UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 212

September Term, 2016

CHRISTOPHER PEARCE

v.

HEATHER PEARCE, *et al*.

Berger,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 11, 2017

Christopher Pearce, appellant, and Heather Pearce, appellee, are the parents of S.P., a minor child. In 2000, the Pearce's entered into a Marital Settlement Agreement (the Agreement) providing for the custody and support of S.P. The Agreement was incorporated into their judgment of absolute divorce in 2001. In February 2016, the Circuit Court for Cecil County entered an order calculating the total amount of child support arrearages that Mr. Pearce owed to Ms. Pearce under the Agreement. Mr. Pearce appealed from that order and contends that the trial court erred in calculating his child support arrearages because it did not award him a credit against those arrearages: (1) for the value of child-care services that his second wife provided for S.P.[1] and (2) for the benefit that Ms. Pearce obtained by claiming S.P. as a dependent on her tax return in 2008 and 2010, which violated the terms of the Agreement.[2] For the reasons that follow, we affirm.

"[C]hild support orders are generally within the sound discretion of the trial court, not to be disturbed unless there has been a clear abuse of discretion[.]" *Walter v. Gunter*, 367 Md. 386, 392 (2002) (internal citations omitted). But "where the order involves an interpretation and application of Maryland statutory and case law" we apply the *de novo* standard of review. *Id*.

[1] The parties agree that, starting in 2005, Mr. Pearce's second wife watched S.P. at her and Mr. Pearce's residence from the time that S.P. got out of school until the time Ms. Pearce got off of work.

[2] Specifically, the Agreement provided that Mr. Pearce would claim S.P. as a dependent on his tax return in even-numbered years and Ms. Pearce would claim S.P. as a dependent on her tax returns in odd-numbered years.

Mr. Pearce first asserts that he should have received a credit against his child support arrearages for the value of the child-care services that his second-wife provided for S.P. because, he claims, those services constituted actual income for Ms. Pearce under Md. Code Ann., Fam. Law Art. § 12-201(b)(3)(xvi).[3] However, because Mr. Pearce never raised this issue below, it is not preserved for appeal. *See* Md. 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[.]"). And, in any event, Fam. Law Art. § 12-201(b)(3)(xvi), upon which Mr. Pearce relies, states that, for the purposes of calculating child support, actual income includes "expense reimbursements or in-kind payments received by a parent *in the course of employment, self-employment, or operation of a business* to the extent the reimbursements or payments reduce the parent's personal living expenses" (emphasis added). There is no evidence in the record indicating that Mr. Pearce's second wife provided child care services to Ms. Pearce "in the course of [Ms. Pearce's] employment, self-employment, or operation of a business." Consequently, even if this argument were preserved, it lacks merit.

Mr. Pearce also claims, without citing any legal authority, that he was entitled to an unspecified credit against his child support arrearages for the two years that Ms. Pearce claimed S.P. as a dependent on her tax returns in violation of the Agreement. Specifically,

[3] Mr. Pearce does not contend that he and Ms. Pearce had agreed that he could pay less money in child support in exchange for his second wife watching S.P. after school. And, in any event, the circuit court specifically found that the parties had never agreed to modify Mr. Pearce's child support obligations, a finding that, based on our review of the record, was not clearly erroneous.

he asserts that this represented "income from [him] appropriated by [Ms. Pearce]." Even if we were to assume that Mr. Pearce might have been entitled to such a credit, the trial court did not abuse its discretion in failing to award one under the circumstances. At the hearing, Mr. Pearce offered no evidence showing how the parties' incomes had been affected when Ms. Pearce claimed the minor child on her tax returns in 2008 and 2010. Therefore, even if the trial court had believed that such a credit was appropriate, there was no basis from which it could have determined the value of any credit to award. *See generally Walker v. Grow*, 170 Md. App. 255, 286-87 (2006) (holding that the trial court did not abuse its discretion in failing to increase spouse's income for child support purposes based on realized capital gains where there was no evidence introduced at the trial regarding the amount of those gains); *Tanis v. Crocker*, 110 Md. App. 559, 581 (1996) (holding that the trial court did not abuse its discretion in failing to increase spouse's income for child-support purposes by the value of a company car provided by the spouse's employer where the appellant produced no evidence regarding the value of the vehicle).

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