

Circuit Court for Queen Anne's County  
Case No.: 17-C-12-017040

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1470

September Term, 2019

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MICHAEL LINK

v.

CHRISTINA LINK

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Beachley,  
Gould,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: December 22, 2020

\*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.

In January 2013, a judgment of absolute divorce was entered in the Circuit Court for Queen Anne’s County dissolving the marriage of Michael Link, appellant, and Christina Link, appellee. The judgment, in pertinent part, ordered Mr. Link to make \$318 in monthly payments to Ms. Link as contribution towards a \$16,453.00 home improvement loan taken during the marriage.

In June 2016, the court entered an order holding Mr. Link in contempt for failure to make the court-ordered payments towards the home improvement loan, providing that he may purge the contempt by paying \$318 per month to Ms. Link for thirty-six months. In December 2017, following Ms. Link’s second petition for contempt, the court again held Mr. Link in contempt for failure to make the requisite payments to Ms. Link and directed that he may purge the contempt by paying \$318 per month beginning September 1, 2017. In addition, the court ordered Mr. Link to “pay \$12,813.01 to [Ms. Link] within 60 days, representing the unpaid interest, late fees, court costs and attorney’s fees on the loan.”

This appeal stems from Ms. Link’s third petition for contempt filed in August 2019 in which she alleged that Mr. Link had not made a single contribution payment since the court’s December 2017 order. The court found Mr. Link “in willful contempt” of the December 2017 order, specifically, its provision that he pay \$12,813.01 to Ms. Link within 60 days.<sup>1</sup> The order further committed Mr. Link to a detention center for a period of 60 days unless he purged the contempt by paying the outstanding \$12,813.01 to Ms. Link.

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<sup>1</sup> The 2019 order was silent as to Mr. Link’s failure to make his monthly \$318 payments towards the home improvement loan.

The day following the contempt hearing, Mr. Link satisfied the purge provision, paying the \$12,813 as ordered in full.

Mr. Link noted a timely appeal to the court’s 2019 order, raising the following questions for our review, which we rephrase and consolidate for clarity:

1. Was the court’s finding regarding Mr. Link’s ability to make court-ordered payments to Ms. Link clearly erroneous?
2. Did the court err when it sua sponte set the contempt hearing before a judge rather than a magistrate, effectively preventing Mr. Link from obtaining an attorney for the hearing where incarceration was at issue?
3. Did the court err in failing to dismiss Ms. Link’s contempt petition for typographical errors contained therein?

For the following reasons, we conclude that the appeal is moot.

#### **DISCUSSION**

“A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant.” *Bradford v. State*, 199 Md. App. 175, 190 (2011) (internal quotation and citation omitted). Further, this Court “[does] not entertain moot controversies.” *Id.* Because Mr. Link satisfied the court’s 2019 contempt order by paying the \$12,813 purge immediately after the order’s entry and the threat of incarceration no longer looms, there is no effective remedy that this Court could grant Mr. Link to satisfy his claims of error with regard to the 2019 contempt order. *See Arrington v. Dept. of Human Res.*, 402 Md. 79, 91 (2007) (contemnor’s complaint regarding the validity of a purge provision on appeal was “technically moot” in light of “the court’s finding that the contempt [had] been purged” and where there was no indication of “any indirect or collateral consequences of the

[contempt order] . . . that might preclude a finding of mootness.”). We, therefore, dismiss Mr. Link’s appeal as moot and decline to consider his claims of error on appeal.

We do note, however, that we would have likely found error had the issues not been moot on appeal. Indeed, the record establishes that Mr. Link was in contempt for failure to comply with the court’s 2017 order directing him to pay \$12,813 within 60 days to Ms. Link. Specifically, at the contempt hearing, Mr. Link testified that of the combined \$20,731.01 owed to Ms. Link stemming from the 2017 order, he had only paid her \$350. Moreover, the burden having shifted to Mr. Link, he failed “to prove, by a preponderance of the evidence, that, despite making reasonable efforts, he . . . never had the ability to pay more than was paid.” *Arrington*, 402 Md. at 100-01. As the court noted, it “[hadn’t] heard anything about [his] living expenses” in the time following the court’s 2017 order, nor the amount of his expendable income, if any, following the payment of his reasonable daily living expenses during that time. The court did not commit clear error, therefore, in finding Mr. Link in contempt of the 2019 order.

However, upon finding Mr. Link in contempt, sentencing him to incarceration, and endeavoring to set a purge provision, the court was required to determine “the present ability of [Mr. Link] to perform [the purge] at the time of sentencing.” *Bradford*, 199 Md. App. at 196. While the circuit court found that Mr. Link had the ability to pay the purge amount, our review of the record reveals that there was insufficient evidence presented to establish Mr. Link’s immediate ability to pay the purge. While there was testimony regarding Mr. Link’s current employment and salary, there was no testimony regarding the assets he then possessed or had access to for immediate payment of the purge on that day.

The court, therefore, should have considered Mr. Link's current ability to pay \$12,813 before setting a purge provision in that amount. Nonetheless, as we have stated, the issue is moot on appeal.

**APPEAL DISMISSED. COSTS TO  
BE PAID BY APPELLANT.**