

Circuit Court for Carroll County
Case No. 06-C-17-074087

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1

September Term, 2023

CHARLES WILLIAM CRUMP

v.

TIFFANY OLIVIA CRUMP

Arthur,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: November 9, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant Charles William Crump (“Father”) and appellee Tiffany Olivia Crump (“Mother”) filed competing motions to modify a custody agreement relating to their two children. Following a four-day hearing, the Circuit Court for Carroll County found a material change in circumstances that affected the welfare of the children and modified the parties’ custody arrangement to grant sole legal and primary physical custody to Mother.

Father, representing himself, noted a timely appeal of the circuit court’s order. He asks us to consider (1) whether the circuit court had a conflict of interest that should have precluded it from deciding the motions to modify and (2) whether his attorney was negligent in her representation of him.

For the following reasons, we affirm the circuit court’s order.

FACTS AND LEGAL PROCEEDINGS

Because Father’s appeal does not concern the merits of the custody dispute, we need not detail the merits. We provide only a brief overview for context.

Mother and Father were married in 2001. They have two children.

Mother filed for divorce in 2017, and Father counterclaimed.

In July 2018, Mother and Father entered into a marital settlement agreement, by which they agreed to joint legal and shared physical custody of the children. The agreement gave Mother tie-breaking authority, subject to certain conditions.

On July 16, 2018, the circuit court granted Mother an absolute divorce. The court incorporated, but did not merge, the marital settlement agreement into the judgment of divorce.

In September 2020, Mother moved to modify custody. Eventually, she requested sole legal and primary physical custody of the children, among other things.

Father filed his own motion to modify custody. He too sought sole legal and primary physical custody of the children.

After deciding a number of emergency motions and granting some interim relief, the court convened a hearing in September 2022. Over the course of four days, the court heard testimony from the parents and others. In addition, the court interviewed the children.

In an oral ruling on January 27, 2023, the court found a material change of circumstances because of the parents’ difficulty in co-parenting and the mental health challenges of one of the children. The court found that it was in the children’s best interest to award sole legal and physical custody to Mother and to set a specified access schedule for Father.

The court embodied its ruling in a written order entered on January 30, 2023. Father noted a timely appeal.

I. Conflict of Interest

Father contends that the circuit court judge had an impermissible conflict of interest that prohibited him from presiding over this custody dispute. In support of his contention, Father asserts that in 2016, when the judge was the State’s Attorney, he prosecuted Father, and elected not to prosecute Mother, in an assault case. Therefore, Father concludes, the judge had a conscious or unconscious bias against him. In Father’s view, the judge’s bias was apparent when he “didn’t rule on an objection over video,”

heard testimony from Mother when Father or his counsel was not present after she had filed an emergency motion to modify custody, declined Father’s request to shield dismissed protective orders against him, and sustained more of Mother’s attorney’s objections than his own.

Father failed to preserve this issue for appellate review. For an issue to be preserved for appellate review, it must “plainly [appear] by the record to have been raised in or decided by the trial court[.]” Md. Rule 8-131(a). The preservation requirement extends to allegations of judicial bias or of the circuit court’s pattern of improper conduct. *Joseph v. State*, 190 Md. App. 275, 289 (2010); *Acquah v. State*, 113 Md. App. 29, 60-61 (1996). In the absence of “very extenuating circumstances,” a party must object or otherwise raise the issue of judicial bias in the lower court. *Scott v. State*, 110 Md. App. 464, 486 (1996).

Although Father had ample opportunity over the course of a four-day hearing, neither he nor his lawyer ever asserted that the court was biased against him or had a conflict of interest. Therefore, Father has not preserved his contention that the judge had an impermissible conflict. We cannot fault the circuit court judge for failing to recuse himself when no one asked that he recuse himself. *See Conwell Law LLC v. Tung*, 221 Md. App. 481, 517 (2015) (citing *Traverso v. State*, 83 Md. App. 389, 394 (1990)).

Father asserts that, when he mentioned the name of his defense attorney in the assault case, the judge must have recognized that he had prosecuted that case. The judge, however, did not indicate that he recognized Father. The judge is not obligated to remember everyone whom he or his subordinates prosecuted and to raise the possibility

of a conflict of interest when one of those persons appears before him as judge. To the contrary, the burden of raising the alleged conflict rested squarely with Father. Because Father failed to raise the issue, Father has failed to preserve it for appellate review.

Even if Father had preserved the issue, which he did not, nothing in the record indicates that he would be entitled to a new custody hearing. There is a strong presumption that judges are impartial participants in the legal process, and their “duty to preside when qualified is as strong as their duty to refrain from presiding when not qualified.” *Jefferson-El v. State*, 330 Md. 99, 107 (1993) (citing *Boyd v. State*, 321 Md. 69, 74 (1990)). “A party who wishes to show that a judge is not impartial or disinterested has a high burden to meet.” *Scott v. State*, 110 Md. App. at 486. “Bald allegations and adverse rulings are not sufficient to overcome the presumption of impartiality.” *Reed v. Baltimore Life Ins. Co.*, 127 Md. App. 536, 556 (1999).

In essence, Father argues that the judge exhibited bias because he did not rule in Father’s favor on various occasions and because he heard an emergency motion on an ex parte basis. Father’s evidence of bias does not meet the high burden that he is required to satisfy. Therefore, even had this issue been preserved for review, which it was not, the record would not support Father’s claim that the circuit court abused its discretion by presiding over and deciding the custody matter.

II. Defense Attorney’s Representation

Father asserts that his attorney was “not prepared at trial and missed many opportunities for quest[ioning] witness[es].” In Father’s view, his attorney was too busy and had taken on too many clients to represent him adequately.

This issue is not one that can be properly raised on an appeal to this Court. Father's available remedies, if he were dissatisfied with his attorney's representation at trial, include dismissal of the attorney before or during trial, the institution of a legal malpractice action, or the filing of a complaint with the Attorney Grievance Commission. This Court can provide no remedy in this appeal.

Moreover, the circuit court made a point to compliment the attorneys for both parties before ruling on the custody modification motions:

Before I get into my ruling as well, I do want to compliment both counsel. And I truly mean that. Both have presented the positions of their clients in the best light, both professionally. So I will tell both parties—and I don't always say this in these cases—I will tell you that that [sic] regardless of the outcome, whether you like the decision of the Court or you don't like the decision of the Court, you can rest assured that your positions have been well represented in court.

And for the Court's standpoint—and the reason I appreciate that—is it is comforting to the Court to know that I can make the best decision, both factually and legally, when I have very great counsel in front of me. So I appreciate that.

Our independent review of the transcripts of the custody trial confirms the accuracy of the circuit court's comments that both attorneys represented their clients competently and professionally. Father's complaints result more from his dissatisfaction with the outcome of the trial than with the adversarial process. They would not warrant redress in any event.

**ORDER OF THE CIRCUIT COURT FOR
CARROLL COUNTY AFFIRMED; COSTS
TO BE PAID BY APPELLANT.**