Circuit Court for Prince George's County
Case No. C-16-FM-23-004095

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1136

September Term, 2024

ZITA MUKETE

v.

ATHANASIUS T. MONJU

Arthur,
Shaw,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 17, 2025

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

This appeal concerns a divorce between spouses with one minor child. After hearing testimony for about two hours, the Circuit Court for Prince George's County granted the parties an absolute divorce, awarded primary physical custody to the father, established joint legal custody, and granted tie-breaking authority to the father. The court ordered that the father would retain ownership of the marital home and ordered the mother to vacate the home immediately. Although the court did not determine the value of any marital property, the court ordered the father to pay a monetary award in the amount of $10,000, which the court said would "account[] for her share of the marital home[.]"

The mother has appealed, challenging the decisions regarding the monetary award, division of marital property, and child custody. For the reasons stated in this opinion, we will reverse the judgment with respect to all issues other than the divorce and remand the case for a new trial.

FACTUAL AND PROCEDURAL BACKGROUND

A. Initiation of Divorce Proceedings

Athanasius Monju and Zita Mukete were married in December 2019. Beginning in 2020, they lived together in a home in Lanham, Maryland, titled solely in Mr. Monju's name. They had one child together, a son, who was born in March 2021.

On June 1, 2023, Mr. Monju filed a divorce complaint in the Circuit Court for Prince George's County. Mr. Monju requested an absolute divorce, alleging that Ms. Mukete physically abused him and exhibited excessively cruel and vicious conduct. Mr. Monju requested sole legal custody of the child, primary physical custody, child support,

equitable division of marital property, and an order requiring Ms. Mukete to pay his counsel fees.

One week after Mr. Monju filed his divorce complaint, Ms. Mukete filed a petition for protection from domestic violence, alleging that Mr. Monju physically and verbally abused her. A few days later, Mr. Monju also petitioned for protection from domestic violence, alleging that Ms. Mukete physically assaulted him and threatened him.

Ms. Mukete filed a counterclaim in the divorce action. Ms. Mukete alleged that Mr. Monju physically and emotionally abused her, that she had served as the child's primary caregiver since birth, and that she lacked the financial resources to support herself and the child. Ms. Mukete requested an absolute divorce based on excessively vicious conduct or cruel treatment by Mr. Monju, sole legal custody of the child, primary physical custody of the child with visitation for Mr. Monju, child support, equitable division of marital property, a monetary award, transfer of an interest in retirement plans owned by Mr. Monju, and an order requiring Mr. Monju to pay her counsel fees.

On August 2, 2023, the parties appeared for a hearing in the protective order cases. By the parties' consent, the court issued final protective orders effective for one year. The court ordered each party to refrain from abusing or threatening to abuse the other party. The court also ordered Mr. Monju to continue paying home expenses, to live on a separate floor from Ms. Mukete, and to leave his living space only to get food from the kitchen, to care for the child, or to wash his clothes once per week. Finally, the court ordered Ms. Mukete to stay out of the basement level occupied by Mr. Monju.

B. Pretrial Matters

In divorce cases where a party seeks spousal support or child support, each party must file a current financial statement under affidavit along with the party's pleadings. Md. Rule 9-202(e)-(f). The financial statement must include information about the party's monthly income and expenses. *See* Md. Rule 9-203(a)-(b). In this case, neither party filed the required financial statement.

In divorce cases where a party seeks a monetary award or the transfer of an ownership interest in property, the parties must file a joint statement listing all property owned by one or both parties. Md. Rule 9-207(a). The joint property statement lists each spouse's assertions about how property is titled, whether the property is marital or non-marital property, and the value of the property. Md. Rule 9-207(b). The Rule mandates the procedure for formulating the joint property statement and requires the parties to file the statement at least 10 days before trial or by an earlier date fixed by the court. Md. Rule 9-207(c).

The court's scheduling order, issued in September 2023, included a provision requiring the parties to file the joint statement of marital and non-marital property in advance of the settlement conference scheduled for January 2024. The scheduling order further required the parties to file a parenting plan agreement (Md. Rule 9-204.1) or a joint statement concerning decision-making authority and parenting time (Md. Rule 9-204.2) in advance of the settlement conference.

Before the settlement conference, Mr. Monju alone filed a statement of marital and non-marital property. Mr. Monju admitted that the family home, titled in his name, is

marital property. He did not make any assertion about the fair market value of the home. He asserted that the marital debt attributable to the home was $372,117.66. The only other items of marital property that he disclosed were three bank accounts in his name with a combined value of $574.94. In addition, Mr. Monju asserted that he owned one vehicle, a 2011 Toyota Camry, and claimed that this vehicle was non-marital property, but he did not make any assertion about the value of the vehicle.

Mr. Monju alone filed a statement concerning decision-making authority and parenting time. Mr. Monju proposed that he should receive tie-breaking authority and primary physical custody of the child and that Ms. Mukete should have four nights of overnight visitation every two weeks.

For her part, Ms. Mukete filed no property statement and no statement concerning decision-making authority and parenting time by the court's deadline or anytime thereafter.

The parties participated in a settlement conference, but did not reach an agreement. On the scheduled trial date in February 2024, the court granted Mr. Monju's motion for a continuance for the purpose of amending his pleadings. Shortly thereafter, Mr. Monju filed an amended complaint in which he alleged that the parties lived separately since the date of the final protective orders and added a six-month separation as an alternative ground for absolute divorce. Otherwise, Mr. Monju requested the same relief that he had requested in the original complaint.

C. Circumstances of the Trial

The trial on all claims took place on June 5, 2024. The circuit court scheduled the

trial to begin at 9:00 a.m. and to end five hours later, at 2:00 p.m. At the time of trial, the parties' child was three years and two months old.

Neither party arrived at the courtroom by the scheduled starting time of 9:00 a.m. According to one of Mr. Monju's later filings, he did not reach the courtroom until 9:45 a.m. According to one of Ms. Mukete's later filings, she arrived at the courthouse with the child at around 10:00 a.m.

The recorded proceedings did not begin until 10:47 a.m. Counsel for Ms. Mukete told the judge that, when Ms. Mukete arrived, she attempted to place the child in a waiting area, but court employees refused to accept the child in the waiting area because he was not able to use the bathroom without adult assistance. Counsel stated that Ms. Mukete was contacting third parties to try to find someone to pick up the child from the courthouse. In response, the judge stated: "Okay, wait, wait. I am not continuing the case. I can't. The party came here an hour late to start with. I am ready to roll. I am ready to roll."

As the judge attempted to discuss preliminary matters with counsel, the judge noted that the child appeared to be unable to remain quiet in the courtroom. The judge announced that Ms. Mukete was "going to have to take the child outside." The judge added: "And then someone is going to kick them out of the hallway for making all the noise." The transcript states that some additional "[d]iscussion regarding child noise" occurred, but this discussion was not transcribed.

The judge and counsel for the parties proceeded to discuss some of the issues in the case, in Ms. Mukete's absence. Moments later, the judge instructed Ms. Mukete's

attorney to bring her client back into the courtroom. Mr. Monju agreed to step out of the room to watch the child so that Ms. Mukete could return to the room.

When Ms. Mukete returned, the judge told her, "there is no reason why you should be coming to court an hour late." Ms. Mukete told the judge that she arrived late because she parked her car at the Equestrian Center and waited for a connecting bus. Ms. Mukete stated that the connecting bus never came and she eventually needed to walk the rest of the way to the courthouse with the child. The judge expressed doubt about her explanation, stating that connecting buses run "all day long" and that the judge had seen people arrive to "other courtrooms" before 9:00 a.m. that day.

The judge informed Ms. Mukete that, in the event that Mr. Monju would retain ownership of the marital home, the court would require her to leave the home immediately. The judge stated, "this might be the time for you all to try to settle this matter" and to "negotiate some kind of date that you will leave." Moments later, the judge added: "if I give him the house and it is his house as I understand it, you may be out by the end of this week." The judge told Ms. Mukete: "it is up to you whether you want to give your attorney a little more leeway and saying get this matter resolved and get it resolved right now."

The judge declared a recess, which started at 11:17 a.m. When the proceedings resumed at 12:29 p.m., the parties informed the judge that they did not reach a settlement agreement. The judge directed the parties to return for trial at 1:30 p.m., after a lunch

break.[1]

Mr. Monju and Ms. Mukete were the only witnesses to testify. Mr. Monju, as the plaintiff, began his testimony at 1:34 p.m. The judge instructed the parties to finish the presentation of evidence by 4:00 p.m.

Within a few minutes after the start of cross-examination of Mr. Monju, the court announced that it would take a "short break" and told counsel that they should "continue to talk" about settling the case. The recess lasted for 30 minutes, from 2:28 p.m. until 2:58 p.m.

When the testimony resumed, Ms. Mukete had slightly more than one hour to complete her cross-examination of Mr. Monju and to present her entire case on all issues raised in her pleadings. Throughout this hour of testimony, the judge gave periodic reminders of the time, such as "it is now 3:18" and "it is now 3:30."

D. Testimony of the Parties

In his testimony, Mr. Monju explained that he works as a cyber-security specialist for the Department of Justice. Mr. Monju stated that he works from home "100 percent" of the time, using computers in the basement, except that he visits his office to make financial reports about once every three months. Mr. Monju did not testify about or introduce any evidence about the income from his employment.

Mr. Monju testified that he purchased the marital home in April 2020, several

[1] Ms. Mukete later testified that she "had to pay a nanny to come pick [the child] up." The record does not include information about when this care provider picked up the child.

months after the parties were married. Mr. Monju stated that the home is titled solely in his name and that he financed the home purchase through a loan in his name. Mr. Monju expressed his opinion that the fair market value of the home is $470,000. Mr. Monju offered a home appraisal report into evidence, but counsel for Ms. Mukete objected on the ground that the report had not been authenticated. The court did not admit the report into evidence. Mr. Monju did not testify about the amount of debt attributable the home.

Mr. Monju did not present evidence about any bank accounts or retirement accounts in his name. When asked whether the parties owned any marital property other than the marital home, Mr. Monju stated that Ms. Mukete purchased a car during the marriage and that she makes her own car loan payments and car insurance payments. Mr. Monju also stated that he owns a car that he purchased in 2012 and paid off before the marriage.

Mr. Monju expressed his opinion that the marriage deteriorated because Ms. Mukete became "nagging[,]" "scolding[,]" and "violent" toward him after the birth of their child. Mr. Monju testified that, on one occasion, Ms. Mukete kicked and broke the door of a room in which he was sleeping. Mr. Monju also testified that Ms. Mukete had broken some of his phones and damaged a wall by throwing a phone at it. According to Mr. Monju, Ms. Mukete "put[s] her hands on [him]" and "slap[s]" him "very frequently."

Mr. Monju testified that Ms. Mukete "constantly came down" to the basement after he obtained the final protective order that required Ms. Mukete to stay away from his living space in the basement. Mr. Monju also testified that Ms. Mukete threw rice and other food onto his computers and that she poured water onto him, his bed, and his

computers. Mr. Monju introduced a photograph of his basement work area after an incident in which, according to Mr. Monju, Ms. Mukete scattered his work papers onto the floor. Mr. Monju testified about a video recording of an incident in which, he claimed, Ms. Mukete threatened to spill water onto him. Mr. Monju also testified about a video recording of another incident in which, he claimed, Ms. Mukete "held [his] head and she was slapping [him]."[2]

Mr. Monju testified that his son previously attended daycare, but that the school had asked the parents to withdraw him. Mr. Monju testified that, in his opinion, Ms. Mukete did not spend enough time with their son because she was frequently out of the house on nights and weekends. Mr. Monju stated that, although Ms. Mukete never used corporal punishment, she often "scolds" and "yell[s]" at their child.

During cross-examination, Mr. Monju admitted that the child, who was then three years and two months old, was "not able to talk." Mr. Monju acknowledged that Ms. Mukete tried to arrange for a doctor to evaluate their son for Autism Spectrum Disorder through a video phone call. Mr. Monju testified that he would not agree to have a doctor "evaluate a child from a distance[.]" Mr. Monju also testified that he did not believe that his son has autism and opined that his son was not speaking because his mother was not talking to him enough or spending enough time with him. Mr. Monju stated that he was paying for one or more therapists selected by Ms. Mukete, but he opined that the

[2] Counsel for Mr. Monju marked the video exhibits for identification and played the recordings in the courtroom, but never offered the exhibits into evidence. In her testimony, Ms. Mukete admitted that one recording showed her "struggling with" Mr. Monju, but she claimed that she was not slapping him.

therapists were "not helping" the child's development because Ms. Mukete was "not there to converse with the child" at home.

In her testimony, Ms. Mukete stated that, to her understanding, her son "is autistic." Ms. Mukete stated that her son "loves climbing and tearing things and he is violent." Ms. Mukete stated that her son previously attended preschool at Kiddie Academy, but he was currently "suspended" from the school.

Ms. Mukete testified that, at the time of trial, her son was receiving treatment from multiple therapists. Ms. Mukete stated that she was taking her son to appointments four days per week: to one speech therapist on Tuesday mornings from 10:30 to 11:00; to another speech therapist on Wednesday mornings from 9:00 to 11:00; and to a behavior therapist and an occupational therapist on Wednesdays, Thursdays, and Fridays. Ms. Mukete stated that, on the three previous Tuesday mornings, she was unable to take her son to speech therapy because of work commitments. Ms. Mukete testified that Mr. Monju refused to take the child to the appointments. Ms. Mukete expressed her belief that Mr. Monju "is in denial" about their child's need for therapy.

During cross-examination, counsel for Mr. Monju asked Ms. Mukete: "Who made the diagnosis that your son was autistic?" Ms. Mukete stated that a "medical evaluator" or "evaluating team" made the diagnosis, but she could not remember the names of the evaluators. When asked for the name of the child's speech therapist, Ms. Mukete stated that the child sees "a couple of them[,] . . . not just one[,]" but she could not remember their names. When asked for the name of the occupational therapist, Ms. Mukete stated the name of the company where the child received occupational therapy and stated that

the child sees "different people each time[.]" When asked for the name of the behavioral therapist, Ms. Mukete stated that she remembered one therapist named "Ms. Ashley" and that the child sees "different therapists . . . all the time."

Ms. Mukete testified that, until six weeks before the trial, she worked at a grocery store near her home. Ms. Mukete produced a paystub from her former employer, but did not offer the exhibit into evidence. Ms. Mukete testified that the highest rate of pay that she earned at the grocery store was $19 per hour. Ms. Mukete stated that she lost her job because the employer was reducing its number of employees and because she had not been working regularly. According to Ms. Mukete, she could no longer work "normal" work hours, "[b]ecause of [her] son's medical condition" and her need to take her son to therapist appointments during the week.

Ms. Mukete testified she has a Ph.D. in law, evidently from a school in another country, but has not gained admission to practice law and had never held any paid position in the legal field. Ms. Mukete testified that, after losing her job at the grocery store, she started an unpaid internship with the State's Attorney's Office. Ms. Mukete stated that on weekdays she usually leaves home at 7:00 a.m. and does not leave work until 3:00 p.m. Ms. Mukete also stated that she had an "open schedule" for her position. Ms. Mukete stated that on "some days" she leaves the office during the day and returns home to take her son to appointments.

Ms. Mukete testified that, since losing her job, she started trying to earn money by selling makeup at a shopping mall during the evenings. Ms. Mukete testified that she sometimes finds someone to watch her son and that other times she takes her son with her

when sells makeup. Ms. Mukete did not testify about the amount of income she earned from makeup sales.

Ms. Mukete testified that she could not afford to rent an apartment with the income that she was currently earning. Ms. Mukete stated that none of her family members live in the United States except for her cousin's daughter, who lives in a one-bedroom apartment that she shares with her boyfriend. Ms. Mukete stated that, if she could not continue living in the marital home, she would have nowhere else to go. Ms. Mukete claimed that, despite the pending divorce proceedings, she did not try to find a new residence because Mr. Monju had "caused [her] to believe that [they] were fixing [their] problems" and told her that he was "going to withdraw" the divorce claims.

Ms. Mukete testified that, during the marriage, Mr. Monju controlled the family's financial matters and never discussed his financial decisions with her. Ms. Mukete stated that Mr. Monju made the monthly home payments and that she paid for the family's groceries, home furnishing, and all shopping for their child. Ms. Mukete mentioned that, in July 2023, she purchased a vehicle for which she makes payments of $650 per month.[3]

In her testimony, Ms. Mukete stated her opinion that Mr. Monju was "not a good dad" and that he "doesn't really love" her or their son. Ms. Mukete testified that Mr. Monju told her that "he just married [her] to help [her]." Ms. Mukete believed that Mr. Monju "just wanted . . . sexual pleasure" and "used" her for that purpose. Ms. Mukete claimed that Mr. Monju treated her "like his maid or his slave" and sought to "control"

[3] In his testimony, Mr. Monju stated that Ms. Mukete pays "about $600" per month for her car and "about $200" for her car insurance.

her. Ms. Mukete admitted that she would "fight and argue" with Mr. Monju, but claimed that she did so because she "want[ed] things to be right."

Throughout closing arguments, the trial judge made frequent comments about the lack of evidence on material issues such as the income of both spouses and the value of the marital home. The judge noted that only Mr. Monju had filed a property statement and that the only items listed were the marital home, his checking accounts, and his car. The judge observed that Ms. Mukete did not file any property statement listing her assertions as to the value of any items of property. The judge stated that he had "no idea" what the value of the home might be because Ms. Mukete "ha[d]n't given [him] a number."

The judge stated that "the only thing [he] got was her income basically[,]" but then corrected that statement to say that he "didn't get that" either. The judge noted that Ms. Mukete had provided only a single paystub from her former employer, which she never introduced into evidence. The judge further noted that he did not receive any evidence about Mr. Monju's income, child care expenses, or health insurance expenses for the child. The judge commented that he did not have enough information to make any child support calculation. The judge concluded: "I don't have anything. The only thing I have is basically divorce and the custody. That is why I was trying to get the parties to talk earlier."

E. Judgment of the Circuit Court

After closing arguments, the court issued an oral ruling. After noting that Ms. Mukete had relied almost entirely on her own testimony, the court stated: "I don't find

[Ms. Mukete] credible." As an "example[]" in support of this credibility finding, the court stated that Ms. Mukete testified that Mr. Monju would not "communicate with her about anything[,]" but "went on to say that . . . they ha[d] been talking" when she claimed that they discussed reconciliation. The court emphasized: "I don't believe anything [Ms. Mukete] said."

The court found that the videos presented by Mr. Monju showed Ms. Mukete "attempt[ing] to pour water" on him and "slapping at" him while "screaming at" him. The court commented: "I don't know whether I have seen anyone with [a] more outrageous attitude[.]" The court stated that Ms. Mukete's testimony led the court to believe that she "is the only one who can control the child." The court observed that the child "was completely out of control when with [Ms. Mukete]" in the courtroom that morning. The court also stated that, when Mr. Monju took the child outside the room, the court "did not hear any . . . of the banging" or "screaming" that the court "heard when the child was in the room with the mother."

The court expressed disbelief in Ms. Mukete's testimony about her child's therapist appointments. The court reasoned that, because Ms. Mukete worked in a volunteer position, she could not lose pay or lose her position if she failed to attend. The court reasoned that, "[i]f these appointments were that important to the child, and apparently should be if they were[,]" then Ms. Mukete should have left her workplace to take the child to the appointments. The court concluded: "The child is not really doing these. You have no idea who the providers are if there are providers."

The court mentioned some of the factors relevant to custody determinations and

said that it had "considered all of these factors and others[.]" The court announced its decision that it was in the child's best interest to establish joint legal custody, to grant tie-breaking authority to Mr. Monju, and to grant primary physical custody to Mr. Monju. The court said that it would not calculate child support because Mr. Monju had waived his claim for child support during the trial.

Expressing concern about "physical altercations[,]" the court stated that Ms. Mukete "shall vacate the home immediately forthwith." The court stated that "whatever personal property [wa]s in each party's physical possession w[ould] remain his or her personal property[,]" including "any bank accounts and automobiles." The court stated that "it sound[ed] like" the parties' home "was in fact marital property." The court stated that it did not have "any idea as to what the value of the property was" when Mr. Monju purchased it or "any idea as to what amount has been paid on the home" since then. The court concluded that it would order Mr. Monju to pay Ms. Mukete "the sum of $10,000[,]" either in payments of $500 per month "[o]r [as] a lump sum as he believes appropriate."

Three weeks after the trial, on June 26, 2024, the circuit court entered its final judgment. The court granted the parties an absolute divorce on the ground of irreconcilable differences.

The court established joint legal custody and granted Mr. Monju tie-breaking authority. The court granted primary physical custody to Mr. Monju and granted visitation to Ms. Mukete on three weekends per month. The court ordered the parties to "alternate" physical custody on "all major Federal holidays[.]"

The court granted Mr. Monju "full ownership" of the marital home and ordered Ms. Mukete to "vacate the [p]arties' [m]arital home . . . immediately[.]" The court directed Ms. Mukete, "upon vacating the home," to notify Mr. Monju "as to her residence, or to wherever place [she] w[ould] be exercising her visitation" with the child.

The court ordered that each party would retain ownership of any vehicle titled in the party's name. The judgment did not specify the ownership of any other items of personal property.

The court ordered Mr. Monju to pay a monetary award in the amount of $10,000 to Ms. Mukete, "accounting for her share of the marital home[.]" The court ordered Mr. Monju to pay the monetary award in installments of at least $500 for 20 months, or as a lump sum.

H. Post-Trial Matters

Within one week after the trial, Ms. Mukete made two applications for criminal charges against Mr. Monju in district court, arising from two alleged incidents. In her first application, she alleged that Mr. Monju assaulted the child. In her second application, she alleged that Mr. Monju assaulted both her and the child.

One day before entry of the divorce judgment, Ms. Mukete filed a motion for an emergency custody hearing. The emergency motion asserted that the child had missed several therapist appointments since Mr. Monju had taken the child into his care. The motion asserted that, on June 22, 2024, police officers found the three-year-old child "walking along Greenbelt Road" with no adult present. The motion also asserted that the Prince George's County Child Protective Services agency received notice of the incident

and that "criminal charges for child neglect ha[d] been filed" against Mr. Monju. The motion asked the court to grant Ms. Mukete temporary physical custody of the child until the resolution of a Child Protective Services investigation or the criminal charges against Mr. Monju.

In support of the motion, Ms. Mukete provided a copy of an incident report written by a police officer who investigated the incident of suspected neglect. The report stated that the "nonverbal" child was "found in the middle of the street" and "barefoot." The report stated: "This was the second incident in as many days where the [child] has escaped from [Mr. Monju's] supervision and put himself in harm's way[.]" The report stated that officers returned the child to Mr. Monju's care after the incident.[4]

On June 26, 2024, the circuit court held a hearing concerning Ms. Mukete's emergency motion. The matter was heard by a judge other than the trial judge. The court denied the motion, stating that it determined that the matter was not an emergency and that any custody ruling should "proceed in due course."[5]

On July 8, 2024, Ms. Mukete filed a motion for new trial or, in the alternative, a motion to alter or amend the divorce judgment. Ms. Mukete asked the court to receive

[4] Although the emergency motion asserted that Mr. Monju faced criminal charges for child neglect, the incident report does not mention any charges. The report indicates that the officer made an "Arrest" and issued a "Criminal Citation / Summons." A search of Judiciary records shows that the officers did not pursue criminal charges after the incident. Three weeks after the incident, Ms. Mukete herself applied for criminal charges in district court, alleging that Mr. Monju committed child neglect. In her application, she acknowledged that "criminal charges ha[d] not been filed" after the incident.

[5] The record does not include a transcript of the hearing concerning the emergency motion.

additional evidence about events that occurred after the trial. Ms. Mukete sought to present evidence concerning a special education assessment of the child, therapist appointments that the child missed while in Mr. Monju's care, criminal charges brought by Ms. Mukete against Mr. Monju for assault, and the incidents of suspected child neglect at issue in her emergency motion.

In her post-judgment motion, Ms. Mukete contended that the circuit court improperly refused to grant a continuance of the trial. Ms. Mukete observed that, on the morning of trial, the court announced that it would not grant any postponement before counsel had the opportunity to request one. Ms. Mukete argued that the court unreasonably limited the presentation of evidence by "requir[ing] the parties to finish the entirety of both of their cases in chief and arguments" in a three-hour period. Ms. Mukete argued that, during the limited time available to her, she "was unable to present all of her testimony and evidence regarding the multiple and complex issues of custody, access, alimony, monetary award, and child support."

Ms. Mukete further argued that the trial court erred when it evaluated her monetary award claim. Ms. Mukete noted that court required her "to vacate the marital home immediately, with no opportunity to remove her personal belongings or find a new place of residence." Ms. Mukete argued that the decision to "leave [her] out in the cold with no clothing, no residence, and little to no financial support" was "shocking[.]" Ms. Mukete observed that, at trial, Mr. Monju had testified that the value of the home was $470,000. Ms. Mukete asserted that the monetary award resulted in Mr. Monju receiving "almost 80% of the value of the marital property" and argued that this result was neither

fair nor equitable. Ms. Mukete asked the court to revise its judgment to award her "half of the equity" in the marital home.

Mr. Monju opposed the post-judgment motion. Mr. Monju argued that Ms. Mukete lacked corroboration for her allegations of assault or neglect and that the additional evidence discussed in her motion did not justify any revision of the judgment. Mr. Monju argued that the time limitations at trial resulted from delays caused by Ms. Mukete and that any deficiencies in the evidence resulted from lack of preparation by Ms. Mukete and her counsel. Mr. Monju argued that the court should not reconsider its monetary award because Ms. Mukete had failed to present evidence of the value of the marital home.

On July 22, 2024, the circuit court denied Ms. Mukete's motion to alter or amend the judgment without a hearing. After the entry of that order, Ms. Mukete filed a timely notice of appeal.[6]

While the appeal was pending, both parties petitioned for contempt in the divorce action. Ms. Mukete alleged that Mr. Monju refused to allow her to retrieve her

[6] A prior order of this Court states that Ms. Mukete did not file her motion to alter or amend the judgment within 10 days after the entry of judgment and, accordingly, that the scope of review is limited to reviewing the denial of her motion. *See generally Blake v. Blake*, 341 Md. 326, 331, 338 (1996). This prior order was incorrect. The circuit court entered the divorce judgment on June 26, 2024. The tenth day after the entry of judgment was Saturday, July 6, 2024. Where the last day of a filing period ends on a Saturday, the filing period "runs until the end of the next day that is not a Saturday, Sunday, or holiday[.]" Md. Rule 1-203(a)(1). Ms. Mukete filed her motion to alter or amend the judgment on Monday, July 8, 2024. Because she filed a timely motion to alter or amend the judgment and appealed within 30 days after the denial of that motion, her appeal from the judgment is timely under Md. Rule 8-202(c).

belongings from the home and refused to accept the child into his care on days when he had physical custody. Mr. Monju alleged that Ms. Mukete interfered with his access by keeping the child in her care after weekend visitation and that Ms. Mukete repeatedly reentered the home without his permission.

Meanwhile, each party petitioned for protection from domestic violence. On August 28, 2024, the court issued orders in the protective order cases stating that the parties agreed to dismiss their petitions and established a time for Ms. Mukete to enter the home to obtain her clothing, certain furniture, and other household and personal items. Ultimately, in December 2024, the parties agreed to dismiss their contempt petitions in the divorce case.

As mentioned previously, Ms. Mukete had initiated three separate criminal proceedings against Mr. Monju in district court. The two assault cases ended with a nolle prosequi in September 2024. The neglect case ended with a nolle prosequi in December 2024.

DISCUSSION

Ms. Mukete, who represents herself in this appeal, filed an informal brief pursuant to Md. Rule 8-502(a)(9). Ms. Mukete challenges the circuit court's evaluation of marital property and its decision to grant a monetary award in the amount of $10,000. Ms. Mukete challenges the court's decisions to award Mr. Monju primary physical custody and tie-breaking decision-making authority. Ms. Mukete challenges the court's finding that her testimony about the child's medical condition lacked credibility. In addition, Ms. Mukete questions whether she received a fair trial, noting that the court limited the time

available to her and refused to exercise its discretion to order a continuance.[7]

Mr. Monju, through counsel, filed an informal brief in response to Ms. Mukete's brief. Mr. Monju argues that Ms. Mukete's contentions lack merit and that this Court should affirm the judgment as to all issues.

I. Marital Property and Monetary Award

In this appeal, Ms. Mukete challenges the circuit court's decisions regarding the monetary award and the division of marital property. Under those decisions, the court

[7] Ms. Mukete's informal brief presents the following questions:

> 1. Was the trial court's award of the Matrimonial Home to the Appellee equitable?
>
> . . . Was the court order that the Appellee pay $10.000 ($500) each month over the next twenty months or as he believes appropriate equitable?
>
> 2. Was the trial court award of Primary Physical custody and tie- breaking authority of the . . . 3 yrs. old Autistic child to the Appellee of the Child's Best Interest following, A) The testimony of the Appellant B) The Newly introduced medical records and Police Report in the Post trial motion?
>
> [3.] Was the trial court finding of the Appellant's testimony as incredible clearly erroneous?
>
> . . . Was the finding of incredibility based on any contradicting evidence presented or . . . mere speculations? Especially following the newly introduced medical and educational . . . evaluation Records of the 3 yrs. old child at the post -trial motion re-confirming the . . . Appellant's testimony on trial about the autistic diagnosis?
>
> [4.] Were the trial court findings supported by the weight of the evidence?
>
> . . . Did the Appellee testimony outweigh the combination of Appellant's testimony? . . . leading the judge to find in favor of the Appellee?
>
> [5.] Did the Appellant have a fair trial?

granted Mr. Monju full ownership of the marital home, ordered Ms. Mukete to vacate the home immediately, and ordered Mr. Monju to pay a monetary award in the amount of $10,000 in monthly payments of $500. The court awarded no alimony.

Ms. Mukete asserts that the court "did not consider all relevant factors" and that its decision "did not result in a just distribution" of marital property. Ms. Mukete argues that the court failed to consider her contributions to the family and failed to consider the economic circumstances of each party. Ms. Mukete also argues that the court did not achieve an equitable distribution when it awarded her only a small percentage of the value of marital property and further devalued the award by allowing Mr. Monju to pay in monthly increments.

We agree with Ms. Mukete that there is no basis to uphold the monetary award in the amount of $10,000.

Generally, this Court reviews the decision to grant a monetary award and the amount of the award to determine whether the trial court abused its discretion. *See, e.g.*, *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008) (citing *Alston v. Alston*, 331 Md. 496, 504 (1993)). "Nevertheless, even with respect to a discretionary matter, a trial court must exercise its discretion in accordance with correct legal standards." *Alston v. Alston*, 331 Md. at 504. "While a 'trial court is vested with broad discretion in deciding whether to grant a monetary award, [ ] the exercise of that discretion should be informed and based upon reason.'" *Murray v. Murray*, 190 Md. App. 553, 572 (2010) (quoting *Freese v. Freese*, 89 Md. App. 144, 153 (1991)).

To evaluate a claim for a monetary award, the trial court must employ a three-step

process. *See, e.g.*, *Abdullahi v. Zanini*, 241 Md. App. 372, 405 (2019). First, to the extent that there are disputes about the classification of property, the court must determine which items of property are marital property. Md. Code (1984, 2019 Repl. Vol., 2024 Supp.), § 8-203(a) of the Family Law Article ("FL"). Second, the court must determine the value of all marital property. FL § 8-204(a). Third, after the court determines which property is marital property and the value of the marital property, the court may transfer ownership of an interest in certain types of property (including retirement plans and real property used as the marital residence), grant a monetary award, or both, "as an adjustment of the equities and rights of the parties concerning marital property, whether or not alimony is awarded." FL § 8-205(a)(1).

When evaluating a monetary award claim, the court "must decide if the division of marital property according to title would be unfair" and, if so, the court may make an award or transfer "to rectify any inequity 'created by the way in which property acquired during marriage happened to be titled.'" *Flanagan v. Flanagan*, 181 Md. App. at 519-20 (quoting *Doser v. Doser*, 106 Md. App. 329, 349 (1995)). In making that determination, the court must consider the following factors:

> (1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
>
> (2) the value of all property interests of each party;
>
> (3) the economic circumstances of each party at the time the award is to be made;
>
> (4) the circumstances that contributed to the estrangement of the parties;

> (5) the duration of the marriage;
>
> (6) the age of each party;
>
> (7) the physical and mental condition of each party;
>
> (8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;
>
> (9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;
>
> (10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and
>
> (11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

FL § 8-205(b).

"The three-step analysis to determine what property is marital or nonmarital is not discretionary with the court, but is a requirement." *Welsh v. Welsh*, 135 Md. App. 29, 59 (2000) (citing *Caccamise v. Caccamise*, 130 Md. App. 505, 515 (2000)); *see also Jandorf v. Jandorf*, 100 Md. App. 429, 438 (1994) (explaining that "[i]t is mandatory for trial judges to carry out the provisions of §§ 8-203, 204, and 205 of the Family Law Article"); *Campolattaro v. Campolattaro*, 66 Md. App. 68, 78 (1986) (explaining that "it is mandatory that if the division of the property is at issue, [the court] first determines which property is marital property and, then, determines the value of all marital property"); *Grant v. Zich*, 53 Md. App. 610, 614 (1983) (explaining that the trial court is

"bound to follow" the "statutorily-mandated procedures" of identifying all marital property and determining the value of all marital property "as a precondition to an award"), *aff'd*, 300 Md. 256 (1984). The purpose of this process is "to acquire the requisite information from which an informed, equitable decision can be made." *Jandorf v. Jandorf*, 100 Md. App. at 440.

Consideration of the factors set forth in FL § 8-205(b) "'is mandatory'" whenever the court determines the amount and method of payment of a monetary award. *Hart v. Hart*, 169 Md. App. 151, 166 (2006) (quoting *Malin v. Mininberg*, 153 Md. App. 358, 429 (2003)). "Although the court is not required to recite each factor in making a monetary award, appellate courts must be able to discern from the record that these factors were weighed." *Hart v. Hart*, 169 Md. App. at 166-67. Unless the record establishes that the trial court considered the required factors, it is "impossible to affirm" the decision. *Id.* at 166.

In the present case, there was no dispute that the family home, titled solely in Mr. Monju's name, was marital property. "'Marital property' means the property, however titled, acquired by [one] or both parties during the marriage." FL § 8-201(e)(1). On his property statement, filed in accordance with Rule 9-207, Mr. Monju admitted that the home was marital property. At trial, Mr. Monju testified that he purchased the home in April 2020, after the parties married in December 2019. During closing arguments, counsel for Mr. Monju expressly agreed that the home was marital property.

In its oral ruling, the circuit court ordered Ms. Mukete to "vacate the home immediately forthwith" and ordered that "whatever personal property [wa]s in each

party's physical possession w[ould] remain his or her personal property." The court then gave the following explanation for the monetary award:

> I have no idea what the monthly mortgage is. I have no idea how much was paid out but the sum is -- the total amount paid on his home may have been -- down payment may have been made prior to the parties getting married. But I have no idea what it is. Nevertheless the Court is aware that the parties apparently were married in December 2019. Don't have any idea as to what the value of the property was then, don't have any idea as to what amount has been paid on the home since December 2019. But it is apparently -- whatever paid since December 2019, it sounds like it was in fact marital property paid by [Mr. Monju] in this matter.
>
> Thus the Court is going to order that [Mr. Monju] pay to [Ms. Mukete] the sum of $10,000. $5,000(sic) each month over the next twenty months. Or as a lump sum as he believes appropriate.

The court's written judgment included the following description of the monetary award:

> ORDERED, that [Mr. Monju] shall pay to [Ms. Mukete] a marital award, accounting for her share of the marital home, in the amount of Ten Thousand and 00/100 Dollars ($10,000.00). Said award may be paid in minimum amounts of Five Hundred and 00/100 Dollars ($500.00) per month, commencing July 1st, 2024 and continuing until the full amount is paid, or as a single-time lump sum[.]

In her brief, Ms. Mukete argues that the evidence did not support the court's "finding[]" that "the down payment of the house may have been made prior to the marriage." As we understand the court's ruling, the court did not make any factual finding when it said that the "down payment may have been made prior to the parties getting married." To our understanding, the court was merely commenting on the lack of information about the down payment. Both before and after that statement, the court stated that it had "no idea" about specific details of the down payment. We conclude that

the court did not base its decision on speculation that Mr. Monju may have made the down payment before the marriage.

In her reply brief, Ms. Mukete appears to argue that the trial court was clearly erroneous in failing to find that the home was marital property. To our understanding, the court did, in fact, conclude that the home was marital property. The court expressly stated, "it sounds like it was in fact marital property[.]" The court implicitly treated the home as marital property when it wrote that the monetary award would "account[] for [Ms. Mukete's] share of the marital home[.]" Although the court could have made its findings more explicit, the record adequately establishes that the court found, correctly, that the home was marital property.

The next step of the required analysis was for the court to determine the value of all marital property. The court mentioned that it did not have information about "what the value of the property was" when Mr. Monju purchased it, the "down payment," "the monthly mortgage" payments, or "what amount ha[d] been paid on the home" during the marriage. The court made no findings as to the value of the marital home or any other items of marital or non-marital property.

"[A]fter the court determines which property is marital property, and the value of the marital property," the court must decide whether to grant a monetary award (FL § 8-205(a)(1)) based on the court's consideration of the factors set forth in FL § 8-205(b). Here, the court did not mention or even allude to any of the factors that a court must consider when evaluating a monetary award claim. The court simply stated its conclusion: "Thus the Court is going to order that [Mr. Monju] pay to [Ms. Mukete] the

sum of $10,000."

From the record, this Court cannot discern how or why the court decided upon the amount of $10,000. The statement that this award somehow "account[s]" for Ms. Mukete's undetermined "share" of some undetermined value is inadequate. Because the court did not determine the value of any marital property, the court "could not have considered the factors" set forth in FL § 8-205(b) and "could not have applied the law properly." *Campolattaro v. Campolattaro*, 66 Md. App. at 79, 81.

In his appellate brief, Mr. Monju makes no assertion that the court determined the value of the marital home. Mr. Monju makes no guess as to what value, if any, the court might have used in its analysis. Although Mr. Monju disputes Ms. Mukete's assessment of some factors, he makes no assertion that the court even considered the required factors.

Mr. Monju nevertheless argues that Ms. Mukete "herself created a situation in which the [c]ourt had limited information on all issues, including . . . property issues[] and the parties' income." In particular, Mr. Monju observes that Ms. Mukete failed to file a property statement stating her assertions about the value of marital property. Mr. Monju argues that Ms. Mukete cannot complain about the court's decisions after she "hamstrung her own case." Although Mr. Monju has good reason to point out the failures of Ms. Mukete and her counsel, this argument does not offer any justification for the court's ruling.

When discussing the value of the marital home, the trial court mentioned that it did not have information about matters such as the value of the home at the time of purchase, the down payment amount, the monthly payment amounts, or the total amount

paid during the marriage. Those categories of information may have been useful, but only two numbers are needed to determine the value of marital property acquired by a loan. To determine the value, the court must deduct the balance of any marital debt traceable to the acquisition of the property from the fair market value of the property. *See Zandford v. Wiens*, 314 Md. 102, 107-08 (1988); *Goldberg v. Goldberg*, 96 Md. App. 771, 782 (1993); *Quinn v. Quinn*, 83 Md. App. 460, 468 (1990).

At trial, the court received competent evidence about the fair market value of the home. Counsel for Mr. Monju asked: "What is the value of the home?" Mr. Monju answered: "The value of the home -- my last check was about $470,000." As the owner of the property, Mr. Monju was presumed to be competent to testify about his opinion of the value of the property. *See Abdullahi v. Zanini*, 241 Md. App. at 413; *Brown v. Brown*, 195 Md. App. 72, 119 (2010) (citing *Hale v. Hale*, 74 Md. App. 555, 567 (1988)). Ms. Mukete raised no objection to Mr. Monju's testimony that the value of the home was $470,000. Counsel for Ms. Mukete made an objection to the admission of an appraisal report concerning the value of the home, and the court did not admit the report into evidence. Although the appraisal report may have provided additional evidence of the value of the home, Mr. Monju's opinion testimony alone was sufficient evidence of the fair market value.

Before trial, Mr. Monju had filed a property statement in accordance with Md. Rule 9-207. On that statement, Mr. Monju stated that the balance of "Liens, Encumbrances, or Debt Directly Attributable" to the acquisition of the home was $372,117.66. Although no party offered the property statement into evidence, the court

referred to that document during the trial. Mr. Monju's representations about the debt attributable to the home "constitute judicial admissions and may be considered as evidence without the necessity for the formal introduction at trial" of the property statement. *Beck v. Beck*, 112 Md. App. 197, 205 (1996); *see also Brown v. Brown*, 195 Md. App. at 107 n.18; *Flanagan v. Flanagan*, 181 Md. App. at 529.

Contrary to the court's reasoning, the record shows that the court received sufficient evidence to determine the value of the marital home. Mr. Monju testified that the value of the home was $470,000.00, and he admitted that the balance of debt attributable to the home was $372,117.66. The evidence supported a finding that the net value of the home was no less than $97,882.34. Generally, a trial court may not engage in speculation outside of the evidence to determine the value of marital property. *See Blake v. Blake*, 81 Md. App. 712, 729 (1990); *Thomasian v. Thomasian*, 79 Md. App. 188, 202-03 (1989); *Rosenberg v. Rosenberg*, 64 Md. App. 487, 526 (1985).

As the trial court pointed out, Ms. Mukete did not file her own property statement as required by Md. Rule 9-207. Consequently, the court lacked information about Ms. Mukete's assertion as to the value of the marital home. During the trial, counsel for both parties mentioned that Rule 9-207 authorizes certain sanctions when a party fails to file the required financial statement. Rule 9-207(d) provides that, "[i]f a party fails to comply with this Rule, the court, on motion or on its own initiative, may enter any orders in regard to the noncompliance that are just[.]" Permissible sanctions include: "(1) an order that property shall be classified as marital or non-marital in accordance with the statement filed by the complying party; [or] (2) an order refusing to allow the

noncomplying party to oppose designated assertions on the complying party's statement filed pursuant to this Rule, or prohibiting the noncomplying party from introducing designated matters in evidence." *Id.*[8]

Under Md. Rule 9-207(d)(2), the trial court may have had authority to refuse to allow Ms. Mukete to oppose Mr. Monju's assertion that the debt attributable to the marital home was $372,117.66. The court also may have had authority to preclude Ms. Mukete from introducing other evidence to oppose Mr. Monju's testimony that the fair market value of the home was $470,000.00. The Rule did not, however, authorize the court to sanction Ms. Mukete by finding that the net value of the marital home was far less than what Mr. Monju had claimed or by awarding her only a small percentage of that value.

This Court consistently refuses to uphold monetary awards when a trial court fails to determine the value of marital property. *See Quinn v. Quinn*, 83 Md. App. at 468 (concluding that trial court committed reversible error "by failing to determine the value of certain marital property prior to making the monetary award"); *Campolattaro v. Campolattaro*, 66 Md. App. at 78-79 (concluding that trial court committed reversible error where it "did not determine what property was marital property" and "did not value any of the property of the parties"); *Grant v. Zich*, 53 Md. App. at 616 (concluding that trial court was "without authority" to grant a monetary award where the court did not "determine the value of the marital property").

[8] In addition, Rule 9-207(d) authorizes the court, after a hearing, to require a party to pay costs and attorney's fees caused by noncompliance.

This Court has on numerous occasions refused to uphold monetary awards when a trial court does not adequately explain its decision in light of the statutory factors. *See Flanagan v. Flanagan*, 181 Md. App. at 522 (concluding that trial court abused its discretion where it "concluded, in a single sentence, that $30,000 was an appropriate award" and "did not adequately explain the basis for its monetary award"); *Hart v. Hart*, 169 Md. App. at 166 (concluding that trial court abused its discretion in making monetary award where "there [wa]s no indication that the court considered the mandatory factors"); *Campolattaro v. Campolattaro*, 66 Md. App. at 78 (concluding that trial court abused its discretion where the court "neither mention[ed] the statutory factors, nor provide[d] any clue as to the manner in which those factors were considered"); *Ward v. Ward*, 52 Md. App. 336, 343-44 (1982) (concluding that trial court abused its discretion where it "gave no more than lip service" to the statutory factors).

This Court consistently refuses to uphold monetary awards when the award results in a sizeable and unwarranted disparity between spouses. *See Flanagan v. Flanagan*, 181 Md. App. at 522 (concluding that trial court abused its discretion where the monetary award "resulted in [one party's] entitlement to almost 90% of the value of the marital property"); *Long v. Long*, 129 Md. App. 554, 577 (2000) (concluding that trial court abused its discretion where it "awarded less than 20 percent of the marital assets" to the spouse "who held title to under one percent of those assets"); *Ward v. Ward*, 52 Md. App. at 343-44 (explaining that the appellate court perceived "nothing fair or equitable in a five to one ratio" awarded by the trial court); *see also Freese v. Freese*, 89 Md. App. at 152 (vacating the trial court's denial of monetary award where the court "may not have

fully appreciated the substantial discrepancy in the respective amounts of marital property retained by each of the parties"). Ordinarily, a decision that results in disproportionate shares of the value of marital property "defeats the purpose of the monetary award, which is to achieve equity between the spouses where one spouse has a significantly higher percentage of the marital assets titled" in that spouse's name. *Long v. Long*, 129 Md. App. at 577-78.

In this case, the circuit court abused its discretion when it decided the disposition of marital property and the monetary award. The court failed to determine the value of the marital home that served as the purported basis for the award. To the extent that the court believed that the evidence was insufficient to determine the value of the home, that belief was erroneous. The court received competent evidence that the net value of the home was $97,882.34. The court did not explain its rationale for awarding $10,000.00, payable in monthly increments of $500.00. The court gave no indication that it considered any of the factors that the court must consider when deciding the amount and method of payment. The award resulted in a gross disparity, in which Mr. Monju retained about 89.8 percent of the value of the marital home and Ms. Mukete received about 10.2 percent of that value, over a period of 20 months.

When an appellate court concludes that a trial court erred or abused its discretion in evaluating a claim for monetary award, the proper remedy is to reverse or vacate the judgment in part and to remand the case for further proceedings. *See Alston v. Alston*, 331 Md. at 509-10. After the appellate court sets aside a monetary award, the trial court must reassess the value of marital property and reconsider the required factors when it

makes a new monetary award. *See Fuge v. Fuge*, 146 Md. App. 142, 176 (2002). On remand, the trial court must consider the parties' economic circumstances at the time of the new monetary award, not the circumstances at the time of the first divorce trial. *See id.* at 176-77. In other words, the court must "take a fresh look at the parties' circumstances to ensure the 'equitable' award that the law requires." *Id.* at 177.

In divorce cases, claims for equitable division of marital property, a monetary award, transfer of an ownership interest in property, alimony, child support, and counsel fees "'involve overlapping evaluations of the parties' financial circumstances.'" *K.B. v. D.B.*, 245 Md. App. 647, 679 (2020) (quoting *St. Cyr v. St. Cyr*, 228 Md. App. 163, 198 (2016)). The factors relevant to these types of claims "are so interrelated that, when a trial court considers a claim for any one of them, it must weigh the award of any other." *Turner v. Turner*, 147 Md. App. 350, 400 (2002). "Therefore, when this Court vacates one such award, we often vacate the remaining awards for re-evaluation[,]" even if neither party raises any direct challenge to those decisions. *Id.*

In the present case, the court's erroneous evaluation of the most significant marital asset left the court without any accurate assessment of the parties' financial circumstances. At a minimum, therefore, this Court will set aside the rulings on the division of marital property and the monetary award, as well as the related rulings on the claims for alimony, transfer of an ownership interest in property, child support, and counsel fees. *See Murray v. Murray*, 190 Md. App. at 572-73. The parties are entitled to present additional evidence on these matters, so that the court can make an accurate assessment of the parties' financial circumstances and make informed decisions on these

issues. *See Fuge v. Fuge*, 146 Md. App. at 177; *see also Walter v. Walter*, 181 Md. App. 273, 288 (2008) (stating that, after the appellate court vacated an alimony decision, "the parties may introduce additional evidence on the issue of both of their earnings, past and present, including evidence that is up-to-date").

In her brief, Ms. Mukete also argues that it is "shocking" that the court "sent [her] directly to the streets with no provision for [] substitute housing." She further argues that it was unfair for the court to "devalue[]" the monetary award in $500 monthly increments, especially in light of the court's denial of her claim for alimony.

In response, Mr. Monju offers only an abstract defense of these aspects of the court's decision. He argues: "It is absolutely not an abuse of discretion that at the end of a marriage, the trial court requires the party who is not the owner of the home to vacate said home."

This response does not even attempt to explain how it was equitable or reasonable under the circumstances for the court to order Ms. Mukete to "vacate the home immediately forthwith[,]" with nothing except "whatever personal property [wa]s in [her] physical possession[.]" Based on the evidence presented, Ms. Mukete had no income aside from whatever profits she might manage to earn from selling makeup (which she had started to do just six weeks earlier), no known assets other than a car for which she owed at least $600 per month plus insurance payments, and no known financial resources except the $500 per month that the court ordered Mr. Monju to pay as a monetary award.

The decision apparently left Ms. Mukete without the means or a reasonable opportunity to find housing, while Mr. Monju remained a homeowner with steady income

from a full-time job. A trial court abuses its discretion when it ignores or fails to consider the economic circumstances of each party when the court determines the disposition of property upon divorce and the amount and the method of payment of the monetary award. *See McCleary v. McCleary*, 150 Md. App. 448, 459-60 (2002). Moreover, it is "all the more important for the trial court properly to categorize and value all of the property of the parties" in cases where there may be a relatively "small amount of marital property[.]" *Jandorf v. Jandorf*, 100 Md. App. at 440.

In his brief, Mr. Monju argues that the court was not required to consider any economic disparity between the parties because Ms. Mukete "did not put on any evidence of [Mr. Monju's] income, so as to show an economic disparity." This argument is unconvincing. It is true that the court did not receive evidence to quantify the economic disparity between the parties. It is not true that the court lacked evidence of an economic disparity. At trial, there was no dispute that Mr. Monju made the home payments throughout the marriage. There was no dispute that Mr. Monju worked full time or that Ms. Mukete lost her full-time job before the divorce. No one contradicted Ms. Mukete's testimony that she could not afford housing with whatever profits she might earn from selling makeup at a shopping mall. In short, the evidence conclusively showed that one spouse could afford housing; the other spouse could not. No fact-finder could reasonably find that there was no economic disparity between the parties at the time of the monetary award.[9]

[9] In a contempt petition filed a few weeks after the divorce, counsel for Mr. Monju wrote that Ms. Mukete "appears to have been living in her vehicle, as [Mr. Monju] has

If Ms. Mukete is correct in her argument that the court abused its discretion when it "sent [her] directly to the streets" without a meaningful opportunity to secure housing, this Court can no longer grant any effective remedy to those aspects of the judgment. An issue presented to a court is moot if the court "cannot provide an effective remedy." *Coburn v. Coburn*, 342 Md. 244, 250 (1996). Appellate courts ordinarily will not decide a moot issue if an appellate ruling would be "without effect" as to consequences of the trial court's decision. *La Valle v. La Valle*, 432 Md. 343, 353 (2013). Because this Court cannot provide an effective remedy for the immediate consequences of the July 2024 judgment, it would serve no practical purpose to decide whether the court abused its discretion in that regard. On remand, however, the court must consider Ms. Mukete's ability to pay for housing as part of its evaluation of the claims, including her claims for alimony and a monetary award.

II. Child Custody

In this appeal, Ms. Mukete further challenges the circuit court's custody decisions. She argues that the evidence does not support the court's determination that it was in the child's best interest to grant Mr. Monju primary physical custody and tie-breaking authority.

In her informal brief, Ms. Mukete argues that the trial court failed to consider the evidence of the child's medical needs. Ms. Mukete asserts that the child, who was three

observed [Ms. Mukete] park her vehicle in close proximity to the former [m]arital [h]ome, and sleep in that vehicle." In her reply brief to this Court, Ms. Mukete wrote that she "moved into a shelter" sometime after the divorce.

years old and non-verbal at the time of trial, has been diagnosed with autism. Ms. Mukete also asserts that Mr. Monju refuses to accept the diagnosis and refuses to take the child to medical appointments. Ms. Mukete argues that the trial court erred when it refused to credit her testimony about the child's medical diagnosis and treatments merely because she could not remember the names of different doctors and therapists who treated the child. Citing the information submitted with her post-judgment motion, Ms. Mukete also asserts that, within days after Mr. Monju took the child into his care, police officers found the child "on the streets about [a] 20[-minute] walk away from the house without shoes . . . exposed to moving cars."

In his brief, Mr. Monju argues that the trial court did not abuse its discretion when it made its custody determination. Mr. Monju observes that Ms. Mukete presented no evidence to corroborate her testimony about the child's diagnosis and treatment and argues that the court was not required to credit her testimony on those matters. Mr. Monju asserts that Ms. Mukete was "unable to provide basic information" about the diagnosis and treatment and that she "testified in a contradictory manner" by claiming that she took the child to appointments at the same time that she claimed to be working at her volunteer job. Mr. Monju also argues that the alleged incident of neglect did not occur until after the trial and that this allegation was not a sufficient reason to revise the custody decision.

As the final question presented in her brief, Ms. Mukete questions whether she received a fair trial. At the end of her argument on custody issues, Ms. Mukete complains that the court afforded her "a relatively shorter trial time" after she arrived late

for trial with the child in her care and the child was unable to remain quiet in the courtroom. Ms. Mukete writes: "The court had the discretion to a continuance [sic] but denied exercising it."

In response, Mr. Monju argues that Ms. Mukete's brief failed to "make any argument as to how the trial court abused its discretion" by giving her "a shorter period of time at trial to put on her case[.]" Mr. Monju argues that Ms. Mukete's brief "fails to note why denying a postponement" was an abuse of discretion.

In her reply brief, Ms. Mukete observes that the court required the parties to present evidence in less than three hours, even though the court originally allotted five hours. Ms. Mukete asserts that the trial judge "did not want to hear the case" and "expedited the hearing." Ms. Mukete argues that, as a result of the time limits, she "did not have a full and fair opportunity to present [her] case."

As a threshold matter, we will address the contention that Ms. Mukete's brief fails to make an adequate argument to challenge to the court's decisions to decline to order a continuance and to limit the time for presentation of evidence. Under Md. Rule 8-504(a)(6), which applies to most appeals in this Court, an appellate brief must contain "[a]rgument in support of the party's position on each issue." This Rule "contains no requirement that an appellant must cite case law in support of [the appellant's] arguments." *Petty v. Mayor & City Council of Baltimore City*, 232 Md. App. 116, 121 (2017). An argument need not be a "pinnacle of clarity" to be sufficiently presented for appellate review. *Id.* Even a "scant" argument raised in an appellate brief may be sufficient for the appellate court to consider an issue, as long as a reader can fairly

discern the factual or legal basis for the argument. *Barnes v. State*, 437 Md. 375, 388 (2014); *see also Thompson v. State*, 229 Md. App. 385, 400-01 (2016).

If an argument is not adequately presented in an appellate brief, the appellate court ordinarily should decline to consider the argument. *See Moosavi v. State*, 355 Md. 651, 660 (1999). "Nonetheless, in a case where arguments are not made in an appellant's brief," the appellate court may, "'in its discretion, consider[] the arguments'" despite the deficient briefing. *Id.* at 661 (quoting *Ritchie v. Donnelly*, 324 Md. 344, 375 (1991)). "Similarly, the appellate court generally retains discretion to consider an argument that is belatedly raised[,]" such as an argument articulated for the first time in a reply brief. *State v. Jones*, 138 Md. App. 178, 241 (2001), *aff'd*, 379 Md. 704 (2004).

In this appeal, Ms. Mukete represents herself and filed an informal brief. This Court's current procedures permit parties to file informal briefs in certain cases, including custody cases in which the appellant is not represented by an attorney. An appeal designated for informal briefing generally "is not subject to the requirements of Rule 8-501 through 8-504[.]" Md. Rule 8-502(a)(9). Nevertheless, informal briefs "shall comply substantially with the Guidelines for Informal Briefs" issued by this Court. Appellate Court of Maryland, Administrative Order (effective Dec. 19, 2022). The Guidelines state that "the appellant must identify issues that explain why the trial court erred or made a mistake in deciding the case and why the decision should be reversed or modified." Generally, this Court "liberally construes" filings by self-represented parties. *Huertas v. Ward*, 248 Md. App. 187, 207 (2020) (citing *Mitchell v. Yacko*, 232 Md. App. 624, 643 n.12 (2017)).

Although the decision is a close one, we conclude that Ms. Mukete's informal brief adequately raises the issue of whether the court denied her a fair trial by refusing to consider ordering a continuance and by limiting the time for the presentation of evidence. Alternatively, even if her informal brief does not substantially comply with the Guidelines, we exercise our discretion to consider this issue because of the nature of the custody determination at stake. The question of whether the court denied Ms. Mukete a fair opportunity to present her case affects not only her own rights and interests but also the right of the parties' three-year-old son to "have his best interests considered in a full evidentiary hearing." *Wells v. Wells*, 168 Md. App. 382, 397 (2006) (discussing *Flynn v. May*, 157 Md. App. 389 (2004)).

As discussed previously, the circuit court scheduled a five-hour trial to begin at 9:00 a.m. Neither party arrived at the courtroom by the scheduled starting time. Mr. Monju did not reach the courtroom until 9:45 a.m. Ms. Mukete arrived at the courthouse at around 10:00 a.m., unsuccessfully attempted to place the child in the court's waiting area, and then contacted care providers to find someone to pick up the child from the courthouse. When the recorded proceedings began at 10:47 a.m., counsel informed the judge that Ms. Mukete was still trying to find a third-party care provider to pick up the child.

Before either party had the opportunity to request a postponement or continuance, the judge stated: "Okay, wait, wait. I am not continuing the case. I can't. The party came here an hour late to start with. I am ready to roll. I am ready to roll." These statements made it clear that any request for a continuance or postponement would have

been futile. *See In re Emileigh F.*, 353 Md. 30, 36-37 (1999).

Maryland Rule 2-508 governs a continuance or postponement of trial. It provides: "On motion of any party or on its own initiative, the court may continue or postpone a trial or other proceeding *as justice may require*." Md. Rule 2-508(a) (emphasis added). Although the decision of whether to grant a continuance or postponement falls "within the sound discretion of the trial court[,]" there are "exceptional instances in which the failure to grant a continuance will constitute reversible error." *Reaser v. Reaser*, 62 Md. App. 643, 648 (1985).

"[A] trial judge who encounters a matter that falls within the realm of judicial discretion *must* exercise [the judge's] discretion in ruling on the matter." *Gunning v. State*, 347 Md. 332, 351 (1997) (emphasis in original). Any "proper exercise of discretion involves consideration of the particular circumstances of each case." *Id.* at 352. "A failure to exercise [a court's] discretion, or a failure to consider the relevant circumstances and factors of a specific case, 'is, itself, an abuse of discretion[.]'" *Cagle v. State*, 462 Md. 67, 75 (2018) (quoting *101 Geneva LLC v. Wynn*, 435 Md. 233, 241 (2013)). A trial court's "unyielding adherence to [a] predetermined position" on a matter within the court's discretion "amounts to a misunderstanding of the law and a failure to properly exercise discretion." *Gunning v. State*, 347 Md. at 351. "The court's failure to fulfill this function can amount to error, that 'ordinarily requires reversal.'" *Id.* (quoting *Maus v. State*, 311 Md. 85, 108 (1987)).

In the present case, the trial court's refusal to entertain any request for a continuance because one party (or both parties) arrived late was not a proper exercise of

discretion. The fact that a party arrives late, or even late without any valid excuse, is not a ground to refuse to consider whether the interests of justice may require a continuance. Any decision about whether to grant a continuance must be made in light of all relevant circumstances. At a minimum, these circumstances include the nature of the issues in the case. At the beginning of the trial here, the court acknowledged that it had "no idea as to what the issue [wa]s or what the issues [we]re in this case." The court also acknowledged that it had "no idea about custody" issues. The court, therefore, could not have exercised sound discretion when it determined that it would not or could not continue the case beyond the time originally allocated for the trial.

The decision to refuse to entertain any request for a continuance affected all proceedings that followed. Before hearing any testimony, the court suggested to Ms. Mukete that she should "give [her] attorney a little more leeway" to settle the case. At the court's direction, the attorneys and parties engaged in settlement discussions from 11:17 a.m. until 12:29 p.m., when they informed the court that they did not reach a settlement. After a lunch recess, Mr. Monju began his testimony at 1:34 p.m. Shortly after Mr. Monju began his testimony, the court instructed the parties to finish presenting evidence by 4:00 p.m. A few minutes after the start of cross-examination of Mr. Monju, the court took another recess, telling counsel that they should "continue to talk" about settling the case. This recess lasted for 30 minutes, from 2:28 p.m. until 2:58 p.m.

As a result of this chain of decisions, Ms. Mukete had slightly more than one hour to complete almost the entirety of her cross-examination of Mr. Monju and to present her entire case on all issues raised in the pleadings: divorce, legal custody, physical custody

and visitation, division of marital property, monetary award, transfer of an ownership interest in retirement plans, alimony, child support, and counsel fees.

During the time allocated by the court, the parties testified primarily about the reasons for the demise of their marriage, some of their financial circumstances, and certain disagreements concerning their child. Mr. Monju testified briefly about the value of the marital home, but the parties did not testify about the value of any other assets, such as their bank accounts and vehicles. The parties testified about their employment situations and work schedules, but neither party testified about the amount of income they were earning. They mentioned certain child care expenses and health care expenses for the child, but they did not testify about the amount of those expenses.[10]

Not surprisingly, when the two hours of testimony ended, the court lacked much of the information needed to the evaluate the claims raised in the case. The court stated that it received virtually no information about marital property aside from some information listed on Mr. Monju's property statement. The court also stated that it did not receive information about the amount of income made by either party, child care expenses, or health insurance for the child. The court said: "I don't have anything. The only thing I have is basically divorce and the custody. That is why I was trying to get the parties to talk earlier."

[10] In divorce and custody cases such as this one, one of the most basic facts to consider is the age of each party. Here, the parties did not even mention their ages. The parties introduced into evidence a copy of the final protective orders, which include certain identifying information. According to that information, Mr. Monju was 61 years old, and Ms. Mukete was 40 years old on the trial date.

While making its oral ruling, the court discussed the lack of clarity about what physical custody schedule each party was requesting. The court also highlighted the lack of information about the care of the child while he was living in a home with his parents on separate floors. The court observed, "one simple question was where does the child sleep?" The court noted that Ms. Mukete mentioned that the child "mostly" sleeps with her. The court said that the testimony did not reveal "whether the child has a room."

Given the overall lack of information, it is not surprising that the court provided only a limited discussion of the factors that a court ordinarily considers when it makes a custody decision.[11] The court announced the following findings: that Ms. Mukete's testimony lacked credibility; that the video exhibits showed her slapping and screaming at Mr. Monju; that Ms. Mukete was "not really" taking the child to therapist appointments; and that the child was "out of control" with Ms. Mukete in the courtroom, but the court did not hear noise when the child was outside the room with Mr. Monju. Aside from those findings, the court provided no detailed analysis of any factors relevant to evaluating the child's best interests. The court stated:

> And there are some factors that the Court must consider. The fitness of the parent. The character and reputation and the Court has considered all of these factors and others in deciding what is in the best of the child [sic] . . . in this case.
>
> Any agreement between the parents. Once again the character and reputation. Ability to maintain family relationships. Child's preference. Material opportunity. Age, health and gender of the child. Residences of the parent and opportunity for visitation. Any length of separation, any

[11] *See generally Azizova v. Suleymanov*, 243 Md. App. 340, 345-46 (2019) (discussing *Montgomery County Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406 (1977), and *Taylor v. Taylor*, 306 Md. 290 (1986)).

> prior abandonment or surrender of custody. And I have not heard any of that.
>
> The religious views and the father has indicated that the mother can have the child because she takes the child to church. Any disability. The Court has not heard any. The fact that -- in addition to not -- and finding that the mother's testimony is completely lacking in credibility, the Court must decide what is in the best interest of the child in terms of custodial arrangement.

After that summary, the court announced its conclusion that it was in the child's best interest to establish joint legal custody, to grant tie-breaking authority to Mr. Monju, and to grant primary physical custody to Mr. Monju with visitation for Ms. Mukete on three weekends per month.

In her motion to alter or amend the judgment, Ms. Mukete contended that the trial court "abused its discretion in not allowing a continuance of trial to afford [Ms. Mukete] sufficient time to present testimony and evidence." Ms. Mukete asserted that, after the parties arrived late for trial and "[b]efore either counsel had an opportunity" to suggest the appropriate course of action, the court stated that it would not grant any postponement. Ms. Mukete observed that, "[r]ather than granting a continuance to allow the parties to fully present testimony and evidence, the [c]ourt required the parties to finish the entirety of both of their cases in chief and arguments" within three hours. Ms. Mukete argued that, within the time limits imposed by the court, she "was unable to present all of her testimony and evidence regarding the multiple and complex issues of custody, access, alimony, monetary award, and child support." Ms. Mukete argued that, under the circumstances, the court's "refusal to allow the trial to extend past 4:30 p.m." was unreasonable. The motion asked the court to order a new trial or to "allow for

additional testimony and evidence" so that Ms. Mukete could "adequately address" all issues in the case.

Opposing the motion to alter or amend the judgment, Mr. Monju argued that Ms. Mukete was not entitled to any postponement or continuance. His response included many factual assertions in support of the argument that he was either blameless or at least "not the primary reason" for the delay on the morning of trial. Although Mr. Monju acknowledged that he arrived 45 minutes late for trial, he argued that Ms. Mukete was responsible for the delays because she arrived even later than he did and because she did not make arrangements to find child care on the date of the trial.

Mr. Monju's argument has limited force, because it fails to explain why the responsibility for making arrangements for the child's care fell primarily, if not entirely, on Ms. Mukete. At the time of trial, the parties lived in the same home and shared joint responsibility for the care of their child. The court had issued no pendente lite order establishing any shared physical custody schedule. There was no evidence that the parties reached any agreement on a shared custody schedule. Accordingly, there was no basis to conclude that Ms. Mukete alone was responsible for the parents' failure to arrange for child care on the trial date.

But even if it is true that Ms. Mukete alone caused the delay of the trial without any valid excuse, this fact would not justify the decision to refuse to consider granting a continuance. In any custody dispute, "'[t]he court's objective is not . . . to punish the less capable parent,'" but to decide the arrangement that "'will promote the best interest of the child.'" *Burdick v. Brooks*, 160 Md. App. 519, 528 (2004) (quoting *Hughes v. Hughes*,

80 Md. App. 216, 231 (1989)) (further quotation marks omitted). In this case, the parties' three-year-old child "had an indefeasible right to have any custody determination concerning him made, after a full evidentiary hearing, in his best interest." *Flynn v. May*, 157 Md. App. at 410. "He did not lose that right" when his mother arrived late for the trial. *Id.*

A trial court "commits legal error when it makes a decision that impacts a custody determination without first considering how that decision will affect the child's 'indefeasible right' to have [the child's] best interests considered." *A.A. v. Ab.D.*, 246 Md. App. 418, 448 (2020) (quoting *Flynn v. May*, 157 Md. App. at 410). "Plainly, a child's best interests are best attained when the court's decision is as well-informed as possible." *A.A. v. Ab.D.*, 246 Md. App. at 447. "[P]rocedural defects" caused by one party's conduct "should not be corrected in a manner that adversely impacts the court's determination regarding the child's best interests." *Id.* at 446 (citing *Flynn v. May*, 157 Md. App. at 410-11). Accordingly, even when a parent fails to answer a custody pleading, the court may not make a custody decision by default. *Wells v. Wells*, 168 Md. App. at 397; *Flynn v. May*, 157 Md. App. at 411-12. Similarly, even when a parent violates the parent's disclosure obligations under discovery rules, the court cannot preclude the parent from presenting evidence relevant to the child's best interests. *A.A. v. Ab.D.*, 246 Md. App. at 447. It follows that, despite Ms. Mukete's failings, the court had an obligation to allocate a reasonable amount of time to obtain evidence from which the court could make an informed decision about the child's best interests.

"Child custody and visitation decisions are among the most serious and complex

decisions a court must make, with grave implications for all parties." *Conover v. Conover*, 450 Md. 51, 54 (2016). "'[T]here is no such thing as a simple custody case[.]'" *Bienenfeld v. Bennett-White*, 91 Md. App. 488, 502 (1992) (quoting *Montgomery County Dep't of Soc. Servs. v. Sanders*, 38 Md. App. 406, 414 (1978)). The present case was no exception. Although the parties disagreed about the child's medical diagnosis, there was no dispute that their child was, as Mr. Monju described it, "not able to talk" at the age of three years and two months. No one disputed that the child had certain behavioral issues, or that the daycare provider had asked the parents to withdraw the child from daycare. "Also, it was undisputed that throughout the litigation, [the child] had been living in one house, with both of his parents—a highly unusual situation." *Wells v. Wells*, 168 Md. App. at 398. This custody matter required more than an abbreviated hearing at which the evidence concerning the best interests of the child was competing for time with the evidence related to divorce or property issues, which were important in their own right.

In his opposition to the motion to alter or amend the judgment, Mr. Monju argued that Ms. Mukete suffered no prejudice from the court's decisions. Mr. Monju asserted that Ms. Mukete received "approximately 90 minutes" to present her case and argued that she had "plenty of opportunity" to present evidence on all issues. Mr. Monju argued that any deficiencies in the evidence resulted from lack of preparation by Ms. Mukete and her counsel, not from the time limitations imposed by the court.

Mr. Monju's argument is unconvincing. This argument fails to acknowledge the actual time limitations. The instructions to finish presenting evidence by 4:00 p.m. left Ms. Mukete with approximately 90 minutes for her cross-examination of Mr. Monju *and*

her entire case-in-chief. During that 90-minute period, the court took a 30-minute recess, telling counsel to "continue to talk" about settling the case. Afterwards, Ms. Mukete had slightly more than 60 minutes to present evidence on all of her claims. Although it is apparent that a failure of preparation hindered Ms. Mukete's case, there is no serious question that the court-imposed time constraints exacerbated that failure. It would be unreasonable to expect even the most diligently prepared counsel to fairly and adequately address all issues within those time limitations.

In this case, the circuit court abused its discretion when it refused to consider granting a continuance and insisted that the parties present evidence on all issues within an unreasonably restricted time. We vacate the judgment to the extent that it includes the child custody determination and remand the case for the circuit court "to reassess the best interests of the child[] after a full presentation of evidence" relevant to that determination. *A.A. v. Ab.D.*, 246 Md. App. at 449. Because the time limitations affected not only the custody determination but also affected the evaluation of other issues in the case, we vacate the judgment as to all claims except divorce and remand the case for a new trial on all issues other than divorce.

CONCLUSION

As explained in this opinion, we have concluded that the circuit court abused its discretion in its evaluation of the claims for division of marital property and monetary award. We also have concluded that Ms. Mukete is entitled to a new trial because the court refused to consider granting a continuance and unreasonably restricted the presentation of evidence on all issues.

We affirm the judgment on the issue of divorce alone. *See Tydings & Rosenberg, LLP v. Zorzit*, 422 Md. 582, 596 (2011). We vacate the final judgment as to all other issues in the case, including the division of marital property, monetary award, transfer of an ownership interest in property, alimony, child custody, child support, and counsel fees. Until the court conducts a new trial and issues a new judgment, the prior orders for child custody and payments of a monetary award will have the force and effect of pendente lite orders. *See St. Cyr v. St. Cyr*, 228 Md. App. at 198 (citing *Simonds v. Simonds*, 165 Md. App. 591, 613 (2005)).

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED IN PART AND VACATED IN PART. PROVISION IN JUDGMENT GRANTING THE PARTIES AN ABSOLUTE DIVORCE AFFIRMED; OTHER PROVISIONS IN THE JUDGMENT VACATED AS "FINAL"; MONETARY AWARD PAYMENT PROVISION CONVERTED TO PENDENTE LITE ORDER; CUSTODY ORDER CONVERTED TO PENDENTE LITE ORDER. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.