Circuit Court for Anne Arundel County
Case No. 02-C-09-145137

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0102

September Term, 2019

MAJORIE WOODINGS

v.

CHRISTOPHER PAUL DOHERTY

Reed,
Wells,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: July 30, 2020

On remand from an en banc appeal on the limited issue of unreimbursed medical expenses, the circuit court for Anne Arundel found that Christopher Paul Doherty "(Appellee") owed $10,469.89 in unreimbursed medical expenses. The trial court classified the unreimbursed medical expenses as "child support," and added the amount to the existing child support arrears payment, rather than reducing the $10,469.89 to a judgment, as requested by Majorie Woodings ("Appellant"). This appeal followed, wherein Appellant presents two questions for our review, which we have slightly rephrased for clarity:[1]

I. Did the trial court err in classifying $10,469.89 in unreimbursed medical expenses as child support, therefore adding it to the existing child support arrearage?

II. Did the trial court err when it denied Appellant's request to reduce the $10,469.89 owed in unreimbursed medical expenses, classified as child support, to judgment?

We answer each question in the negative and affirm the trial court's ruling.

FACTUAL AND PROCEDURAL BACKGROUND

The parties were married on October 3, 1993 and were together for approximately 16 years, during which time they had three children: Sabrina, Eileen and Griffin. The

[1] Appellant presents the following questions:

1. Did the trial court err in classifying $10,469.00 in unreimbursed medical expenses as child support and adding it to existing child support arrears?

2. Did the trial court err when it denied Appellant's request to reduce $10,469.00 in unreimbursed medical expenses to Judgment?

parties' petition for an absolute divorce came before the circuit court on multiple days, beginning on October 3, 2011. Appellant and Appellee entered into a consent order as to custody and visitation on October 21, 2011, and a consent decree regarding property issues on November 3, 2011. Both the consent order and consent decree were incorporated into the judgment for absolute divorce, which was granted on December 28, 2011. Pursuant to the consent decree, Appellee was ordered to pay seventy percent (70%) and Appellant to pay thirty percent (30%) of any uninsured, unreimbursed medical expenses. In accordance with the judgment for divorce, Appellee was also ordered to pay a total of $6,669.00 per month for child support, beginning on June 1, 2012.

On July 20, 2012, Appellant filed a motion to modify support maintenance for tuition cost, alleging that Appellee had failed to pay new child support and the additional payment of $1,938.00 for school tuition. On August 15, 2012, Appellee filed a motion to modify child support and custody, arguing that Appellant had discontinued the children's education at their current school. Both parties also filed petitions for contempt, alleging additional violations of the consent order dated October 21, 2011. These matters were heard by the court on several days[2] between January and April of 2013. On May 1, 2013, the court denied the parties' petitions for contempt, but established that Appellee owed child support arrears in the amount of $17,300, as of April 30, 2013. In granting Appellee's motion to modify child support, Appellee was ordered to pay $5,199.00 per month in child support, while also paying an additional amount of $201.00 each month in child support

[2] January 2, 2013, January 3, 2013, March 27, 2013, March 28, 2013 and April 10, 2013.

arrears, for a total of $5,400 starting on May 1, 2013. Additionally, in modifying 2011 child support obligation, the court set Appellee's "extraordinary medical expenses" at $350.00.[3]

Appellee filed another motion for modification of Alimony and Child Support on December 15, 2016, citing a significant material change in financial circumstances due to a 35% decrease in his base salary from $230,000 to $150,000 in 2015. In response, Appellant filed a motion to dismiss Appellee's motion for modification of alimony and child support and a petition for contempt, claiming that Appellee owed a total of $142,970.47 for past due child support, alimony, and uninsured, unreimbursed medical expenses, as well as unpaid college savings reimbursements. Appellant also filed a motion to enforce and request judgment, requesting that the amount owed be entered as a judgment against Appellee. After a merit hearing on the motions, on March 14, 2018, the court entered an order finding that a material change in circumstance had occurred and modified the Appellant's child support and alimony obligations. The court denied Appellant's petition for contempt. Appellant then sought an en banc review of the March 19, 2018 order, raising the following issues:

1. Did the Trial Court create "legal error or abuse its discretion" when it failed to hold defendant in contempt for failing to pay child support and alimony pursuant to the Judgment of Absolute Divorce and May 1, 2013 Court Order?
2. Did the Trial Court create "legal error or abuse its discretion" when it failed to find that Defendant owed Plaintiff money for uninsured medical expenses?
3. Did the Trial Court create "legal error or abuse its discretion" when it failed to have Defendant pay a reasonable arrears payment toward the child support and alimony arrears?
4. Did the Trial Court create "legal error or abuse its discretion" when it

[3] *See* footnote 5 and accompanying text.

failed to determine the arrears for child support/alimony and monies owed for uninsured medical expenses and enter a judgment for these arrears and past due owed money?

5. Did the Trial Court create "legal error or abuse its discretion" when it failed to award Plaintiff more than $4,000.00 in attorney fees?
6. Did the Trial Court create "legal error or abuse its discretion" when it failed to hold defendant in contempt for failing to pay his share of the uninsured medical expenses pursuant to the November 21, 2011 Consent Decree?

On October 16, 2018, the en banc review Panel ("The Panel") issued a memorandum opinion and found that Appellant did not have standing to appeal issues one and six. The Panel acknowledged that the record reflected the trial court's considerations as to the statutory factors regarding attorney's fee and denied Appellant's issue five. In reference to Appellant's arguments on arrearage, The Panel held that "[t]he trial court, as fact finder, determined that reducing an arrearage to a judgment was inappropriate based on the parties' circumstances and obligations, and most importantly, the 'best interest of the child.'" Because the trial court was in the best position to weigh the testimony and the appropriate payments for the arrearage, The Panel refused to disturb the trial court's ruling, denying issues three and four.

With respect to uninsured medical expenses as raised by issue two, The Panel first outlined that the 2011 consent decree required the Appellee and Appellant to pay 70% and 30% to uninsured medical expenses (respectively), while the May 1, 2013 order modified the 2011 child support obligation to include an "extraordinary medical expenses" commitment of $350.00. The Panel concluded that the medical expenses incurred, whether defined as "uninsured medical expenses" or the subset expense of "extraordinary medical

expenses,"[4] did likely exceed the $350.00 monthly payments being made by Appellee. Essentially, regardless of how the medical expenses were calculated, the "aggregate sum of $350.00 per month since 2013" was still less than 70% of the minor's extraordinary medical expenses that had accumulated since 2013, and therefore, the Appellee had not met his financial obligation in this regard. In finding that the trial court "failed to articulate whether, as a factual matter, it concluded that 70% of the minor's uninsured medical expenses exceeded the $350.00/month established by the May 2013 Order," The Panel remanded the matter on the limited issue of uninsured medical expenses, and mandated that the trial court take further evidence and testimony to calculate and apportion 70% of any uninsured, unreimbursed medical expenses to Appellee and 30% to Appellant.

On remand, the hearing on the issue of medical expenses was set for February 22, 2019 and on the same day after the hearing, the court entered an order, finding that Appellant's apportionment of unreimbursed medical expenses had totaled $10,469.89.[5] The trial court classified this amount as "child support arrearages," and thus added the total to the Appellee's current child support arrearages. This timely appeal followed.

[4] The Panel commented that "all 'extraordinary medical expenses' are 'uninsured expenses,' however not all 'uninsured medical expenses' constitute as 'extraordinary medical expenses.'"

[5] During the remand hearing, it was realized that the court's May 1, 2013 order was "duplicative," as it ordered Appellee to pay 70% of all extraordinary medical expenses, while also ordering that he pay his share of $350.00, or $247.00, for these expenses. In calculating the true amount of arrearage, the court credited Appellant by considering the correct amount of $247.00 for the medical expenses, instead of $350.00, as stated by The Panel.

DISCUSSION

A. Parties' Contentions

Appellant alleges that the trial court erred when it labeled the Appellee's contractual obligation to pay 70% of unreimbursed medical expenses as child support. Appellant asserts that pursuant to the child support guidelines, Appellee was ordered to pay his share of $350.00 toward the minor child's extraordinary medical expenses. However, Appellant notes that because the parties agreed that Appellee would pay 70% under the 2011 consent decree, it was specifically excluded from the child support obligation, and should not have been deemed child support arrearage. Appellant also argues that because the $10,469.89 was not reduced to a judgment, Appellant has no remedy to enforce or collect these funds.

Appellee maintains that the Maryland child support guidelines do not apply to this case because the parties' combined income exceeds $15,000 a month. Appellee contends that the trial court has the discretion to order the $10,469.89 as child support, given that Maryland case law has held that payments from one party to another which are intended to benefit the child should be considered child support. Appellee also argues that the trial court has vested discretion to refrain from entering a judgment, apart from the fact that the entry of a judgment would be inappropriate, as a judgment could "substantial[ly]" confuse the "tracking and recording" of Appellee's obligations.

B. Standard of Review

The appellate court's standard of review for child support orders is abuse of discretion. *Jackson v. Proctor*, 145 Md. App. 76, 90 (2002). Abuse of discretion arises when "'no reasonable person would take the view adopted by the [trial] court' . . . when the court acts

'without reference to any guiding rules or principles,'" or when the court's conclusion is "'clearly against the logic and effect of facts and inferences before the court,' and therefore 'violative of fact and logic.'" *Santo v. Santo*, 448 Md. 620, 626 (2016) (internal citations omitted). "However, 'where the order involves an interpretation and application of Maryland statutory and case law, [the] Court must determine whether the trial court's conclusions are 'legally correct' under a *de novo* standard of review.'" *Knott v. Knott*, 146 Md. App. 232, 246 (2002) (quoting *Walter v. Gunter*, 367 Md. 386, 392 (2002)).

Furthermore, in actions tried without a jury, appellate courts "review the case on both the law and the evidence . . . giving due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule § 8-131(c). "[We do] not set aside the judgment of the trial court on the evidence unless clearly erroneous[.]" *Id*.

C. Analysis

Unreimbursed Medical Expenses as Child Support

As a fundamental matter, the family law principle of "child support" is defined as:

> 1. A parent's legal obligation to contribute to the economic maintenance and education of a child until the age of majority, the child's emancipation before reaching majority, or the child's completion of secondary education. ... 2. In a custody or divorce action, the money owed or paid by one parent to the other for the expenses incurred for children of the marriage.

CHILD SUPPORT, Black's Law Dictionary (11th ed. 2019). Maryland courts have conventionally imposed an obligation on parents to provide for their children, while conferring "perfect rights" to children to receive such support and maintenance. *Middleton v. Middleton*, 329 Md. 627, 632 (1993) (quoting *Carroll County v. Edelmann*, 320 Md. 150, 170 (1990)). Due to the compulsory nature of child support, "treating an award as

child support significantly elevates the level of protection it receives under the law." *Goldberg v. Miller*, 371 Md. 591, 603 (2002).

However, trial courts are not vested with unfettered, discretionary power in determining whether an award does or does not classify as child support; instead, they are bound by the "Legislature's plan for calculating the amount and character of a child support award." *Goldberg*, 371 Md. at 603–04 (citing *Drummond v. State*, 350 Md. 502, 511–12 (1998)). By way of the Child Support Guidelines, trial courts are directed through "specific descriptive and numeric criteria" in order to determine a parent's child support obligations. *Voishan v. Palma*, 327 Md. 318, 322 (1992). The purpose of these guidelines are to: "(1) remedy a shortfall in the level of awards that do not reflect the actual costs of raising children, (2) to improve the consistency, and therefore the equity, of child support awards, and (3) to improve the efficiency of court processes for adjudicating child support...." *Id.* (internal quotations omitted). Only "if the combined adjusted actual income" of the parties "exceed[] the highest level specified in the schedule" does the court gain any discretion in crafting the child support award. Md. Code. Fam. Law ("Fam. Law") § 12-204(d).

Fam. Law § 12-204(a)(1) states that "[b]asic child support obligations"[6] are apportioned to the parties according to their incomes and the number of children the parents are required to care for. Each parent's responsibility is calculated pursuant to their share of basic child support obligation, along with the following expenses, mandated by statute:

[6] "Basic child support obligation" means the base amount due for child support based on the combined adjusted actual incomes of both parents. Fam. Law § 12-201(e).

actual child-care expenses, extraordinary medical expenses, special or private school expenses, and transportation expenses of the child between the parents' homes, all of which are also divided in proportion to the parents' adjusted income.[7] Fam. Law § 12–204(g)(h)(i). "Without question, the General Assembly intended any award based on [above-referenced] [] factors to be treated as child support." *Goldberg*, 371 Md. at 605.

Extraordinary medical expenses are outlined as "uninsured costs for medical treatment in excess of $250 in any calendar year." Fam. Law § 12-201(g)(1). This can include "uninsured, reasonable, and necessary costs for orthodontia, dental treatment, vision care, asthma treatment, physical therapy, treatment for any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders." Fam. Law § 12-201(g)(2). We explained in *Bare v. Bare* that medical expenses not defined as "extraordinary" in the statute should not be considered in determining the basic child support obligation. *Bare v. Bare*, 192 Md. App. 307, 314 (2010).

Appellant submits that the child support guidelines do not specifically mention "unreimbursed" medical expenses, and therefore, these expenses should not have been considered as child support. Appellant's argument is flawed in two respects. First, the child support guidelines and the associated formula were inapplicable because the parties' combined income exceeded $15,000.00 per month. In this situation, pursuant to Fam. Law § 12-204(d), the trial courts have independent authority in setting the amount of child

[7] "Adjusted actual income" means actual income minus:
(1) preexisting reasonable child support obligations actually paid; and
(2) except as provided in § 12-204(a)(2) of this subtitle, alimony or maintenance obligations actually paid.

support, and the Child Support Guidelines simply become informative, but they are not compulsory. More importantly, we find no distinction between "unreimbursed" medical expenses, the language used by the parties, and "uninsured" medical expenses, those which are explicitly covered under Fam. Law § 12-204(h) as expenses considered in an award for child support. Neither party contests that the medical expenses at issue are in fact extraordinary medical expenses. Whether the extraordinary medical expenses are labeled "unreimbursed" or "uninsured,"—both of which just really means that the medical expenses were not covered by the insurance provider—we deem them as expenses covered by the child support statute and find that it was within the trial court's jurisdiction to classify the $10,469.89 owed by Appellee in uninsured medical expenses as child support. *See* Fam. Law § 12-204(h).

Appellant also argues that the parties' obligation to contribute to the "unreimbursed" medical expenses were contractual, under the 2011 consent decree, and therefore are separate and should not be considered child support pursuant to the guidelines. The 2011 consent decree required that the Appellee and Appellant pay 70% and 30% toward uninsured medical expenses, respectively, while the May 2013 order modified the 2011 child support obligation, setting Appellee's commitment for "extraordinary medical expenses" at $350.00. Despite the fact that Appellant cites no authority as to how the 2011 consent decree conflicts with the trial court setting an amount of $350.00 for uninsured medical expenses, their argument is quite irrelevant because FL § 12-204(h) provides that the trial court does have the authority to order a child support obligation representing a party's allotted share of extraordinary medical expenses. *See also Bare*, 192 Md. App. at

314. The fact that the trial court set a concrete amount of $350.00 does not frustrate the reality that the Appellee still had to pay 70% of the uninsured medical expenses. In fact, the May 2013 order supplements the 2011 consent decree, as evidenced by the $10,469.89 that the trial court found that Appellee owed, since 70% of $350.00 did not cover all of the minor's uninsured medical expenses.

Consequently, we do not find that the trial court erred when it found that the $10,469.89 owed by Appellee in uninsured medical expenses was child support, therefore adding it to the child support arrearage owed by Appellee.

Reducing Arrearage to Judgment

Appellant argues that the court erred when it did not reduce the $10,469.89 owed in unreimbursed medical expenses to a judgment. Appellant also submits that unless the unreimbursed medical expenses were reduced to a judgment, they would have "no remedy to enforce or collect." While we sincerely disagree with the Appellant's contention that they would not be able to enforce the child support arrearage if it was not awarded as a judgment, it would be remiss of this Court not to acknowledge that Appellant fails to cite any authority that endorses their argument that the trial court was required to reduce the amount owed in unreimbursed medical expenses to judgment. This lack of legal support has repeatedly been used as grounds to not address an Appellant's questions. *See von Lusch v. State*, 31 Md. App. 271, 282 (1976), *rev'd on other grounds,* 279 Md. 255, 368 (1977) (outlining that it is not the appellate Court's responsibility to find the law to support a party's appellate contentions); *see also Oroian v. Allstate Ins. Co*., 62 Md. App. 654 (1984) (holding that because Appellant did not cite an authority for their position, their contention

was deemed waived). As this court has previously held, "[w]e cannot be expected to delve through the record to unearth factual support favorable to appellant and then seek out law to sustain his position." *von Lusch*, 31 Md. App. at 282 (quoting *Van Meter v. State*, 30 Md. App. 406, 408 (1976)).

Therefore, considering this to be Appellant's second failure over the span of this case to point an appellate body to a source of backing for their legal contentions, we decline to further discuss the merits of Appellant's claim, and agree with The Panel's conclusion on the matter:

> On a similar note, [Appellant] appeals the Trial Court's decision not to reduce the child support and alimony arrearages to a judgment. [Appellant] provides no authority to suggest legal error or abuse of discretion by the Trial Court in making that determination. Further, this Review Panel finds no authority support [sic] the notion that a failure to reduce arrearage to a judgment constitutes legal error or abuse of discretion. … The Trial Court, as fact-finder, determined that reducing any arrearage to a judgment was inappropriate based on the parties' circumstances and obligations, and most importantly, the "best interest of the children." [] The Trial Court was in the best position to consider the testimony and determine an appropriate monthly payment towards the arrearages and whether to reduce the arrearage to a judgment . . . .

(Internal citations omitted). We find that the court utilized its sound exercise of discretion in declining to reduce the $10,469.89 owed in child support arrearage to a judgment, absent

any legal authority directing us to hold otherwise.

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