

Circuit Court for Howard County
Case No. 13-C-18-114498

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 219

September Term, 2025

WALTERE KOTI

v.

AUDREY THEODORA LEONARD KOTI

Berger,
Kehoe, S.,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: June 11, 2026

* 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 returns to us following litigation concerning alimony and attorneys’ fees stemming from the dissolution of the marriage between appellant, Waltere Koti (“Husband”), and appellee, Audrey Theodora Leonard Koti (“Wife”). In a previous appeal, we were unable to determine the factual basis for income imputed to Husband and, therefore, vacated an award of indefinite alimony and attorneys’ fees and remanded the case to the Circuit Court for Howard County for further explanation. *Koti v. Koti* (“*Koti I*”), No. 724, Sept. Term, 2023, 2024 WL 1615220 (Apr. 15, 2024). Following remand to the circuit court and additional hearings the court entered an order on March 12, 2025 awarding Wife indefinite alimony in the amount of \$1,715 per month and ordering Husband to pay \$10,000 towards Wife’s attorneys’ fees. Husband filed a timely appeal.

On appeal, Husband presents five questions for our review, which we have consolidated into two and rephrased as follows:¹

- I. Whether the circuit court erred in awarding Wife indefinite alimony.

¹ Husband phrased the questions as arguments as follows:

1. The circuit court erred in determining appellant’s income as \$82,095.12 instead of \$38,244, disregarding appellant’s 2023 tax returns and IRS-recognized deductions.
2. The circuit court erred in finding appellee cannot support herself.
3. The circuit court erred in awarding alimony despite appellee’s gainful employment or ability to be gainfully employed.
4. The circuit court erred in granting indefinite alimony.
5. The circuit court erred in awarding appellee attorney’s fees.

- II. Whether the circuit court erred in ordering Husband to pay \$10,000 towards Wife’s attorneys’ fees.

For the following reasons, we affirm.

BACKGROUND

Factual Background

We recounted the following facts in *Koti I*:

The parties were married in a civil ceremony in Prince George’s County on October 12, 1994. They had one child together, a daughter, born on November 13, 2003. Beginning in 2017, the parties lived together with their daughter in a rented home in Laurel. Husband moved out of that home in December 2017 and lived in one of his business’s offices.

On March 7, 2018, Husband filed a complaint . . . seeking an absolute divorce. Wife filed a counter-complaint for absolute divorce . . . in which she also sought a limited divorce. A *pendente lite* order was entered on October 16, 2018 that, among other things, granted Wife use and possession of the family home and ordered Husband to pay her \$2,600 per month for “*pendente lite* undifferentiated family support.” After a hearing on January 14, 2019, the court entered a “Limited Divorce Consent Order” pursuant to which Wife was granted a limited divorce. The parties agreed, and the consent order provided, among other things, that Wife would have use and possession of the family home.

Koti I, 2024 WL 1615220, at *1. Additionally, the Consent Order provided that Husband would pay the rent and utilities for the family home as well as an additional \$500.00 in undifferentiated family support. *Id.* at *1-2.

We went on to recount that:

On April 7, 2021, Husband filed a complaint for absolute divorce on the ground of voluntary separation. Following a hearing on *pendente lite* alimony, Husband was ordered to

continue making the payments required by the consent judgment of limited divorce and to pay an additional \$1,000 per month for *pendente lite* alimony. Wife testified that Husband never paid the full \$1,000, but instead paid half that amount. In September or October 2022, Husband stopped making payments to Wife for undifferentiated family support and *pendente lite* alimony. Wife filed a petition for contempt and, after a hearing on March 23, 2023, Husband was found to be in contempt. As a purge, Husband was ordered to pay Wife \$2,800 by April 7, 2023, which he did.

Id. at *2.

The First Trial and Appeal

On April 13, 2023, a hearing on the Complaint for absolute divorce was held. As we recounted in *Koti I*, the court made the following findings of fact with respect to Wife:²

Wife was a high school graduate. From 1995 to April 2003, she worked at Kaiser Permanente as a customer service representative. She was terminated from that job because she was not answering enough calls. Thereafter, she worked for one year in a customer service position at the Motor Vehicle Administration (“MVA”). In 2008, Wife earned some credits from Howard County Community College toward a nursing degree, but did not graduate because she could not get through the required math courses. Wife did occasional babysitting and worked for a temporary employment agency known as Adecco. Wife stopped working temporary jobs when the parties’ daughter was in second or third grade because the child’s grades were slipping and she was “acting up.” The parties decided Wife should stay home, take care of the child, and ensure her homework was completed.

After the parties separated in 2017, Wife worked at Walmart and had a seasonal job with the United Postal Service. . . . In December 2021, Wife fell and broke her ankle, requiring surgery. She wore a boot on her foot until August 2022 and lost her job because she could not stand as her work required.

² The circuit court expressly incorporated the findings of fact made in *Koti I* into its decision on remand that is the subject of the present appeal.

...

Wife worked for a temporary staffing agency known as First Team from about September 2022 through March 2023. In September 2022, Wife purchased a Volvo for \$33,000. Shortly after purchasing the car, it was involved in an accident. It remained in a repair shop from October 2022 to the time of the April 13, 2023 hearing because, according to Wife, there was a problem with the insurance. Wife was several months behind on the car payments of \$404 for the Volvo. A few weeks prior to the hearing, wife began working at Walmart where she earned \$15 an hour. She experienced trouble with transportation to and from work because bus service was not available to accommodate her work hours.

Wife had a male friend who lived at the family home “from time to time.” One morning Husband showed up at the house and saw the man there. After that, Husband reduced the monthly payments of \$1,500 required by the consent judgment of limited divorce and the *pendente lite* alimony order. Later, in September or October 2022, he ceased making payments to Wife.

Shortly before the April 13, 2023 hearing, Wife received notice that she had to move out of the family home because the landlord planned to sell it. . . .

Id. at *2-*3.

Regarding Husband, we explained the circuit court’s findings of fact as follows:

Since about 1996, Husband has owned an insurance, title, and tag business known as First Insurance Agency. The business has two locations, one in Elkridge and another in Baltimore City. There are two individuals who work as independent contractors for First Insurance Agency. Husband testified that they are not employed full time, but work a couple of times per month “when they have the time to come.” They are paid on commission and receive half of the fee charged for tag and title work. Wife claimed that one of those independent contractors was Husband’s girlfriend, [Ms. Enow,] but Husband denied that claim.

With respect to the insurance portion of his business, Husband sells policies on behalf of Maryland Automobile Insurance Fund (“MAIF”) and Progressive Insurance Company (“Progressive”). He is paid a commission of about ten percent on the premiums. . . .

Husband’s business is also licensed to provide title and tag services for the MVA. Clients pay the fees required by the MVA plus a fee ranging from \$70 to \$100 for the services provided by First Insurance Agency. . . .

Id. at *3.

As to his income, we observed in *Koti I* that:

Husband testified that his business fluctuates, [] his income cannot be determined, and [] he did not “have a salary[.]” . . . Just prior to trial, he produced Form 1120S, a federal return for an S Corporation, which showed that in 2022 his business had gross sales of \$115,672 and deductions of \$79,022. Husband testified that in 2022, his business earned between \$60,000 and \$64,000 from the tag and title portion of the business. As to the insurance part of his business, he receives 1099 forms for each insurance company. . . . Husband paid rent of about \$1,236 per month for the Elkridge business office and \$375 plus utilities each month for the Baltimore City location. Other expenses included the two independent contractors, advertising, the cost of bonds, workers’ compensation insurance, general liability insurance, errors and omissions insurance coverage, automobile insurance, telephone and internet service, and Comcast service in the Baltimore location. In 2022, Husband paid his independent contractors in cash and, in 2022, he paid them \$33,450.

Id. at *3.

The circuit court delivered its decision on the record at a hearing on May 2, 2023.

Therein, the court awarded Husband an absolute divorce. As we recounted in *Koti I*:

Husband was ordered to pay indefinite alimony in the amount of \$2,000 per month beginning on May 1, 2023, and to pay \$10,000 toward Wife’s outstanding attorneys’ fees. In

reaching its decision, the court found that if Wife worked full time at Walmart and earned \$15 per hour, her after-tax income would be “approximately \$2,100.00 per month,” and her expenses were \$4,349 per month.

The court found that Husband’s testimony about his finances and the income portion of his financial statement were not credible, that he “significantly co-mingled” the funds for his business with his personal funds, and that “it’s impossible to say with certainty what his actual income is as it runs through both of those types of accounts and is difficult to ascertain.” The court considered that First Insurance Agency’s 2022 “gross sales were listed as \$115,672.00” and that Husband “took \$79,022.00 in deductions leaving ordinary business income of \$36,450.00.” The court noted that there was no documentation to support the expenses listed, except for the rent on Husband’s office. The court determined that Husband’s “income is more along a minimum of \$85,000.00 per year, which is about \$7,059.91 per month,” and attributed to him after-tax income of “about \$6,000 per month.” . . . The court concluded that the parties’ living standards were unconscionably disparate.

Id. at *4.

Husband appealed and we concluded that, “from the record before us, we are unable to determine the factual basis for the court’s decision to impute to Husband annual income in the amount of \$85,000.” *Id.* at *6. We noted that “[i]t is unclear whether the court declined to credit some of” Husband’s purported tax deductions. *Id.* Similarly, we concluded that “[i]t is unclear from the record . . . how the court calculated Husband’s expenses to be \$2,822 per month” and noted that “the court did not appear to include Husband’s tax debts in assessing the alimony factors.” *Id.* at *7. Accordingly, we vacated and “remand[ed] the case to the circuit court for further consideration of Husband’s income and the award of attorneys’ fees.” *Id.* at *1.

The Second Trial

Upon remand, the circuit court held hearings on December 13, 2024 and February 6, 2025. Several factual developments since the first trial were highlighted. Wife testified that she continues to work at Walmart, where she currently earns \$15.30 per hour. Although she had previously been scheduled to work 40 hours per week, Wife explained that for the last six months, Walmart cut her hours to around 24 to 32 hours per week. Wife testified that, two weeks before the February 6, 2025 hearing, she had begun searching for another job to supplement her income but has not yet found one. Because of her previously broken ankle, which required surgery and a plate in her right ankle, Wife explained that she was only applying to positions that would allow her to sit, such as security positions.

Regarding her living situation, Wife testified that after having to leave the marital home, she lived in a hotel for a while. According to Wife, the hotel was becoming “too costly,” so she had to start asking Husband for additional money. Thereafter, Husband found a room for rent in a townhouse with a shared bathroom for the cost of \$700 per month. Wife went to look at the room and thought it was dirty, so she told Husband she did not want to live there. Nevertheless, Husband “gave the guy the money” so she was “stuck there.” Wife stated that she does not feel safe in the home and that she does not use the common areas of her residence, such as the kitchen, “because it’s infested with bugs.” Wife testified that she would prefer living in a one bedroom or studio apartment which, according to her research, would cost between \$1,400 and \$1,600 per month.

According to the parties, Husband continues to not pay Wife the full court ordered alimony payment. According to Husband, “[based] on [his] tax returns, [he] cannot afford”

the alimony payments previously ordered by the circuit court. Husband stated that his income “fluctuates” and that it cannot be discerned by looking at his business and personal bank accounts. Rather, according to Husband, “the key way” to determine his income is by looking at his tax returns.

Husband testified that he lives in his Elkridge office. According to Wife, however, although Husband previously lived in one of his offices, he currently lives in a house with Ms. Enow. Husband initially denied living with Ms. Enow or even knowing where she lives but later admitted that he “visit[s] her once in a while.” Both Husband’s 2023 tax return and Husband’s Financial Statement reflected the \$1,200 expense for the rent associated with his Elkridge office. Additionally, Husband testified that he has outstanding tax debt owed to both the Internal Revenue Service (“IRS”) and the State. At the time of the hearing, Husband was paying off his debt to the State but was not making payments on the debt owed to the IRS.

The Circuit Court’s Opinion and Order

On March 12, 2025, the circuit court, by written opinion, ordered Husband to pay Wife \$1,715 per month in indefinite alimony and \$10,000 towards Wife’s attorneys’ fees.

The circuit court explained that, since the first trial, “[t]here have been some changes to the parties’ circumstances.” Specifically, the circuit court found:

For [Wife], she no longer has a car at all and relies on public transportation and Uber/Lyft rides to get around. Just after the 2023 hearing, she had to leave the prior residence and was staying at a hotel for a period of time. [Husband] has only been paying about \$1000.00 per month for alimony. [Husband] obtained a room for [Wife] to rent in a home with many other individuals. [Wife] testified that she does not like this space as

it is not clean, and she does not feel comfortable or safe in the open spaces with all the other individuals that live there. There are 12-14 other people who live there, and they fight with each other which has resulted in police response. The rent is \$700 per month and is more affordable, however, she explained that the accommodations are less than desirable.

Finding that Wife “has no physical or mental infirmity that prevents her from working full time,” the circuit court concluded “it continues to be appropriate to impute full-time income to [Wife].” Based on the pay rate of \$15.30 per hour, the circuit court calculated Wife’s gross pay to be \$2,650 per month. Regarding debts owed, the circuit court found that Wife has \$30,000 in debt for the Volvo she previously owned, \$600 in credit card debt, and a \$38,925.02 balance owed for attorneys’ fees.

The circuit court found Husband’s testimony regarding his finances not credible and concluded that some of the deductions claimed on his 2023 tax return were not verifiable. Specifically, the court found that, despite Husband claiming business expenses of \$78,000 per year, his verified business expenses only amounted to \$34,242.80. Accordingly, the court imputed to Husband an annual income of \$82,095.20 instead of the \$38,244 claimed.

After going through each factor set forth in Maryland Code (1984, 2019 Repl. Vol.), § 11-106 of the Family Law Article (“FL”), the circuit court concluded that indefinite alimony was warranted because, “[a]lthough [Wife] can partially support herself, it is unlikely she will become fully self supporting.” The court reasoned that, at the time of the hearing, Wife was “58 years old and has some physical limitations,” has generally worked part-time earning minimum wage, and was unable to advance in community college due to her difficulties in math. Additionally, the court concluded that, even if she worked full

time, Wife’s after-tax income would be approximately \$2,100 per month, while “Husband earns significantly more making their standard of living unconscionably disparate.”

Finally, in assessing whether to award attorneys’ fees, the court found that Husband had incurred \$8,125 in attorneys’ fees while Wife had incurred \$38,925.02 in attorneys’ fees. The court concluded that “[b]oth parties were reasonable in prosecuting and defending this action[,]” but noted that Wife’s attorneys’ fees have increased as “Husband has continuously fought against paying alimony in this long-term marriage, during which [W]ife worked limitedly outside the home and worked generally for minimum wage.” The court concluded that Wife’s attorneys’ fees were reasonable and ordered Husband to pay \$10,000 towards the attorneys’ fees incurred by Wife. Husband noted a timely appeal. We shall include additional details as necessary in our forthcoming analysis.

STANDARD OF REVIEW

We “accord great deference to the findings and judgments of trial judges, sitting in their equitable capacity, when conducting divorce proceedings.” *Tracey v. Tracey*, 328 Md. 380, 385 (1992) (citing *Rock v. Rock*, 86 Md. App. 598, 611-12 (1991)). Accordingly, “[a]n alimony award will not be disturbed upon appellate review unless the trial judge’s discretion was arbitrarily used or the judgment below was clearly wrong.” *Tracey*, 328 Md. at 385 (citing *Brodak v. Brodak*, 294 Md. 10, 28-29 (1982)). The trial court’s underlying factual findings, however, are reviewed for clear error. *See Roginsky v. Blake-Roginsky*, 129 Md. App. 132, 143 (1999) (“A trial court’s finding of unconscionable disparity [sufficient to warrant an award of indefinite alimony] is a question of fact [reviewed] under the clearly erroneous standard contained in Md. Rule 18-131(c).”).

Similarly, “[w]e review an award of attorney’s fees in family law cases under an abuse of discretion standard.” *Sang Ho Na v. Gillespie*, 234 Md. App. 742, 756 (2017) (citing *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 487 (2002)).

DISCUSSION

I. The circuit court did not err in awarding Wife indefinite alimony in the amount of \$1,715 per month

A. The parties’ contentions

Husband argues that the circuit court erred in awarding Wife indefinite alimony. In so doing, Husband first challenges the circuit court’s determination of his income. According to Husband, the deductions claimed on his 2023 IRS tax return are presumptively valid, therefore, Wife bore the burden of rebutting the validity of said deductions. Husband cites three cases in support.³

Further, Husband contends that, because the circuit court concluded that “it is impossible” to ascertain how much income he derives from the tag and title portion of his business, a finding of income based on that lack of evidence is erroneous. Next, Husband contends that the court erred in balancing the FL § 11-106 factors because it improperly

³ Husband predominantly relies on a case cited as “*Otte v. Otte*, 168 Md. App. 83, 895 A.2d 1133 (2006).” Wife contends that the case is unreported. We are unable to locate any such case—reported or unreported. Additionally, Husband cites “*Jackson v. Jackson*, 252 Md. App. 327, 449 A.2d 455 (1982).” The correct case name associated with the Maryland Appellate Reports citation is *Jackson v. State*, 52 Md. App. 327 (1982), *overruled by Huggins v. State*, 479 Md. 433 (2022). This criminal case has no bearing on the issues presented in this case. Finally, Husband cites *Wills v. Jones*, 340 Md. 480 (1995) for the proposition that “[a] self-employed person’s income is their net profit, not gross receipts.” *Wills* did not involve the calculation of a self-employed party’s income and is, therefore, inapposite. Accordingly, we do not discuss these three cases further.

weighed Husband’s ability to pay, Wife’s capacity for self-support, the standard of living of the parties during their marriage, the circumstances leading to the estrangement of the parties, and the age and health of the parties. Finally, Husband contends that indefinite alimony was improper here because Wife is voluntarily underemployed, and no unconscionable disparity exists.

Wife counters that, in determining Husband’s income, the circuit court was not restricted to rely solely on Husband’s tax return. According to Wife, the court was permitted to discredit some of Husband’s purported business expenses when determining his income. Further, Wife argues that the court properly awarded indefinite alimony because she is incapable of supporting herself, noting that the court based its calculation of her income on full-time work, thereby undercutting Husband’s argument that Wife is voluntarily underemployed. Finally, Wife asserts that the court properly found that she is unable to obtain additional training that would allow her to obtain a higher paying job.

B. The law of alimony

In Maryland, alimony may be awarded in one of two modes: for a fixed term, referred to as rehabilitative alimony, or for an undefined term, referred to as indefinite alimony. *Walter v. Walter*, 181 Md. App. 273, 281 (2008) (citing *Tracey v. Tracey*, 328 Md. at 391). Since the adoption of the Maryland Alimony Act in 1980, the principal function of alimony has been the “rehabilitation of the economically dependent spouse.” *Whittington v. Whittington*, 172 Md. App. 317, 335 (2007) (quoting *Karmand v. Karmand*, 145 Md. App. 317, 327 (2002)). Because of this, rehabilitative -- rather than indefinite -- alimony is generally favored. *Solomon v. Solomon*, 383 Md. 176, 194 (2004).

In making an alimony determination, FL § 11-106(b) governs:

In making the determination, the court shall consider all the factors necessary for a fair and equitable award, including:

- (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 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 indefinite alimony is generally disfavored, our statutory and decisional law recognizes that “rehabilitative alimony alone may not be appropriate in every case.” *Solomon*, 383 Md. at 195 (citation omitted). Pursuant to FL § 11-106(c), a circuit court may award indefinite alimony when it finds that one of two circumstances has been shown:

- (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.

A circuit court’s finding in subsection (c) “is a second-level fact . . . that necessarily rests upon the court’s first-level factual findings on the factors, listed in [subsection (b)].” *Whittington*, 172 Md. App. at 337). The provisions in subsection (c) “serve as a restraint upon the doctrine of rehabilitative alimony; they exist to protect the spouse who is less financially secure from too harsh a life once single again.” *Tracey*, 328 Md. at 392 (citation omitted). “The determination of unconscionable disparity ‘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 v. Innerbichler*, 132 Md.

App. 207, 248 (2000) (quoting *Roginsky*, 129 Md. App. at 146-47).

C. Analysis

1. *Husband's income and expenses*

We start our analysis by reviewing the circuit court's determination of Husband's income. As an initial matter, we find no error in the circuit court's conclusion that Husband's testimony regarding his income was not credible. The circuit court found that:

[Husband's] income and expenses continue to be unclear. [Husband's] testimony regarding his finances, both personal and business, lacked candor. [Husband] produced some records to support expenses, however, [he] appears to account for his expenses twice. In regard to his income, . . . he continues to commingle business accounts and personal accounts. . . . One example . . . is his rent. [Husband] lists his rent as \$1273.00 on his Financial Statement. . . . He testified that he lives at his [Elkridge] office. In regard to his business expenses, he lists the rent of his office to be \$1273.00 as well and accounts for that against his income. . . . [Husband] denies living with Ms. Enow, his employee. He denies having a relationship with her as well, however, his testimony on this point lacked credibility. Initially he said he was not with her the night before the hearing but later admitted he was.

Additionally, Husband inflated his expenses by including his court ordered alimony payment, which he admitted to not paying in full. Finally, the circuit court noted that there were gaps in the financial documentation provided by Husband, namely months of missing bank statements and no evidence to support certain claimed business deductions. In sum, there was ample evidence to support the circuit court's credibility determination.

We similarly find no error in the circuit court's decision to impute to Husband an annual income of \$82,095.20. The court found that, despite Husband claiming his business expenses amount to \$78,000 per year, his verified business expenses amounted to

\$34,242.80. The circuit court summarized the verified business expenses as follows:

1. Comcast:	\$353/mo	\$4,236.00/yr
2. Bond:	\$41.67/mo	\$500.00/yr
3. Insurance:	\$111.75/mo	\$1,341.00/yr
4. Verizon:	\$195.13/mo	\$2,341.56/yr
5. Tax debt:	\$422.02/mo[]	\$5,064.24/yr
6. Rent#1	\$530/mo	\$6[,]360.00/yr
7. Rent#2	\$1200/mo ⁴	\$14,400.00/yr
<hr/>		
Total	\$2853.57/mo	\$34,242.80/yr

The court went on to explain that certain of Husband's alleged business expenses were not verified:

[Husband] testified that he had expenses for advertisement and supplies, however, no verification was provided for these expenses. There were 1099[s] for tax year 2023 produced [by Husband] for Lara Motors LLC for \$2,542.00 and [Ms.] Enow for \$29,945.00, however, it is unclear how these individuals were paid since there is no verification by way of check, money order, or other form of payment to verify the 1099. Although [Husband] testified that he pays Ms. Enow in cash, his credibility is at issue and with no verification of how this money is paid as asserted in the 1099, the Court does not find the expense credible. Further, it does not seem credible that a business owner, who has owned their business for almost 30 years, would not track these types of expenses to the tune of \$48,821.44 (the difference between the alleged business expenses and the verifiable expenses).

⁴ In his Financial Statement, Husband lists his rent as \$1,273 per month, however copies of the rent checks for the Elkridge office indicate that he was paying only \$1,200 per month in rent.

The circuit court noted that Husband’s income is “convoluted.” From the evidence provided by Husband -- nine months’ worth of commission reports -- the circuit court discerned the following: (1) \$14,310.15 in commissions from Progressive; (2) \$58,877.63 in commissions from MAIF; and (3) an unknown amount in fees for tag and title services. The circuit court concluded that “it is impossible to say how much” income Husband derives from the tag and title portion of his business because “[t]here is no commission report . . . and the income is deposited into three separate accounts.” The court, however, did not impute an arbitrary amount to Husband for the tag and title income. Rather, the circuit court’s determination of Husband’s income relied principally on his 2023 IRS tax return and its rejection of certain business expenses reported therein:

The only semi-solid source of income information from [Husband], is the 2023 U.S. Income Tax Return for First Insurance Agency. . . . This is the tax return that shows \$78,094 in total deductions, which the Court does not accept as valid based on the above discussions. The Court assesses the valid deductions as \$34,242.80. This leaves ordinary business income as \$82,095.20 instead of \$38,244. This is equivalent to a monthly income of \$6,841.26.

Unlike in *Koti I*, it is clear the basis of the circuit court’s income determination. We find no error in the circuit court’s findings of fact and ultimate conclusion regarding Husband’s income. Although Wife bore the burden of establishing the statutory criteria for an award of indefinite alimony, it was not, as Husband contends, Wife’s burden to prove Husband’s income. *See Turner v. Turner*, 147 Md. App. 350, 389 (2002) (“The party seeking indefinite alimony bears the burden of satisfying the statutory criteria.”). The circuit court was well within its discretion to discredit certain of Husband’s claimed

business expenses for lack of evidence, especially given its determination that Husband lacked credibility. As such, we find no error in the circuit court’s imputation to Husband of \$82,095.20 in annual income.

We also find no error in the circuit court’s reduction of Husband’s purported expenses. Specifically, the circuit court concluded:

[Husband’s] monthly personal expenses are inflated. [Husband] lists his current expenses as \$4,915.00. . . . He lists his rent as \$1,273 but also lists his rent as a business expense and his business income is therefore reduced by the expense. Therefore, the Court will not double count it as a personal expense. He also lists \$2000 in alimony which he is currently not paying in full. The Court will not count this as an expense when evaluating what his ability to pay is. [Husband’s] expenses are assessed at \$1642.00 per month.

Husband contends that, by not crediting his rent payment as a personal expense, the circuit court “ignore[d] basic tax and business principles.” We disagree. Although Husband is correct that “[t]he rent is a legitimate business expense that reduces the business’s gross income, which then passes through to” him, that does not mean he also gets to deduct that cost as a personal expense. The court credited the rent as a valid business deduction when calculating Husband’s income. Husband, therefore, is not paying that rent as a personal expense and the court properly disregarded it when calculating his expenses. Husband does not challenge the circuit court’s determination that he improperly included the alimony payment as a personal expense and we discern no error. Accordingly, we conclude that there was no error in the court’s assessment of Husband’s personal expenses as \$1,642.

2. FL § 11-106(b) factors

Next, we consider Husband's contention that the circuit court improperly weighed certain FL § 11-106(b) factors. In a thorough and well-reasoned opinion, the circuit court analyzed each of the factors delineated in FL § 11-106(b). Relevant here, Husband challenges the circuit court's findings with respect to: (1) Wife's capacity to become self-supporting, (2) the standard of living of the parties during their marriage; (3) the circumstances leading to the estrangement of the parties; (4) the age and health of the parties; and (5) the ability of Husband to pay. We address each challenge in turn.

Regarding Wife's ability to become self-supporting, the circuit court concluded:

ABILITY OF THE PARTY SEEKING ALIMONY TO BECOME SELF-SUPPORTING: [Wife] has worked on and off during the marriage at entry level jobs, generally earning minimum wage or close to that. She has not kept any position for an extended period of time, however she has worked at Wal-Mart earning \$15.30/hour since prior to the first hearing in May of 2023. With Wal-Mart, there have been times when she was working 40 hours per week, but she is currently only getting 24-32 hours per week. Full time at [Wife's] current rate of pay would render a gross weekly income of \$612.00 or \$2,650.00 per month. After taxes, [Wife] would bring home approximately \$2,000 per month. This [] income would not allow her to be fully self-supporting. [Her] current expenses are \$2815.00. . . . The current expense for housing is \$700 per month for the bedroom in the crowded home. This living arrangement is not commensurate to when the parties were married. The \$1600.00 [Wife] estimates for a one-bedroom or efficiency apartment is not unreasonable when also considering that her housing needs to be near a bus line or close enough to walk to work, otherwise, her transportation costs will significantly increase. Her expenses in evaluating her need for alimony will be assessed at \$3715.00. If [Wife's] take home pay is \$2,000 per month her actual need is \$1,715.00 per month.

Also relevant here, the circuit court concluded:

THE TIME NECESSARY FOR THE PARTY SEEKING ALIMONY TO GAIN SUFFICIENT EDUCATION OR TRAINING TO ENABLE THAT PARTY TO FIND SUITABLE EMPLOYMENT: [Wife] is 58 years old and has a high school education. When the parties' child was young and began school, [Wife] took classes at Howard Community College to go into healthcare and nursing, however she had difficulty with the math, even with tutoring, and abandoned the plan. [Wife] discussed one of her positions of working in a call-center and being terminated as she did not meet 'production expectations.' [Wife] appears to have a limited skill set to be able to obtain further education or training to better position herself in the job market.

We find no error in these determinations. Although Wife testified that she currently works only 24 to 32 hours per week, that fact is not indicative of her being voluntarily underemployed. To be sure, the circuit court credited Wife's testimony that her schedule was reduced, not because of a personal choice, but because Walmart reduced the hours of all employees. What is more, as Wife aptly notes, the court imputed to her annual income based on a full-time schedule. Further, there was ample evidence to support the court's determination that education or training would be unlikely to better position Wife in the job market. Indeed, Wife testified that, although she had previously pursued a nursing degree, she was unable to complete it because she was unable to pass a math course. In such circumstances, we find no error in the circuit court's finding that Wife is unable to become self-supporting.

Husband next challenges the circuit court's finding that:

THE STANDARD OF LIVING THAT THE PARTIES ESTABLISHED DURING THE MARRIAGE: The parties appeared to live a very modest lifestyle. In their early years

they lived with a friend with limited income as Husband started his own business. They both seemed agreeable to the modest lifestyle for Husband to develop his own business. After developing their business, the parties lived in a home they rented that was spacious.

According to Husband, the court’s alimony award “implicitly attempts to maintain a standard of living that was never truly established by the parties’ combined efforts[.]” We disagree. The circuit court’s conclusion is amply supported by the record and it properly concluded that Wife’s current living situation -- in a crowded townhome in which she feels unsafe -- does not meet the standard of living established during the parties’ marriage. The imputation to Wife of additional living expenses to cover the rent for a modest studio or one-bedroom apartment, therefore, maintains, rather than contravenes, the standard of living established during the marriage. There is no error in the circuit court’s conclusion.

Next, Husband contends that the circuit court erred in balancing the finding that:

CIRCUMSTANCES THAT CONTRIBUTED TO THE ESTRANGEMENT OF THE PARTIES: Husband left the family home in 2017, and the parties have remained separated since then. [Husband] was visiting Chicago to visit Ms. [Enow] who later moved to Maryland and allegedly is an agent for [his] business. [Wife] admits that she was drinking heavily and was depressed during this time period. The Court believes both of these things contributed to the demise of the marriage.

Husband does not appear to take issue with the circuit court’s factual determination, but instead avers that “this factor should have been considered in the broader equitable assessment.” The circuit court credited the testimony of both parties with respect to this factor and properly concluded that both parties contributed to deterioration and eventual

end of the marriage. We, therefore, find no merit to the contention that the circuit court did not properly consider this factor in making its alimony determination.

Finally, Husband contends that the circuit court erred in its analysis of the age and health of the parties and his ability to pay. The court's relevant conclusions are as follows:

AGE OF EACH PARTY: Wife is now 58 years old and Husband is 62 years old.

PHYSICAL AND MENTAL CONDITION OF EACH PARTY: Husband appears to be in good physical and mental health, however he asserts that he has prostate cancer. The documentation [Husband] provided in support of this does not confirm this or a treatment regimen. Wife is now in better health than at [the] time of [the] original divorce proceedings however due to her prior foot injury, she still has difficulty standing for extended periods of time.

THE ABILITY OF THE PARTY FROM WHOM ALIMONY IS SOUGHT TO MEET HIS OR HER OWN NEEDS WHILE MEETING THE NEEDS OF THE OTHER PARTY: As discussed above, it remains unclear what Husband's income is. The only semi-solid source of income information from [Husband] is the 2023 [tax return] which reflects \$113,483 in total assets. . . . This is the tax return that shows \$78,094 in total deductions, which the Court does not accept as valid business expenses based on the above discussions. The Court assesses the valid deductions as \$34,242.80. This leaves ordinary business income as \$82,095.20 instead of \$38,244.00. This is a monthly income of \$6,841.26.

[Husband's] monthly personal expenses are inflated. [Husband] lists his current expenses as \$4,915.00. . . . [Husband's] expenses are assessed at \$1642.00 per month. With [Husband's] income assessed at \$6,841.26, he has excess income of \$5,199.26 per month.

It is noted that [Husband] has been paying approximately \$1000 per month in alimony. He stated he still gives his daughter some money but did not testify as to how much. At the time of the last hearing, it was \$300 per month. With

[Wife's] need being \$1715 per month, [Husband] has sufficient excess income (\$5199.26) to pay that amount.

THE FINANCIAL NEEDS AND RESOURCES OF THE PARTIES INCLUDING INCOME AND ASSETS, ANY AWARD UNDER THE MARITAL PROPERTY ACT, THE NATURE AND AMOUNT OF FINANCIAL OBLIGATIONS OF EACH PARTY, AND THE RETIREMENT ASSETS OF EACH PARTY

- a. Wife has no significant assets. Her car that she previously had was repossessed. She has some furniture from the home; however, it is in storage and she may lose it since she cannot pay the storage fee. Wife has limited income that varies but traditionally has been a minimum wage earner.
- b. Husband does not appear to have assets outside of his business, but his income is significantly greater than [W]ife's.
- c. The Court finds [Husband] has the ability to pay alimony. Taxes would have to be paid from his income so the court considers [Husband's] take home to be about \$6,000 per month. He has left over income after he pays his limited expenses.
- d. [Husband] has the ability to pay \$1715 per month.

Husband contends that he is in poor health—suffering chronic back pain and having a high risk of prostate cancer. Because of this alleged poor health, Husband asserts that he is unable to work for many more years, diminishing his ability to pay. Based on the income reported on his 2023 tax return, Husband argues that the circuit court's alimony award will “make[e] him the impoverished party.” We are unconvinced.

First, the circuit court properly considered Husband's age and health but concluded that the proffered evidence did not establish that Husband currently *has* prostate cancer. Considering Husband's risk of being diagnosed with prostate cancer in the future in

determining his health would be speculation. Second, as discussed above, the circuit court properly imputed to Husband a higher income than reported. We, therefore, reject Husband's argument concerning his ability to pay alimony in the amount of \$1,715 per month based on business deductions properly rejected by the circuit court. In sum, we conclude that the circuit court properly weighed the challenged FL § 11-106(b) factors and did not err in making its alimony determination.

3. *Indefinite alimony*

Similarly, we discern no error in the circuit court's conclusion that indefinite alimony was proper. The circuit court's relevant determinations are as follows:

DUE TO AGE, ILLNESS, INFIRMITY, OR DISABILITY, THE PARTY SEEKING ALIMONY CANNOT REASONABL[Y] BE EXPECTED TO MAKE SUBSTANTIAL PROGRESS TOWARD BECOMING SELF-SUPPORTING: [Wife] is 58 years old and has some physical limitations. Throughout adulthood, she has worked part-time and generally earned minimum wage. When she attended community college, difficulties in math prevented her from moving forward. Although she can partially support herself, it is unlikely she will become fully self supporting.

EVEN AFTER THE PARTY SEEKING ALIMONY WILL HAVE MADE AS MUCH PROGRESS TOWARD BECOMING SELF-SUPPORTING AS CAN BE REASONABLY EXPECTED, THE RESPECTIVE STANDARDS OF LIVING OF THE PARTIES WILL BE UNCONSCIONABLY DISPARATE: Even if Wife works full time at minimum wage, her gross income would be \$612 per week or \$2650 per month. Federally she would pay 12% in taxes. After taxes, she would bring home approximately \$2100 per month. Her income does not meet her expenses. Husband earns significantly more making their standard of living unconscionably disparate.

In arguing that indefinite alimony was improper, Husband contends that Wife is voluntarily underemployed and that his health and proximity to retirement age warrant a different result. Further, Husband contends that no unconscionable disparity exists.

As addressed previously, Husband’s argument that Wife is voluntarily underemployed is meritless because the circuit court imputed to Wife a full-time salary. Further, as we have previously indicated, Husband’s health and proximity to retirement age were properly weighed by the circuit court when determining his ability to pay. Husband’s health and age have no bearing on whether Wife can “reasonably be expected to make substantial progress toward becoming self-supporting[.]” FL § 11-106(c)(1). Because the circuit court did not err in determining Wife’s expenses, we discern no error in its conclusion that Wife cannot reasonably be expected to become self-supporting.

Similarly, we conclude that the circuit court did not err in finding an unconscionable disparity. As discussed, the circuit court’s income and expense determinations for both parties were not erroneous. As such, Husband’s monthly income is \$6,841.26—more than double the pre-tax monthly income imputed to Wife of \$2,650. Wife’s current income does not allow her to have even a modest apartment. Although Husband claims to live in his Elkridge office, there was also evidence that he stays, at least sometimes, at Ms. Enow’s home. Notably, the court found Husband’s testimony regarding his relationship with Ms. Enow to be uncredible. Accordingly, we find no error in the circuit court’s determination that an unconscionable disparity exists and, therefore, conclude that the award of indefinite alimony to Wife in the amount of \$1,715 per month was not erroneous.

II. The circuit court did not err in ordering Husband to pay \$10,000 toward attorneys' fees incurred by Wife.

A. The parties' contentions

Husband next contends that the circuit court erred in ordering him to pay \$10,000 toward Wife's attorneys' fees. According to Husband, because the circuit court improperly imputed a higher income to him, his financial resources were improperly assessed. Further, Husband asserts that he had substantial justification in maintaining the proceeding because he has merely sought an accurate determination of his income and equitable outcome. Given the previous remand ordered by this Court due to an insufficient basis provided for the circuit court's determination of Husband's income, Husband contends that ordering Husband to pay a portion of Wife's attorneys' fees is improper. Wife counters that the circuit court's award of attorneys' fees was proper because significant litigation costs have been incurred because of Husband's actions, namely his failure to provide all financial documents and his failure to keep a proper accounting of his finances.

B. The law of attorneys' fees

The award of attorneys' fees in alimony cases is governed by FL § 11-110.⁵ In relevant part, that statute requires circuit courts to consider two factors prior to ordering the payment of attorneys' fees: "(1) the financial resources and financial needs of both

⁵ In addition to an award of indefinite alimony, the first trial, which was the subject of *Koti I*, also resulted in the entry of an absolute divorce which was not appealed. To the extent that the award of attorney's fees is also predicated on litigation concerning the judgement of divorce, we note that the factors to be considered in making an award of attorneys' fees in a divorce case are the same as those delineated in FL § 11-110. *See* FL § 7-107(c).

parties; and (2) whether there was substantial justification for prosecuting or defending the proceeding.” FL § 11-110(c).

C. Analysis

Regarding attorneys’ fees, the circuit court’s opinion provides:

Having considered all factors required in FL § 7-107; FL § 11-110, the Court now addresses the matter of attorney’s fees:

Husband incurred: \$8,125 . . .
Wife owes: \$38,925.02 . . .

Both parties were reasonable in prosecuting and defending this action. Wife has no assets and [H]usband’s assets appear limited. Both parties have incomes, however, Wife’s income is limited even when she is working full-time. The fees incurred are reasonable. Wife’s attorney’s fees have continued to rise over time as Husband has continuously fought against paying alimony in this long-term marriage, during which [W]ife worked limitedly outside the home and worked generally for minimum wage.

It is reasonable in light of these circumstances, and taking the factors into account, as well as the other provisions for support, [Husband] shall pay \$10,000 directly to [Wife’s attorney] as contribution toward [Wife’s] reasonable counsel fees. Since [Husband] does not appear to have any assets, he can the fees monthly at a rate of \$400 for 25 months. His excess income allows for this amount to be paid monthly.

We discern no abuse of discretion in the circuit court’s award of attorneys’ fees.⁶

First, the court properly considered the financial resources and needs of both parties. As discussed previously, there was no error in the circuit court’s calculation of both parties’ respective incomes and expenses. Compared to Husband’s income, Wife’s income is

⁶ Husband does not challenge the reasonableness of the attorneys’ fees incurred by Wife. Accordingly, we do not address the reasonableness of such fees here.

modest, illustrating a clear financial need on Wife's part and financial resources available to Husband. Further, the circuit court's order that Husband pay monthly properly accounts for both Husband's lack of assets and his excess monthly income.

Second, the circuit court properly determined that both parties had sufficient justification to prosecute and defend this action. The court, however, also considered Husband's consistent fight against paying the court ordered alimony. Our review of the record leads us to conclude that such a conclusion was reasonable and not erroneous. To be sure, Husband was previously held in contempt for failing to make complete alimony payments to Wife. Further, the difficulties in assessing Husband's income identified in *Koti I* appear to largely be the product of Husband's failure to provide all necessary financial documents to support his claimed income. In such circumstances, we see no abuse of discretion in the circuit court's order that Husband pay \$10,000 toward attorneys' fees incurred by Wife.

CONCLUSION

For the foregoing reasons, we conclude that the circuit court did not err in awarding Wife indefinite alimony in the sum of \$1,715 per month. Further, we conclude that the circuit court did not err in ordering Husband to pay \$10,000 toward attorneys' fees incurred by Wife. We, therefore, affirm the judgments of the circuit court.

**JUDGMENTS OF THE CIRCUIT COURT
FOR HOWARD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**