

Circuit Court for Howard County
Case No. 13-C-17-112953

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1732

September Term, 2021

SHENGLIN WANG

v.

SIU WAI MAK

Graeff,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 30, 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.

Shenglin Wang, appellant, and Sui Wai Mak, appellee, are the parents of J.M., a minor child. In 2021, appellee filed a motion to modify child support in the Circuit Court for Howard County based on a recently issued order that had increased the amount of time that he had custody of J.M. Following a hearing, the magistrate issued a report recommending that the motion be granted, and that appellant be ordered to pay appellee \$622 per month in child support beginning December 1, 2021. Appellant did not file exceptions and the court entered an order adopting the magistrate’s recommendations on December 22, 2021. This appeal followed.

On appeal, appellant does not allege that either the magistrate or the circuit court made any legal errors. Rather, she generally asserts that appellee testified falsely regarding a host of issues and that the certain facts found by the magistrate were incorrect. However, Maryland Rule 9-208(f) specifies that “[a]ny matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise.” And this Court has previously held that “if [an] appellant’s sole basis for appeal was that the [Magistrate]’s factual findings, such as they are, were clearly erroneous, her failure to file exceptions [is] fatal to such an argument.” *Miller v. Bosley*, 113 Md. App. 381, 393 (1997) (“In short, in all cases lacking timely exceptions, any claim that the [Magistrate]’s findings of fact were clearly erroneous is waived.”). Consequently, appellant’s claims regarding the magistrate’s fact-finding are not properly before us.

Appellant nevertheless contends that she was unable to file exceptions because she never received a copy of the magistrate’s report and recommendations. However, this claim is not preserved for appellate review as it was never raised in the circuit court. *See*

Maryland Rule 8-131(a) (“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”).¹ Moreover, even if we were inclined to overlook this shortcoming, reaching this argument would unfairly prejudice the appellee and the circuit court. Because appellant circumvented review in the circuit court, appellee did not have an opportunity to consider and respond to appellant’s assertion that she was not served with the magistrate’s report and recommendations. The circuit court was also deprived of an opportunity to make findings and develop a record regarding whether she was properly served. And, if the court determined that she was not properly served, it was not given the opportunity to correct the error. Finally, the failure to raise the issue at any stage leaves us unable to address the issue on an incomplete record.² Consequently, we shall affirm the circuit court.

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

¹ Even if appellant was not aware of the magistrate’s report and recommendations until December 27, 2021, as she claims, she could have filed a post-judgment motion with the circuit court raising this issue. Yet she did not do so.

² Although not dispositive, we note that the record does not support appellant’s claim as the magistrate certified in the report that she sent a copy of the report to both parties on December 3, 2021, and the report was docketed the same day.