UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 707

September Term, 2014

MARY ANIERA PEREIRA

v.

RABINDER SINGH

Eyler, Deborah S.,
Hotten,
Nazarian,

JJ.

Opinion by Eyler, Deborah S., J.

Filed: May 21, 2015

Mary Aniera Pereira, the appellant, and Rabinder Singh, the appellee, were married in Georgia in September of 2006. They are the parents of Zalman Singh, who was born on October 31, 2007.[1] The family lived in Georgia until December of 2007, when Rabinder moved to Orlando, Florida, for a job. For a period of time in 2008, Mary and Zalman joined Rabinder in Florida, but they eventually returned to Georgia.

Mary and Rabinder were divorced in Florida in January of 2009. Pursuant to an order of the Circuit Court of the Ninth Judicial Circuit for Orange County, Mary was awarded primary physical custody of Zalman and Rabinder was granted visitation rights. For purposes of facilitating visitation, the parties were to exchange Zalman at an agreed location approximately halfway between their places of residence in Georgia and Florida. Rabinder was ordered to pay $358 per month in child support.

In June of 2011, Mary and Zalman moved to Hagerstown, where they continue to reside. Rabinder remains in Florida. On November 28, 2011, in the Circuit Court for Washington County, Mary filed a request to register the Florida custody order. On February 21, 2013, also in the Circuit Court for Washington County, Rabinder filed a petition to modify custody, based on Zalman's relocation to Maryland.[2]

On April 23, 2014, the court held a merits hearing on Rabinder's petition. Prior to the hearing, the parties reached an agreement resolving most of the custody issues, including that Mary would have primary physical custody and Rabinder would have visitation with Zalman one weekend per month during the school year. They disagreed, however, about the proper

[1]We shall use the parties' first names for clarity.

[2]By order of July 12, 2013, the circuit court consolidated the two cases.

allocation of travel expenses associated with visitation.[3] After receiving evidence, the court ruled "the expense[s] be split fifty/fifty." On May 19, 2014, the court entered an order to that effect. The expenses to be split include "the reasonable costs . . . to facilitate visitation, including airfare, fuel, hotels and/or rental vehicles."

In the meantime, on May 5, 2014, Mary filed a "Motion to Alter or Amend Judgment," which because it was filed prematurely is treated as though it were filed on May 19, 2014. The court denied that motion by order entered on May 27, 2014. On June 16, 2014, Mary filed a timely notice of appeal.

Mary asks whether the circuit court erred in its allocation of travel expenses.[4] For the reasons stated below, we shall affirm the order of the circuit court.

We will include additional facts below as needed.

STANDARD OF REVIEW

"This Court reviews child custody determinations utilizing three interrelated standards of review." *Gillespie v. Gillespie*, 206 Md. App. 146, 170 (2012) (citing *In re Yve S.*, 373 Md. 551, 586 (2003)).

[3]They also disagreed about "what visitation would occur during the summer of 2015 and for summers thereafter." The court ruled on this issue, but its ruling is not challenged on appeal.

[4]As framed by Mary, her question presented is "Was the trial court's Order entered May 13, 2014 requiring Appellant to pay for travel expenses of Appellee in order for Appellee to visit his children equitable?" We note the visitation order bears a May 13, 2014 "RECEIVED" stamp, but according to the docket entries the order was entered on May 19, 2014.

> When the appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8–131(c)] applies. [Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when the appellate court views the ultimate conclusion of the [court] 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 Yve S., 373 Md. at 586.

DISCUSSION

Mary contends the circuit court abused its discretion in ordering the parties to split the travel expenses associated with visitation because it is "impossible [for her] to perform" that obligation. Specifically, she argues that the court, being "aware of her financial situation," should have known that she could not support Zalman "on $358 of child support and a $17 per hour job . . . if she is splitting travel costs." Mary also argues that the court's order "is against the public policy of Maryland as it does not protect the best interests of the child." Rabinder responds that the court, which "relied upon evidence of the parties' respective income levels," did not abuse its discretion in ordering the parties to split travel expenses.[5]

[5] In addition to considering the parties' financial circumstances, the hearing judge also considered other matters of "equity" in determining the allocation of travel expenses. Specifically, the parties asked the judge to consider why Mary had relocated to Maryland and why Rabinder had gone so long without seeing Zalman. (At the time of the hearing, Rabinder had not seen Zalman for over five years.) Mary testified that she moved to Maryland for a job and to be closer to family. She also testified that Rabinder exhibited "abusive behaviors" in the past, once kidnapped Zalman, and failed to participate in an anger management course as required by the Florida custody order. Mary was of the opinion that the only thing that stood in the way of Rabinder's having visitation with Zalman was his failure to complete that course. Rabinder denied any abusive behavior, stated that he consented to the course, and alleged that when Mary left Florida she told him that he would

(continued...)

At the hearing, Mary testified that she is a Wells Fargo employee and that she earns a gross income from her employment of a little less than $3,000 per month.[6] She also testified about approximately $1,316 in monthly expenses, although not all expenses were included.[7] Rabinder testified that he works "[f]orty hours a week" and earns $12.25 per hour. This is a gross income of slightly more than $2,100 per month. Rabinder did not testify about the amount of any specific expenses he has, but confirmed that he does not "have any extraordinary expenses outside of the normal regular living expenses."[8] Rabinder has been paying the ordered $358 per month in child support to Mary.

The court heard testimony about the amount of the travel expenses associated with visitation. Mary stated that she had researched flight prices and that round trip plane tickets could be purchased for $140. Rabinder's brother-in-law testified that the trip from Florida to Hagerstown for the hearing cost "probably in the neighborhood of Fifteen to Eighteen

[5](...continued)
never see Zalman again. Mary does not contend that the court abused its discretion with respect to these considerations. In fact, she does not address them at all.

[6]Mary improperly included a copy of a Wells Fargo pay stub, which is not part of the record, in the record extract. *See* Md. Rules 8-413(a) and 8-501(c). We note that the pay stub shows that Mary was earning $1,761.72 every two weeks, which equals a yearly income of over $45,000, and a monthly income of over $3,800.

[7]Mary testified that her monthly expenses were $757 for rent; between $140 and $180 for utilities; $260 for Zalman's after school care; and $139 for Zalman's Karate and Drum lessons. She also testified to having telephone and transportation expenses, but did not state the amount of those expenses. She did not mention other expenses, such as food and clothing.

[8]Rabinder testified that he does not have a mortgage payment. Four and a half years earlier, he paid $60,000 in cash for his condominium. He attributed his ability to do so, in part, to a $32,000 inheritance.

Hundred." That included "hotel, car and . . . airfare" (presumably for both himself and Rabinder). He also testified that when they had traveled to Maryland the summer before, the flights "were about Four Hundred a piece" and the hotel and rental car costs totaled $200.

Mary does not explain why her compliance with the court's order is "impossible." The court found that "[Rabinder] doesn't have a lot of money and neither does [Mary]." It acknowledged that this extra expense might "make things that much more financially tight for" Mary, but found that it was in Zalman's best interest to have visitation with his father and that Mary's contribution to travel expenses would facilitate that visitation. It also found that, based on his brother-in-law's testimony, Rabinder was doing his "best to keep expenses down." The court noted that transportation could be "driving or flying," or even "Amtrak."

The circuit court did not make any clearly erroneous factual findings and its ultimate ruling was not an abuse of discretion. Moreover, contrary to Mary's assertion, the court expressly considered what would be in Zalman's best interests, and, finding that having visitation with his father will be in his best interests, entered an order that will effectuate that result.

ORDER OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED. COSTS TO BE PAID BY THE APPELLANT.