2023

*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 is before us on appeal from an order of the Circuit Court for Frederick County denying a motion to terminate alimony filed by Stephen George Whiteside (“Husband”) and a motion to modify alimony filed by Leila Whiteside (“Wife”). After a three-day hearing on the parties’ motions, which included the presentation of six witnesses and 107 exhibits, the circuit court took the matter under advisement and subsequently issued a memorandum opinion and order denying both parties’ motions and continuing the existing alimony award. The circuit court also awarded attorneys’ fees to Wife in the amount of \$40,000. Husband noted an appeal.

On appeal, Husband presents eight issues¹ for our review, which we have rephrased and consolidated as three issues as follows:

¹ The issues, as presented by Husband, are:

1. Did the trial court err in its determination that there was no material change in circumstances since the Judgment of Absolute Divorce?
2. Did the trial court err by not applying all of the alimony factors?
3. Did the trial court err by “being satisfied with [Wife]’s explanation of the Katherine Way property, and the transfer of her interest therein to Mr. Alfelaih?”
4. Did the trial court err by eliminating rental revenue from Appellee’s income based upon the alleged expenditure of money for a family member of her family for an event that occurred two years after the judgment of divorce?
5. Did the trial court err in its calculation of the [Wife]’s potential income?

- I. Whether the circuit court erred and/or abused its discretion when determining Wife’s earning capacity and imputing income of \$40,000 per year to Wife.
- II. Whether the circuit court erred and/or abused its discretion by denying Husband’s motion to terminate alimony.
- III. Whether the circuit court erred and/or abused its discretion by awarding Wife attorneys’ fees.

For the reasons explained herein, we shall affirm.

FACTS AND PROCEEDINGS

Husband and Wife were divorced pursuant to a Judgment of Absolute Divorce (“JAD”) dated September 12, 2016. They are the parents of two emancipated children. During their marriage, Husband worked as an attorney and Wife was primarily responsible for caring for the parties’ children and home. Pursuant to the JAD, Husband was required to pay Wife “Five Thousand Five Hundred Dollars (\$5,500.00) per month as and for indefinite alimony.” Various motions regarding child access and financial issues were filed in the years following the entry of the JAD, including one that resulted in a Final Order Modifying Judgment of Absolute Divorce dated August 16, 2019 (the “2019 Order”). The

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6. Do the actions, including physical and electronic monitoring, and a constant string of harassing texts of [Wife] provide a sufficient basis for the termination of alimony?
 7. Would the continuation of alimony provide a “harsh and inequitable” result?
 8. Was the imposition of attorney[s]’ fees proper?

2019 Order modified custody and child support but did not address indefinite alimony, nor was any issue relating to indefinite alimony raised in the litigation that resulted in the 2019 Order. As we shall explain *infra*, certain portions of the 2019 Order were material to the circuit court’s determination in the matter at issue in this appeal.

On March 2, 2021, Husband filed a Motion to Terminate Alimony. On June 28, 2021, in the context of discovery, Husband filed a Motion for Protective Order, arguing that a protective order should be granted in light of Wife’s “history of annoyance and harassment of” Husband, which he alleged included harassment, stalking, and surveillance. He asserted that if Wife were given additional information regarding his finances, Wife would use that information to engage in further harassment. Father further asserted that his financial situation was “not relevant to the present action,” explaining:

[W]hile the income and financial situation of [Husband] would be relevant to the determination of an alimony award, [Husband] has not pled and does not assert that he cannot pay the present alimony amount. He has further not pled that a decrease in his income or wealth has created a material change of circumstances warranting the termination of the alimony at this time. He has not pled any infirmity that limits his ability to pay the current alimony award. Because of [Husband]’s admission of and stipulation to current financial solvency, his financial situation is not relevant to the present action.

(Footnote and exhibit citation omitted.)

On September 7, 2021, Husband filed a Motion to Remove Case, asserting that he was unable to receive a fair trial in Frederick County because of the “previous actions in the matter and because of local prejudice.” The circuit court denied the motion on October 13, 2021. Husband filed a Renewed Motion to Remove Case on January 3, 2022,

which was denied on February 1, 2022. The circuit court, however, ordered that a judge from outside Frederick County be designated to hear the matter. The case was subsequently specially assigned to Montgomery County Circuit Court Judge Harry C. Storm.

While Husband's Renewed Motion to Remove Case was pending, Wife filed a Motion for Modification of Alimony on January 26, 2022. Both parties filed financial statements as well as amended financial statements. Multiple discovery disputes occurred in the litigation of the parties' motions, including two motions to compel filed by Husband, both of which were denied. Husband engaged in extensive discovery, including the issuance of three sets of interrogatories to Wife, two requests for production of documents, and at least 36 notices of deposition of Wife, her banks, credit card companies, mortgage company, utility companies, friends, colleagues, her work supervisor, the Internal Revenue Service, her accountant, and her prior attorney. The financial statement filed by Wife on May 26, 2022 demonstrated that she earned \$1,119 per month in wages; Husband's financial statement demonstrated monthly earnings of \$27,395 and a net worth of \$1,162,380.

A three-day hearing was held on June 14-16, 2022. The circuit court heard testimony from six witnesses (including the parties) and was presented with a total of 107 exhibits. The circuit court took the matter under advisement at the conclusion of the hearing and subsequently issued a memorandum opinion and order on August 16, 2022.

The circuit court characterized Husband's argument as follows:

In his broad brush/shotgun effort to prove that alimony should be terminated, [Husband] sought to show that [Wife] was not exerting good faith efforts to support herself, that she could be self-supporting, that she has hidden assets, that she has been nasty to him in her communications, that she has been tracking his movements and otherwise harassing him, that while his income is much higher than hers, he is living a relatively frugal lifestyle. In other words, he generally sought to show that [Wife] is not deserving of continued alimony. At the same time, [Husband] did not “assert that he cannot pay the present alimony amount.” Nor did he claim “that a decrease in his income or wealth has created a material change of circumstances warranting the termination of the alimony at this time” or that he has “any infirmity that limits his ability to pay the current alimony award.” Instead, the evidence showed (and [Husband] was not shy about admitting) that his true motivation was to “reverse the injustice of the May 2016 settlement.” He expressed his desire to get [Wife] “off [his] back” and to spend “as much as it takes” to do it . . . [Husband] wrote that “I have earned the money I have and I plan on enjoying the fruits of my labor.”

[Husband] indeed spared no effort. He acknowledged having at least 36 (by the court’s conservative count) deposition notices issued in an effort to seek information about [Wife] from banks, homeowner associations, utility companies, lawyers, employers, insurance companies, and the like. Most of this was directed at his misguided and largely unsuccessful effort to show among other things that [Wife] is or was a Syrian intelligence officer who tracked his whereabouts and hacked his emails, hid her assets and failed to work. The evidence showed that he complained about his former wife to the Maryland State Police, the Central Intelligence Agency, and the Federal Bureau of Investigation. He admitted that he had spent \$140,000.00 (to the time of trial) on legal fees in his effort to prove his case. Much of [Husband]’s evidence at trial related to what [Wife] did with the assets she acquired through the divorce and how she spent the money that he agreed in 2016 she should have, but about which he appears to have been bitter ever since.

(Exhibit citations and footnotes omitted.)

The circuit court described the parties' conflicting positions regarding Wife's potential earning capacity. The court observed that in the 2019 Order, Wife had been found to be voluntarily impoverished for child support purposes.² In the 2019 Order, Wife was found to have reasonable monthly financial needs of \$6,500 and an earning capacity of \$3,750 per month. Per the 2019 Order, in addition to the \$5,500 in alimony payments required by the JAD, Husband was ordered to pay child support of \$1,000 per month until the parties' younger child graduated from high school. The 2019 Order's child support provision was subsequently modified by an *en banc* panel and increased to \$2,068 per month.

The parties presented competing expert witness testimony regarding Wife's earning capacity. Husband presented testimony from a vocational rehabilitation consultant, who opined that Wife, at age 62, is "very employable" in a number of fields and could expect to earn \$50,000 per year, which was, in the circuit court's view, "a bit optimistic and exaggerated."³ The court found the testimony of Wife's vocational rehabilitation counselor "more credible in certain respects, particularly as related to her view that [Wife's] chances for success as a realtor, the field in which [Wife] has been lingering, are limited." The circuit court observed that Wife's vocational rehabilitation counselor opined that Wife's

² Although the 2019 Order did not address alimony specifically, the circuit court observed that the prior order's discussion of voluntary impoverishment in the child support context applied similarly to the alimony context.

³ Husband also presented testimony from a financial planning expert, but the circuit court expressly commented that it "did not find [that] testimony particularly helpful or persuasive."

employment potential “at this point in her life is not much greater than that of an entry-level clerk, earning \$26,000 - \$29,000 per year (up to perhaps as high as \$34,000).” The court observed that the estimate from Wife’s own expert was “much more than the \$13,428 annualized wage amount shown on her financial statement” and found that Wife “is not maximizing her earning potential.”

The circuit court determined that Wife’s “earning and employment potential is relevant to the issue of whether alimony should be modified.” After “[w]eighing and considering all the evidence on the issue,” the circuit court determined that Wife was “capable of earning \$40,000.00 per year, which averages to about \$2,214.00 a month more than [Wife] claims as wages on her Financial Statement.” The court observed that “[w]hen this amount is added to [Wife]’s current alimony payment it results in monthly income of \$8,158,” which was sufficient to meet the \$8,000.00 per month amount the court considered to be a “reasonable monthly expense amount for [Wife].” The circuit court further found that “[j]ust as the \$5,500.00 appears to have filled the deficit gap in 2016, so too does it continue to fill the deficit gap at this time.”

After addressing Wife’s earning capacity, the circuit court turned to the matter of whether termination of indefinite alimony was “necessary to avoid a harsh and inequitable result” pursuant to Md. Code (1984, 2019 Repl. Vol.), § 11-108 of the Family Law Article (“FL”). The circuit court found that termination was not necessary because “even after imputing income to [Wife] it is clear that the alimony to which the parties agreed in 2016 as reflected in the JAD remains necessary and appropriate.” The circuit court further

determined that “to the extent that [Husband] may have argued that there has been a material change of circumstances such that ‘justice requires’ a modification under” FL § 11-107(b), he had “not met his burden of showing such a material change.” The circuit court subsequently denied Husband’s motion to terminate alimony, as well as Wife’s motion to modify alimony.

The circuit court further addressed the matter of attorneys’ fees. The circuit court considered whether Husband had “substantial justification in filing” the motion to modify alimony, which the court found to be “a close call.” The court observed that in light of the 2019 Order addressing voluntary impoverishment, “there was some basis for thinking that circumstances warranted pursuing the issue of a modification.” The court, however, found that Husband’s “motive for the filing is concerning,” explaining that the motivation “had nothing to do with financial considerations; rather it had everything to do with seeking revenge for all the injustice [Husband] perceives [Wife] inflicted upon him.” Despite this observation, the circuit court did “not find that either party acted without substantial justification.” Nonetheless, the circuit court found that “after considering all of the FL § 11-110(c) factors, that an award of attorney[’s] fees to [Wife] is appropriate” because Husband “[w]ithout question . . . exacerbated the costs of the litigation,” and, “although he did so at great financial cost to himself, that cost did not seem to matter to him.” The court found that Husband was “in a far better place financially to bear the costs of the action which he initiated and which leaves the parties in the same position as that to which they mutually agreed in 2016.” Based upon the circuit court’s review of the invoices of counsel

for Wife, “the court f[ound] it equitable to award [Wife] a portion of her total attorney[’s] fees in the amount of \$40,000.00.”

Additional facts shall be discussed as necessitated by our consideration of the issues on appeal.

DISCUSSION

I. The Law of Alimony and Modification/Termination of Alimony

This Court has explained the standard for reviewing a circuit court’s determination on the modification of alimony as follows:

“[I]n reviewing an award of alimony we ‘defer[] to the findings and judgments of the trial court[.]’” *Simonds v. Simonds*, 165 Md. App. 591, 606 n. 4, 886 A.2d 158 (2005) (quoting *Brewer v. Brewer*, 156 Md. App. 77, 98, 846 A.2d 1 (2004)). We will not disturb an alimony determination “unless the trial court’s judgment is clearly wrong or an arbitrary use of discretion.” *Blaine v. Blaine*, 97 Md. App. 689, 698, 632 A.2d 191 (1993), *aff’d*, 336 Md. 49, 646 A.2d 413 (1994). Furthermore, “[t]he doctrine of *res judicata* applies in the modification of alimony . . . and the [appellate] court may not re-litigate matters that were or should have been considered at the time of the initial award.” *Id.* at 702, 632 A.2d 191 (citations and internal quotation marks omitted).

[Md. Code (1984, 2019 Repl. Vol.), Family Law Article (“FL”)] §§ 11–101 to 11-112 govern the award of alimony in Maryland. FL § 11-107(b) addresses the modification of alimony awards and provides that, “[s]ubject to § 8-103 of this article and on the petition of either party, the court may modify the amount of alimony awarded as circumstances and justice require.” “A party requesting modification of an alimony award must demonstrate through evidence presented to the trial court that the facts and circumstances of the case justify the court exercising its discretion to grant the requested modification.” *Langston v. Langston*, 366 Md. 490, 516, 784 A.2d 1086 (2001). Upon a proper petition, the court may

modify a decree for alimony “at any time if there has been shown a material change in circumstances that justify the action.” *Lieberman v. Lieberman*, 81 Md. App. 575, 595, 568 A.2d 1157 (1990) (citation and internal quotation marks omitted).

Ridgeway v. Ridgeway, 171 Md. App. 373, 383-84 (2006) (footnote omitted).

Questions that are left to the discretion of the trial court are “much better decided by the trial judges than by appellate courts,” because the trial court has the opportunity to evaluate the credibility of witnesses and become immersed in the evidence as it was presented at trial. *Id.* For this reason, “[a]ppellate discipline mandates that, absent a clear abuse of discretion, a [trial court’s] decision that is grounded in law and based upon facts that are not clearly erroneous will not be disturbed” *Guidash v. Tome*, 211 Md. App. 725, 736 (2013) (quoting *Bagley v. Bagley*, 98 Md. App. 18, 31–32 (1993)). Only “where no reasonable person would take the view adopted by the [trial] court,” or “when the ruling is clearly against the logic and effect of facts and inferences before the court,” will we disturb the trial court’s ruling. *Reynolds v. Reynolds*, 216 Md. App. 205, 219 (2014) (internal quotations and citations omitted).

The award of alimony is governed by FL § 11-106. The purpose of alimony is to provide trial courts with the ability to ensure “an appropriate degree of spousal support . . . after the dissolution of a marriage.” *Tracey, supra*, 328 Md. at 388. It is well settled that the party seeking alimony bears the burden of proving the facts necessary to meet the statutory requirements. *Simonds v. Simonds*, 165 Md. App. 591, 607 (2005); *Thomasian v. Thomasian*, 79 Md. App. 188, 195 (1989). FL § 11-106(b) sets forth the

factors that the trial court must review when issuing an award of alimony. These factors include:

- (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
- (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- (3) the standard of living that the parties established during their marriage;
- (4) the duration of the marriage;
- (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- (6) the circumstances that contributed to the estrangement of the parties;
- (7) the age of each party;
- (8) the physical and mental condition of each party;
- (9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;
- (10) any agreement between the parties;
- (11) the financial needs and financial resources of each party, including:
 - (i) all income and assets, including property that does not produce income;
 - (ii) any award made under §§ 8-205 and 8-208 of this article;
 - (iii) the nature and amount of the financial obligations of each party; and

(iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

Although the court is required to give consideration to each of the factors contained in the statute as applicable to a given case, it is not required to employ a formal checklist, mention specifically each factor, or announce each and every reason for its ultimate decision. *Doser v. Doser*, 106 Md. App. 329, 356 (1995); *Hollander v. Hollander*, 89 Md. App. 156, 176 (1991). We may examine the record as a whole to see if the court’s findings were based on the mandated factors. *Doser, supra*, 106 Md. App. at 356.

A court may award alimony in one of two different forms. *Walter v. Walter*, 181 Md. App. 273, 281 (2008). The first type is alimony for a fixed period of time, also known as rehabilitative alimony. *Id.* The second type is alimony for an indefinite period of time, also known as permanent alimony. *Id.* “When alimony is awarded, the law prefers that the award be for a fixed term.” *Id.* Nevertheless, the court may use its discretion and award permanent alimony “in exceptional cases when one of the two circumstances described in subsection (c) of [Family Law Article] section 11-106 has been shown” *Id.* Family Law Article § 11-106(c) specifically provides:

The court may award alimony for an indefinite period, if the court finds that:

(1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self supporting; or

- (2) even after the party seeking alimony will have made as much progress toward becoming self supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

The burden of satisfying the requirements of FL § 11-106(c) for an award of indefinite alimony rests on the party seeking it. *Turner v. Turner*, 147 Md. App. 350, 389 (2002). The trial court’s determination of an unconscionable disparity sufficient to justify an order of indefinite alimony “requires the application of equitable considerations on a case-by-case basis, consistent with the trial court’s broad discretion in determining an appropriate award.” *Innerbichler, supra*, 132 Md. App. at 248 (quoting *Roginsky v. Blake-Roginsky*, 129 Md. App. 132, 146–47 (1999)). More specifically, a trial court’s finding that there will be an “unconscionable disparity in the parties’ standards of living usually begins with an examination of their respective earning capacities.” *Whittington v. Whittington*, 172 Md. App. 317, 338 (2007).

II. Imputed Income

When determining whether or not a modification of alimony was warranted, the circuit court considered Wife’s earning capacity. Husband contends that the circuit court erred in its calculation of Wife’s potential income. Specifically, Husband asserts that the circuit court did not explain the basis for its determination that Wife was capable of earning \$40,000 per year, while the 2019 Order issued by a different judge imputed income of \$45,000 per year to Wife. Husband acknowledges that the circuit court credited the testimony of Wife’s expert as to the \$34,000 the expert estimated Wife was capable of earning each year, but Husband contends that the circuit court did not indicate that the 2019

Order was incorrect as to Wife’s earning capacity. Husband further asserts that there is no indication why Wife is not capable of earning at least \$25.00 per hour and that the evidence presented at the hearing demonstrated that Wife was “more interested in harassing [Husband] than working.”

Both parties presented evidence from witnesses regarding Wife’s potential earning capacity. The circuit court expressly explained that it found the testimony of Wife’s vocational rehabilitation counselor credible regarding Wife’s earning potential. The circuit court observed that Wife’s vocational rehabilitation counselor opined that Wife was capable of “earning \$26,000 - \$29,000 per year (up to perhaps as high as \$34,000).” The court heard and considered testimony from Husband’s expert vocational rehabilitation consultant as well, but the court found his testimony that Wife was capable of earning approximately \$50,000 per year to be “optimistic and exaggerated.” The circuit court also heard testimony regarding Wife’s attempts to earn steady income as a realtor. Mandie Weller, the manager of the Long & Foster Real Estate office from which Wife worked, testified that she had no complaints regarding Wife’s performance as a realtor.

Husband complains that the circuit court did not explain why it deviated from the prior judge’s conclusion as to Wife’s earning capacity, but, as the circuit court expressly acknowledged in its memorandum opinion, “[t]he court is not bound to apply (although the court gives consideration to) the child support-related findings made by [the prior judge] in 2019.” *See Gertz v. Anne Arundel Cnty.*, 339 Md. 261, 273 (1995) (“[A]s a general principle, one judge of a trial court ruling on a matter is not bound by the prior ruling in

the same case by another judge of the court; the second judge, in his discretion, may ordinarily consider the matter de novo.”) (quoting *State v. Frazier*, 298 Md. 422, 449 (1984)).

In our view, the circuit court’s conclusion that Wife was capable of earning \$40,000 per year was reasonable based upon the evidence presented. The circuit court was entitled to credit the testimony of Wife’s expert regarding Wife’s earning capacity. Moreover, the circuit court expressly explained why, in the court’s view, the testimony of Husband’s expert was not persuasive. Accordingly, we reject Husband’s contention that the circuit court erred in determining Wife’s potential earning capacity.⁴

III. Motion to Terminate Alimony

After considering Wife’s earning capacity, the circuit court considered whether either party had demonstrated a material change in circumstances justifying a modification of alimony pursuant to FL § 11-107(b), as well as whether Husband had demonstrated that

⁴ Husband presents additional arguments regarding Wife’s earning capacity, including that the circuit court erred by finding the explanation for the transfer of the Katherine Way property to Mr. Naser Alefelaih to be satisfactory and by declining to include rental revenue in Wife’s income. The circuit court explained that it was “satisfied with [Wife]’s explanation of the Katherine Way property, and the transfer of her interest therein to Mr. Alefelaih.” We note that Mr. Alefelaih’s name is spelled differently in different portions of the records and briefs. We intend no disrespect to Mr. Alefelaih, although we are uncertain of which spelling is correct. The circuit court did not consider “the income nor the expenses as related to Katherine Way in its analysis of [Wife]’s financial position.”

Husband concedes that “the trial judge is the ultimate arbiter of credibility,” but asserts that the court committed reversible error by finding Wife’s explanation credible. We disagree. The circuit court was entitled to find Wife’s version of the facts relating to the Katherine Way property more compelling than that presented by Husband.

termination of alimony was necessary to avoid a harsh and inequitable result pursuant to FL § 11-108.

FL § 11-107(b) addresses the modification of alimony awards and provides that, “on the petition of either party, the court may modify the amount of alimony awarded as circumstances and justice require.” “A party requesting modification of an alimony award must demonstrate through evidence presented to the trial court that the facts and circumstances of the case justify the court exercising its discretion to grant the requested modification.” *Langston v. Langston*, 366 Md. 490, 516 (2001). Upon a proper petition, the court may modify a decree for alimony “at any time if there has been shown a material change in circumstances that justify the action.” *Lieberman v. Lieberman*, 81 Md. App. 575, 595 (1990) (citation and internal quotation marks omitted).

FL § 11-108 addresses termination of alimony and provides, in pertinent part, that “[u]nless the parties agree otherwise, alimony terminates . . . if the court finds that termination is necessary to avoid a harsh and inequitable result.” A trial court must conduct a factual inquiry to determine whether termination of alimony is necessary to avoid a harsh and inequitable result. *Bradley v. Bradley*, 214 Md. App. 229, 237 (2013). “Whether a result is harsh and inequitable is a subjective determination.” *Id.*

The circuit court considered Wife’s potential earning capacity, among other factors, when evaluating whether alimony should be terminated or modified. The circuit court also considered Husband’s motivation for seeking to terminate alimony, emphasizing that Husband did not assert that he was unable to pay the present alimony amount, nor did he

claim a decrease in income or wealth that would warrant termination of alimony. The circuit court further found that “the evidence showed (and [Husband] was not shy about admitting) that his true motivation was to ‘reverse the injustice of the May 2016 settlement.’” The court observed that Father had expressed a willingness to spend “as much as it takes” to get Wife “off [his] back.” The court found that Husband had “spared no effort” in his attempts. As we set forth *supra*, the circuit court found the following:

[Husband] indeed spared no effort. He acknowledged having at least 36 (by the court’s conservative count) deposition notices issued in an effort to seek information about [Wife] from banks, homeowner associations, utility companies, lawyers, employers, insurance companies, and the like. Most of this was directed at his misguided and largely unsuccessful effort to show among other things that [Wife] is or was a Syrian intelligence officer who tracked his whereabouts and hacked his emails, hid her assets and failed to work. The evidence showed that he complained about his former wife to the Maryland State Police, the Central Intelligence Agency, and the Federal Bureau of Investigation. He admitted that he had spent \$140,000.00 (to the time of trial) on legal fees in his effort to prove his case. Much of [Husband]’s evidence at trial related to what [Wife] did with the assets she acquired through the divorce and how she spent the money that he agreed in 2016 she should have, but about which he appears to have been bitter ever since.

The circuit court further found that the evidence established that Wife had “for some period of time . . . been working as a realtor.” The court credited the testimony of Long & Foster manager Mandie Weller that she had no complaints about Wife’s performance, but Wife’s “efforts and success in real estate have been marginal at best.” As we discussed *supra* in Part II of this opinion, the circuit court considered the 2019 Order addressing Wife’s voluntary impoverishment for child support purposes but ultimately reasonably

determined that Wife was capable of earning \$40,000 per year. For all of these reasons, the circuit court concluded that termination of alimony was not necessary to avoid a harsh and inequitable result pursuant to FL §11-108, nor had Husband demonstrated a material change of circumstances such that justice required a modification under FL § 11-107(b).

Husband contends that the circuit court erred by failing to make express findings regarding each factor set forth in FL § 11-106(b). We disagree. The record reflects that the circuit court carefully considered the evidence in the record and the arguments of the parties when making its determination as to termination or modification of alimony. Furthermore, although the circuit court did not expressly refer to each factor set forth in FL § 11-106(b), the court's memorandum opinion reflects that the court considered those that were applicable in the present case in the context of determining whether to terminate or modify alimony. When considering the FL § 11-106(b) factors, "the trial court need not use formulaic language or articulate every reason for its decision with respect to each factor." *Hollander, supra*, 89 Md. App. at 176. This Court "may look to the record as a whole to determine whether the trial court's findings were based on a review of the factors." *Doser, supra*, 106 Md. App. 329, 467 (1995). Our review of the record as a whole demonstrates that the circuit court correctly applied the law when considering the evidence presented. Accordingly, we reject Husband's contention that the circuit court erred by maintaining the existing alimony amount as established by agreement of the parties in the JAD.

IV. Attorneys' Fees

The final issue before us on appeal is the circuit court's award of attorneys' fees to Wife in the amount of \$40,000. The award of attorneys' fees is governed by FL § 11-110, which provides that the circuit court "may order either party to pay to the other party an amount for the reasonable and necessary expense of prosecuting or defending the proceeding." FL § 11-110(b). Before ordering payment of attorneys' fees, the court is required to consider "the financial resources and financial needs of both parties" and "whether there was substantial justification for prosecuting or defending the proceeding." FL § 11-110(c).

The trial court "is vested with wide discretion in deciding whether to award counsel fees and, if so, in what amount." *Malin v. Mininberg*, 153 Md. App. 358, 435-36, (2003) (quotation and citation omitted). We will not disturb an award of attorneys' fees in a family law case "unless the exercise of discretion was arbitrary or the judgment was clearly wrong." *Id.* (citing *Broseus v. Broseus*, 82 Md. App. 183, 200 (1990)).

The circuit court explained its reasoning regarding attorneys' fees in detail, observing that "[t]he question of whether [Husband] had substantial justification" for filing the motion to terminate alimony was "a close call." The court focused particularly on Husband's motive, which "had nothing to do with financial considerations" but instead "had everything to do with seeking revenge." Nonetheless, the court did not find Husband's motion to have been filed or prosecuted without substantial justification. The court, however, emphasized that Husband had "[w]ithout question . . . exacerbated the costs

of the litigation,” and, “[a]lthough he did so at great financial cost to himself, that cost did not seem to matter to him.” The court found that Husband was “in a far better place financially to bear the cost of the action which he initiated and which leaves the parties in the same position as that to which they mutually agreed in 2016.” The circuit court, therefore, found that it was “equitable to award [Wife] a portion of her total attorney[’s] fees in the amount of \$40,000.

The record clearly reflects that the circuit court appropriately considered the financial circumstances of the parties, as well as the justification for the proceeding, before making the equitable determination that Wife should be awarded attorneys’ fees. This determination was well within the discretion of the circuit court to make, and we shall not disturb it on appeal.

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