Circuit Court for Montgomery County
Case No. 114631 FL

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 578

September Term, 2021

EMMANUEL D. BOT

v.

MEGAN MCFARLAND

Beachley,
Shaw-Geter,
Wells,

JJ.

Opinion by Wells, J.

Filed: January 10, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellant and Cross-Appellee Emmanuel Bot ("Father") appeals from several rulings which the Circuit Court for Montgomery County made after a hearing on Appellee and Cross-Appellant Megan McFarland's ("Mother") request to modify custody. Relevant to the issues raised in this appeal, the circuit court ruled, *first*, Mother did not owe Father any unpaid child support in light of the childcare expenses Mother paid; *next*, that Mother would not be required to pay child support going forward under the new order; and, *finally*, that Father was to pay Mother $25,000.00 in attorneys' fees.

Father now presents three questions for our review, which we have rephrased[1]:

1. Did the trial court deviate from the child support guidelines without justification, and thus err in terminating Mother's child support obligation?

2. Did the trial court err by crediting the childcare expenses Mother paid towards unpaid child support?

3. Did the trial court abuse its discretion in ordering Father to pay Mother $25,000.00 in attorneys' fees?

[1] Father's verbatim question presented on appeal are:

1. Did the trial court err by deviating from the child support guidelines without following the dictates of MD. ANN. CODE, FAMILY L. ART. 12-202(a)(2)(ii) and terminating appellee's child support obligation as of March 19, 2021, despite the fact the child support guidelines required her to pay $1,002.00 per month?

2. Did the trial court err by crediting the daycare expenses appellee paid for her daycare towards the unpaid child support?

3. Did the trial court err in ordering appellant to pay $25,000.00 in attorneys' fees to appellee as punishment for not going to mediation and where the appellant primarily prevailed at trial?

On cross-appeal, Mother presents the following three questions, which we have also rephrased[2]:

1. Did the trial court abuse its discretion in not awarding Mother's post-trial petition for counsel fees?

2. Did the trial court commit reversible error by not finding that Father's wife was a *de facto* parent?

3. Did the trial court fatally err in not finding that Father maintained "coercive control" over Mother?

Perceiving no reversible error in either set of contentions, we affirm.

PROCEDURAL AND FACTUAL BACKGROUND

The Original Custody Agreement and Support Order

Father and Mother are the unmarried parents of a minor child, who was 10 years old at the time of the modification hearing. Mother also has two children of her own: one adult

[2] Mother's verbatim questions presented on cross-appeal are:

1. Whether the trial court erred in failing to consider [Mother's] post trial petition for counsel fees when her exhibit concerning counsel fees that was considered was introduced roughly halfway through trial.

2. Whether the trial court erred by failing to reach findings on the constitutional significance of [Father's current wife] as caretaker of the minor child when she had significant involvement in care and testimony concerning her role in care was clearly inconsistent.

3. Whether the trial court's failure to reach findings on the issue of coercive control was reversible error when there was expert testimony concerning specific examples of coercive control and the evidence demonstrated that [Father] engaged in harassing communications; attempted to trade sex for visitation, and publicly and privately castigated [Mother].

and one minor, for whom she testified she is the sole provider. Father married Erin Bot ("Mrs. Bot") in January 2014 and has two children with her.

On September 23, 2013, the parties entered into a Custody Agreement that provided in relevant part that:

- Father was to have primary physical custody of the child.
- Both parties would have joint legal custody, but if a dispute arose, Father would act as tiebreaker.
- Mother had no child support obligation.
- Mother was required to maintain health insurance for the child.
- The parties would divide evenly the costs of the child's unreimbursed medical and dental expenses.

About nine months later, June 30, 2014, the parties executed an addendum to the custody agreement that modifying some portions. The court issued a Consent Order that incorporated (but did not merge) the agreement and the addendum. The chief modifications specified in the addendum were that Mother was now to pay $225.00 per month in child support and that she would be solely responsible for all of the child's unreimbursed medical and dental expenses.

Mother's $225.00 monthly child support obligation was calculated using a "WORKSHEET A – CHILD SUPPORT OBLIGATION" form completed by the court, that factored in each parent's monthly income before taxes, each parent's percentage of the parties' shared income, how many nights per year the child spent in each parent's physical custody, and expenses for each parent relating to work-related childcare, health insurance,

extraordinary medical expenses, cash medical expenses, and additional expenses. Father's only listed expense was $930.00 for work-related childcare expenses.

According to Father, Mother did not thereafter consistently pay her monthly child support obligation. The parties exchanged increasingly heated emails over this. For example, in response to a September 2018 message from Father, Mother stated that not only had she been paying her child support obligation, but she was paying for all the child's school-year childcare (which she said was necessary because Father refused to agree to other arrangements) and for the summer childcare while the child was in her physical custody. Essentially, Mother complained that she was shouldering a disproportionate amount of costs when the child support order was premised upon Father paying $930.00 in monthly childcare expenses.

On October 15, 2018, Mother emailed Father saying that she would like to make some changes to the parties' custody agreement. Specifically, Mother believed it was in the best interests of the child for her to obtain primary physical custody. She explained she was also seeking specific changes in the agreement regarding custody on holidays and birthdays. She suggested a specific mediator who could help the parties resolve the issues rather than returning to court. After a series of text messages/emails on this topic, the parties could not agree on how to proceed.

On November 19, 2018, Mother filed motions to modify custody and visitation, and for contempt, among other things. On February 4, 2019, Father filed a motion to increase child support. The court dismissed Mother's motions without prejudice at a hearing on May 10, 2019. On June 4, 2019, Mother filed amended motions.

Hearing to Modify the Custody Agreement

With no mediation having occurred, a hearing on the issues of modification of custody (both legal and physical), visitation, child support, contempt, declaratory judgment, Best Interest Attorneys'(BIA) fees, and attorneys' fees, began October 26, 2020. The trial continued through October 29, 2020, and then December 1-2, 2020, with closing arguments on January 22, 2021.

At the hearing, Mother presented almost all of the witnesses who testified, including Mother's neighbor, a real estate agent who previously assisted Mother and Father in searching for a home, a former roommate of Mother's, a co-worker of Mother's, two of Mother's friends, Mother's 18-year-old son, "Ms. Doan[3]", an expert in the effects of domestic violence, Mother's aunt, and Mother's mother. A BIA also participated in the hearing.

Mother and Father each testified as to their relationship with the child and their grievances about co-parenting. Mother also testified that she and Father had had a sporadic, sometimes nonconsensual, sexual relationship since June 2014. Mother's attorney argued these details were relevant since "the coercive actions of [Father] have something to do with the responses of [Mother] . . . only recently has she stood up for herself . . . [Father's] treatment of her is relevant, especially when it rises to this level."

Ms. Bot did not testify, but her deposition testimony, discussing her role in taking care of the child, was read into evidence.

[3] This expert witness' name is misspelled in the record extract as "Donne."

The trial court delivered its ruling orally in a ninety-minute hearing on March 19, 2021, and then entered a written order dated March 24, 2021. The trial court made several factual findings, among which were:

- After crediting her payments for childcare paid against the amount she owed in child support, the court found that Mother had overpaid child support.
- The parties had a sexual relationship at some point after the 2014 consent order, but the court did not find that the sexual encounters were nonconsensual, as Mother alleged.
- The parties' relationship was now far worse than it was when the 2014 consent order was entered.

The court made the following rulings:

- Both parties' petitions for contempt were denied.
- After considering the *Taylor*[4] and *Sanders*[5] factors, both parties would share legal custody, but Father would have primary physical custody. In other words, the court denied Mother's request to modify physical custody and kept in place the existing arrangement.
- Mother would have regular visitation on alternating weekends during the school year and alternating weeks during the summer.
- Both parties would have physical custody on alternate holidays and on the child's birthday.
- Mother's child support obligation was terminated.
- Father was to pay 69% and Mother 31% of the child's extraordinary medical expenses. The percentages were the proportion that each parent would have contributed to child support under the guidelines based on their incomes.

[4] *Taylor v. Taylor*, 306 Md. 290 (1986).

[5] *Montgomery Cnty. Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406 (1977).

- Each party would be solely responsible for the cost of any childcare used while the child was in his or her custody.

- The parties were to pay the expenses of the BIA according to the 69% to 31% ratio

- Father was to pay Mother $25,000.00 in attorneys' fees.

In response to both parties' motions to alter or amend the order, the trial court held another hearing on May 14, 2021. At that time, the court heard additional argument from both parties and explained the reasoning for its prior rulings. The court's order remained unchanged as it relates to this appeal and cross-appeal, which both timely followed.

Additional facts relevant to each issue will be supplied below.

STANDARD OF REVIEW

Because Father and Mother raise questions of law, fact, and the exercise of the court's discretion, different standards of review will guide our analysis. To begin, "[c]hild support orders are generally within the sound discretion of the trial court." *Knott v. Knott*, 146 Md. App. 232, 246 (2002). Indeed, a "trial court's child support award in an 'above-guidelines' case is reviewed under the abuse of discretion standard." *Karanikas v. Cartwright*, 209 Md. App. 571, 596 (2013). "However, where the order involves an interpretation and application of Maryland statutory and case law, [the] Court must determine whether the trial court's conclusions are legally correct under a de novo standard of review." *Knott*, 146 Md. App. at 246 (internal quotations and citations omitted). Likewise, a *de novo* standard of review applies when this Court reviews the construction and interpretation of a child support agreement or a judicial decree imposing child support. *See Kramer v. Kramer*, 26 Md. App. 620, 630 (1975) (explaining that the interpretation of

agreements and judicial decrees regarding child support is akin to contract interpretation); and *PaineWebber Inc. v. East*, 363 Md. 408, 413 (2001) (explaining that construction of a separation agreement, to be guided by principles of contract interpretation, "is a question of law for the court and, therefore, is subject to *de novo* review"). And we review factual findings of the trial court for clear error. Md. Rule 8-131. *See Reichert v. Hornbeck*, 210 Md. App. 282, 304 (2013) (using the clearly erroneous standard for review of factual findings in a child custody dispute).

Finally, we review decisions concerning the award of attorneys' fees for an abuse of discretion. *Petrini v. Petrini*, 336 Md. 453, 468 (1994). "An award of attorneys' fees will not be reversed unless a court's discretion was exercised arbitrarily or the judgment was clearly wrong." *Id.* (citing *Danzinger v. Danzinger*, 208 Md. 469, 475 (1955)).

DISCUSSION

Father's Issues

I. The Trial Court Did Not Abuse its Discretion When It Deviated from the Child Support Guidelines and Terminated Mother's Child Support Obligation.

A. Parties' Contentions

Father contends that, as here, where the parents' combined income exceeds the highest income level of the child support guidelines (an "above-guidelines" case), a *per se* child support obligation in the minimum amount of the highest guidelines award is mandated. *Voishan v. Palma*, 327 Md. 318 (1992). Thus, according to Father, the court should have required Mother to pay a minimum of $1,002.00 per month—the highest

monthly obligation in the guidelines prior to October 1, 2020,[6] for parents with a combined adjusted income of $10,000.00. MD. CODE ANN., FAM. LAW ("F.L.") § 12-204(d) (2019). Father seems to acknowledge, however, that the trial court may deviate from the guidelines even in this circumstance, if it first balances the best interests and needs of the child with the parents' financial ability to meet those needs and then makes a finding that the application of the guidelines would be unjust or inappropriate. Father argues because no such finding was made, the court abused its discretion in deviating from the guidelines and terminating Mother's child support obligation.

Mother counters that the court made the required finding for deviating from the guidelines. In Mother's opinion, the court properly found that because she was responsible for the financial support of her other children and for maintaining health insurance as well as paying other medical expenses for the minor child, Mother had overpaid in child support. She also argued that Father had a substantial income that greatly exceeded her own, and that the child was doing well as a result of the parties' providing for him directly given their incomes.

B. Analysis

Family Law Section 12-202(a)(1) provides that in any proceeding to establish or modify child support, the court must use the child support guidelines in F.L. § 12-204. Those guidelines consist of a schedule which provides monthly obligation amounts based on the combined adjusted actual income of the parents—currently up to $15,000, but prior

[6] Father states the court was correct to find that the pre-October 1, 2020 guidelines applied, so we do not revisit or discuss this issue.

to October 1, 2020 and at the time of Father and Mother's custody agreement, up to $10,000.00—and the number of children due support. F.L. § 12-204(e). Section 12-202(a) also states that "[t]here is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines . . . is the correct amount of child support to be awarded," *id.* at (a)(2)(i), and that "[t]he presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case." *Id.* at (a)(2)(ii). Courts may consider many factors in making an "unjust or inappropriate" determination, including:

> 1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the terms of any use and possession order or right to occupy to the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order; and
>
> 2. the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

Id. at (a)(2)(iii). However, factor #2 may not form the sole basis for rebuttal. *Id.* at (a)(2)(iv). If the trial court does determine application of the guidelines would be unjust or inappropriate, it "shall make a written finding or specific finding on the record stating the reasons for departing from the guidelines." *Id.* at (a)(2)(v)1. Those findings must state:

> A. the amount of child support that would have been required under the guidelines;
> B. how the order varies from the guidelines;
> C. how the finding serves the best interests of the child; and

> D. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.

Id. at (a)(2)(v)2.

On the other hand, if the combined actual income of the parents exceeds the highest level in the schedule (an "above-guidelines" case), "the court may use its discretion in setting the amount of child support." F.L. § 12-204(d). In such a case, "the trial court need not use a strict extrapolation method to determine support, but may employ any rational method that promotes the general objectives of the child support Guidelines and considers the particular facts of the case before it." *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018) (internal quotations and citations omitted). This Court and the Court of Appeals have previously explained the general objectives of the child support guidelines:

> A child is entitled to a standard of living that corresponds to the economic position of the parents. As the Court [of Appeals] said in *Voishan*, 327 Md. at 322, a child should enjoy "the same proportion of parental income, and thereby enjoy the standard of living, he or she would have experienced had the child's parents remained together."

Smith v. Freeman, 149 Md. App. 1, 23–24 (2002). The Court in *Voishan* further explained the legislature's declination to set guidelines for incomes above a certain amount, relative to that underlying principle:

> The legislative judgment was that at such high-income levels judicial discretion is better suited than a fixed formula to implement the guidelines' underlying principle that a child's standard of living should be altered as little as possible by the dissolution of the family.

327 Md. at 328 (quoting Attorney General of Maryland's Amicus Curiae brief).

Because that underlying principle is not to be discarded even in above-guidelines cases, this Court has recognized, and Father correctly points out, "*Voishan* also suggests that, in an above Guidelines situation, the maximum support under the Guidelines is ordinarily the starting point with regard to an appropriate child support award." *Smith*, 149 Md. App. at 20 (citing *Voishan*, 327 Md. at 325). To be clear though, the trial court is not *required* to award that highest support obligation or greater; it may use its discretion to award a lesser amount. *Otley v. Otley*, 147 Md. App. 540, 562 (2002). But if it awards a lesser amount, it is "incumbent upon the court to fully explain the reasoning for its decision as to the amount of child support." *Id.* Where a trial court has not awarded at least the highest amount of support in an above-guidelines case *and* failed to explain its deviation from the guidelines, this Court has vacated the award. *Id.* at 561 (vacating an above-guidelines child support award for less than the maximum support of $985.00, where the trial court stated only that it saw no reason to go above the $952.00 to which the parties had previously agreed).

When exercising its "significant discretion" in an above-guidelines case, a court "must balance the best interests and needs of the child with the parents' financial ability to meet those needs." *Kaplan v. Kaplan*, 248 Md. App. 358, 387 (2020) (quoting *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018)). In setting child support obligations, relevant factors for the court's consideration include "the parties' financial circumstances, the 'reasonable expenses of the child,' . . . and the parties' 'station in life, their age and physical condition, and expenses in educating the child.'" *Id.* (quoting *Smith*, 149 Md. App. at 20).

Here, it is undisputed that the parties' combined income makes this an above-guidelines case. But the trial judge deviated from the guidelines calculation by not awarding Father at least the highest support amount in the schedule and instead awarded no support. Several interrelated questions are now before us: *First*, whether the trial court made the required specific findings as to "the amount of child support that would have been required under the guidelines." *Second*, "how the order varies from the guidelines." *Third*, "how the finding serves the best interests of the child." F.L. § 12-202(a)(2)(v)2. *Fourth*, whether the court balanced those best interests with the financial abilities of Father and Mother. *Kaplan, supra*, 248 Md. App. at 387. *Finally*, whether the award was ultimately made without abandoning the general objective of the guidelines—ensuring that the child "enjoy[s] the standard of living, he or she would have experienced had the child's parents remained together." *Smith*, 149 Md. App. at 23.

For the sake of completeness, we reproduce here the relevant portions of the court's March 19, 2021 oral ruling relieving both parties of an obligation to pay child support:

> [T]he law permits modifications of child support when there have been changes, certain change in circumstances.
> …
> And here I believe that there's been a clear change in circumstances with regard to the party's incomes. In 2014 plaintiff's monthly actual income was $11,635 per month as shown by the worksheet that was attached to the 2014 order. His actual income now is $17,292 per month. The defendant's income in 2014 was $5,666 per month and it is now $7,725 per month.
>
> Now as the law stands today, this is an above guidelines case. The new threshold with the guidelines doesn't take effect until October 1st of this year. So in Maryland this is an above guidelines case, that's how I need to handle it. And I can use my discretion in determining what will be appropriate but I am still to keep an eye on what would be done under the income shared model which is what the guidelines are based on, that's what *Voishan* tells

us. And that's why we so often just extrapolate from the guidelines. And there was very little evidence presented with regard to expenses for your son. And as I said by extrapolating I believe I'm still following the policies as the income-share model which the legislature has adopted and so I've gone ahead and extrapolated.

Now I will note I did not receive evidence with regard to the cost of health insurance for maintain[ing] your son *[sic]*. There was an amount listed on [Mother's] financial statement but it wasn't broken out for me. Also there was not evidence with regard to daycare expenses. Now during a strict application of an extrapolation of the sole custody guidelines because the number of overnights I have here it's still fewer than 128 nights. I think it came up to like 115 to 117 nights. And of course that changes from year to year depending on when those holidays fall but it's in that range.

So a strict application of the guidelines and I've done the worksheet with the pre-October 1, 2020 guidelines and that's what an application of law would be at this time. . . . And this case since it was filed before October 1, 2020 the old method with the cliff is still the law as of today.

Now if we were in a post-October 1, 2020 guidelines, this would not be a cliff case because it goes back I think as few as 92 overnights and they start to smooth out. So this case falls right in the middle of all of that where under the pre-October 1, 2020 guidelines [Mother] would owe [Father] $1,002 per month. Under the post October 1, 2020 guidelines [Father] would owe [Mother] $136 per month. And I'm going to docket both child support guideline worksheets and of course they'll be shielded but so that becomes part of the record as given these circumstances.

So I've got a situation where this is an above guidelines case. I've got the clearly different amounts that would be called for under pre- or post-October 1, 2020 guidelines. And I've taken all of that into consideration and I've gone back to the child support guidelines tell me that I can deviate from the guidelines if I feel it would be unjust and inappropriate to follow the guidelines. And I want to point out this is an extrapolation of the guidelines. So I find that under either circumstance it would be unjust and inappropriate to use either the pre or post guidelines because I feel that [the child] is enjoying a lifestyle that his parents have been able to provide for them [sic] given their incomes. And that's really what I want done and I think that's what the law requires me to make sure is done.

So I'm not going to order any child support at all. Neither party is going to be obligated to pay child support to the other.

The judge then ordered that the parties split extraordinary medical expenses in proportion to their actual monthly income, and that each party would be solely responsible for any childcare costs when the child was in either parent's care.

From our view, the trial court made the required statutory findings. The court calculated what the support award would be under both the then-extant and newly created guidelines and contrasted that projection with the court's actual award. The judge did not exercise his discretion arbitrarily. The judge made clear that he considered the change in the parties' incomes, and most importantly, explained that he felt the parties were able to provide for the child's needs and accustomed lifestyle without any support obligations from either parent. In his brief, Father characterizes this decision as one that "absolve[s] [Mother] of her duty to support [the minor child]," but we read the trial court's explanation differently. In light of the contrasting obligations called for by the pre- and post-October 1, 2020 guidelines—either of which under the Family Law Article would be presumptively correct—there is no obvious "answer" as to whether or which of the parents should owe the other a child support obligation. Moreover, the trial judge appeared to be considering the ability of each parent to provide for the child while in his or her exclusive care—not whether Mother, exclusively, ought to be paying support to Father since the child was in his physical custody more often.

Based on this record, we cannot conclude that allowing each party to financially support the child without a child support order was an abuse of discretion. We consider that in the years before the March 2021 support order was signed, Mother paid Father $225.00 per month in child support. After an undisputed material change in circumstances,

namely a-near-50% increase in Father's income (compared to a 36% increase in Mother's income), it would seemingly make little sense to more than quadruple Mother's monthly obligation to Father, as calculated.

We also cannot say that the trial court's ruling abandoned the general objectives behind the guidelines. Father argues that by reducing Mother's child support obligation to zero, the parties' son "could not enjoy a standard of living reflecting the substantial income increase in both his parents' incomes." But, in our view, the chief objective of the guidelines—that a child "enjoy the standard of living[] he or she would have experienced had the child's parents remained together," *Smith*, 149 Md. App. at 23—is still accomplished here. The trial court's ruling reflects its view that during the time the child is with either parent, he continues to enjoy the standard of living to which he was accustomed.

This view is further borne out in the May 14, 2021 post-judgment motions hearing, where the court offered clarification of its decision. The trial judge explained:

> [Father's attorney] is such a good advocate, but I disagree with her on the point that [Mother] is not paying anything. She is paying for things when [the child] is with her; and, think about it, [Father's] supposed to be paying this proportionate share of those expenses just as [Mother's] supposed to be paying her portion share of the expenses when [the child] is with his dad. So, I balanced all that. I looked at their financial circumstances and I kept coming back to [the child's] station in life, the life he's leading, is not being affected by his parents not living together. He's, he still has a good life ahead of him where, and they have the financial wherewithal to meet those expenses that he has without adversely, adversely affecting his station in life and his standard of living. So, I went into this in great detail because I was using my discretion. I've used those guidelines as a guide and I, I'm, I'm comfortable with the decision that I made.

In light of the above, we hold the trial court did not abuse its discretion in deviating from the child support guidelines by terminating Mother's child support obligation.

II. The Trial Court Did Not Err in Crediting Mother the Childcare Expenses She Paid Against Her Child Support Obligation.

A. Parties' Contentions

The trial court found Mother was not obligated to pay for childcare under the parties' agreement. Consequently, the court reasoned, the amount Mother had previously paid for childcare should be counted as child support because it was for the child's benefit.

Father does not disagree with crediting Mother the childcare payments. But he alleges the court failed to explain why it credited Mother for all of the childcare expenses she paid, rather than only the portion that would have been attributed to him. He reasons the court should have done this because, as just discussed, the court's order provided that each party would be solely responsible for child support when the child was in his or her care.

Although Mother did not separately address this issue in her brief, she states in her recitation of the facts that the court found that she "overpaid childcare expenses and determined that the parties agreed that she would pay work-related daycare expenses in lieu of child support."

B. Analysis

The trial court's interpretation of a prior agreement on custody and child support is a question of law.[7] In which case this Court's review is

> concerned with the construction and interpretation of an agreement for child support we follow the objective law of contracts which requires us to determine, from the language of the agreement itself, what a reasonable person in the position of the parties would have thought the agreement meant at the time it was effectuated. The same principle would, of course, be followed if we were concerned with a similarly worded judicial decree imposing child support.

Kramer v. Kramer, 26 Md. App. 620, 630 (1975) (internal citations omitted).

The court found that Mother had paid $5,162.00 to the Fairfax County School Age Childcare Program from 2017 through September 30, 2020. The court found that Mother's childcare payments benefited the child and Father because the evidence showed that he was working outside of the home and could not take care of the child himself. The court then concluded that the $5,162.50 was to be counted toward the overall amount of child support Mother was to have paid for that 57-month period: $12,825.00 ($225.00 per month). Since Mother had also given Father 41 checks totaling $10,075.00 for that period, the court found that Mother overpaid Father $2,412.50 in child support.

[7] Although Mother states in her brief that the trial court found that a specified email exchange between the parties constituted an agreement that Mother would pay childcare expenses in lieu of child support, we do not see that the trial court made such a finding. To be sure, we also do not interpret the exhibit Mother references to constitute such an agreement. Upon review of the email exchange in the record, we can see only that when Mother mentioned such an agreement to Father, Father's response was that no such agreement ever existed. Since the trial court appeared not to make a finding on this point, and Mother does not specifically raise it as an issue, we do not review any finding regarding the email exchange.

We do not find persuasive Father's argument that the trial court erred by not assessing exactly how much of that childcare was utilized during the time the child was in Father's custody. As a preliminary matter, we do not find it determinative that the court's March 24, 2021 order states that "each party shall be solely responsible for the cost of any daycare expense he or she incurs during the time the minor child is with him or her pursuant to the access schedule provided herein." No similar specific language is found in the portions of the custody agreement and addendum that were in effect for the time period at issue in the October 2020 trial. The fact that the trial court ordered this arrangement moving forward does not mean this was its interpretation of the agreement that had been in place.

Next, it appears the trial court, in fact, did make an assessment at least similar to the one Father claims it should have made in determining how much of the childcare expenses benefited Father. The trial court stated that it found Father benefited from that childcare. And there was evidence in the record on which the court could rely to establish that fact. Records showed when Father went to work in the District of Columbia, with corresponding times and dates of childcare usage. Father does not explain why this evidence should be discredited and we will not disturb that finding.

But even if evidence of Father's work schedule were not introduced, we think the trial court's finding that the childcare Mother paid benefited the child, is significant. Particularly without any language barring such a result in the custody agreement, it was within the trial court's discretion to award a parent credit for an expense paid, even if the activity paid for also benefited that parent.

We step back to note that the purpose of child support is not to equalize the amount of support a parent provides for the child. Child support is, quite literally, meant to provide for the support of the child. As previously discussed above, the calculus is to ensure the support the parents individually provide does not fall short of financial support that would have been provided "had the child's parents remained together." *Voishan*, 327 Md. at 322–23. Thus, if the custody or support agreement does not say otherwise, it may be of no moment whether the child was in the exclusive care of one parent at the time he received a service or benefit such as childcare.

Given that no language in the original custody agreement required called for Mother to pay for childcare, it was within the sound discretion of the trial court judge to determine that those expenses, which she actually paid, could be credited toward her child support obligations. While this may not have been the only possible assessment of the situation, we cannot say it was an abuse of discretion in this instance.

III. The Trial Court Did Not Abuse its Discretion in Ordering Father to Pay $25,000.00 in Attorneys' Fees to Mother.

A. Parties' contentions

Father contends the trial court erred in failing to consider, what, according to him, are several of Mother's shortcomings, such as failing to arrange mediation after Father agreed to it; making meritless demands for irrelevant information from Father; and opposing the BIA's motion to postpone the hearing after Father consented. Father contends the trial court also failed to consider the parties' respective financial needs and resources, where Mother's financial circumstances were financially superior to Father's.

Mother counters, *first*, that Father conceded in his written opposition that he refused to engage in mediation. Mother also states that Father's refusal to participate in mediation was only one of the considerations the trial court made in determining Father should pay Mother counsel fees. *Second*, the court properly considered the financial resources and needs of each party. *Finally*, Mother argues that pursuant to the parties' custody agreement, she was to be awarded counsel fees. Under the agreement, Father was not to seek fees himself. So, Mother argues, Father's breach of the agreement was another reason for the court awarded her counsel fees.

B. Analysis

"Decisions concerning the award of counsel fees rest solely in the discretion of the trial judge." *Petrini v. Petrini*, 336 Md. 453, 468 (1994) (citing *Jackson v. Jackson*, 272 Md. 107, 111–12 (1974)). The proper exercise of such discretion is determined by evaluating the judge's consideration of the facts of the particular case, as well as his or her application of the statutory criteria found in section 12-103(b) of the Family Law Article. *Id.* That criteria includes "the financial status of each party; the needs of each party; and whether there was substantial justification for bringing, maintaining, or defending the proceeding." *Id.* at 467; F.L. § 12-103(b). "Consideration of the statutory criteria is mandatory in making the award and failure to do so constitutes legal error." *Petrini*, 336 Md. at 468 (citing *Carroll Cnty. v. Edelmann*, 320 Md. 150, 177 (1990)). "An award of attorneys' fees will not be reversed unless a court's discretion was exercised arbitrarily or the judgment was clearly wrong." *Id.* (citing *Danzinger v. Danzinger*, 208 Md. 469, 475 (1955)).

We conclude that the trial judge did not abuse his discretion in awarding attorneys' fees to Mother. *First*, the trial judge considered the mandatory statutory criteria found in F.L. § 12-103(b). He explained, in relevant part, in his March 19, 2021 ruling:

> So for exercising my discretion with regard to awarding the fees I am required to consider three things. And the first is was there substantial justification for a party to bring or defend the action. And my interpretation of that is if it was not substantial justification I shall award reasonable fees. I always point that out and I'm going to make a specific finding that both parties were justified in bringing and defending the actions here. So no awarding of fees is mandatory in this case.
>
> Then before I use my discretion I have to consider the financial resources and the financial needs of each party which I've done.

Second, although the judge did not state his findings on the parties' financial resources and needs at that particular time, he made detailed findings on each item earlier in his oral ruling. For instance, when assessing the parties' requests to modify child custody, the judge explained that he had reviewed the parties' financial statements, noting their respective salaries, mortgages, credit card debt, and retirement accounts and plans. And later, when the judge was explaining that there had been a material change in circumstances regarding the parties' income (as a prerequisite to ordering a change in child support obligations), the judge stated both parties' incomes in 2014 and at present, with Father's monthly income having increased by $5,657.00 to $17,292.00, and Mother's monthly income having increased by $2,059.00 to $7,725.00.

The trial judge also considered the facts of the particular case, most notably—as Father points out—his regret over the absence of mediation. The judge stated in his discussion of attorneys' fees:

> What I'm not pleased with is mediation was not done and it should've been done in this case. So I've taken that into consideration as well. And I feel that's so important as I indicated I have completely vacated the prior order except for that one provision because I'm concerned issues are going to come up again in the future and I want you to mediate when those issues come up first.

Father says it was error for the trial judge to consider only the lack of mediation, and to ignore Mother's faults. We address this contention first by stating that we do not agree that the only consideration the trial judge made was Father's alleged unwillingness to engage in mediation. The excerpted portions of the ruling above demonstrate the other considerations the court made. The trial judge also reiterated the bases for his decision in the May 14, 2021 post-judgment motions hearing, when he addressed this contention directly with Father:

> I think you're putting too much emphasis on my comment that I think that [Father] should have gone to mediation; but when it comes to attorneys' fees, I look at the parties, well, I go through the steps . . . ad nauseum. You know what steps. Was there a substantial justification? And I, and I said, yes, I believe in bringing and defending the case; then I look at the parties' respective financial circumstances. Then I will also look, is there something that I thought that one party or the other should have done, and I commented on that; but that wasn't the only reason for my order of attorneys' fees.

The court even listened to additional argument from both parties, nonetheless concluding:

> [On] this issue, I did review, what I'm required to do, which was the substantial justification for both parties to bring the arguments that they brought to the Court of either being, or asking for affirmative relief, or defending against affirmative relief. I also reviewed their financial circumstances and [Father] does earn twice as much as . . . [Mother]. I did point out, though, I thought that they should have gone to mediation; I still believe that.
>
> I also did find, contrary to [Father's] testimony under oath, [he and Mother] had a sexual relationship and it adversely affected the child. So, I did take all of that into consideration. So, with that being said, and for the reasons I stated

> when I gave my ruling, I believe it's fair and appropriate for the plaintiff to pay attorneys' fees in the amount of $25,000, okay?

Finally, beyond these considerations, we note that, outside of the mandatory statutory criteria, it is within the trial judge's discretion to determine what facts are relevant to an award of attorneys' fees, and it is likewise the province of the trial judge to determine the credibility of the parties and their claims. Because it is clear to us from our review of the detailed ruling (amounting to 50 typed pages in the record) that the trial judge did not exercise his discretion arbitrarily, and because we cannot say his judgment on this issue is "clearly wrong," we do not disturb this award of attorneys' fees to Mother.

Mother's Issues on Cross-Appeal

IV. The Trial Court Did Not Err in Declining to Award Mother's Counsel Fees Requested in Her Post-Trial Petition.

Mother raises several arguments under this issue. *First*, Mother contends that it was reversible error under Maryland Rules 2-702(a), 2-703(b) and (c)(2) for the trial court to not have made a pretrial determination whether "evidence regarding the party's entitlement to attorneys' fees or the amount thereof may practicably be submitted during the parties' cases-in-chief with respect to the underlying cause of action or should await . . . a finding by the court with respect to that underlying cause of action," since the parties' agreement had a fee shifting provision. *And,* Mother alleges that it was a procedural due process violation for the court to refuse to consider her attorneys' fees after trial, when it considered Father's fees later on, such that Father's submitted fees covered more of the trial than Mother's. Father counters that the rules in the chapter on "Claims for Attorneys' Fees and Related Expenses" are inapplicable to actions under the Family Law Article according to

2-702(b). Father adds that Mother's petition for attorneys' fees submitted after trial did not constitute evidence, and did nothing to demonstrate "reasonableness," and thus could not be considered.

Rule 2-702 provides the scope of the chapter on "Claims for Attorneys' Fees and Related Expenses" in civil cases. Rule 2-702(a) provides:

> Subject to section (b) of this Rule, the Rules in this Chapter apply to actions in which, by law or contract, a party is entitled to claim attorneys' fees from another party.

It also contains the Committee note:

> Maryland generally follows the "American Rule" under which a party is not liable for the attorneys' fees of another party unless such liability is provided for by law or by a contract between the parties.

Id. Subsection (b) excludes from the scope of these rules "an action under Code, Family Law Article where an award of attorneys' fees does not depend on the applicant's having prevailed in the action or on any particular claim or issue in the action[.]" Rule 2-702(b).

The parties' September 23, 2013 custody agreement includes provisions regarding attorneys' fees, both of which remained intact following the June 30, 2014 addendum. The provision regarding enforcement provides:

> Should either party sue the other for breach or default of any of the terms of this Agreement, the prevailing party shall receive from the losing party his/her reasonable attorneys' fees and costs incurred in defending this Agreement or securing the other party's performance by litigation, provided that the party seeking enforcement initiated mediation as provided for in Paragraph 5.6.

Rule 2-703(b) provides the procedure for the party seeking attorneys' fees:

> A party who seeks attorneys' fees from another party pursuant to this Rule shall include a claim for such fees in the party's initial pleading or, if the grounds for such a claim arise after the initial pleading is filed, in an amended pleading filed promptly after the grounds for the claim arose.

Here, Mother satisfied this requirement by including her claim for attorneys' fees in her answer to Father's initial motion to increase child support, and again in her Amended Motion for Modification of Custody, Visitation, and Child support and for Declaratory Relief, where she sought to enforce parts of the custody agreement she alleged were not being followed by Father.

Finally, Rule 2-703(c) provides:

> Unless the court orders otherwise, if a claim for attorneys' fees is made pursuant to this Rule, the court shall conduct a scheduling conference and, as part of a scheduling order entered pursuant to Rule 2-504 shall:
> …
> (2) determine whether evidence regarding the party's entitlement to attorneys' fees or the amount thereof may practicably be submitted during the parties' cases-in-chief with respect to the underlying cause of action or should await a verdict by the jury or finding by the court with respect to that underlying cause of action[.]

Mother states that the court neglected to make a pretrial determination and asserts that failure was reversible error. She does not direct us to a scheduling order, or to anywhere in the extensive record that explains what, if anything, transpired at the scheduling conference regarding the submission of this evidence. Moreover, Mother cites no legal authority for her claim of reversible error.

Our own search yields no case law citing Rule 2-703(c), that deem a court's failure to make such a determination reversible error. We also do not know whether Mother asked the court to make this determination before trial, nor do we know Mother's position on the

issue of waiver, if she did not ask for the pretrial determination. As we have cautioned before, "appellate courts cannot be expected to either (1) search the record on appeal for facts that appear to support a party's position, or (2) search for the law that is applicable to the issue presented." *Ruffin Hotel Corp. of Maryland v. Gasper*, 418 Md. 594, 618, 690 (2011) (citing *State Roads Comm'n v. Halle*, 228 Md. 24, 32 (1962) ("Surely, it is not incumbent upon this Court, merely because a point is mentioned as being objectionable at some point in a party's brief, to scan the entire record and ascertain if there be any ground, or grounds, to sustain the objectionable feature suggested.")).

Our review of the record reveals that the court permitted Mother to submit her attorneys' fees through October 29, 2020 during her case-in-chief, totaling $96,030.23. Father submitted his attorneys' fees through December 2, 2020 during his case-in-chief, totaling $82,443.25.

Perhaps the most vexing issue for us is Mother's claim that the court committed reversible error by not even *considering* her post-trial petition for attorneys' fees. In her brief, Mother provides only the following statements (with no citations to the record) to describe what transpired:

> [U]pon request by counsel for an opportunity to submit a fee petition, the court appeared to grant this request then later refused to consider the petition.
> …
> [T]he trial court, claiming it was not in evidence, refused to consider [Mother's] post trial counsel fee request, even after granting her the opportunity to submit it.

At oral argument before this Court, Mother argued that the circuit court declined to consider her subsequent request to introduce updated attorneys' fees at trial. But the record

reveals the contrary. On the final day of the trial, December 2, 2020, during Mother's rebuttal closing argument the following transpired:

> [COUNSEL FOR MOTHER]: Your honor, I'd make a proffer that I, that I am providing, proffering, an exhibit with my updated attorneys' fees because, you know, the last hearing ended and a new hearing started up. So, in the alternative, what I could do is I could submit the attorneys' fees with a proposed finding of facts instead of with evidence. I believe that, that they come in with an affidavit under the law and I would submit an affidavit like I did before.
>
> THE COURT: [Counsel for Father?]
>
> [COUNSEL FOR FATHER]: No, Your Honor. This is rebuttal. He's put, this is rebuttal. I believe he put in his attorneys' fees earlier and my client certainly did not testify about anything in his case about [Counsel for Mother's] fees for [Mother].
>
> THE COURT: [Counsel for Mother?]
>
> [COUNSEL FOR MOTHER]: **I'm not offering it right now, Your Honor. I'm just trying to establish that I can offer them as part of the findings of fact.**
>
> THE COURT: Well, your findings of fact that I'm going to be requesting is based upon the evidence that's been presented at trial.
>
> [COUNSEL FOR MOTHER]: Your Honor, how about this? I have a number of cases, including Federal cases that I work on under the Federal system. Typically, what happens, there's a petition after the fact submitted with the attorneys' fees because you don't, if they're moving target, you don't know what they're going to be. I'll submit that petition, along with the authority that I believe allows the Court to grant attorneys' fees as part of the findings of fact.
>
> THE COURT: All right. Well, **you can file what you want after the trial**. **Right now, this is outside the scope of the rebuttal case.**
>
> [COUNSEL FOR MOTHER]: Very well, Your Honor.

(Emphasis added). Although the trial court said that evidence of updated attorneys' fees were "outside the scope of the rebuttal case," Counsel for Mother said that he was "not offering" that evidence during rebuttal, but "trying to establish" that he could offer them as part of her proposed findings of fact. Contrary to what Mother now seems to argue, the trial court clearly permitted her attorney to assert his request for attorneys' fees after the trial.

In fact, Mother filed a petition for award of counsel fees on January 21, 2021. Although that petition largely focused on Mother's right *to supplement* her previous request for attorneys' fees—stating Mother "seeks to supplement the request for counsel fees," this petition was before the court months before it issued its oral ruling on March 19, 2021. At that time, the court awarded Mother $25,000.00 in attorneys' fees. It is apparent to us that the court simply declined to award Mother the $100,000.00 she requested in her January petition.

The only other reference we can find to Mother's post-trial attorneys' fees petition is at the post-judgment motions hearing of May 14, 2021. At that time, Father's counsel questioned the court's decision to award Mother $25,000.00 in attorneys' fees, alleging that he did not have adequate financial resources to pay the award. Mother disputed Father's supposed inability to pay, and then argued the following:

> And just in terms of the petition for attorneys' fees . . . I think that the way that attorneys' fees operate, the many cases that I've seen, and particularly in Federal Court, that after the litigation, a petition for attorneys' fees is filed; and it's . . . resolved that way. **So, we filed our petition**. We showed what her actual expenses are. **I think the Court had the right to consider that petition. I don't . . . know that the petition was ever upheld, but I believe**

> **the Court has the right to consider that.** I don't believe they have to come in formally into evidence[.]

(Emphasis added). Mother then concluded:

> So, I, the Court, I think, very carefully—I think it took an hour for the Court to read its, its findings of fact and conclusions of law in this case; **but I think the, the Court very carefully went through all these issues, very carefully weighed all these issues and reached the right decision.**

(Emphasis added).

To summarize what transpired. Mother states in her brief that the circuit court refused to consider her post-trial petition on grounds her updated fees were not in evidence. From our review, we determine:

1. The trial court allowed Mother to submit her attorneys' fees as evidence during her case-in-chief.

2. The trial court did not permit Mother to update her evidence of attorneys' fees during her rebuttal closing argument.

3. But the trial court permitted Mother to file a post-trial petition with updated attorneys' fees.

4. Importantly, Mother submitted her post-trial request for attorneys' fees before the court issued its final ruling.

5. When the court announced its ruling from the bench, the trial court did not award Mother the full amount of attorneys' fees that she requested in her post-trial petition.

6. And, critically, at a later hearing, Mother

    a. did not challenge the award to her of $25,000.00 in attorneys' fees;
    b. did not allege the court did not consider the post-trial petition;
    c. but stated the court had *the right* to consider the petition; and
    d. concluded the court "went through all these issues" and "reached the right decision."

None of these events, taken separate or together, comport with Mother's allegation on appeal that the court did not consider her post-trial petition because it was not in evidence. We are unclear as to why Mother is sure that the court did not at least consider her post-trial petition. While there is no doubt the trial court did not award the relief she requested, the issue Mother raises is whether the "trial court erred in *failing to consider*" it. (Emphasis added). Mother has not directed us to anywhere in the record that demonstrates the trial court's refusal to even consider her post-trial petition. Notably, she also did not raise any claim to that effect in the post-judgment motions hearing in May—four months after she submitted her post-trial petition for fees and two months after the trial court awarded her $25,000.00 in fees—even stating after her own discussion of the attorneys' fee issue that the court "reached the right decision."

Further, we do not find that the legal authority Mother cites in her brief requires a trial court to grant a post-trial petition for counsel fees. In her brief, Mother says that under Rule 2-702(b), "the trial court may, in a custody case, determine a method for post-trial submission of counsel fee petitions." That Rule provides:

> (b) Particular Claims. The procedural requirements of these Rules do not apply to claims for attorneys' fees (1) in an action under Code, Family Law Article where an award of attorneys' fees does not depend on the applicant's having prevailed in the action or on any particular claim or issue in the action; (2) in a proceeding under Rules 1-341 or 2-433, or any other Rule permitting an award of reasonable attorneys' fees as a sanction or remedy for the violation of a Rule or court order; (3) by an attorney for legal services rendered by the attorney to the attorney's client; or (4) in an action to foreclose a lien under Title 14 of the Maryland Rules. In determining the reasonableness of any requested fee in the proceedings enumerated in this section, the court may apply some or all of the evidentiary requirements and standards set forth in the Rules in this Chapter, as appropriate under the circumstances.

Rules 2-702. The last sentence—the only applicable part of the Rule to this circumstance—still does not mandate such consideration by the trial court.

We also do not find *Admiral Mortgage*, cited in Mother's petition, dispositive. The issue in *Admiral Mortgage* was whether the determination of attorneys' fees and costs should be made by the jury or the judge. 357 Md. at 553. Mother cites this case to say our appellate courts have taken a favorable view of attorneys' fees petitions. But the most relevant statement we find is that "[a]ttorneys' fees and costs . . . may continue to accrue after the verdict is rendered, if post-trial motions or appeals are filed." *Id.* at 547. Yet this observation by our Court of Appeals was for the purpose of explaining why "the jury cannot determine them definitively," and that "[a]ttorneys' fees, moreover, when allowed, have traditionally been set by the judge, who is usually in a far better position than a jury to determine what is reasonable." *Id.* at 547–48. We do not interpret this to amount to a rule that trial courts must consider or grant post-trial petitions for attorneys' fees.

Finally, Mother cites *Drolsum v. Horne*, 114 Md. App. 704, 714 (1997), arguing that it was a procedural due process violation for the trial court to allow Father to calculate his attorneys' fees later in trial than Mother. We do not readily see—and Mother does not explain—the applicability of *Drolsum*, a case involving a trespass action for a mailbox erected on, and a truck having driven on, the plaintiffs' property. *Id.* at 706. The plaintiffs claimed their due process right to a fair trial was violated when the trial court denied their motion to compel discovery of the past whereabouts of the person they suspected of driving on their property. *Id.* at 711. But this Court rejected that argument. *Id.* at 714. The only other part of the opinion we imagine Mother may be referring to is the statement that due

process requires "at some stage an opportunity to be heard *suitable to the occasion* and an *opportunity* for judicial review[.]" *Id.* at 713 (quoting *Wagner v. Wagner*, 109 Md. App. 1, 23-25 (1996)) (emphasis in original). But we do not find this standard resolves the issue in Mother's favor. Not knowing where else in or outside of this opinion to look for support, this contention comes to a dead-end.

We reiterate that the award of attorneys' fees is within the sound discretion of the judge. In the absence of any evidence that the trial court refused to consider Mother's post-trial petition, and of legal authority that such an award would be required in this case, we do not reverse or remand on this issue.

V. The Trial Court Did Not Err in Not Finding that Father's Wife Became a *De Facto* Parent to the Child

Mother asserts that because there was substantial evidence indicating that Father's wife, Mrs. Bot, was responsible for taking care of the parties' child during Father's custodial time, the trial court should have made a finding as to Mrs. Bot's parenting role. As best we can tell, Mother's argument is premised on her assumption that Mrs. Bot was in reality the custodial parent (rather than Father), and, therefore, Mrs. Bot became a *de facto* parent. But Mother then goes on to argue why Mrs. Bot cannot establish *de facto* parenthood.

Father counters that the trial court was not required to make such a finding where Mother did not raise this issue with the circuit court. Father adds that Mother essentially asks this Court for an advisory opinion concluding that Father is "bad," because Mother wants the custody order affirmed, regardless of any findings regarding Mrs. Bot.

Mother relies on two sources of legal authority for her argument. *First*, she references *Troxel v. Granville*, 530 U.S. 57 (2000) to say that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of biological parents to make decisions concerning the raising of their children. Of course, we do not disagree with this long-standing principle. *Second*, Mother directs us to *Conover v. Conover*, 450 Md. 51 (2016) to say that a party seeking to establish *de facto* parenthood must prove four factors. *Conover* is wholly inapplicable to this case. There, the Court of Appeals held that a non-biological parent could prove *de facto* parent status as a way to establish standing to contest custody. *Id.* at 437.

But at trial, Mrs. Bot did not attempt to establish standing to contest custody. She was not a party, nor did she testify at trial. The evidence adduced below consisted of some testimony from Father, Mrs. Bot's deposition, where she testified, among other things, that the child calls her "Mom" by his own choosing, that she attended a meeting with the child's teacher with Father a year prior, that she has taken the child to before-care and picked him up from school on occasion, and that she signs off on the child's homework each week. This evidence, even if believed, does not suggest to us that Mrs. Bot was seeking custody herself—or even that she held a larger parental or custodial role than Father did when the child was in his care. Because we do not readily conceive of any other persuasive framing of this argument, we reject it. *See Ruffin Hotel Corp. of Maryland, supra*, 418 Md. at 618, 690 (citing *State Roads Comm'n v. Halle*, 228 Md. 24, 32 (1962) ("[A]ppellate courts cannot be expected to . . . search for the law that is applicable to the issue presented.")).

VI. The Trial Court Did Not Fatally Err in Failing to Determine Whether Father Exercised "Coercive Control" Over Mother

Mother contends it was reversible error for the trial court to not find there was evidence demonstrating that Father "engaged in harassing communications, attempted to trade sex for visitation, and publicly and privately castigated [Mother]." Mother adds that the trial court failed to properly balance custody factors in determining Father's fitness, character, reputation and sincerity, as mandated by *Azizova v. Suleymanov*, 243 Md. App. 340, 344–46 (2019). Father counters that the trial court found there was no coercive control when it concluded that the parties' sexual relationship was consensual based on the evidence.

Essentially, Mother disagrees with the fact that the trial court rejected the testimony and conclusions of Ms. Doan, Mother's expert, who opined that Father engaged in coercive control of Mother. Here, the trial judge explained why he did not readily accept Mother's expert witness's conclusion, stating, "I have difficulty . . . accept[ing] Ms. [Doan's] findings because she did not interview [Father]." The judge also explained that there were other events in Mother's life, as detailed in Ms. Doan's report, that could have caused Mother's alleged post-traumatic stress disorder, exclusive of Father. The Court was free to accept or reject, in whole or part, the testimony of any witness, including an expert like Ms. Doan. *Walker v. Grow*, 170 Md. App. 255, 275 (2006) ("Even if a witness is qualified as an expert, the fact finder need not accept the expert's opinion. To the contrary, 'an expert's opinion is of no greater probative value than the soundness of his [or her] reasons given therefor will warrant.'" (citation omitted)).

Mother also fails to account for the psychological evaluations of the parties made by the court's psychiatrist, Dr. Martin. Dr. Martin interviewed both Mother and Father, made findings regarding the parties' mental health, and "concluded there are no means or methods by which she could definitively determine the accuracy of [Father] or [Mother's] characterization of their relationship." The trial judge explained that he "believe[d] this to be a professional and plausible conclusion based upon the information presented to Dr. Martin and the testing she performed," and he "found [Dr. Martin's] work helpful with regard to [his] job deciding what should be done in [the child's] best interest."

Even so, the trial judge detailed his factual findings about the relationship between Father and Mother, based on testimony from: 1) a woman who lived with Mother for a year, 2) Mother's son, 3) Mother, and 4) Father. Included in these findings was one that specifically addressed Mother's claim of coercive control:

> However, I do not make a finding that the sexual relations [between Mother and Father] were nonconsensual. On this point it is important to remember that such a finding is relevant as to the issue and in particular [Father's] character and [Mother] has the burden of proof on that point. I don't believe she's met her burden. I recognize victims with low self-esteem will often return again and again to abusers as Ms. [Doan] testified. But in this case there are other explanations that their relations were consensual. She sent him that link to the website, she lent him money to obtain a divorce lawyer. Those facts cut against the finding that the sex she had with [Father] was without her consent.
>
> But what I do conclude is that the party's relationship with one another is much worse than it was when the 2014 orders were entered. Whether it is worse because [Father] broke off their relationship and would not divorce his current wife and he began to demand child support. Or whether it's worse because [Mother] did not consent to the sex in ways to come because she suffers from PTSD and has low self-esteem. Didn't want to pay more child support because of her financial struggles, a young single mother with three cases or wanted more time with [the child]. On the other hand I can see the

> shame someone may have because they voluntarily participated in a sexual relationship with a married man particularly when their religious faith strongly objects to such behavior.
>
> So there are logical and key inferences that can be drawn from the party's relationship. I simply cannot conclude that the sexual relationship was without [Mother's] consent.

Contrary to what Mother asserts we conclude that the trial court did reach findings on the issues underlying Mother's claim that Father coercively controlled her. Mother just does not agree with the court's conclusions.

We also do not agree that the trial court abdicated its responsibility by failing to consider Father's character in light of these findings. The trial court explained its assessment of his character when awarding custody:

> As for character and reputation of the parties, it concerns me that [Father] would engage in an extramarital affair but [Mother] participated as well. It is also troubling to me that [Father] has denied the sexual relationships under oath. I will note that the evidence supports that both parents want [the child] and their other children to have happy, healthy and successful lives. They both have good jobs and they know the importance of education for their children. That to me demonstrates good character.

Finally, as stated, we only disturb a trial court's factual findings "if there is not competent or material evidence in the record to support the court's conclusion." *Azizova v. Suleymanov*, 243 Md. App. 340, 372 (2019) (quoting *Lemley v. Lemley*, 109 Md. App. 620, 628, *cert. denied*, 343 Md. 679 (1996)). Given the reasons stated by the trial judge, and his assessment of the credibility to certain evidence, including Dr. Martin's testimony, we find there is sufficient evidence in the record to support the trial court's conclusion on this issue.

Finding no error or abuse of discretion by the trial court on any of the six issues raised between the parties, we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE EVENLY DIVIDED BETWEEN APPELLANT AND APPELLEE.