Circuit Court for Anne Arundel County
Case No. C-02-FM-15-000859

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1874

September Term, 2022

DENISE J. GRIMES

v.

JAMES-ALAIN LAPLANCHE

Friedman,
Zic,
Curtin, Yolanda L.
(Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: May 3, 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 persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

The parties in this case are well known to this Court. In December 2014, appellant Denise Grimes gave birth to twins as a result of an affair with appellee James Laplanche. In 2017, we held that the circuit court did not err in ordering the DNA test that confirmed Laplanche was the twins' father because Grimes had produced sufficient evidence to overcome the rebuttable presumption that her husband was the father. *Laplanche v. Grimes*, No. 2464, Sept. Term 2016 (unreported opinion) (filed September 14, 2017). In 2020, we held that Laplanche's change of heart to seek visitation rights and become involved in the twins' lives constituted a material change in circumstances to support modification of the existing custody order. *Laplanche v. Grimes*, No. 3141, Sept. Term 2018 (unreported opinion) (filed March 30, 2020). In this, their third visit to this Court, we are asked to review the circuit court's orders regarding child support and reimbursement of medical expenses. For the reasons that follow, we affirm the judgment of the circuit court.

DISCUSSION

In September 2020, following this Court's previous unreported opinion, the circuit court entered an order awarding Grimes full legal and physical custody of the twins and regular visitation to Laplanche. Grimes was ordered to include Laplanche in all major decisions involving the twins. The circuit court's order further provided that Laplanche was to pay child support, including arrearages, and provide health insurance for the twins.

In April 2021, Laplanche filed a motion to modify custody and access, alleging that Grimes was refusing to comply with the circuit court's previous orders, was undermining his relationship with the twins by refusing to acknowledge him as their father, and was

making decisions that negatively effected the twins' physical and emotional well-being. Laplanche sought sole legal and primary physical custody.

While Laplanche's motion was pending, Grimes filed a motion to modify child support, arguing that Laplanche's income had dramatically increased since the last calculation and his child support obligation should be increased, that Laplanche was refusing to pay his share of uninsured medical expenses, and that she had been forced to incur significant health insurance costs on behalf of the twins because Laplanche had failed to provide continuous insurance coverage.

In August 2022, the parties entered into a consent order resolving all custody and access issues. In the consent order, the parties agreed to share joint legal and physical custody, that all major decisions would be made jointly, and established a week on / week off access schedule. In October 2022, the circuit court held a hearing on the remaining financial issues. Following four days of testimony and evidence, the circuit court made an oral ruling, followed by a written order, resolving child support, payment of medical and other expenses, and health insurance.

Grimes now raises seven issues related to the circuit court's orders. She argues that the circuit court erred by (1) excluding two exhibits she had offered into evidence, (2) miscalculating Laplanche's share of past medical expenses, (3) restricting her ability to use out-of-network medical providers, (4) prohibiting her from obtaining secondary health insurance for the twins, (5) incorporating its oral opinion into the written order, (6) allowing her counsel to withdraw and denying her request for a postponement, and

(7) denying her request for attorney fees. Although we combine issues 3, 4, and 5, and issues 6 and 7, we will address each issue raised.

I. EXCLUSION OF EVIDENCE

In her first issue, Grimes argues that the circuit court erred by excluding exhibits #11 and #25 from evidence. Evidence at the hearing established that Grimes had bought the twins each a dog, and asked the pediatrician to recommend that they needed emotional support animals so that Grimes could consider them a medical expense. Thus, as part of her claim for reimbursement of uninsured medical expenses, Grimes argued that Laplanche was required to reimburse her for half of the cost to purchase, train, and care for the dogs. Grimes offered into evidence exhibit #11, which she described as a collection of bills for training and veterinary care covering the time period from August 2020 through April 2022. Grimes testified that she estimated the bills added up to about $17,000, but that she did not know the exact amount. Grimes asserted that exhibit #11 should be admitted as medical records, but the circuit court ruled that it was lacking proper certification to do so. Moreover, the circuit court found that the documents were inadmissible as evidence of Grimes' expenses because they were incomplete and Grimes could not identify the actual amount of reimbursement that she was requesting. The court noted that the exhibit could be offered again if Grimes cured the deficiencies.

Later in her testimony, Grimes offered into evidence exhibit #25, which she described as invoices from Waugh Animal Hospital for the care of the twins' emotional support dogs. The circuit court ruled that because Grimes had thus far failed to offer any

evidence supporting her assertion that a medical provider had prescribed emotional support dogs, there was nothing to support the admission of the dogs' veterinary bills.

On appeal, Grimes argues that the circuit court erred in excluding her exhibits because her testimony that the dogs had been prescribed by the twins' pediatrician was uncontradicted and thus provided a "foundation for a prima facia finding that the expenses were medically necessary." She further argues that her testimony, when considered with the appearance of the documents and the surrounding circumstances, should have been enough to authenticate them as business records. We are not persuaded.

As a general rule, "whether a particular item of evidence should be admitted or excluded is committed to the considerable and sound discretion of the [circuit] court" and we will not second guess a circuit court's ruling in the absence of a clear abuse of discretion. *Perry v. Asphalt & Concrete Services, Inc.*, 447 Md. 31, 48 (2016) (quoting *Ruffin Hotel Corp. of Md., Inc. v. Gasper*, 418 Md. 594, 619 (2011)). Contrary to Grimes' assertion, the circuit court was not obliged to defer to her testimony either about the medical necessity of the dogs, or the authenticity of the documents in her exhibits. It is apparent from the record that the circuit court simply was not persuaded by Grimes' claim that the dogs were medically prescribed as emotional support animals. Indeed, the circuit court stated that it believed Grimes had decided to get dogs, and then put the twins through unnecessary psychological testing in the hope that someone would say the dogs were necessary to justify the expense and make Laplanche pay for half. As a general rule, it is not an abuse of discretion for a factfinder to simply not be persuaded of something. *Bricker*

v. Warch, 152 Md. App. 119, 137 (2003). Here, the circuit court was simply not persuaded that the dogs were medically prescribed or that their purchase and care constituted reimbursable medical expenses. Consequently, it was not an abuse of discretion to exclude Grimes' evidence to establish those expenses.

II. MEDICAL EXPENSES AND INSURANCE

Grimes next challenges that the circuit court miscalculated Laplanche's share of the twins' medical expenses, and abused its discretion by restricting her right to use out-of-network providers and ordering her to not obtain additional health insurance coverage for the twins. Specifically, Grimes argues that Laplanche had an "absolute obligation" to reimburse her claimed expenses, and the circuit court should not have reviewed those expenses to determine either medical necessity or the nature of the expenses, that is, whether it was a co-pay, part of a deductible, or for treatment that was not covered by insurance. Moreover, Grimes asserts that the circuit court should not have concerned itself with the "fine print of the parties' health insurance policies," and should have instead accepted her testimony that all the expenses were medically necessary and appropriate for reimbursement. Grimes further argues that the circuit court "does not assume the responsibility of raising children" and should not interfere in a parent's decisions about either healthcare or insurance coverage. None of these arguments have merit.

With regard to the calculation of reimbursable medical expenses, the record shows that the circuit court reviewed the evidence submitted by Grimes and ordered Laplanche to reimburse her for the expenses that were supported by admissible evidence. There is simply

no merit to Grimes' assertion that the circuit court erred by making an independent determination about reimbursable expenses rather than deferring to her judgment as "a capable parent [to] whom the circuit court granted custody."

The remainder of Grimes' healthcare-related complaints—that the circuit court should not have directed her to use in-network providers or refrain from getting secondary insurance for the twins—are similarly frivolous. Grimes asserts that the circuit court does not have the authority to restrict her rights as a custodial parent when it comes to making decisions about the care of the twins. Grimes is wrong. A parent's rights in the raising of their children are not absolute or unlimited. *In re Yve S.* 373 Md. 551, 568 (2003). The State has a well-established interest in protecting the best interests of children, particularly in disputes over questions of custody or access to a child. *Boswell v. Boswell*, 352 Md. 204, 219 (1998). And contrary to Grimes' apparent assumption, she has no greater right to make decisions for the twins than does Laplanche. MD. CODE, FAM. LAW ("FL") § 5-203(d)(2). Moreover, it is, in fact, the exact role of the court to intervene in a dispute between two parents, living apart, who each have equal rights to raise their children. FL § 5-203(d)(1); *Yve S.*, 373 Md. at 568. That is precisely what the circuit court has done here.

At the hearing, evidence and testimony established that, contrary to Grimes' assertion that she was forced to add the twins to her husband's health insurance because Laplanche left them uninsured, Laplanche consistently provided health insurance for the twins. The unnecessary double coverage, combined with poor communication between Grimes and Laplanche, caused confusion in determining what claims and providers were

covered and by which insurance policy. Evidence further established that Grimes frequently took the twins to see providers who were out-of-network, and for medical testing and psychological counseling over Laplanche's objection. The overall result was avoidable and expensive out of pocket costs, and frequent conflict between Grimes and Laplanche. The circuit court reviewed all of this evidence, balanced the rights of Grimes and Laplanche as parents with joint legal and shared physical custody, and prioritized the best interests of the twins. We see no abuse of discretion in the circuit court's decisions.

III. WRITTEN ORDER

Grimes next asserts that the circuit court erred by incorporating its oral opinion into its written order. She argues that doing so is overly burdensome to the parties because the oral and written orders may contain contradicting terms,[1] it requires the parties to refer back to the transcript, and that transcripts are susceptible to transcription and printing errors over which the court would have no control. None of these arguments have merit.

On October 6, 2022, the circuit court issued a detailed oral opinion setting forth the legal and factual basis for its decisions. The circuit court's written order, issued on December 8, 2022, explicitly noted that it was to be read and interpreted in a manner consistent with the oral opinion, that both parties had been advised by the court to obtain a copy of that transcript, and that the transcript would control if any questions arose regarding the interpretation of the written order.

[1] We note that Grimes has not identified any conflicting terms, she merely alleges the possibility that conflicting terms may arise.

In Maryland, it is a widely accepted practice for a court's oral ruling to be incorporated by reference into the subsequent written order, and it has been well established that if there is a discrepancy between the written order and the transcript, "unless it is shown to be in error, it is the transcript that prevails." *Savoy v. State*, 336 Md. 355, 360 n.6 (1994) (citing *Waller v. Maryland Nat'l Bank*, 332 Md. 375, 379 (1993) and *Roberts v. State*, 219 Md. 485, 488 (1979)); *Douglas v. State*, 130 Md. App. 666, 673 (2000). Contrary to Grimes' complaints, there is nothing erroneous about the circuit court following well-established practices when issuing its ruling.

IV. ATTORNEY FEES

Next, Grimes argues that the circuit court erred in denying her request for attorney fees because LaPlanche had no substantial justification for defending against her claims and had ample financial resources to pay. Again, we are not persuaded.

Whether to award attorney fees is a discretionary decision left to the circuit court. *Petrini v. Petrini*, 336 Md. 453, 468 (1994) (citing *Jackson v. Jackson*, 272 Md. 107, 111-12 (1974). Under Section 12-103 of the Family Law Article, the circuit court may award attorney fees to either party in an action concerning the custody, support or visitation of a child after considering the financial status and needs of each party and whether there was "substantial justification for bringing, maintaining, or defending the proceeding." FL § 12-103. If, however, the circuit court makes a factual finding that "there was an absence of substantial justification … for prosecuting or defending the proceeding, and absent a

finding by the court of good cause to the contrary," the court shall award costs and attorney fees to the other party. FL § 12-103(c).

Grimes asserts that LaPlanche had no substantial justification for defending the proceedings because she presented ample evidence of the medical expenses and because LaPlanche had the financial resources to pay. The circuit court's findings belie Grimes' position. As noted previously, after reviewing the evidence at the hearing, the circuit court found that many of the expenses Grimes claimed were not reimbursable and some, like the emotional support dogs, were not even properly classified as medical expenses. Indeed, in considering the statutory criteria for the award of costs and attorney fees, the circuit court found that Grimes' case "for the most part, was unnecessary and did not need to be brought to court."

The record shows that the circuit court considered the statutory criteria. Whether Grimes had substantial justification for the actions causing the accrual of attorney fees is one of the factors that the court was required to consider, and the record supports the court's finding that she did not. Thus, there is nothing erroneous about the court's decision to deny Grimes' motion for attorney fees.

V. WITHDRAWAL OF COUNSEL AND DENIAL OF POSTPONEMENT

Finally, Grimes argues that the circuit court erred by granting her former counsel's motion to strike her appearance only 10 days after it was filed, and then not granting Grimes' request for a postponement. Neither argument has merit.

Both the decision to grant or deny a motion by counsel to withdraw and the decision to grant or deny a motion for a continuance are rulings that are within the sound discretion of the circuit court and will only be disturbed in "'exceptional circumstances where there was prejudicial error.'" *Serio v. Baystate Properties, LLC*, 209 Md. App. 545, 554 (2013) (quoting *Thanos v. Mitchell,* 220 Md. 389, 392 (1959)).

In the summer of 2022, Grimes was represented by Stacey Rice. On August 10, 2022, Rice provided written notice to Grimes of her intent to file a motion to withdraw. Five days later, on August 15, 2022, Rice filed a Motion to Strike her Appearance with the circuit court. On August 22, 2022, the twins' best interest attorney consented to Rice's motion to withdraw. On August 23, 2022, LaPlanche's attorney consented to the motion to withdraw. Also on August 23, Grimes responded to Rice's Motion, and Rice responded to Grimes's response. On August 24, the circuit court issued an order striking Rice's appearance.

Grimes' first argument is that the circuit court ruled too quickly. Although Grimes insists that the court had to wait 15 days before ruling, the Maryland Rules do not impose any such limitation. Rather, the Maryland Rules provide that parties have 15 days to respond to a motion, after which time the court may proceed to rule on the motion. MD. RULE 2-311(b). All of the parties responded in less than 15 days. Once they had, it was proper for the court to rule.

Grimes further argues that because the court allowed Rice to withdraw as her attorney less than six weeks before the hearing, it was an abuse of discretion for the court

to then deny her request for a postponement. We first note that Grimes filed her request for a postponement on August 19, 2022, before the court ruled on Rice's motion to withdraw. Because Grimes was still represented, the court notified her that any motions or requests for relief had to be filed by her attorney and, therefore, the court would not take any action on her motion for a postponement. The record does not reflect that any other motions to postpone were filed. Thus, it does not appear that there was a valid motion for the court to rule on. We note, however, that even if a proper motion had been filed, it would not have been an abuse of discretion for the court to have denied it. Grimes had new counsel enter an appearance on September 7, 2022, approximately four weeks before the hearing. Even if Grimes is dissatisfied with her new counsel's performance, there were no exceptional circumstances that required postponing the matter any further.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.