Circuit Court for Anne Arundel County
Case No. C-02-FM-21-000388

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

Nos. 1324 & 0604

September Term, 2025

LAUREN HURTT SMEDLEY

v.

RANDAL SMEDLEY, ET AL.

Nazarian,
Beachley,
Albright,

JJ.

Opinion by Nazarian, J.

Filed: January 26, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Lauren Hurtt Smedley ("Mother") brings this consolidated appeal to challenge three sets of orders entered by the Circuit Court for Anne Arundel County. The first relates to her motion to exempt her bank accounts from garnishment. The second pertains to her petition to modify her child support obligation (the "modification petition"). The third follows a court order that dismissed her first appeal for untimeliness. Unfortunately, only the second appeal is before us properly. We affirm that judgment and dismiss the others.

I. BACKGROUND

In February 2021, Mother filed a complaint against Randal Smedley ("Father") seeking sole legal and physical custody of their children. In response, Father filed a counter-complaint for limited divorce, sole custody, supervised visitation, child support, and attorney's fees. Later, Mother filed a complaint for absolute divorce, and Father amended his counter-complaint to seek the same. On September 7, 2023, the court entered a Judgment of Absolute Divorce that resolved their claims for divorce, custody, child support, and attorney's fees. The divorce judgment established Mother's monthly child support obligation of $588.00, in addition to monthly payments of $300.00 toward her child support arrearage (in an amount that was stipulated).

The first appeal in this case involves Michael Sallustio, the parties' court-appointed parenting coordinator. In response to his petition, the circuit court ordered Mother to pay fees she owed for his services. When she didn't, the court entered judgment against her for $656.25. Nearly six months later, the court ordered Mother to appear for "examination in aid of enforcement of judgment," but she failed to appear. Then the court issued writs of

garnishment for her wages and her bank account. In response to the second writ, Mother filed a Motion for Release of Property from Levy/Garnishment or to Exempt Property from Execution (the "exemption motion"). The court denied the exemption motion on April 1, 2025, and she appealed that order on May 20 (the "garnishment appeal"). Mr. Sallustio moved this Court to dismiss her appeal for untimeliness and we denied his motion.

The second appeal concerns Mother's modification petition. After a hearing, the magistrate recommended that the circuit court deny the petition on December 1, 2024. Mother filed timely exceptions to the magistrate's recommendation, and the court dismissed her exceptions on February 5, 2025 for failure to order a transcript of the hearing. She moved to vacate the dismissal, and the court denied that motion. She filed a motion for reconsideration, and the court denied the reconsideration motion on April 30, 2025. On May 28, Mother noted an appeal from the April 30 order (the "modification appeal"). Meanwhile, on May 6, the court ratified the magistrate's recommendation and denied the modification petition.

In her third appeal, Mother challenges the circuit court's ruling on Mr. Sallustio's motion to strike her garnishment appeal for untimeliness and for improper service of process. The court granted his motion and dismissed the appeal on July 17, 2025. In response, Mother filed a Motion to Request Statement of Reasons for Denial of Opposition to Motion to Deny Notice of Appeal (the "motion for explanation"). On August 21, she appealed both the July 17 order and the court's outstanding response to her motion for explanation (the "third appeal"). Eight days later, the court granted her motion and

explained the basis for its decision.

On October 8, 2025, this Court granted Mother's motion to consolidate all three appeals. We supply additional facts about the modification appeal in our discussion.

II. DISCUSSION

Mother raises eighteen questions[1] for our review. Only one is before us: whether the

[1] Mother listed the following Questions Presented in her consolidated brief:

Issue I — Statutory Exemptions, Self-Support Reserve, and Financial Hardship (Sallustio)

1. Did the Circuit Court err in denying Appellant's exemption request under CJP § 11-504(b)(5)–(6) where the attached funds consisted of child-support deposits and subsistence-level wages expressly protected from execution?
2. Did the Court fail to apply the mandatory Self-Support Reserve under FL § 12-204(a)(1)(ii), imposing an unsustainable burden on a low-income obligor?
3. Did the Court abuse its discretion in labeling Appellant "voluntarily impoverished" despite verified part-time employment, extensive job-search efforts, and documented federal and relocation-related employment barriers?
4. Did the denial of exemptions disregard Appellant's commuting costs, Parenting Coordinator debt, and childcare responsibilities, impairing her ability to meet basic needs and maintain parenting time?
5. Did the cumulative financial impact of these rulings disproportionately burden Appellant as a pro se litigant, undermining fairness and due process?

Issue II — Dismissal of Exceptions & Miscalculation of Child Support (Smedley)

1. Did the Circuit Court err in dismissing Appellant's timely Exceptions due to transcript-processing issues outside her control despite her documented good-faith efforts and payment?
2. Did the Magistrate and Court misapply the Child Support Guidelines by using the sole-custody worksheet despite the parties' shared physical custody, resulting in an inflated order?

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3. Did the Court improperly impute Maryland minimum wage to Appellant, disregarding her actual earnings and Pennsylvania wage rates applicable to her employment?

4. Should child support and arrears be recalculated from the date of Appellant's modification filing—or from the case's inception—given prolonged delays and miscalculations not attributable to her?

5. Did the dismissal of Exceptions prevent Appellant from examining Appellee's additional or undisclosed income, including paid summer employment, in violation of Md. Rule 9-208(f)?

6. Did the Court's dismissal of Exceptions and refusal to correct acknowledged miscalculations constitute procedural unfairness and a denial of meaningful review?

Issue III — Post-Appeal Jurisdictional Errors & Judicial Bias (Sallustio)

1. Did the Circuit Court act without jurisdiction by issuing June 27 and July 17, 2025 orders after the Appellate Court had already accepted the appeal?

2. Did the Court's failure to issue findings of fact and conclusions of law under Md. Rule 2-522(a) violate Appellant's right to due process and meaningful appellate review?

3. Did the repeated exclusion of Appellant from discussions, limits on her ability to examine Appellee, and solicitation of legal positions from opposing counsel constitute judicial bias and deny equal protection?

4. Did the Court's failure to provide notice, guidance, or written findings on standards such as voluntary impoverishment and shared custody impair Appellant's ability to comply with orders and exercise parental rights?

5. Did the post-appeal orders, refusal to vacate dismissals, and handling of procedural defects constitute prejudicial conduct requiring appellate intervention to protect the children's best interests?

6. Did scheduling delays, missed hearings, and inconsistent enforcement of deadlines reflect systemic bias against a self-represented litigant, creating inequitable barriers to presenting evidence?

7. Did the cumulative effect of judicial bias, procedural delays, and financial hardship disproportionately burden Appellant as a pro se litigant, undermining her ability to provide for her children and secure a fair adjudication?

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circuit court denied her modification petition improperly. We hold that the court ruled correctly because Mother's changed circumstances didn't justify modification of the original support order. But first, we explain why only one issue is before us for review.

A. Mother's First And Third Appeals Are Untimely And Lack Finality, Making Dismissal Appropriate.

A party must note their appeal "within 30 days after entry of the judgment or order from which the appeal is taken." Md. Rule 8-202(a). This thirty-day requirement is a binding rule, *Rosales v. State*, 463 Md. 552, 568 (2019), and dismissal is appropriate when an appellant fails to comply with it. Md. Rule 8-602(b)(2). We agree with the circuit court's conclusion that Mother's garnishment appeal was untimely. She noted it on May 20, 2025, more than thirty days after the court denied her exemption motion on April 1.

We recognize that Mr. Sallustio raised this issue by motion and that we declined to dismiss the garnishment appeal on that posture. At that time, we reasoned that the circuit

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Father stated the following Questions Presented in his brief:

1. Did the circuit court properly exercise its discretion in dismissing Appellant's exceptions when Appellant failed to file the mandatory transcript required by Maryland Rule 9-208(g) by January 10, 2025, deadline?
2. Did the circuit court properly deny Appellant's motion to vacate and motion for reconsideration where Appellant failed to establish a legal basis to excuse her procedural non-compliance?
3. Is Appellant barred from challenging the magistrate's factual findings regarding income when her failure to provide a transcript rendered those findings unreviewable by the circuit court?
4. Even if preserved was the magistrate's finding of voluntary impoverishment and the imputation of fifty-thousand dollars ($55,000.00) in annual income supported by evidence and entitled to a presumption of correctness?

Mr. Sallustio did not file a brief.

court had issued orders on April 30 and May 6, both during the thirty days that preceded Mother's filing of the garnishment appeal (May 20) and the modification appeal (May 28). And we cited *Newman v. Reilly*, 314 Md. 364 (1988), and *B&K Rentals and Sales Co., Inc. v. Universal Leaf Tobacco Co.*, 319 Md. 127 (1990), for the proposition that we must construe timely notices of appeal liberally and disregard any limiting language in those notices as surplusage.

On further reflection, though, we conclude that dismissal of the garnishment appeal is both appropriate and consistent with the *Newman* and *B&K* cases. *Newman* rejects the idea that the contents of a timely notice of appeal, rather than its substantive legal effect, should decide what issues a reviewing court can consider on appeal. *See* 314 Md. at 382–83, 388 (when court entered sanctions award against attorney and client, but timely notice of appeal identified only award against client, notice raised for appellate review the judgments entered against both). *B&K Rentals* holds that even when a notice specifies the trial court order that the appellant aims to challenge, that specification doesn't limit review strictly to that order. *See* 319 Md. at 133, 138. Put differently, the act of filing a timely notice of appeal is what sets the table of issues for our review, not the words stated in the notice. *See Newman*, 314 Md. at 383–84 (if appellant had filed notice of appeal within thirty days of entry of final judgment, "the legal effect would have been to bring up for appellate review all appealable judgments in the case"); *B&K Rentals*, 319 Md. at 132–33 ("an appeal from a final judgment ordinarily brings up for appellate review all earlier orders in the case"). In this way, a notice, regardless of its contents, can act as a net that catches

and raises for review any final judgment that the court has entered within the previous thirty days. And that in turn allows us to review any interim orders that led up to that judgment. *See Ruiz v. Kinoshita*, 239 Md. App. 395, 421 (2018) ("the notice of an appeal from a final judgment 'need not specify the orders from which the party wishes to appeal; it operates as an appeal of any order that is appealable at the time'" (*quoting* Judge Kevin F. Arthur, *Finality of Judgments and Other Appellate Trigger Issues*, 17 (4th ed. 2025)).

Under *Newman* and *B&K*, then, we wouldn't dismiss Mother's modification appeal—which she filed within thirty days of the court's May 6 order denying her modification petition—simply because it identified an order issued earlier in those proceedings (*i.e.*, the denial of her motion for reconsideration) rather than the May 6 order itself. The May 6 order terminated the modification proceedings she initiated when she filed her original petition, making it a final judgment. Kevin Arthur, *Finality of Judgments*, 5 (2025) ("[T]he accepted test for finality is whether the court's ruling has the effect of putting the parties out of court and denying them the means of further prosecuting the case or the defense."). So the modification appeal can raise for review all earlier orders made during the life of those proceedings, including the court's February 5, 2025 dismissal of Mother's exceptions to the magistrate's recommendation to deny her modification petition. *See* Md. Rule 8-131(d); *B&K Rentals*, 319 Md. at 132–33.

But Mother's filing of the modification appeal has no bearing on the garnishment appeal, which stems from a separate proceeding that remains pending in the circuit court. *See Mensah v. MCT Fed. Credit Union*, 446 Md. 525, 533 (2016) ("[a] wage

garnishment . . . continues from, and is ancillary to, the original judgment entered by a court . . . ."). A creditor may initiate a garnishment action once a court enters a judgment affirming that a debtor owes them money. *See Med. Mut. Liab. Ins. Soc. of Md. v. Davis*, 389 Md. 95, 102 (2005) ("'[a] garnishment proceeding is, in essence, an action . . . which is brought against a third party, the garnishee, who holds the assets of the judgment debtor'" (*quoting Fico, Inc. v. Ghingher*, 287 Md. 150, 159 (1980), *superseded on other grounds by* Md. Rule 2-645)). They are enforcement proceedings, *Davis*, 389 Md. at 102, that seek to answer only "'whether the garnishee has any funds, property or credits which belong to the judgment debtor.'" *Id.* at 103 (*quoting Fico*, 287 Md. at 159).

Maryland Rule 2-645 governs the garnishment of property other than wages, like the bank accounts at issue here. Md. Rule 2-645(a). Under the rule, the circuit court must issue a writ of garnishment to the holder of the property, or garnishee, after it receives a request for relief from a judgment creditor. Md. Rule 2-645(b). Within thirty days, the garnishee must file an answer that admits or denies their possession of the property, specifies "the amount and nature of any debt," and describes the property. Md. Rule 2-645(e); *see* Md. Rule 2-321. The garnishee can assert defenses for itself or on behalf of the judgment debtor. Md. Rule 2-645(e). The court must treat the answer "as established for the purpose of the garnishment proceeding unless the judgment creditor files a reply contesting the answer within [thirty] days after its service." Md. Rule 2-645(g). If the judgment creditor doesn't file a timely reply, the court can enter judgment. *Id.*; *see also Flat Iron Mac Assoc. v. Foley*, 90 Md. App. 281, 296–97 (1992) (a writ served properly

and answered by garnishee terminates without a reply from judgment creditor where answer established as a matter of law that garnishee didn't have judgment debtor's property). If the creditor files a reply, then the matter proceeds "as if it were an original action between the judgment creditor as plaintiff and the garnishee as defendant and shall be governed by the rules applicable to civil actions." *Id.* Any judgment entered against the garnishee must be "for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered." Md. Rule 2-645(j). Entry of judgment terminates the writ. Md. Rule 2-645(k)(1). Or the garnishee can file a notice of intent to terminate the writ if they have filed an answer, no other filings have been made for 120 days, and no party responds to their notice of intent within thirty days. Md. Rule 2-645(k)(2).

Those proceedings were still under way when Mother filed the modification appeal and, so far as we can tell, remain unresolved. In response to Mr. Sallustio's request, the court issued a writ of garnishment of wages to her employer, The Edge Fitness Clubs, on November 7, 2024, and a writ to Wells Fargo to garnish her bank accounts on December 20. Her employer filed an answer on December 20, 2024. On January 21, 2025, Mother filed the exemption motion, which the court denied on April 1 after it held a hearing. In a statement filed on May 19, 2025, Wells Fargo asserted improper service of process and declined to take further action. The bank didn't "admit or deny that the garnishee is indebted to the judgment debtor or has possession of property of the judgment debtor," "specify the amount and nature of any debt," or "describe the property" as our rule requires.

Md. Rule 2-645(e); *see Flat Iron*, 90 Md. App. at 296 (Rule 2-645 "prescribes the time frames within which the . . . garnishee must act to protect their [rights] under the statute and the remedies for failure to abide by the time frames."). The court rejected the deficient filing on May 30. Meanwhile, on May 20, Mother appealed the denial of her exemption motion and filed the modification appeal on May 28. To date, Wells Fargo has not filed a timely answer or responded to the court's notice of defective filing, and Mr. Sallustio hasn't pursued a default judgment against Wells Fargo. *See* Md. Rule 2-645(e), (f). Termination of the writ pursuant to Md. Rule 2-645(k) remains outstanding.

Because no judgment has entered in the garnishment proceedings and the denial of Mother's exemption motion is an interim order, she can only raise it for review by appealing it on time, and she didn't. *See Burnett v. Spencer*, 230 Md. App. 24, 30–31 (2016) (denial of a motion to release property from garnishment is an appealable interim order). She filed the garnishment appeal on May 20, more than thirty days after the court denied her motion on April 1. And now she can bring the exemption issue before this Court only through a timely appeal of a final judgment entered in the garnishment proceeding. *See Flat Iron*, 90 Md. App. at 292 ("Once served with a writ of garnishment 'it is the garnishee's duty to hold the attached assets until the entry of a judgment in the garnishment action'" (*quoting Fico*, 287 Md. at 162)); *Fico*, 287 Md. at 161–62 (service of a garnishment writ "creates an inchoate lien which is binding not only on all the judgment debtor's assets which the garnishee then has in [their] possession, but also on all those which come into [their] hands before judgment in the garnishment action."). Because the

denial of her exemption motion in a separate proceeding was not an "appealable judgment" that the modification appeal could raise for review, *Newman*, 314 Md. at 383, we exercise our authority under Maryland Rule 8-602(b)(2) to dismiss Mother's garnishment appeal.

Lack of timeliness and finality also compel dismissal of the third appeal. Mother noted that appeal on August 21, 2025 to challenge a July 17, 2025 order and the court's outstanding response to her motion for explanation. But the period for disputing the July 17 order lapsed on August 18. Md. Rule 8-202(a). And a court's alleged failure to act on a motion seeking explanation is not a final appealable judgment. *See* Md. Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts & Judicial Proceedings Article ("The right of appeal exists from a final judgment entered by a court . . . ."); *Quillens v. Moore*, 399 Md. 97, 115 (2007) (parties can appeal a decision that is "'so final as to determine and conclude rights involved . . . .'" (*quoting Cant v. Bartlett*, 292 Md. 611, 614 (1982))); *Mayor and City Council of Balt. v. Utica Mut. Ins. Co.*, 145 Md. App. 256, 273 (2002) (a final judgment is "'an unqualified, final disposition of the matter in controversy'" (*quoting O'Brien v. O'Brien*, 367 Md. 547, 554 (2002))).

The result is that only Mother's modification appeal is before us,[2] and we review

[2] Mother's notice challenged the court's denial of her post-judgment motion which, in turn, sought to revive her exceptions hearing on the recommended denial of her modification petition. The court had dismissed her exceptions due to her failure to comply with the transcript requirement under Maryland Rule 9-208(g). Rule 9-208 gives excepting parties four options for satisfying the requirement. *See* Md. Rule 9-208(g)(1). Mother didn't take any of these four paths, and we ordinarily wouldn't find court enforcement of a rule to be an abuse of discretion in any event. *See Maryland*

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that determination for abuse of discretion. *Leineweber v. Leineweber*, 220 Md. App. 50, 61 (2014) ("'whether to grant modification rests with the sound discretion of the trial court and will not be disturbed unless that discretion was arbitrarily used or the judgment was clearly wrong'" (*quoting Ley v. Forman*, 144 Md. App. 658, 665 (2002))).

B. The Circuit Court Didn't Err When It Denied Mother's Modification Petition Because The Change In Her Circumstances Didn't Justify Modification Of The Original Support Order.

Before examining the denial of her modification petition, we address Mother's threshold objections to the original calculation of her child support obligation. In this respect, she asks us to resolve whether the circuit court erred when it used a sole custody worksheet to calculate her support obligation in September 2023 and whether the magistrate at her modification hearing erred by declining to recalculate it under a shared custody worksheet. She asks also whether her child support and arrears should be recalculated "from the date of [her] modification filing—or from the case's inception—given prolonged delays and miscalculations."

Mother missed her opportunity to raise these challenges. On September 7, 2023, the

Bd. of Physicians v. Geier, 451 Md. 526, 544 (2017) (a court abuses its discretion when it acts "'without reference to any guiding principles or rules'" (*quoting Gallagher Evelius & Jones, LLP v. Joppa Drive-Thur, Inc.*, 195 Md. App. 583, 597 (2010))). The transcript requirement exists for the benefit of the court as much as for the excepting party, and without a transcript of the modification hearing, the court couldn't have conducted a complete review of the magistrate's factual findings or considered fully Mother's exceptions on their merits. And because we reach the heart of Mother's exceptions by reviewing the court's denial of her modification petition, it is unnecessary for us to examine that dismissal any further.

circuit court entered a Judgment of Absolute Divorce that obligated her to pay Father $888.00 per month. She didn't appeal that order, yet her arguments at the modification hearing took issue with the correctness of the child support calculation in terms of the guidelines and the income that the court relied on. The time to raise any errors with the original calculation came and went thirty days after the court entered the divorce judgment. Md. Rule 8-202(a). After thirty days, a court lacks authority to modify a final judgment "unless the movant establishes (1) that the court was without jurisdiction to enter the order in the first instance . . . (2) that the modification seeks no more than the correction of a clerical mistake under [Maryland] Rule 2-535(d), or (3) that the order was the product of fraud, mistake, or irregularity, that the movant made the request in good faith and with ordinary diligence, and that [they have] a meritorious defense to the order." *Haught v. Grieashamer*, 64 Md. App. 605, 611–12 (1985).

At the modification hearing, Mother didn't argue that the court lacked jurisdiction to enter the divorce judgment or that it had made a clerical mistake.[3] Instead, her modification petition alleged a deficiency in the original calculation of her support obligation. She argued that the circuit court had based its calculation on the sole custody worksheet instead of the shared custody one and that she had discovered only that morning which worksheet had been used. According to Father, the parties had agreed to calculate

[3] A clerical mistake doesn't impact the legal effect of the judgment; it "'merely [corrects] the record evidence of such judgment.'" *Short v. Short*, 136 Md. App. 570, 579 (2001) (*quoting Prince George's Cnty v. Commonwealth Land Title Ins. Co.*, 47 Md. App. 380, 386 (1980))).

the support obligation using the sole custody guidelines and had placed that agreement on the record at the divorce trial:

> [COUNSEL FOR FATHER]: [A]t the time of the trial, we were running out of time. [The circuit court] requested that we try and settle anything that we could. The calculator that was used, and the amounts that were used were by agreement.
>
> [MOTHER]: That's—
>
> [MAGISTRATE]: Let her, she didn't interrupt you.
>
> [MOTHER]: Sorry.
>
> [MAGISTRATE]: No, yeah, it's okay. I know it's hard.
>
> [COUNSEL FOR FATHER]: We allowed, we raised [Father's] income at that time to what his anticipated income was because he was changing jobs. And instead of going forward on what she was making and should have been making.
>
> [MAGISTRATE]: Right.
>
> [COUNSEL FOR FATHER]: We gave her the opportunity to only be imputed to minimum wage. When she historically has been making close to $120,000.00. And that was done by agreement. No change in circumstances has happened since. [The circuit court] adopted those, put them in the record. The time to request for that to be reconsidered or changed expired last year.
>
> [MAGISTRATE]: Okay.
>
> [MOTHER]: Your Honor, if I may add to that?
>
> [MAGISTRATE]: Um-hmm.
>
> [MOTHER]: The [court] actually said that [it] was going to put the amount in the calculator [itself]. We agreed to the amounts, we agreed to the usage of using minimum wage for the State of Maryland. But I did not agree, there was no calculator done that day of. The [court] said if you agree to minimum wage I'll put the numbers in the calculator myself. And that's what was done. But it was not using the sole, it was not using the joint custody calculator.
>
> [COUNSEL FOR FATHER]: I handed the guidelines to

[Mother's] [a]ttorney . . . at the hearing.

The magistrate found that the court's use of the sole custody worksheet and its imputation of income at a level lower than what Mother had been earning previously indicated that there had been a compromise between the parties rather than a mistake.

We agree that Mother didn't establish that the original support calculation was the product of irregularity or mistake at the modification hearing. *See* Md. Rule 2-535(b) (allowing a court to revise a judgment at any time only if there has been fraud, mistake, or irregularity); *Pelletier v. Burson*, 213 Md. App. 284, 290 (irregularity means a "'nonconformity of process or procedure'" rather than an error (*quoting Davis v. Attorney Gen.*, 187 Md. App. 110, 125 (2009)); *Peay v. Barnett*, 236 Md. App. 306, 322 (2018) ("A 'mistake' under the Rule refers only to a 'jurisdictional mistake.'"). Beyond her testimony, Mother didn't produce any transcript or other evidence of what transpired at the divorce trial. *See Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (a movant must establish mistake or irregularity by clear and convincing evidence (*citing* Md. Rule 2-535(b))). As a result, the inquiry ended there. *See Bland v. Hammond*, 177 Md. App. 340, 357 (2007) (after proving fraud, mistake, or irregularity, the movant must show also that they acted with "'ordinary diligence and in good faith upon a meritorious cause of action or defense'" before an enrolled judgment can be set aside (*quoting J.T. Masonry Co., Inc. v. Oxford Const. Serv., Inc.*, 314 Md. 498, 506 (1989))). And the circuit court lacked the authority to grant her modification request on this basis. *See Haught*, 64 Md. App. at 611–12.

The result, then, is that the original child support calculation is final (*i.e.*, settled)

until Mother can prove that there has been a material change in circumstances (*i.e.*, new events) that justifies modification of her support obligation. *See Petitto v. Petitto,* 147 Md. App. 280, 306–307 (2002) (in a modification action, the court must focus on "'changes in income or support' that occurred after the child support award was issued" (*quoting Wills v. Jones*, 340 Md. 480, 489 (2003))). The party seeking modification of their support obligation bears the burden of proving that there has been a material change. *Petitto*, 147 Md. App. at 307. They must prove *first* that the change is "'relevant to the level of support'" that has been ordered and, *second*, that the change is "'of a sufficient magnitude" to justify modification of the support order. *Id.* (*quoting Wills*, 340 Md. at 489). "A change 'that affects the income pool used to calculate the support obligations upon which a child support award was based'" satisfies the first requirement. *Id.*

In this case, the magistrate found that Mother had alleged a relevant change based on her change in employment status. In September 2023, she had relied on unemployment benefits as her sole source of income. In her modification petition, she said she had exhausted her unemployment benefits and had moved to Pennsylvania where the minimum wage was "only $7.25 per hour." By the time of the hearing, she had just started a new job as a kids' fitness coach at a gym and testified to working twenty hours per week for $13.00 per hour.

The magistrate found, however, that Mother had voluntarily impoverished herself, and that finding affected the ultimate determination that she hadn't proven a material change of circumstances. The magistrate found that Mother should be earning an annual

salary of at least $55,000.00. After imputing that income to Mother, the magistrate performed a new child support calculation using the shared custody guidelines and evidence of Father's income, the cost of the children's health insurance, and her overnights with the children.[4] Because the resulting amount exceeded Mother's current support obligation by only $3.00, the magistrate concluded that the change was insufficient to warrant modification. *See Petitto*, 147 Md. App. at 307. The circuit court didn't err when it ratified the magistrate's recommendation.

A circuit court can consider a parent voluntarily impoverished when they have "made the free and conscious choice, not compelled by factors beyond [their] control, to render [themselves] without adequate resources." *Sieglein v. Schmidt*, 447 Md. 647, 671 (2016) (*quoting Goldberger v. Goldberger*, 96 Md. App. 313, 327 (1993)). *First*, the court must decide whether there is voluntary impoverishment under the factors set forth in *John O. v. Jane O.*, 90 Md. App. 406, 421–22 (1992). Cynthia Callahan & Thomas C. Reis, *Fader's Maryland Family Law* 6-52 (7th ed. 2021).[5] If the court finds that there is, *then* it must determine next the income that it should impute (*i.e.*, assign), using the factors set

[4] And through this discussion, we answer the third question in Mother's brief—whether the court erred when it imputed Maryland minimum wage to her instead of the Pennsylvania minimum wage. The court imputed neither.

[5] These factors are: (1) the parent's current physical condition; (2) their level of education; (3) the timing of changes in employment or finances relative to the divorce proceedings; (4) the relationship between the parents before they initiated divorce proceedings; (5) their efforts to find and keep a job; (6) their efforts to secure retraining if necessary; (7) whether they have withheld child support in the past; (8) their past work history; (9) where they live and the status of the job market there; and (10) any other considerations they present. *John O.*, 90 Md. App. at 422.

forth in *Goldberger v. Goldberger*, 96 Md. App. 313, 328 (1993). *Id.*[6] After making that finding, the court can calculate the child support obligation based on the parent's potential income.[7] Md. Code (1999, 2019 Repl. Vol.), § 12-204(b) of the Family Law Article ("FL"). As to voluntary impoverishment, we review the circuit court's factual findings "under a clearly erroneous standard, and the court's ultimate rulings . . . under an abuse of discretion standard." *Sieglein v. Schmidt*, 224 Md. App. 222, 249 (2015), *aff'd,* 447 Md. 647 (2016).

The magistrate followed the two-step legal process in determining that Mother had voluntarily impoverished herself and in deciding her potential income, and we see no clear error in its factual findings or any abuse of discretion in its conclusions. Based on the evidence elicited at the hearing, the magistrate found that Mother is in good physical condition given her current job, that she has a Bachelor of Science in Business Administration/Accounting and a Master of Business Administration degree, and that she lost her job during the divorce proceedings and had remained unemployed from March 2023–October 2024. For the magistrate, it was significant that Mother had refused to pay child support throughout the entire divorce proceedings, even while she was working, and

[6] The factors relating to potential income are: (1) age; (2) mental and physical conditions; (3) assets; (4) educational background, special training, or skills; (5) prior earnings; (6) efforts to find and retain a job; (7) the state of the job market where they live; (8) actual income; (9) any other factor that affects their ability to obtain funds to support the child. *Goldberger*, 96 Md. App. at 328.

[7] Potential income is "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(f).

hadn't contributed more than $100.00 to the children's support since. Further, the magistrate found that Mother had "applied for many jobs," including, in the beginning, jobs she didn't qualify for; that she stopped applying for jobs after she received a conditional job offer in April 2024 (which had offered an annual salary of $115,000 (the "job offer")); and that her job search had been "unclear" since that offer fell through. The magistrate determined that although Mother had a new job, she wasn't working at the level of her potential given her educational background and work history, which included consistent employment from 2009 until March 2023 and annual earnings of over $100,000 in 2021 and 2022. Lastly, the magistrate noted the court's earlier finding of voluntary impoverishment in connection with an earlier contempt proceeding grounded in Mother's failure to pay child support.[8] Then, after considering the *Goldberger* factors against the evidence established at the hearing, the magistrate assigned a potential income that was half of what Mother had earned before and less than half of the amount of the job offer.[9]

[8] In the record, we can see that when the court found Mother in contempt, her arrearages totaled $71,450.43.

[9] In her brief, Mother suggests that the magistrate showed prejudice and bias against her based, in part, on her history with the court. As an example of bias, she points to the magistrate's restriction of her ability to cross-examine Father about his summer income. At the modification hearing, she asked Father to disclose his summer employment since 2021 to support her argument that the original calculation hadn't included all his income. His counsel objected to questioning about any income prior to the divorce judgment due to lack of relevance, and the magistrate sustained the objection. That ruling was appropriate because the only changes relevant to the modification hearing were those that had occurred since September 2023, the time of the divorce judgment. *See Petitto*, 147 Md. App. at 306–307. In response to opposing counsel's objections, the magistrate set further restraints on Mother's direct

Continued . . .

See Dillon v. Miller, 234 Md. App. 309, 320 (2017) ("If the potential income amount calculated by the 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.'" (*quoting Petitto*, 147 Md. App. at 317–18)).

Mother contends that she produced sufficient evidence of her efforts to find employment, including more than seventy-six pages of documents to that effect, and that the finding of voluntary impoverishment wasn't justified. She states that her submission was only a sample of her actual effort and that factors beyond her control limited her search, such as federal hiring freezes and limited job opportunities in Philadelphia. Although she may have produced those documents to Father during discovery, she didn't submit any evidence at the modification hearing, and that hearing was her opportunity to give the court a full picture of her job searching efforts. On cross-examination, she didn't offer any specific testimony about her attempts, choosing instead to reference repeatedly the "80 pages of job searches" she provided to Father in discovery. She didn't tell the court how many jobs she applied for in May 2024, after she accepted the job offer, or the following month, and when counsel asked whether she had provided proof of only six job applications, she replied "I'm not sure." The magistrate didn't find Mother's testimony

examination of Father because, as she acknowledged, her petition was not based on a claim of voluntary impoverishment against him. As a result, Father's reasons for not working in the summer were immaterial to *her* request to decrease *her* support obligation. Based on our review of the transcript, the magistrate's assignment of potential income, and its use of the shared custody worksheet to calculate the prospective child support amount—an action taken in response to Mother's advocacy—we see no merit in these allegations.

credible, including her assertion that her skill set (strategic communications) wasn't transferable to employers other than federal government contractors. We defer generally to the circuit court's judgment on matters of credibility and the weight of evidence, *see* Md. Rule 8-131(c), and we see no reason not to do so in this case.

In light of Mother's history of non-payment, her educational background, work history, and skills, her ability to land a job offer comparable to her earlier pay around the time she filed her modification petition, and the substantial disparity between her skills and the pay and skill level required by her current position, we cannot say, on this record, that the magistrate's findings, as ratified by the circuit court, were clearly erroneous, *Leineweber*, 220 Md. App. at 60–61, or an abuse of discretion. *Dillon*, 234 Md. App. at 320. For these reasons, we affirm the circuit court's denial of her modification petition.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. APPELLANT TO PAY COSTS.