Circuit Court for Anne Arundel County
Case No. C-02-FM-17-000229

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 621

September Term, 2021

R.B.G.

v.

R.V.G.

Shaw,
Wells,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: April 12, 2022

R.B.G. ("Father") filed, in the Circuit Court for Anne Arundel County, a petition to modify custody, a petition to modify child support, and related motions against R.V.G. ("Mother") regarding the parties' minor child, R.G. Following a hearing, the court denied Father's motion to modify custody and granted, in part, his motion to modify child support. The court also ordered Father to contribute $7,500.00 towards attorneys' fees accrued by Mother. In this appeal, Father presents four questions for our review:

1. Did the trial court err in denying Father custody and visitation?

2. Did the trial court err in not applying the new child support amount retroactive to the date of filing?

3. Did the trial court err in failing to give Father a credit toward his child support arrears for time he had spent incarcerated?

4. Did the trial court err in awarding attorneys' fees to Mother?

For reasons to follow, we hold that the trial court did not err. We, therefore, affirm the circuit court's judgment.

BACKGROUND

Father and Mother were married in October 2012 in the Philippines. In July 2014, the parties' moved to a home in Anne Arundel County, where they lived with Father's daughter from a previous marriage. In 2015, R.G. was born.

On 28 December 2016, Father was arrested after he assaulted Mother at the couples' home. Father was charged with first-degree assault, second-degree assault, and reckless endangerment. Mother filed collaterally for, and was granted, a protective order against Father. The parties' separated.

In January 2017, Mother filed, in the circuit court, a complaint for absolute divorce. The following month, Mother and Father agreed to a custody order in which Mother would be granted sole physical and legal custody of R.G.

In June 2017, the circuit court entered a judgment of absolute divorce.[1] In so doing, the court ordered that Mother would have sole legal and physical custody of R.G. and that Father would have access "under such terms and conditions as determined by [Mother]." The court also ordered Father to pay $732.00 per month in child support to Mother.

In August 2017, Father pleaded guilty to one count of second-degree assault stemming from the December 2016 incident. He was sentenced to a term of ten years' imprisonment, with all but 18 months suspended. Father served eight and one-half months of that sentence and was released in May 2018.

In May 2019, Father filed a motion to modify custody, a motion to modify child support, and a motion to modify child support arrears. Mother opposed Father's motions and requested attorneys' fees. For reasons not germane to the instant appeal, a trial on those motions was not scheduled until April 2021.

Trial Evidence

At trial, Helen Laird, a circuit court custody evaluator, testified that, in October 2019, she completed a custody evaluation ordered by the court. Ms. Laird summarized the

[1] The divorce judgment was vacated by the circuit court in August 2019 on the grounds of "procedural irregularity." A three-judge panel of that court later reversed that decision and reinstated the divorce judgment. This Court affirmed in an unreported opinion. *R.B.G. v. R.V.G.*, Case No. 2568, September Term, 2019 (filed 2 November 2020).

parties' relationship up to the point of the custody evaluation as follows. The parties married in 2012 in the Philippines after a brief online courtship. In 2014, Mother, a native of the Philippines, moved to the United States to be with Father. Mother reported that, when she got to the United States, she discovered that Father "was an alcoholic" and that he had "mental health issues." Mother reported also that Father "verbally and emotionally abused her." Father reported that Mother "was verbally abusive to him, and at one point in the relationship began slapping him." Father believed that Mother "was jealous, and often angry."

Ms. Laird testified that, on 28 December 2016, the parties were involved in "a verbal altercation that escalated into [Father] hitting, kicking, and ultimately strangling [Mother]." Father was arrested and charged. Mother filed for and received a protective order. In February 2017, after Mother had filed for divorce, the parties reached an agreement whereby Mother would have full legal and physical custody of R.G "indefinitely." Father agreed to those terms "because he wanted [Mother] to return to the Philippines and not testify against him in his upcoming trial." In March 2017, Mother returned to the Philippines with R.G. Before Mother left, Father took R.G. on a week-long trip to Ohio to visit family. While on that trip, Father took pictures of R.G. wearing a T-shirt that read: "Mom totally sucks." Father later posted those pictures on social media. Following his trip to Ohio, Father returned R.G. to Mother's care, and Mother and R.G. left for the Philippines. Father did not have any further contact with R.G. The parties were divorced in June 2017.

Ms. Laird testified further that Father was jailed in August 2017, following his guilty plea to second-degree assault. He was released in May 2018, but recommitted in August 2018 after he sent a letter to Mother in violation of a no-contact provision of his probation. Father spent an additional 153 days in jail, after which he was released, and the case was dismissed.

According to Mrs. Laird's written report (admitted in evidence), after Father was released from jail the second time, he went to live with a friend. That friend filed eventually a petition for a peace order against Father, alleging that Father "had violent temper tantrums which involved significant destruction of property." According to the report, Father had been involved in several domestic incidents over the years, including one in 2015 in which he threatened reportedly to shoot himself and Mother while Mother and R.G. were in the home. In July 2017, Father filed a report with Child Protective Services in which he accused falsely Mother of being a heroin addict and leaving R.G. home alone. Father admitted that he made those false allegations "to ensure that CPS would do a well-child check." The report noted that Father had "filed many motions since his release from incarceration" and that he appeared "to have a vendetta against [Mother]."

The report indicated also that there was "a plethora of evidence that [Father] has a history of issues with alcohol abuse as well as mental health and anger management issues." The report noted that "even after receiving a DWI in March 2016, admitting to a history of alcohol abuse, and being required on two occasions to sign a safety contract with DSS agreeing to enter alcohol treatment, [Father] continues to consume alcohol." As to

Father's mental health, the report noted that Father had threatened suicide on multiple occasions, that he had been diagnosed with several mental disorders, and that he was being prescribed medication for those disorders. Based on that and other evidence, Ms. Laird recommended that Father submit to a comprehensive psychological evaluation and substance abuse assessment before he be allowed to have supervised access with R.G.

As to Mother and R.G., the report stated that the two lived in a four-bedroom single family home, where Mother worked as a "nanny/housekeeper" for the homeowner, Michael Homewood, who had a 12-year-old daughter. The report indicated that the home was neat and clean, that R.G. appeared happy and healthy, and that he had a close bond with Mother. Based on that and other evidence, Ms. Laird recommended that Mother retain sole physical and legal custody of R.G.

Ms. Laird, continuing her live testimony, stated that, following the completion and submission of her report in October 2019, the circuit court ordered Father to submit to a comprehensive psychological evaluation and substance abuse assessment, but Father never did. Ms. Laird testified that, as of the date of trial, she had yet to receive a clear picture as to Father's mental health status and alcohol consumption. Ms. Laird testified further that Father continued to "have ongoing issues against [Mother]" and that he blamed Mother for his problems.

A.G., Father's sixteen-year-old daughter from a previous marriage, called to testify on his behalf, stated that she witnessed several incidents in which Mother had "picked a

fight" and become violent toward Father. A.G. testified that Mother often got angry with her.

Father testified that Mother was the primary aggressor in the relationship. Father stated that Mother was jealous, particularly of his relationship with A.G. Father offered that he lived presently in a one-bedroom apartment in Covington, Kentucky, with A.G. and A.G.'s mother. Father testified that his rent and utilities were being paid by the U. S. Department of Veterans Affairs (the "VA"). He earned approximately $1,000.00 per month as a telemarketer. Father claimed that he was in a substance abuse program with the VA and that he received medication from his doctor that "helps people with any type of addictions." He asserted also that he meets with a psychologist "once a month" and a psychiatrist "about every two months."

On cross-examination, Father admitted that, in May 2016, he pleaded guilty to driving while impaired with A.G. in the car. Father admitted that R.G. was in the home during the December 2016 incident in which he assaulted physically Mother.

Mother testified that she and R.G. lived with Michael Homewood, whom she was now dating, and Mr. Homewood's 13-year-old daughter. She worked as Mr. Homewood's nanny/housekeeper, for which she received $800.00 per month. She earned also approximately $400.00 per month running an online business. Mother testified that R.G. was happy and healthy, that he was doing well in school, and that he had a good relationship with Mr. Homewood and his daughter.

Mother incurred approximately $23,000.00 in attorneys' fees related to the divorce proceeding and subsequent contested custody dispute. Mother testified also that Father owed approximately $29,000.00 in unpaid child support and an additional sum in restitution for the medical bills she incurred following the December 2016 assault. Mother testified that she had not received a full child support payment from Father in approximately two years.

Mr. Homewood testified on Mother's behalf, stating that she was "an awesome mom" and that she took care of all of R.G.'s needs. Mr. Homewood testified that Mother had a calm personality and had never been violent in his presence.

Father's Motion to Modify Custody

The trial court denied Father's motion to modify custody. In so doing, the court found that there had been a sufficient showing of a material change in circumstances to trigger an inquiry into whether a changed custody arrangement would be in the best interests of R.G. The court then explored each of the relevant factors, as set forth in *Taylor v. Taylor*, 306 Md. 290 (1986) and *Montgomery County Dept. of Social Services v. Sanders*, 38 Md. App. 406 (1977).

Of note, the court found that Mother was a fit parent and that there was no credible evidence to suggest otherwise. The court found that Father, on the other hand, seemed "to be much more concerned about his own needs than the best interest of his child." The court noted that Father had not made a full child support payment in many months and that he

encouraged his 16-year-old daughter "to testify in a highly emotionally charged case about issues that she shouldn't even be involved in."

As to the parties' character and reputation, the trial court found that Mother's character and reputation were "really not put at issue in this case." The court noted that Father had attempted to put Mother's reputation at issue, but his argument was "bald and unsupported." The court found that Father appeared to "come to sparks with just about everybody in his life," that he was unlikely to be completely "over" his alcohol addiction, and that he had been convicted of second-degree assault against Mother.

As to the parties' geographic location, living conditions, and relationship with R.G., the trial court found that Mother lived in Annapolis, that she had fostered a stable environment that was conducive to raising children, and that she had a good relationship with R.G. The court found that Father, who lived approximately 600 miles away in Kentucky in a one-bedroom apartment with his teenaged daughter and her mother, never explained properly where R.G. would sleep there or how Father would foster an age-appropriate environment if R.G. were to visit. The court also found that Father had "virtually no meaningful relationship" with R.G. and that Father agreed previously to allow Mother to have full custody of R.G. for an indefinite period. The court found that R.G. was in good health and well-adjusted and that sending him to visit with Father for any significant period of time would be a serious disruption.

As to Father's ability to consider the needs of R.G., to communicate with Mother, and to co-parent, the trial court found that, although Father appeared sincere in his desire

to have custody of R.G., he failed to "actually do the things that he needs to do for his actions to meet up with his aspirations." The court found that Father's use of alcohol and his history of physical violence had strained his relationship with Mother and R.G. The court found that, "without some professional intervention in the form of psychological treatment for [Father], and some intense reunification therapy," any attempt at co-parenting would "absolutely disrupt" R.G.'s life.

Lastly, the trial court discussed the litigation history and incidences of abuse. The court noted the "many motions" filed by Father in the case and found that, although the motions were not completely frivolous or vexatious, it was "very, very, very close." The court found that the dissolution of the marriage could be traced back to the December 2016 assault, to which charge Father pleaded guilty.

Based on those factors, the trial court concluded that "changing custody would not be in the child's best interest." The court denied Father's motion for modification and ordered that custody would remain as outlined in the parties' judgment of absolute divorce.

Father's Motion to Modify Child Support

The trial court granted Father's motion to modify child support. The court found that Father earned $1,256.00 per month and that Wife earned $1,235.00 per month. Applying those numbers within the child support guidelines worksheet, the court set Father's monthly obligation at $241.00 per month. The court declared that that amount would apply retroactive to January 2021.

After the trial court made that declaration, Father argued that the amount should be applied retroactive to February 2017. The court declined the request, explaining that it did not have the authority to go back further than May 2019, which is when the motion for modification was filed. The court reasoned that it would "meet [Husband] halfway" and set the retroactive date to 1 January 2021.

Father's Motion to Modify Child Support Arrears

The court also granted, in part, Father's motion to modify his child support arrears. The court found that, pursuant to § 12-401.1 of the Family Law Article of the Maryland Code, which prohibits an incarcerated parent from accruing arrears under certain conditions, Father should get credit for the eight-and-one-half months he was incarcerated, plus an additional 60 days. After Father argued that he should also get credit for the 153 days he spent in jail for violating his probation following his release from prison in May 2018, the court explained that the statute did not apply to that incarceration. The court then made the requisite calculations and decreased Father's arrears by $7,774.00.

Mother's Motion for Attorneys' Fees

Finally, the trial court awarded Mother $7,500.00 in attorneys' fees. The court found that Mother had incurred "an incredible amount of attorneys' fees in this case, largely due to the way that [Father] has elected to prosecute this case." The court found that Mother was justified in defending against Father's many motions and that Father had the ability to pay those fees, "especially in light of the fact that he [as a *pro se* litigant] has accrued none on his side of the ledger."

DISCUSSION

I.

Parties' contentions

Father first contends that the trial court erred in denying his motion for modification of custody. Father asserts that the court did not provide any justifiable reason for denying him access to R.G. Father maintains that the court should have set an access schedule for visitation and should not have given Mother complete control over his access to R.G.

Mother contends that the trial court did not err in denying Father's request for modification. Mother asserts that the court, in reaching its decision, considered the appropriate factors and found properly that it was not in R.G.'s best interest that the custody arrangement be modified.

Analysis

Appellate review of a trial court's decision regarding child custody involves three interrelated standards.[2] First, any factual findings are reviewed for clear error. *In re Yve S.*, 373 Md. 551, 586 (2003). Second, any legal conclusions are reviewed without according deference to the circuit court's conclusions. *Id.* Finally, if the court's ultimate conclusion is "founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion." *In re J.J.*, 231 Md. App. 304, 345 (2016) (citations and quotations omitted). "A decision will be reversed for an abuse of discretion only if it is

[2] *See Koshko v. Haining*, 398 Md. 404, 429 (2007) (noting that "visitation is a species of custody, albeit for a more limited duration").

well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* (citations and quotations omitted).

"On a motion for modification of custody, a trial court employs a two-step process: (1) whether there has been a material change in circumstances, and (2) what custody arrangement is in the best interests of the children." *Santo v. Santo*, 448 Md. 620, 639 (2016). "A material change of circumstances is a change in circumstances that affects the welfare of the child." *Gillespie v. Gillespie*, 206 Md. App. 146, 171 (2012). "Deciding whether those changes are sufficient to require a change in custody necessarily requires a consideration of the best interest of the child." *McCready v. McCready*, 323 Md. 476, 482 (1991). "The burden is then on the moving party to show that there has been a material change in circumstances since the entry of the final custody order and that it is now in the best interest of the child for custody to be changed." *Sigurdsson v. Nodeen*, 180 Md. App. 326, 344 (2008).

In *Sanders, supra*, this Court set forth a non-exclusive list of factors a trial court should consider when deciding whether to modify an existing custody order. *Sanders*, 38 Md. App. at 420. Those factors are: the parents' fitness; the parties' character and reputation; the parents' desire; any agreements between the parties; the potential of maintaining natural family relations; the child's preference; any material opportunities affecting the child's future; the child's age, health, and sex; the parents' residence and the opportunity for visitation; the length of separation from the natural parents; and any prior voluntary abandonment or surrender. *Id.*

In *Taylor, supra*, the Court of Appeals set forth a non-exhaustive list of factors a trial court should consider when determining whether a joint custody arrangement is appropriate. *Taylor*, 306 Md. at 304-11. Those factors, some of which overlap the factors outlined in *Sanders*, are: the capacity of the parents to communicate and reach shared decisions affecting the child's welfare; the willingness of the parents to share custody; the fitness of the parents; the relationship established between the child and each parent; the preference of the child; any potential disruption to the child's social or school life; the geographic proximity of parental homes; the demands of parental employment; the age and number of children; the sincerity of the parents' request; the financial status of the parents; any impact on State or Federal assistance; and the benefit to the parents. *Id*.

"When considering the *Sanders-Taylor* factors, the trial court should examine the totality of the situation in the alternative environments and avoid focusing on or weighing any single factor to the exclusion of all others." *Jose v. Jose*, 237 Md. App. 588, 600 (2018) (citations and quotations omitted). More to the point, "[t]he primary goal of access determinations in Maryland is to serve the best interests of the child." *Conover v. Conover*, 450 Md. 51, 60 (2016). "The best interest of the child is therefore not considered as one of many factors, but as the objective to which virtually all other factors speak." *Taylor*, 306 Md. at 303.

Moreover, "[t]his Court has observed that there is no such thing as a simple custody case, and that a judge agonizes more about reaching the right result in a contested custody issue than about any other type of decision." *Gizzo v. Gerstman*, 245 Md. App. 168, 200

(2020) (citations and quotations omitted). "Accordingly, trial courts are entrusted with 'great discretion in making decisions concerning the best interest of the child.'" *Id.* (quoting *Petrini v. Petrini*, 336 Md. 453, 469 (2020)). "The appellate court does not make its own determination as to a child's best interest; the trial court's decision governs, unless the factual findings made by the trial court are clearly erroneous or there is a clear showing of an abuse of discretion." *Id.* (citations and quotations omitted). "Indeed, custody decisions are 'unlikely to be overturned on appeal.'" *Id.* at 201 (quoting *Domingues v. Johnson*, 323 Md. 486, 492 (1991)).

Against that backdrop, we hold that the trial court in the present case did not err in denying Father's motion to modify custody. In reaching that decision, the court found that Father had questionable parental fitness and that he seemed "to be much more concerned about his own needs than the best interest of his child." The court noted the "many motions" filed by Father in the case, many of which the court characterized as borderline frivolous or vexatious, and the fact that Father called his 16-year-old daughter as a witness "to testify in a highly emotionally charged case about issues that she shouldn't even be involved in." The court found also that Father had a questionable character and reputation. Father appeared to "come to sparks with just about everybody in his life," had unresolved mental health and substance abuse issues, and had committed a violent assault against Mother while R.G. was in the home. As to the effect that a change in custody would have on R.G.'s health and wellness, the court found that: R.G. was thriving in Mother's care; Mother had fostered a stable environment that was conducive to raising children; and

Mother had a good relationship with R.G. Conversely, the court found that Father had "virtually no meaningful relationship" with R.G. The court found also that sending R.G. to visit with Father in Kentucky for any period of time would be a serious disruption. The court noted that Father lived approximately 600 miles away in a one-bedroom apartment with his teenaged daughter and her mother. Father had not explained properly where R.G. would sleep or how Father would foster an age-appropriate environment if R.G. were to visit. The court concluded that, "without some professional intervention in the form of psychological treatment for [Father], and some intense reunification therapy," any attempt at co-parenting would "absolutely disrupt" R.G.'s life. In the end, the court determined that "changing custody would not be in the child's best interest."

It is clear from this that the trial court examined carefully the evidence and considered thoroughly the relevant factors before determining that a modification of custody was not in R.G.'s best interest. None of the court's findings was clearly erroneous. We could find no basis from which to conclude that the court abused its discretion. Father's assertion that the court did not provide any justifiable reason for its decision is, therefore, baseless.

As noted, Father claims that the trial court erred in giving Mother complete control over his access to R.G.[3] We disagree. According to the custody arrangement contained in the divorce judgment, to which Father had consented, Mother had complete control over

[3] Father also claims that the trial court "essentially terminated parental rights without a parental rights hearing." That claim is without merit, as the court's decision simply denied Father's request for modification of custody. Father's parental rights remain unchanged.

Father's access to R.G. Thus, the court, in denying Father's motion for modification, did not actually grant Mother anything new or in addition; rather, the court determined only that a change in the prior custody arrangement was not in R.G.'s best interest at this time. That decision was not erroneous.

Nevertheless, a court may deny visitation to a parent if the child's health or welfare would be jeopardized by such an arrangement. *M.G.D. v. R.B.*, 220 Md. App. 669, 680 (2014). Thus, to the extent that Father is claiming that the trial court was required to grant him visitation, he is mistaken.

II.

Parties' contentions

Father next claims that the trial court erred in modifying his child support obligation retroactive to 1 January 2021. He argues that the court should have modified the amount retroactive to February 2017, which is when the divorce judgment was entered, because Mother had committed "fraud" by falsifying Father's income at the time of the divorce hearing. Father asserts, in the alternative, that the court should have modified the amount retroactive to May 2019, which is when his motion for modification was filed. Mother asserts that the court's decision was sound and should be affirmed.

Analysis

Section 12-104(a) of the Family Law Article of the Maryland Code provides that a court "may modify a child support award subsequent to the filing of a motion for modification and upon a showing of a material change in circumstance." If the court

decides to modify a child support award, the court may modify retroactively the award prior to the date of the modification, but it "may not retroactively modify a child support award prior to the date of the filing of the motion for modification." Md. Code, Fam. Law § 12-104(b); *see also Holbrook v. Cummings*, 132 Md. App. 60, 69-70 (2000). "The decision to make a child support award retroactive to the time of filing is one reserved for the trial court and will only be reversed upon a showing that the court abused its discretion." *Holbrook*, 132 Md. App. at 69-70.

We hold that the trial court did not err in modifying retroactively Father's child support award as of 1 January 2021. The court was under no obligation to modify the award to an earlier date. It was precluded by statute from modifying the award to a date prior to the date Father filed his motion for modification. Father presented no compelling reason why the court should have granted the modification to an earlier date. We could find no abuse of discretion in the court's decision.

Father, in claiming that the trial court should have modified the amount to the date of the divorce judgment, relies on the court's revisory power pursuant to Maryland Rule 2-535(b).[4] He argues that the asserted falsification of his income by Mother leading to the entry of the divorce decree constituted a "fraud" under that Rule.

We are unpersuaded. Father's reliance on Rule 2-535 is misplaced. "To establish fraud under Rule 2-535(b), a movant must show extrinsic fraud, not intrinsic fraud." *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (citations and quotations omitted).

[4] Maryland Rule 2-535(b) states that a court "may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity."

"Fraud is extrinsic when it actually prevents an adversarial trial but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, the truth was distorted by the complained of fraud." *Id.* at 290-91 (citations and quotations omitted). "In determining whether or not extrinsic fraud exists, the question is not whether the fraud operated to cause the trier of fact to reach an unjust conclusion, but whether the fraud prevented the actual dispute from being submitted to the fact finder at all." *Green v. Ford Motor Credit Co.*, 152 Md. App. 32, 48 (2003) (citations omitted). Thus, even if we were to accept Father's contention that Mother's representation of his income constituted fraud (which we do not), that fraud would be intrinsic and therefore not within the purview of Rule 2-535.

III.

Parties' contentions

Father next contends that the trial court erred in not giving him a credit against his child support arrears for the time he spent incarcerated for violating his probation following his release from prison May 2018. Mother asserts that the court was not required to give Father credit for that time and that its decision not to do so was sound.

Analysis

Before discussing the merits of Father's claim, we note that, at trial, Father argued that he should be given credit for his various incarcerations pursuant to FL § 12.104.1. Although the trial court did give Father credit for the eight-and-one-half months he spent in prison after pleading guilty to second-degree assault, the court refused to give him credit

for the 153 days he spent in prison for violating his probation. The sole question here, therefore, is whether FL § 12.104.1 applies to Father's incarceration for violating his probation. To the extent that Father is raising any additional arguments, those arguments were not preserved. Md. Rule § 8-131(a).

We hold that the trial court did not err. FL § 12-104.1 states, in pertinent part, that child support arrearages "may not accrue during any period when the obligor is incarcerated, and continuing for 60 days after the obligor's release from confinement, if … the obligor was sentenced to a term of imprisonment of 180 consecutive calendar days or more[.]" Md. Code, Fam. Law § 12-104.1(b)(1). Father's incarceration for violating his probation would not fall under the statute because he was not sentenced to 180 consecutive calendar days or more.

IV.

Parties' contentions

Father argues lastly that the trial court erred in awarding to Mother a contribution of $7,500.00 towards her attorneys' fees. Father asserts that, had Mother "fulfilled her part of the agreement and allowed video visitation or any type of visitation, the litigation would not have taken over four years." Father maintains that he has been "victimized" by Mother and that awarding attorneys' fees "to a party that committed fraud and burdening a parent that hasn't seen his sone in over four years seems unconscionable." Mother asserts that the court's decision was reasonable under the circumstances.

Analysis

In an action for modification of custody or child support, "[t]he court may award either party the costs and counsel fees that are just and proper under all the circumstances[.]" Md. Code, Fam. Law § 12-103(a). Before awarding such costs and fees, "the court shall consider: (1) the financial status of each party; (2) the needs of each party; and (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding." Md. Code, Fam. Law § 12-103(b). "Upon a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, and absent a finding by the court of good cause to the contrary, the court shall award to the other party costs and counsel fees." Md. Code, Fam. Law § 12-103(c). Substantial justification "relates solely to the merits of the case against which the judge must assess whether each party's position was reasonable." *Davis v. Petito*, 425 Md. 191, 204 (2012).

"The trial court has significant discretion in applying the § 12-103(b) factors to decide whether to award counsel fees and, if so, in what amount." *D.A. v. K.S.*, 242 Md. App. 1, 39 (2019) (citations and quotations omitted), *cert. denied* 466 Md. 219. "We will affirm a finding of bad faith or substantial justification unless it is clearly erroneous or involves an erroneous application of law." *Id.* at 38. We also assess the reasonableness of the amount of attorney's fees awarded. *Id.* at 40. "Reasonableness 'is a factual determination within the sound discretion of the court,' and 'the party requesting fees has the burden of providing the court with the necessary information to determine the reasonableness of its request.'" *Id.* (quoting *Nova Research, Inc. v. Penske Truck Leasing*

Co., 405 Md. 435, 448 n. 4 (2008)). Ultimately, the trial "court's decision regarding the award of fees 'will not be reversed unless [the] court's decision was exercised arbitrarily or the judgment was clearly wrong.'" *Gillespie*, 206 Md. App. at 176 (citing *Petrini*, 336 Md. at 468).

We hold that the trial court did not err in awarding to Mother a contribution of $7,500.00 towards her attorneys' fees. Mother presented evidence showing that she had incurred over $20,000.00 in attorneys' fees over the course of the litigation. The court characterized those fees as "incredible" and concluded that the fees were "largely due to the way that [Father] has elected to prosecute this case." The court highlighted the "many motions" filed by Father in the case and found that, although the motions were not all frivolous or vexatious, it was a "very, very, very close" call. The court determined that Mother was justified in defending against Father's motions and that Father had the ability to pay those fees, "especially in light of the fact that he [as a *pro se* litigant] has accrued none on his side of the ledger." Those findings, including the amount of fees awarded, were reasonable and supported by the evidence. The court's decision was neither arbitrary nor clearly wrong.

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