Circuit Court for Prince George's County
Case No. CAD19-39048

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 546

September Term, 2021

S. O.

v.

H. M.

Berger,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: May 3, 2022

S. O. ("Husband") filed, in the Circuit Court for Prince George's County, a complaint for absolute divorce against H. M. ("Wife"), who subsequently filed a counter-complaint for absolute divorce. Following a hearing on the merits, the court entered judgment granting the parties an absolute divorce. In so doing, the court granted Wife sole legal and physical custody of the parties' minor child; ordered Husband to pay child support to Wife; ordered Husband to pay child support arrears to Wife; ordered Husband to pay temporary alimony to Wife; and identified and distributed the parties' marital assets. Husband thereafter noted this timely appeal, raising a number of issues as to the court's determinations and claiming the court exhibited bias against him.

For reasons to follow, we hold that the circuit court did not err in making its determinations regarding custody, support, or alimony. We also hold that Husband's claims of bias are without merit. We therefore shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Husband and Wife were married and had one minor child together, A.O., born in March 2019. In December 2019, Husband filed a complaint for absolute divorce. In February 2020, Wife filed a counter-complaint for absolute divorce, in which she sought alimony, primary physical custody of A.O., and child support. Husband later amended his complaint to request that he be given primary physical custody of A.O.

On October 13, 2020, the trial court held the first of several days of the merits hearing. On that first day, Husband testified that he and Wife were married in a religious ceremony on April 23, 2019. The court thereafter accepted into evidence a copy of the

parties' marriage license, which had been signed and issued by the State of Maryland and showed that the parties' date of marriage was April 23, 2019.

Husband testified that he worked as a certified public accountant. In 2010, Husband started his own accounting firm as a "side business" to supplement his other fulltime jobs. In 2020, Husband began working fulltime at his accounting firm. The court accepted into evidence copies of Husband's tax returns from 2017, 2018, and 2019.

Regarding the relationship between Husband and Wife, Husband claimed that Wife physically assaulted him and vandalized his property. Husband testified that he and Wife did not communicate well during the marriage, and that Wife left the marital home in April 2020 and never returned. Husband further testified that the parties were involved "in a protective order proceeding" that resulted in the issuance of a final protective order. Per the terms of that order, Husband had access to A.O. from 1:00 p.m. to 4:00 p.m. three days per week.

Husband testified that he currently lived in the family home, which was a four-bedroom home in Upper Marlboro. Husband had previously lived in the home with Wife and A.O. Husband testified that he was involved in raising A.O. from her birth until April 2020. Husband requested joint physical and legal custody, and he claimed that he and Wife were able to communicate about issues concerning A.O.

On cross-examination, Husband admitted that he and Wife had obtained a marriage license on November 27, 2015 and had subsequently wed in a religious ceremony on April 23, 2016. However, Husband testified that the license was never submitted to the court.

Husband also testified that he and Wife had both filed for a protective order against one another, following which the court denied his request but had granted Wife's request.

On redirect, Husband claimed that, although he did obtain a marriage license in 2016, he ultimately decided that he did not want to marry Wife because of her physical abuse and vandalism of his property. Husband testified that he subsequently prepared his and Wife's tax returns in 2017 and 2018 and that he listed them both as "single" on each return. Husband testified that, in 2019, he listed himself as "married" because that was when he "finally agreed to be married."

Wife testified that she moved out of the family home in July 2020 and that she and A.O. currently lived with Wife's parents in Glenn Dale. Wife testified that, while the parties were living together, she was almost exclusively responsible for tending to A.O.'s needs. According to Wife, Husband worked while she stayed home with A.O.

Wife requested primary physical custody and sole legal custody of A.O. Wife testified that A.O. had significant health problems that required consistent medical care. She testified that she had A.O. on a fairly regimented schedule, particularly as it relates to A.O.'s feeding. Wife further stated that A.O. had adjusted well to her current living arrangements.

Wife testified that she and A.O. eventually moved out of the family home because Husband "made life unbearable." According to Wife, Husband yelled and screamed frequently. Wife testified that Husband was known to turn off the lights, water, and internet at the family home so that she could not use them. Wife also testified that Husband had

been violent on a few occasions. On one occasion, Husband hit and choked Wife to the point that she passed out. On another occasion, Husband punched Wife in the face.

As to her employment history, Wife testified that she graduated college in the United States and then went to Mexico to attend medical school. Wife testified that, during the marriage, she worked part-time as an online teacher in an elementary school program. Wife testified that she earned very little money through that job.

As to the date of the parties' marriage, Wife testified that she and Husband obtained a marriage license in 2015 and were later married in a religious ceremony on April 23, 2016. According to Wife, Husband was responsible for ensuring that the marriage license was returned to the court. In 2018, Wife received a letter from the court indicating that it had not received the marriage license, and when she asked Husband about the letter, he claimed that he did not know anything about the issue. Wife testified that she and Husband held themselves out as husband and wife following the ceremony in 2016.

At the conclusion of Wife's testimony, the trial court recessed for the day and indicated that the parties would return to court at a later date, at which point Husband could begin his cross-examination of Wife. The court then stated that it would "continue the current arrangement . . . as far as the visitation is concerned."

On January 12, 2021, the parties returned to court and continued with Husband's cross-examination of Wife.[1] Husband appeared pro se. During the cross-examination, Wife

[1] The court held two hearings in the interim regarding allegations that Husband had failed to disclose certain documents. The substance of those hearings is not germane to the instant appeal.

testified that in or around December 2020, A.O. was diagnosed with infantile aversion sensory food aphasia, which affected her ability to eat and required ongoing medical treatment. As a result, A.O. needed to follow a strict diet and could not eat on her own. Wife also testified that she would be open to giving Husband more time with A.O. once A.O.'s medical situation was stabilized.

At the conclusion of Wife's testimony, the trial court took a brief recess. When the proceedings resumed, there was some discussion by Husband regarding Wife's testimony of A.O.'s medical issues.[2] The court stated that it had made its decision, and it determined that it was in A.O.'s best interest to continue the current custody arrangement. The court indicated a willingness to reexamine the arrangement on a later date "after some time has passed."

Husband thereafter provided direct testimony regarding the parties' "financial issues." Husband claimed that the only property he and Wife shared was a vehicle. Husband asked that the vehicle be retitled in Wife's name and that he be reimbursed for all payments made on the vehicle to date, which totaled $8,500.00.

On cross-examination, Husband claimed that virtually none of the parties' property, including the marital home, which Husband purchased in 2017, should be considered marital property. Husband also claimed that he earned approximately $5,000.00 per month. When confronted with his 2019 tax return, which showed that he made approximately

[2] The context of the discussion, including what proceeded Husband's comments, is not clear from the record. The transcript resumes mid-sentence.

$200,000.00 that year, Husband testified that he no longer made that much money because he quit his prior full-time job.

Wife, who was 35 years old, testified that she had no income. She stated that, in August 2020, the court ordered Husband to pay her $1,000.00 per month in family maintenance. That order was part of the final protective order that Wife had obtained against Husband. Wife testified that, at the court hearing that preceded that order, Husband had admitted that he earned over $200,000.00 per year. She also stated that Husband had been paying the family maintenance regularly. Wife testified that, although Husband had claimed, without providing proof, that he was also paying $500.00 per month for health insurance for A.O., A.O. received health insurance through the State.

Wife testified that, for a time during the marriage, she worked for Husband at his accounting firm. Wife stated that she "put off her medical career" so that she could raise A.O. and help Husband build his accounting business. She indicated did not have a job at the time of the hearing and that she was getting assistance from the government. Wife stated that she wanted to pursue her medical career but that she first needed to take her board exams, which involved some upfront costs and a brief time commitment. Wife testified that she had outstanding student loans and other debts related to certain medical and living expenses.

At the conclusion of the testimony, both sides gave closing arguments. The trial court made its credibility determination finding Wife's testimony to be credible, and finding Husband's testimony not to be credible stating that Husband had "absolutely zero credibility with the Court."

The trial court ruled that the custody arrangement would remain as set forth in the protective order, with Wife having primary custody and Husband having visitation three days per week for a three-hour period each day. Regarding child support, the court found that Husband was voluntarily impoverished. The court then imputed an income of $125,000.00 per year to Husband for the calculation of child support.

Regarding the date of the parties' marriage, the trial court found that the failure to file the marriage license did not defeat the fact that the parties were married in 2016. The court found that "the marriage occurred in April 2016." As to alimony, the trial court ordered Husband to pay $1,000.00 per month in temporary rehabilitative alimony. The court ruled that those payments would continue every month, provided that Wife was "in school getting her medical degree."

On January 14, 2021, Husband sent an email to the trial court asking the court to reconsider its rulings regarding, among other things, the date of the parties' divorce, alimony, custody, and child support. In that correspondence, Husband argued that the court should have found that the parties were married on April 23, 2019, as indicated in the parties' marriage license and marriage certificate. Husband also argued that his alimony obligation should be eliminated because "the period of marriage was extremely short (just 7 months)" and because he "was the victim of domestic violence during the marriage." Next, Husband asked that the court change the custody arrangement to "50/50" custody to permit him to be actively involved in A.O.'s life. Last, Husband asked the court to recalculate his child support obligation based on an income of $75,000.00 per year, in light of "the corona virus outbreak/pandemic and the unstable economic situation."

On May 6, 2021, the court held a hearing on the issues raised in Husband's correspondence. At that hearing, Husband reiterated his argument that the parties were married on April 23, 2019. The trial court ultimately rejected that argument, noting that its finding as to the date of the parties marriage was "a factual issue."

Husband then asked the trial court to amend its custody ruling so that he be given "50 percent legal and physical custody." Husband argued that he loved his daughter, and he believed the custody arrangement hindered his ability to be a part of her life. The court ultimately did not grant Husband's request to change the custody arrangement.

As to child support, Husband claimed that the trial court's finding as to his income was inflated and that the court should recalculate his support payments based on an income of $60,000.00. Husband reiterated the economic arguments cited in his email, and claimed that the court had "double counted" his income. The court rejected Husband's arguments and declined to amend its finding as to Husband's income.

Lastly, as to alimony, Husband again argued that $1,000.00 per month in alimony was excessive given that, according to Husband, the parties had just married on April 23, 2019. Husband also argued that the court's finding that he pay alimony while Wife was in medical school was erroneous because Wife had already graduated from medical school. The court rejected Husband's claims and declined to amend its alimony ruling.

On May 17, 2021, the trial court entered written judgment granting Wife's counter-complaint for absolute divorce. In that judgment, the court awarded Wife sole physical and legal custody of A.O. and granted Husband access to A.O. three times a week for three hours each day. The court found that Husband was voluntarily impoverished and that his

child support obligation should be calculated based on an income of $125,000.00 per year. The court calculated Husband's child support obligation to be $1,353.00 per month and ordered that Husband's obligation be applied retroactive to April 1, 2020. After giving Husband a credit of $8,000.00 for payments he had already made to Wife in family maintenance, the court found that Husband owed $10,942.00 to Wife in a child support arrearage. The court also ordered Husband to pay $1,000.00 per month in temporary rehabilitative alimony to Wife. The court found that those payments should be made while Wife "is studying for medical exams/taking review courses" and should continue for a period not to exceed nine months.

This timely appeal followed. Additional facts will be included as they become relevant to the issues.

ISSUES PRESENTED

Husband presents six issues for our review, which we have rephrased as follows:[3]

[3] Rephrased from:

1. Whether the Circuit Court committed legal error and abused its discretion when it ordered that the parties' effective date of marriage is April 23, 2016, and not April 23, 2019, as stated on parties' marriage certificate[], thereby improperly making non-marital property marital and unfairly strengthening [Wife's] claim for alimony.
2. Whether the Circuit Court committed legal error and abused its discretion when it granted [Wife] sole legal and physical custody of the parties' minor child, [A.O.], a ruling inconsistent with *Montgomery C[nty] v. Sanders, Taylor v. Taylor* and *Bienefeld v. Bennett White*.
3. Whether the Circuit Court committed legal error and abused its discretion when it granted [Wife] child support without full application of the Child Support Guidelines and applying a much greater income ($125,000) to [Husband] than the lower income ($58,000) proven by his tax filing.
4. Whether the Circuit Court committed legal error when it ordered [Husband] to pay [Wife] child support arrears.

I. Did the trial court err in finding that the parties were married on April 23, 2016, rather than on April 23, 2019, as claimed by Husband?

II. Did the trial court err in granting Wife sole legal and physical custody of the parties' minor child?

III. Did the trial court, when calculating Husband's child support obligation, err in imputing a yearly income of $125,000.00 to Husband?

IV. Did the trial court err in ordering Husband to pay child support arrears?

V. Did the trial court err in ordering Husband to pay alimony to Wife?

VI. Did the trial court exhibit bias against Husband and in favor of Wife?

We address each issue separately and, for the reasons that follow, conclude that the circuit court did not err. Therefore, we shall affirm.

DISCUSSION

"When reviewing an action tried without a jury, we review the judgment of the trial court 'on both the law and evidence.'" *Baltimore Police Dep't v. Brooks*, 247 Md. App. 193, 205 (2020) (quoting *Banks v. Pusey*, 393 Md. 688, 697 (2006)). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). Issues of law, however, are reviewed *de novo*. *Brooks*, 247 Md. App. at 205.

5. Whether the Circuit Court committed legal error and abused its discretion when it awarded [Wife] $1,000 in monthly alimony.
6. Whether the Circuit Court committed legal error and abused its discretion with its biased rulings against [Husband] and in favor of [Wife].

In addition, appellate review of a trial court's decision regarding child custody involves three interrelated standards. First, any factual findings are reviewed for clear error. *In re Yve S.*, 373 Md. 551, 586 (2003). Second, any legal conclusions are reviewed *de novo*. *Id.* Third, if the court's ultimate conclusion is "founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion." *Id*. A decision will be reversed for an abuse of discretion only if it is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* at 583–84.

Finally, "[i]n reviewing an award of alimony we defer[] to the findings and judgments of the trial court." *Ridgeway v. Ridgeway*, 171 Md. App. 373, 383 (2006) (second alteration in original) (quotations omitted). "We will not disturb an alimony determination unless the trial court's judgment is clearly wrong or an arbitrary use of discretion." *Id.* at 383–84 (citations and quotations omitted). "[A]bsent evidence of an abuse of discretion, the trial court's judgment ordinarily will not be disturbed on appeal." *Boemio v. Boemio*, 414 Md. 118, 125 (2010) (quoting *Solomon v. Solomon*, 383 Md. 176, 196 (2004)).

I. THE TRIAL COURT DID NOT ERR IN FINDING THAT THE PARTIES WERE MARRIED ON APRIL 23, 2016.

Husband first argues that the trial court erred in finding that the parties were married on April 23, 2016. He asserts that the evidence, and in particular the parties' marriage certificate and marriage license, conclusively established that the parties were married on

April 23, 2019. He contends that any testimony or evidence showing that the parties were married in 2016 was of no consequence because the parties' 2016 marriage certificate was never signed or registered in accordance with Maryland Code, Family Law Article ("FL") § 2-401.

In response, Wife maintains that evidence was adduced showing that the parties obtained a marriage license in 2015 and later wed in a religious ceremony on April 23, 2016. She further asserts that the lack of a signature on the 2016 marriage certificate did not affect the validity of the marriage, as this Court has found in *Trapasso v. Lewis*, 247 Md. App. 577 (2020). She contends, therefore, that the court's finding as to the parties' marriage date was not clearly erroneous.

"Under Maryland's common law, 'a religious ceremony, in celebration of the civil contract, was sufficient to make the marriage lawful.'" *Trapasso*, 247 Md. App. at 588 (quoting *Feehley v. Feehley*, 129 Md. 565, 569 (1916)). Maryland continues to recognize ceremonial marriages under the common law as valid. *Id.* at 588–90. FL § 2-401 states that "[a]n individual may not marry in this State without a license issued by the clerk for the county in which the marriage is performed." FL § 2-401(a). This Court has made clear, however, that FL § 2-401 is "directory and not mandatory, so that a marriage performed without a license is nevertheless valid." *Picarella v. Picarella*, 20 Md. App. 499, 512 (1974); *accord Trapasso*, 247 Md. App. at 589–90. As we have noted, licensing statutes like FL § 2-401 "are not held to have the effect of nullifying, for noncompliance with their terms, a marriage valid at common law, unless such an intention is plainly disclosed."

Trapasso, 247 Md. App. at 588 (quoting *Feehley*, 129 Md. at 569). Thus, the parties' failure to comply with FL § 2-401 did not invalidate their otherwise valid marriage.

Here, both parties testified that they obtained a marriage license on November 27, 2015 and that they wed in a religious ceremony on April 23, 2016. That evidence was sufficient to render the parties' marriage valid as of April 23, 2016. The trial court's finding as to the effective date of the marriage was therefore supported by the evidence. That there may have been other evidence to the contrary does not render the court's finding clearly erroneous. *See Velicky v. Copycat Building LLC*, 476 Md. 435, 445 (2021) ("A trial court's findings are not clearly erroneous if *any* competent material evidence exists in support of the trial court's factual findings.") (citations and quotations omitted) (emphasis added).

Husband argues that *Trapasso* is distinguishable because, in that case, the parties executed a separate "marriage agreement" prior to getting married. He is mistaken. The relevance of the marriage agreement in *Trapasso* was to exemplify the parties' intent to be married, not to establish a marriage agreement as a necessary prerequisite to a valid marriage. In the instant case, Husband and Wife's intent to be married was established by the fact that they applied for a marriage license in November 2015, celebrated that union via a religious ceremony a few months later, and, according to Wife's testimony, subsequently held themselves out as husband and wife. That they did not execute a separate marriage agreement is immaterial. We hold the circuit court did not err in concluding that the parties were married on April 23, 2016.

II. THE TRIAL COURT DID NOT ERR IN GRANTING WIFE SOLE PHYSICAL AND LEGAL CUSTODY OF THE PARTIES' MINOR CHILD.

Husband next claims that the trial court erred in granting Wife sole custody of A.O. Husband argues that the court, in making its determination, did not properly consider the requisite factors, particularly Husband's desire to share custody and maintain family relations. Wife counters that the court's decision was proper and not an abuse of discretion.

In *Montgomery Cnty. Dep't of Social Servs. v. Sanders*, 38 Md. App. 406 (1977), this Court set forth a non-exclusive list of factors a trial court should consider when making a custody determination. *Id.* at 420; *see also J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 249 (2021). Those factors include: the parents' fitness; the parties' character and reputation; the parents' desire; any agreements between the parties; the potential of maintaining natural family relations; the child's preference; any material opportunities affecting the child's future; the child's age, health, and sex; the parents' residence and the opportunity for visitation; the length of separation from the natural parents; and any prior voluntary abandonment or surrender. *Sanders*, 38 Md. App. at 420.

In *Taylor v. Taylor*, 306 Md. 290 (1986), the Court of Appeals set forth a non-exhaustive list of factors a trial court should consider when determining whether a joint custody arrangement is appropriate. *Taylor*, 306 Md. at 303–11. Those factors, some of which overlap the factors outlined in *Sanders*, include: the capacity of the parents to communicate and reach shared decisions affecting the child's welfare; the willingness of the parents to share custody; the fitness of the parents; the relationship established between the child and each parent; the preference of the child; any potential disruption to the child's

social or school life; the geographic proximity of parental homes; the demands of parental employment; the age and number of children; the sincerity of the parents' request; the financial status of the parents; any impact on State or Federal assistance; and the benefit to the parents. *Id*.

"When considering the *Sanders-Taylor* factors, the trial court should examine the totality of the situation in the alternative environments and avoid focusing on or weighing any single factor to the exclusion of all others." *Jose v. Jose*, 237 Md. App. 588, 600 (2018) (citations and quotations omitted). "The primary goal of access determinations in Maryland is to serve the best interests of the child." *Conover v. Conover*, 450 Md. 51, 60 (2016). "The best interest of the child is therefore not considered as one of many factors, but as the objective to which virtually all other factors speak." *Taylor*, 306 Md. at 303. "Accordingly, trial courts are entrusted with 'great discretion in making decisions concerning the best interest of the child.'" *Gizzo v. Gerstman*, 245 Md. App. 168, 200 (2020) (quoting *Petrini v. Petrini*, 336 Md. 453, 469 (1994)).

Against that backdrop, we hold that the trial court did not err in granting Wife primary physical and sole legal custody of A.O. The record shows that the court heard evidence on most, if not all, of the aforementioned factors and ultimately made its decision after considering the evidence in light of the totality of the situation and A.O.'s best interests. According to that evidence, A.O., who was approximately two years' old at the time of the court's judgment, was primarily in Wife's care while the parties lived together and then was almost exclusively in Wife's care after Wife moved out of the family home in 2020. The evidence also established that A.O. had serious medical issues requiring

consistent monitoring and that Wife was almost exclusively responsible for ensuring that those needs were met. Additionally, the evidence indicated that A.O. had adjusted well to her environment outside the family home and was thriving under the established custody arrangement, which had been in place for almost a year following the court's entry of the final protective order.

As to Husband, the evidence established that he had physically assaulted Wife on at least two occasions and had engaged in other acts of torment while the parties were living together. Although Husband denied those claims and alleged that Wife was the aggressor in the relationship, the court did not find Husband's testimony to be credible. Husband presented no evidence that the trial court found to be credible that showed how he had cared for A.O. either prior to or after she moved out of the family home, nor did he present any evidence for how he planned to care for A.O. were he to be given greater access. Given those circumstances, we cannot say that the trial court abused its discretion in refusing Husband's request for joint custody.

Husband also argues that the trial court's ruling was "inconsistent with Maryland law because there is no indication that the court applied any of the factors required for initial custody determinations." Husband argues that, had the court engaged in that analysis, it would have found that he was entitled to joint custody.

We remain unpersuaded. To be sure, it does not appear that the trial court engaged in an on-the-record discussion of each of the factors prior to making its custody determination. That does not mean, however, that the court did not consider those factors or that the court's decision was necessarily erroneous. As noted, the record shows that the

court considered the evidence and made a sound decision based on that evidence and A.O.'s best interests. Aside from his claim that the court would have made a different determination had it consider certain factors,[4] Husband has presented no evidence that the court did not consider those factors before making its decision.[5]

III. THE TRIAL COURT DID NOT ERR IN IMPUTING A YEARLY INCOME OF $125,000.00 TO HUSBAND.

Husband next claims that the trial court erred in calculating his yearly income at $125,000.00. Husband argues that the court's decision was contrary to his testimony, in which he claimed that he earned $58,000.00 in 2020. Husband also argues that the court did not specify how it determined his support obligation to be $1,353.00 per month and that the court failed to state what income was attributed to Wife in reaching that figure. Wife contends that the trial court correctly found that Husband was voluntarily impoverished, and did not err in choosing to impute an income based on Husband's previous salary.

[4] In claiming that the court's determination would have been different, Husband highlights only a few of the factors, namely, his willingness to share custody, his interest in maintaining family relations, and his concern over the disruption in A.O.'s life as a result of the divorce. To the extent that Husband is claiming that the court would have reached a different conclusion had it focused solely on those factors, that claim is unpersuasive. Such a myopic analysis would have contravened the court's duty to "examine the totality of the situation in the alternative environments and avoid focusing on or weighing any single factor to the exclusion of all others." *Jose*, 237 Md. App. at 600.

[5] A trial court need not enumerate its analysis of each statutory factor so long as its consideration of the necessary factors is apparent in the record. However, clear enumeration may be a best practice.

"Title 12 of the Family Law Article of the Maryland Code sets forth a comprehensive scheme with regard to parental child support that considers the income of each parent." *Dillon v. Miller*, 234 Md. App. 309, 318 (2017) (citations and quotations omitted). The statutory scheme defines "income" as "(1) actual income of a parent, if the parent is employed to full capacity; or (2) potential income of a parent, if the parent is voluntarily impoverished." FL § 12-201(i). A parent is "voluntary impoverished" if he or she "has made the free and conscious choice, not compelled by factors beyond his or her control, to render himself or herself without adequate resources." *Dillon*, 234 Md. App. at 319 (citations and quotations omitted).

In determining whether a parent is voluntarily impoverished, a court should consider several factors, including: the parent's current physical condition and education, the parent's work history and efforts at becoming gainfully employed, the timing of any change in the parent's employment or financial circumstances relative to the divorce, and the parties' relationship during the marriage. *Id*. "A circuit court's finding of voluntary impoverishment will be affirmed if, after viewing the record in the light most favorable to the prevailing party, it is supported by any competent, material evidence in the record." *Id.*

"Once a court determines that a parent has become voluntarily impoverished, the court must determine the party's potential income." *Petitto v. Petitto*, 147 Md. App. 280, 317 (2002). "'Potential income' means income attributed to a parent determined by the parent's employment potential and probable earnings level based on, but not limited to, recent work history, occupational qualifications, prevailing job opportunities, and earnings levels in the community." FL § 12-201(m). In making that determination, a court should

consider: age; mental and physical condition; assets; educational background, special training, or skills; prior earnings; efforts to find and retain employment; the status of the job market in the area where the parent lives; actual income from any source; any other factor bearing on the parent's ability to obtain funds for child support. *Petitto*, 147 Md. App. at 317–18.

"Nevertheless, a parent's potential income is not the type of fact which is capable of being verified, through documentation or otherwise," and "any determination of potential income must necessarily involve a degree of speculation." *Malin v. Mininberg*, 153 Md. App. 358, 406–07 (2003) (citations and quotations omitted). "If the potential income amount calculated by the circuit court is realistic, and the figure is not so unreasonably high or low as to amount to [an] abuse of discretion, [then] the court's ruling may not be disturbed." *Dillon*, 234 Md. App. at 320 (citations and quotations omitted) (alterations in original).

We hold that the trial court did not err in imputing an income of $125,000.00 per year to Husband and in determining his child support obligation to be $1,353.00 per month. Initially, Husband is mistaken in claiming that the court did not provide any details regarding Wife's income or how Husband's support obligation was calculated. The court included in the record a child support worksheet, which showed Husband and Wife's monthly income before taxes, their related expenses, and their respective obligations. According to that worksheet, the court found that Wife made $0 per month, that Husband made $10,416.00 per month, and that neither of the parties had any related expenses to offset those figures. Using those figures, the court determined Husband's obligation to be

$1,353.00 per month. That determination was consistent with Maryland's child support guidelines. *See* Md. Code, Fam. Law § 12-204.

As to Husband's income, we cannot say that the figure reached by the trial court was so unreasonably high as to amount to an abuse of discretion. Indeed, Husband claimed that he only earned $60,000.00 per year (or $5,000.00 per month) as a self-employed accountant. It is clear, however, that the court did not find Husband's testimony to be credible. Instead, the court rejected Husband's claims, found that he was voluntarily impoverished, and assessed his potential income based on his prior earnings. According to Wife's testimony, Husband reported earning $200,000.00 in either 2019 or 2020. That testimony was supported by Husband's 2019 tax return, which showed that he made approximately $200,000.00 that year. As to Husband's salary from his accounting business, the court expressed skepticism regarding his reported income and intimated that Husband's financial records suggested that he made significantly more money, perhaps as much as $200,000.00, in 2020. Given that evidence, the court's decision to impute an income of $125,000.00 per year to Husband was not clearly erroneous or an abuse of discretion.

Husband claims, as he did at trial, that the trial court "double counted" his income from his accounting business, which caused the court's assessment of his income to be inflated. We disagree. Again, it is clear from the record that the court did not find Husband's testimony to be credible regarding his purported actual income and instead chose to impute a potential income of $125,000.00 per year. As discussed, there was ample evidence to support that determination.

Finally, Husband claims that the trial court "gave no explanation for its voluntary impoverishment ruling and such lack of basis for the ruling renders it an abuse of discretion." He is mistaken. The court was not required to explain its ruling. Rather, the court need only consider the party's circumstances prior to making its ruling, which it did. Because there is competent, material evidence in the record to support that ruling, the court's decision was not erroneous.

IV. THE TRIAL COURT DID NOT ERR IN ORDERING HUSBAND TO PAY CHILD SUPPORT ARREARS.

Husband next claims that the trial court erred in ordering him to pay child support arrears. He asserts that the court's decision to apply his child support obligation retroactive to April 2020 was unjustified, given that he had "been caring for [A.O.] from her birth until [Wife] moved out of their marital residence" and had "dutifully paid [A.O.'s] monthly medical and dental insurance." Husband also notes that he had "made monthly payments to [Wife] up through the time of their divorce." Wife responds that Husband has failed to demonstrate how the court's decision is inconsistent with the applicable law. We agree with Wife.

Pursuant to FL § 12-101(a)(3), when a party has filed a pleading requesting child support, "the court may award child support for a period from the filing of the pleading that requests child support." "The decision to make a child support award retroactive to the filing of [the complaint] is a matter reserved to the discretion of the trial court." *Petitto,* 147 Md. App. at 310.

Here, the trial court made Husband's child support obligation retroactive to April 2020, which was several months after Wife had filed her counter-complaint seeking child support. Then, in using that date to calculate Husband's arrears, the court credited Husband for the monthly payments he made to Wife pursuant to the protective order. That the court did not credit Husband for the "care" he provided A.O. up until she moved out of the marital residence is understandable, given that Husband testified that Wife and A.O. left the residence in April 2020. The court was likewise justified in not crediting Husband with payments he allegedly made for A.O.'s health and dental insurance, given that, aside from his own disputed testimony, Husband presented no evidence to show that those payments were made. As such, we cannot say that the court abused its discretion in ordering Husband to pay $10,942.00 to Wife in child support arrears.[6]

V. THE TRIAL COURT DID NOT ERR IN ORDERING HUSBAND TO PAY REHABILITATIVE ALIMONY TO WIFE.

Husband next claims that the trial court erred in ordering him to pay $1,000.00 per month to Wife in rehabilitative alimony. Husband argues that the court's award was not "fair and equitable" and that the court failed to properly consider the requisite factors before reaching its decision. Wife counters that the court's decision was supported by the evidence and was not an abuse of discretion.

[6] Husband also argues that the court's decision was unjustified "because the parties were married on April 23, 2019." Why Husband has highlighted the dispute over the marriage date is unclear. We are unable to discern what effect, if any, a marriage date of April 23, 2019 would have had on the court's decision.

FL § 11-106 provides that the trial court has the discretion to make an award of alimony to either party and to determine the amount of and the period for such an award. FL § 11-106(a). "In making that determination, the court shall consider all the factors necessary for a fair and equitable award[.]" Md. Code, Fam. Law § 11-106(b). Those factors include:

> (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
> (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
> (3) the standard of living that the parties established during their marriage;
> (4) the duration of the marriage;
> (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
> (6) the circumstances that contributed to the estrangement of the parties;
> (7) the age of each party;
> (8) the physical and mental condition of each party;
> (9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;
> (10) any agreement between the parties;
> (11) the financial needs and financial resources of each party, including:
> (i) all income and assets, including property that does not produce income;
> (ii) any award made under §§ 8-205 and 8-208 of this article;
> (iii) the nature and amount of the financial obligations of each party; and
> (iv) the right of each party to receive retirement benefits; and
> (12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

FL § 11-106(b).

We hold that the trial court did not err in ordering Husband to pay $1,000.00 per month to Wife in rehabilitative alimony. The evidence adduced at trial established that, at the time of the divorce, Wife had no income, was living in her parents' home, was relying

on governmental assistance, and was taking care of A.O., who had significant medical problems. Husband, on the other hand, was gainfully employed, was living in the parties' marital home, and was relatively unencumbered. As to Wife's employment prospects, although Wife did have a medical degree, which she had obtained just prior to the marriage, she testified that she had put off taking her board examinations during the marriage to help Husband with his business and to take care of A.O. Wife testified that she planned to take those exams and become employed as a doctor, but that she needed to take some review courses first, which required some upfront costs. The court thereafter ordered Husband to pay $1,000.00 per month in alimony, but restricted the payments to when Wife would be "studying for medical exams/taking review courses" and limited the total alimony period to nine months.

Given those circumstances, we cannot say that the court abused its discretion. The court's decision was fair and equitable and exhibited consideration of the relevant factors.

VI. HUSBAND'S CLAIMS OF BIAS ARE UNFOUNDED.

Husband finally claims that the trial court "committed legal error and abused its discretion with its biased rulings against [Husband] and in favor of [Wife]." Husband presents several examples of his perceived bias by the court.[7] First, Husband claims that the court made it difficult for him to present his case during a hearing held on December 23, 2020, and during the merits hearing held on May 6, 2020. Husband asserts that he was

[7] Husband includes, as one of his examples, the trial court's ruling that he was voluntarily impoverished. That issue was not included in this section, as we discussed that ruling in Section III.

"practically ignored by the trial court," was not consulted when the court scheduled hearing dates, and was generally denied a fair and impartial trial. Second, Husband asserts that the court erred in awarding "his 2014 BMW to [Wife] but without any compensation to him" and in refusing to consider debt in excess of $90,000.00 that Husband "largely incurred during the marriage but from which [Wife] benefited." Third, Husband claims that the court ignored his allegations that Wife had vandalized his property.

We hold that Husband's claims of bias are without merit. There is no indication in the record that the trial court ignored Husband or failed to consider Husband's evidence and arguments fairly and impartially. To the contrary, the record makes plain that the court exhibited patience and professionalism throughout the proceedings. The record also makes plain that the court allowed Husband significant leeway in the presentation of his case, and that the court gave due consideration to Husband's evidence and arguments before rendering its various decisions. In short, Husband's claims that he did not receive a fair and impartial trial are unsupported by the record.

Husband's claims regarding the trial court's division of marital property and Wife's vandalism of his property are equally without merit. The record shows that the court considered all evidence presented and reached a fair and equitable decision based on that evidence. That Husband disagrees with the court's decision does not mean that the court was biased. *See Reed v. Baltimore Life Ins. Co.*, 127 Md. App. 536, 556 (1999) ("Maryland

adheres to a strong presumption that a trial judge is impartial[.] . . . Bald allegations and adverse rulings are not sufficient to overcome the presumption of impartiality.").

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.