

Circuit Court for Montgomery County
Case No. 167383FL

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1290

September Term, 2020

EZANA ADAMU

v.

BETHLEHEM AYELE

Berger,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: March 8, 2022

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

Bethlehem Ayele (“Wife”) filed, in the Circuit Court for Montgomery County, a complaint for absolute divorce and other relief against Ezana Adamu (“Husband”). Following a hearing, at which Husband was not present, the court granted an absolute divorce on the grounds that the parties had been separated, without cohabitation or interruption, for more than 12 months. The court also granted Wife sole legal and physical custody of the parties’ minor child and ordered Husband to pay child support. In this appeal, Husband, representing himself, has filed an informal brief in which he raises five “issues,” which we have rephrased and reformatted into three questions.¹ They are:

1. Did the circuit court err in granting Wife’s complaint for absolute divorce where Husband was not present at the hearing on the merits?
2. Did the circuit court err in accepting Wife’s claim as to the amount of Husband’s salary for the purpose of calculating child support?
3. Did the circuit court err in granting Wife’s complaint for absolute divorce on the grounds that the parties had been separated, without cohabitation, for more than 12 months?

¹ Husband phrased the “issues” as follows:

1. “The court made last decision without my hearing depriving me the chance to defend myself.”
2. “The court made decision based on several false statements.”
3. “The counsel has also lied saying I have left USA, I made separation and financial arrangements creating an image of abandoning her and real separation misleading the Honorable Court.”
4. “Knowing that I am unwanted by her she accused me of lack of habitation.”
5. “The Court didn’t study well our case.”

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

FACTUAL & PROCEDURAL BACKGROUND

Husband and Wife were married on December 24, 2013, in Essex, United Kingdom. In July of 2014, the parties had a child (“Child”). At some point, Wife and Child moved from the United Kingdom to Maryland, where they remained. Husband stayed in the United Kingdom, where he currently lives.

On January 29, 2020, Wife filed a complaint for absolute divorce on the grounds that, as of July 18, 2018, the parties had lived separate and apart without cohabitation and without interruption. Wife also sought full physical and legal custody of the Child, who had lived with Wife since birth, and child support from Husband. The following day, the circuit court issued a Writ of Summons to be served on Husband. On March 10, 2020, a private process server, acting on behalf of Wife, personally served Husband with a copy of the complaint and Writ of Summons. Husband did not file an answer within 90 days of service.

On June 15, 2020, Wife filed a motion for default judgment based on Husband’s failure to file a timely answer. Shortly thereafter, Wife filed an amended complaint for absolute divorce, in which she incorporated all factual allegations and prayers for relief contained in her original complaint. In addition, Wife alleged that Husband worked in “the medical field” earning \$2,750.00 per month; that Wife earned \$4,000.00 per month; that Husband had been making payments of \$650.00 per month in child support to Wife; and

that, per the Maryland Child Support Guidelines, Husband was obligated to pay \$789.74 per month in child support. Wife asked that she be awarded child support in accordance with the Guidelines.

On August 5, 2020, the circuit court issued a second Writ of Summons to be served on Husband. On September 8, 2020, a private process server, acting on behalf of Wife, personally served Husband with a copy of the amended complaint and second Writ of Summons. Husband again failed to file a timely answer. On December 4, 2020, the circuit court conducted a virtual hearing on the merits. Wife, who was represented by counsel, participated in the hearing via video conferencing. Husband did not participate in the hearing.

At the hearing, Wife reiterated the factual allegations raised in her complaint, including that the parties had lived separate and apart without cohabitation and without interruption since July 18, 2018; that the Child had resided with Wife since the Child's birth; that Husband earned \$2,750.00 per month; and that Wife earned \$4,000.00 per month. Wife presented a Child Support Guidelines worksheet, which showed that, based on the parties' purported salaries, Husband's monthly child support obligation was \$789.74. Wife also presented evidence, in the form of affidavits, showing that Husband had been personally served with both the original complaint and the amended complaint.

In the end, the circuit court accepted Wife's undisputed factual allegations and granted her request for an absolute divorce on the grounds of a 12-month separation. The court also granted Wife sole physical and legal custody of the Child and ordered Husband

to pay \$790.00 per month in child support. In so doing, the court noted that Husband “had not responded with regard to the papers that were sent to him” and “so the case had been defaulted on his own merit basically.”

On December 15, 2020, the circuit court entered a judgment of absolute divorce. On December 21, 2020, Husband filed an answer, which was not made part of the record before this Court. This timely appeal followed.

STANDARD OF REVIEW

“[A]ppellate courts will accord great deference to the findings and judgements of trial judges, sitting in their equitable capacity, when conducting divorce proceedings.” *Karmand v. Karmand*, 145 Md. App. 317, 326 (2002) (quoting *Tracey v. Tracey*, 328 Md. 380, 385 (1992)). Accordingly, this Court “will not set aside the judgement of the trial court on the evidence unless clearly erroneous [,] and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c). We “may not substitute our judgement for that of the fact finder, even if we might have reached a different result, absent an abuse of discretion.” *Nouri v. Dadgar*, 245 Md. App. 324, 342 (2020) (quoting *Gordon v. Gordon*, 174 Md. App. 583, 626 (2007)).

DISCUSSION

I.

Husband first contends that the circuit court erred by granting Wife’s request for absolute divorce without giving him “the chance to defend.” Husband asserts that he sent an “answer to the court on time” but that the court “ignored” his answer and did not provide

him an “alternative hearing.” Husband claims that the court “wanted [him] to come physically from the U.K. to the U.S.A. during the Coronavirus pandemic.” He asserts that Wife “was given the chance of video conference” whereas he “was totally discriminated” against and had “no chance to defend [himself] and the right of [his] child.”

We hold that the circuit court did not err. First, Husband’s answer was not timely filed. Maryland Rule 2-321(b)(5) states that “[a] defendant who is served with an original pleading outside of the United States shall file an answer within 90 days after being served.” Husband was served with the original pleading on March 10, 2020, but he did not file his answer until December 21, 2020, over nine months later and well beyond the time requirement set forth in the Rule. In fact, by the time Husband filed his answer, the court had already entered its judgment of absolute divorce. Under the circumstances, the court was under no obligation to consider Husband’s untimely answer.

In addition, there is nothing in the record to support Husband’s claim that he was given “no chance” to defend his rights during the proceedings or to participate in the merits hearing. Husband was personally served with process on March 10, 2020, and again on September 8, 2020, well in advance of the merits hearing that was ultimately held on December 4, 2020. Husband therefore had ample notice of the pending action and ample time to make arrangements to participate in the proceedings. Husband has presented no evidence that he was unaware of the proceedings or that his failure to participate in the proceedings was in any way caused by the court. Although the Coronavirus pandemic may have created some obstacles to participation, those obstacles did not operate as a complete

bar, as evidenced by Wife’s participation in the hearing via video conference. Husband has presented no evidence or argument to explain why he could not have made similar arrangements.

II.

Husband next claims that Wife incorrectly claimed that he earned \$2,750.00 per month. He asserts that that claim was based on “several false statements,” which the court erroneously accepted as true. We hold that the circuit court did not err. Wife’s claim as to the amount of Husband’s salary was a factual finding for the court to decide. *Walker v. Grow*, 170 Md. App. 255, 284 (2006). Wife presented evidence at the merits hearing in support of her claim. Husband did not present any evidence or argument at the merits hearing to refute Wife’s evidence. Husband received a copy of the Child Support Guidelines Worksheet when served with Wife’s Amended Complaint but failed to provide evidence of income or expenses related to the parties’ minor child. The court’s finding was therefore not clearly erroneous. *See generally Kaplan v. Kaplan*, 248 Md. App. 358, 385 (2020) (noting that we review a trial court’s factual findings under the clearly erroneous standard).

III.

Husband’s final claim is that the court erred in granting Wife’s request for absolute divorce based on a 12-month separation. Husband asserts that Wife and her counsel presented several pieces of evidence that falsely suggested that he had abandoned Wife. Husband maintains, rather, that Wife was the one who had abandoned him by going to the

United States from the United Kingdom. Husband also asserts that the court “didn’t study well” the parties’ case. In support, Husband notes that he and Wife were married in an Ethiopian Orthodox church, which meant that they were “husband and wife till end of life.”

We hold that the circuit court did not err. Section 7-103 of the Family Law Article of the Maryland Code states, in relevant part, that a court may decree an absolute divorce on grounds of “12-month separation, when the parties have lived separate and apart without cohabitation for 12 months without interruption before the filing of the application for divorce[.]” Md. Code, Fam. Law § 7-103(a)(4). Here, it is undisputed that the parties separated on July 18, 2018, and that they lived separate and apart without cohabitation or interruption before Wife filed her complaint for absolute divorce on January 29, 2020. The court was therefore permitted to decree the absolute divorce. *See Flanagan v. Flanagan*, 181 Md. App. 492, 509 (2008) (“In Maryland, the permissible grounds for divorce are governed by statute.”). That one party may or may not have been responsible for the separation is irrelevant, as is the fact that the parties were married in an Ethiopian Orthodox Church.²

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

² To be sure, prior to October 1, 2011, any 12-month separation had to be voluntary before it could be considered grounds for an absolute divorce. Md. Code, Fam. Law § 7-103(a)(3) (eff. October 1, 2003). The General Assembly later amended that portion of the statute and removed the “voluntariness” requirement. 2011 Maryland Laws Ch. 423 (eff. October 1, 2011).