

Circuit Court for Baltimore County  
Case No.: C-03-FM-22-003508

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1414

September Term, 2025

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STEVEN RICHARDS

v.

JOAN RICHARDS

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Friedman,  
Albright,  
Kehoe, Christopher S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Friedman, J.

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Filed: March 11, 2026

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

Appellant Steven Richards (Father) appeals an order of the Circuit Court for Baltimore County adjudicating him in constructive civil contempt and sentencing him to 90 days' incarceration in the Baltimore County Detention Center unless he paid to appellee, Joan Richards (Mother), the amount of \$4,505 on or before October 2, 2025. Father timely appealed that order and, on October 1, 2025, this Court granted Father's motion to stay the order of the circuit court pending the resolution of this appeal. Father now asks us to address (1) whether the circuit court erred in sentencing him to incarceration without first ensuring that he had been informed of and voluntarily waived his right to be represented by counsel; and (2) whether the circuit court erred in imposing a determinate sentence of incarceration with no provision for Father to show that he did not have the present ability to pay or to purge the contempt once the incarceration began. For the following reasons, we reverse and remand for further proceedings.

### **BACKGROUND**

Father and Mother are former spouses who, on January 20, 2023, entered into a Marital Settlement Agreement providing that Mother would have primary physical and joint legal custody of the party's two minor children. The agreement further provided that Father would pay \$664 per month in child support. The circuit court entered a Judgment of Absolute Divorce incorporating those terms on February 27, 2023.

In April 2024, Mother filed a contempt petition based on Father's failure to make full child support payments. In August 2024, both parties appeared unrepresented at a hearing before a magistrate. At the hearing, Father asserted that his failure to pay was due to being unemployed for several months following an automobile accident but informed

the court that he would be returning to work the following month, in September 2024. The magistrate continued the hearing for 90 days to give Father the opportunity to either get back to work and resume paying child support, or to bring in the paperwork necessary to show that he was unable to work for medical reasons.

At the follow-up hearing in December 2024, the parties again appeared unrepresented. Mother reported to the magistrate that she had not received a child support payment since May 2024. Father reported that he had only recently started working at the end of November 2024 and had only just received his first paycheck. The magistrate calculated arrears of \$4,600, recommended withholding a finding of contempt, and directed Father to resume making child support payments of \$664 per month with an additional \$165 per month toward the arrearage. The circuit court adopted the magistrate's recommendations and entered an Order on December 17, 2024.

On February 21, 2025, Mother moved to reopen the proceedings on the grounds that Father had not resumed making child support payments. On March 18, 2025, Mother filed a second contempt petition, this time seeking incarceration. Three days later, on March 21, 2025, the circuit court issued a Show Cause Order that included an attached Notice informing Father that if jail time was being sought, he had a right to a lawyer and might qualify for appointed counsel if he could not afford to retain his own.

A hearing was held in front of a magistrate on June 20, 2025. Neither Mother nor Father were represented by counsel. Mother informed the magistrate that the only child support she had received from Father were partial payments in January and April of 2025, and that Father owed approximately \$9,500 in arrearages. Father responded that he was

unable to pay because, among other reasons, he had again been unemployed for several months. The magistrate withheld making a finding of contempt and continued the case for 30 days to allow Father time to find a job.

A second hearing was held on July 21, 2025, and again, neither party was represented by counsel. Father informed the magistrate that he had yet to find employment. Mother reported that arrears had grown to \$10,777. The magistrate again withheld a contempt finding and referred the case to the circuit court.

The circuit court held a hearing on the contempt petition on September 2, 2025. Although the court noted at the outset that Mother was seeking incarceration and that both parties were unrepresented, the court made no mention of Father's right to counsel and did not inquire into why he lacked a lawyer or whether he wanted one. Mother testified that she last received a payment from Father in April in the amount of \$50, and that Father had since blocked her number so she was unable to contact him. Mother confirmed to the court that she was seeking jail time and testified that Father owed over \$12,000.

Father testified that his failure to pay was due to prolonged unemployment and difficulty finding a new job. He asserted that the day after the hearing, he was scheduled to start a new position with a former employer at significantly reduced pay. In response to questioning by the circuit court, Father acknowledged that even when he had been working at a higher paying job, he had not made any child support payments. Father alleged that he was too behind on other bills and could not afford to put anything towards child support. Father further acknowledged that he had never sought a modification of his child support

obligation based on the changes in his employment and earnings, and did not have any documentation to support his alleged expenses.

The circuit court found by clear and convincing evidence that Father had not complied with the December 2024 child support order and calculated the total arrearage to be \$12,000. The court credited evidence that Father had only been employed for a few months between December 2024 through May 2025, and thus determined that Father was responsible for only six months of arrearages in the amount of \$4,504. The circuit court further found, however, that Father had failed to carry his burden of proof to show that he did not have the ability to pay the court-ordered child support for the time he was employed. The circuit court thus entered an order finding Father in constructive civil contempt; imposed a sanction of ninety (90) days incarceration at the Baltimore County Detention Center to begin on October 2, 2025; and set as a purge provision that Father could purge the contempt by paying to Mother, on or before October 2, 2025, the amount of \$4,504.

## **DISCUSSION**

### **I. NOTICE OF RIGHT TO COUNSEL**

In his first issue, Father contends that the circuit court erred because it failed to ensure that he was aware of his right to counsel and had voluntarily waived that right at a proceeding in which he could be sentenced to incarceration. We agree.

It is well established that in civil contempt proceedings where there is a possibility of incarceration, the alleged contemnor has a right to counsel and it is the responsibility of the circuit court to ensure that they are aware of this right. *Zetty v. Piatt*, 365 Md. 141, 155 (2001); MD. RULE 15-206(e)(2)(A). If the alleged contemnor decides to waive that right,

they must confirm on the record that the waiver is knowing and voluntary. *Zetty*, 365 Md. at 155; *see also Rutherford v. Rutherford*, 296 Md. 347, 363 (1983) (holding that “an indigent defendant in a civil contempt proceeding cannot be sentenced to actual incarceration unless counsel has been appointed to represent [them] or [they have] waived the right to counsel”).

At the beginning of the hearing, Mother confirmed to the circuit court that she was asking for jail time to enforce the child support order. It is clear from the record, however, that at no point did the circuit court ask Father if he was aware that he had the right to an attorney or attempt to determine whether Father was knowingly and voluntarily waiving that right. Accordingly, we reverse the court’s Order of Contempt and remand for further proceedings.<sup>1</sup>

JUDGMENT REVERSED; SENTENCING ORDER VACATED. REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE ASSESSED TO APPELLEE.

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<sup>1</sup> Although we have reversed the circuit court’s order based on Father’s first issue, we note that we would also have found reversible error based on Father’s second issue challenging that the contempt order failed to include necessary purge provisions. *See generally, Coleman-Fuller v. State*, 192 Md. App. 577, 604 (2010) (addressing an issue that may occur on remand). Before a defendant in a civil contempt proceeding can be subjected to confinement, there must be purge provisions in place that give the contemnor “the ability to avoid both the commencement and the continuation of incarceration.” *Bradford v. State*, 199 Md. App. 175, 195-96 (2011) (cleaned up). Here, the only way for Father to purge the contempt was to pay the arrearage in full prior to the date he was to be incarcerated. There were no provisions that would have allowed Father to show that either he lacked the present ability to pay the entire purge amount, or for Father to purge the contempt once the incarceration commenced. Without such purge provisions, the circuit court erroneously imposed a determinate sentence “reserved for criminal contempt proceedings.” *Bradford*, 199 Md. App. at 202.