Circuit Court for Prince George's County
Case No. CAD14-13958 & CAD15-29378

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2037

September Term, 2016

CHARLES ANDREWS

v.

TIFFANY ANDREWS (WILLIAMS)

Berger,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: July 13, 2018

Appellant, Charles E. Andrews ("Charles"), and appellee, Tiffany B. Williams, formerly Tiffany B. Andrews ("Tiffany"), were married on August 26, 2004 and have two minor children together. In 2014, Tiffany filed for an absolute divorce and other relief in the Circuit Court for Prince George's County. After a hearing, a family magistrate's recommendations included the granting of a judgment of absolute divorce, the denial of a monetary award in the distribution of marital property, and ordering Charles to pay child support. After dismissing Charles's filed exceptions to the magistrate's recommendations, the circuit court entered a judgment of absolute divorce in accordance with the magistrate's recommendations. Charles filed a motion to alter the judgment, which was denied. On appeal, he presents the following questions, which we have reordered:

1. Did the court abuse its discretion in not vacating the judgment entered on August 8, 2016 that dismissed the appellant's exceptions?

2. Did the court err as a matter of law, and/or abuse its discretion in not identifying and distributing the appellee's thrift savings plan ("401K") in the amount of $85,879.63 as marital property?

3. Did the court err as a matter of law in adjudging the appellant's child support obligation at $2,308.00?

We answer each in the negative and affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Tiffany filed a complaint for absolute divorce on June 3, 2014, alleging adultery, excessively vicious conduct, and cruelty of treatment.[1] She sought an absolute divorce,

[1] Case No. CAD14-13958 (referred to herein as No. 13958).

or in the alternative, a limited divorce, sole legal and physical custody of the minor children, *pendente lite* and permanent child support, determination of the ownership and value of marital property, and the equitable distribution of marital property. Charles answered and counterclaimed on July 8, 2014, seeking, among other things, an absolute divorce, joint legal and shared physical custody, child support, a determination of the ownership and value of marital property, and the equitable distribution of marital property.

A *pendente lite* hearing was held before a magistrate on August 21, 2014. Both parties were present with counsel. The circuit court entered a *pendente lite* order that required Charles to pay $1,857 per month in child support beginning as of September 1, 2014 and to pay $1,200 per month as contribution to mortgage payments on the family home. It reserved issues of retroactive child support for the merits hearing. Two days later, the court issued a consent order granting both parties joint legal custody and primary residential custody to Tiffany with visitation to Charles.

The court's scheduling order, dated August 22, 2014, required the parties to exchange documents and complete discovery by October 13, 2014. A merits hearing was set for November 13, 2014; that hearing never took place.[2]

On December 2, 2014, the circuit court entered a consent order, stating that "by agreement of the parties, this case [No. 13958] shall be consolidated with any future

[2] On November 17, 2014, Tiffany filed a petition for a protective order in District Court, a temporary order was granted, and a hearing on the petition was held on November 24, 2014. At that hearing, Charles indicated that he felt that he was a victim of domestic violence and filed a criminal complaint with the State's Attorney's Office.

Complaint for Absolute Divorce filed by either party in any jurisdiction," that both parties' claims for retroactive child support be preserved, and that "this case be closed for statistical purposes only."[3]

On September 22, 2015, Tiffany filed a complaint for absolute divorce and other relief, including child support and the distribution of marital property.[4] Charles, who was no longer represented by counsel, answered on October 24, 2015, and counterclaimed for absolute divorce, child support, and the distribution of marital property.

A scheduling conference was scheduled for and took place on December 8, 2015, but Charles did not appear. A scheduling order required the parties to exchange copies of financial documents and records, including "[f]inancial [s]tatement per MD Rule 9-203" and "[a]ll pension information," by January 7, 2016, file the joint statement of marital and non-marital property pursuant to Maryland Rule 9-207 by March 1, 2016, and complete all discovery by February 11, 2016. The merits hearing was set for March 11, 2016.

On January 6, 2016, Charles, identifying as a self-represented litigant[5] as a result of financial hardship, filed a motion to postpone the hearing, extend the time to comply with the requirements of the scheduling order, and extend the discovery deadline.

[3] During the ensuing year, various motions for sanctions, contempt, and to modify child support were filed, all of which were ultimately dismissed.

[4] Case No. CAD15-29378 (referred to herein as No. 29378). On February 3, 2016, the circuit court consolidated the two cases.

[5] On February 23, 2016, new counsel entered his appearance on behalf of Charles.

Tiffany, on January 29, 2016, filed a motion to compel the exchange of documents required by the scheduling order, stating that she had fulfilled her obligation to produce documents, but that appellant had not.

At the start of a hearing before a magistrate on March 11, 2016, Tiffany made a motion in limine to prevent Charles from testifying, alleging that he had failed to produce the requested discovery. The magistrate denied the motion, and both parties testified and submitted evidence to the record.

Tiffany admitted into evidence Charles's 401K statement, which he had provided that day, that valued his pension at $13,465.98 as of December 31, 2015. She admitted a statement of marital property[6] that valued her 401K at $85,879.63 and valued Charles's 401K at an estimated $13,465. Charles admitted two financial documents into evidence: pay statements for two months and a 2015 W-2 document.

Tiffany alleged that Charles wasted or improperly withdrew about $23,500 from his 401K between 2007 and 2012 without her knowledge, and that these monies should be considered marital property for distribution purposes. Charles countered that those monies were withdrawn with both parties' consent to purchase real property.

At the end of the hearing, the magistrate examined the submitted statement of marital property. As to their 401Ks or thrift savings plans ("TSP"), he valued Charles's 401K at $13,465 and Tiffany's at $85,879. In response to her "allegation . . . that the

[6] According to Tiffany's counsel, he prepared the "[Rule] 9-207" document on his own, after Charles's counsel "ignored [him] when [he] asked him to contribute." Charles did not object to the admission of this document and stipulated that his 401K's value was "as is inserted in the marital joint property statement."

gentleman wasted or improperly withdrew . . . monies from his Thrift Savings Plan without the lady's knowledge," he explained his recommendation to deny Tiffany a monetary award:

> The purpose of a monetary award, is to address the inequities created by title, which means that if somebody has more stuff in their name than the other person does, they walk away with that ownership at the end of the divorce, and that can . . . lead to an inequitable result. Both parties have TSP's, both parties have furniture, both parties have some checking accounts. As government employees, they may have FERS plans, as well, but that's not listed here, anywhere on the 9207. I didn't hear any testimony about it. So, we're just looking at the TSP's. I think that's all they have.
>
> But, if I'm looking at just the [joint statement of marital and non-marital property], I failed to see where passing of property by title would in any way create an inequity. The lady has way more than the gentleman does no matter how you slice it. Even if he had the 23,000 [sic] back in his TSP, [she] got twice what he's got. So, I don't see where there's an inequity created by title.
>
> * * *
>
> I'm not particularly moved on the monetary award issue, today, because I'm not so sure there's much to differentiate between the parties on that issue. But, more importantly, the lady has twice as much money in her name than the gentleman has. So, in effect, I'm not so sure why the lady would be entitled to a monetary award . . . based on the evidence offered or the actual value of the property. I just don't see it.
>
> So, my recommendation is going to be is that the parties be granted a divorce, she be restored to her former name, neither party be awarded a monetary award.

With regard to child support, the magistrate, using the parties' 2016 income, calculated Charles's child support obligation to be $2,308 per month beginning as of January 1, 2016. The magistrate memorialized his decision in recommendations issued on March 11, 2016.

On March 21, 2016, pursuant to Maryland Rule 9-208(f), Charles filed exceptions to the marital property and child support recommendations. In his exceptions, he asserted that "during the course of the [March 11, 2016] proceeding the parties stipulated to [Tiffany] having a [401K] in the amount of $85,879.63 while [he] had a [401K] in the amount of $13,465.00," "the matters before the Court were (1) property; (2) child support; and (3) divorce," and "[t]here was no distinction made with regards to which parties' property distribution, child support, and divorce were to be entertained." Nevertheless, the magistrate "held that it was not inclined to enter a monetary judgment." Charles argued that the failure to distribute Tiffany's greater 401K and the "rationale behind not doing so were an error of law as well as an abuse of discretion." He also argued that the court erred as a matter of law and abused its discretion in entering a child support award against him in the amount of $2,308 because under the child support guidelines the award should have been $1,857.

Along with his exceptions, Charles filed a motion with an affidavit of indigency asking the court to accept an electronic recording of the proceedings in lieu of a transcript and to extend the time to purchase such a recording. Tiffany opposed the motion, attaching a paystub reflecting Charles's annual income as $116,722. The circuit court, on May 11, 2016, denied his request to submit an electronic recording, but extended the deadline for submitting a transcript to June 13, 2016. On June 13, 2016, Charles again filed a motion to extend the time to provide a transcript, claiming lack of finances. The circuit court extended the deadline to July 18, 2016. Charles did not meet that deadline.

On July 22, 2016, Tiffany filed a motion to dismiss Charles's exceptions. Charles opposed the motion, claiming financial and personal troubles had prevented him from producing the transcript, but that he was close to doing so.

In an order entered on August 9, 2016, the circuit court granted Tiffany's motion to dismiss the exceptions and entered a judgment of absolute divorce. As to the issues on appeal, the judgment denied both parties a monetary award and ordered Charles to pay $2,308 per month in child support to Tiffany.

On August 24, 2016, Charles filed a motion to "alter the judgment entered on August 8, 2016[7] for the purpose of reversing this court's dismissal of defendant's exceptions." He asserted that the transcript had been prepared by "One Stop Legal," that he was "in the process of paying for [it]," and that the court would have it within 15 days of the motion.[8] The transcript of the March 11, 2016 hearing before us now is date-stamped August 30, 2016 by the clerk of the circuit court. The circuit court denied Charles's motion on October 4, 2016 without explanation. Charles filed a notice of appeal on November 3, 2016.

[7] The date of entry was actually August 9, 2016.

[8] Attached to this motion was a copy of email correspondence, dated August 22, 2016, sent to Charles's counsel from Lisa P. Walker at One Stop Legal, who wrote, "Per our telephone discussion, and per your request, the remaining balance for the transcript prepared for the hearing . . . on March 11, 2016, is $484.50. The balance includes your deposit received in the amount of $100.00. . . . I will await your further instruction on payment and transcript delivery options."

DISCUSSION

Motion to Alter the Judgment (Revise the Judgment)

Standard of Review

We note at the outset that Charles filed his motion to "alter the judgment" on August 24, 2016, more than ten days after the entry of the order dismissing exceptions on August 9, 2016. For that reason, that filing did not toll the running of the 30-day appeal period under Maryland Rule 8-202(c). *See Bennett v. State Dep't of Assessments and Taxation*, 171 Md. App. 197, 203 (2006). Therefore, in this appeal, Charles cannot challenge directly the circuit court's dismissal of his exceptions or the judgment of absolute divorce. He can only challenge the court's exercise of its revisory power under Maryland Rule 2-535, which is "not necessarily the same as an appeal from the judgment itself." *Estate of Vess*, 234 Md. App. 173, 204 (2017) (internal citations omitted). In other words, the merits of the magistrate's recommendations and the court's judgment fade from the front to background in the analytical landscape. And, "the scope of our review is 'limited to whether the trial judge abused his [or her] discretion in declining to reconsider the judgment.'" *Id.* at 205 (quoting *Grimberg v. Marth*, 338 Md. 546, 553 (1995)). To the extent that they are embedded in an abuse of discretion analysis, we will consider these background issues in our discussion, but we will only reverse a decision not to reconsider the judgment if it is "*so far wrong*" or "*so egregiously wrong*—as to constitute a clear abuse of discretion." *Id.* (emphasis in original) (quoting *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 232 (1998)).

Contentions

At the heart of Charles's contentions regarding the dismissal of his exceptions is his assertion that he could not afford to timely produce the transcript of the hearing and that he so notified the court of his situation by a motion and an affidavit of indigency. And, because he had finally produced the transcript when he filed his motion to alter the judgment, he contends that the circuit court "failed to utilize the discretion as afforded in Maryland Rule 2-535."

Analysis

Maryland Rule 2-535(a) provides:

> On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534.[9]

Charles filed a timely motion under Rule 2-535 asking the court to exercise its revisory power to alter its August 9, 2016 judgment and reverse the dismissal of his exceptions.

Maryland Rule 9-208(g) provides requirements for filing exceptions:

[9] "In an action decided by the court, on motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial. A motion to alter or amend a judgment filed after the announcement or signing by the trial court of a judgment but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket." Md. Rule 2-534.

> At the time the exceptions are filed, the excepting party shall do one of the following: **(1) order a transcript of so much of the testimony as is necessary to rule on the exceptions, make an agreement for payment to ensure preparation of the transcript, and file a certificate of compliance stating that the transcript has been ordered and the agreement has been made**; (2) file a certification that no transcript is necessary to rule on the exceptions; (3) file an agreed statement of facts in lieu of the transcript; or **(4) file an affidavit of indigency and motion requesting that the court accept an electronic recording** of the proceedings as the transcript. **Within ten days after the entry of an order denying a motion under subsection (g)(4) of this section, the excepting party shall comply with subsection (g)(1).** The transcript shall be filed within 30 days after compliance with subsection (g)(1) or within such longer time, not exceeding 60 days after the exceptions are filed, as the magistrate may allow. **For good cause shown, the court may shorten or extend the time for the filing of the transcript.** The excepting party shall serve a copy of the transcript on the other party. **The court may dismiss the exceptions of a party who has not complied with this section.**

(Emphasis added.)

After he filed his exceptions, Charles took subsection (g)(4) of Maryland Rule 9-208 as his path forward. He filed an affidavit of indigency and asked the court to accept an electronic recording. The court denied the motion to accept an electronic recording, but, presumably for good cause, extended the transcript deadline to June 13, 2016. When Charles failed to meet the first extended deadline, the court again extended the deadline to July 18, 2016. Only after Charles failed to comply with the second deadline did the circuit court, on August 9, 2016, grant Tiffany's motion to dismiss the exceptions.

According to Charles's motion to alter the judgment on August 24, 2016, the transcript had now been prepared, he was "in the process of paying for [it]," and the court would have it within 15 days. Rule 9-208(g) typically requires that a party comply with subsection (g)(1) ten days after entry of an order denying a motion under subsection

(g)(4), unless granted an extension. And, subsection (g)(1) requires ordering a transcript, making an agreement for payment, and filing "a certificate of compliance stating that the transcript has been ordered and the agreement has been made."

Even if we credit Charles's assertions in his motion to alter the judgment, we do not find persuasive that final compliance with Rule 9-208(g) over five months after the filing of exceptions required the court to reconsider the dismissal of Charles's exceptions or revisit its judgment of August 9, 2016.[10] In short, after extending multiple deadlines to Charles, the circuit court did not abuse its discretion by "dismiss[ing] the exceptions of a party who has not complied" with Rule 9-208(g).

Marital Property

Standard of Review

> [T]he ultimate decision regarding whether to grant a monetary award, and the amount of such an award, is subject to review for abuse of discretion. Under that standard, we may not substitute our judgment for that of the fact finder, even if we might have reached a different result.

Flanagan v. Flanagan, 181 Md. App. 492, 521 (2008).

Contentions

Charles contends that he asked for distribution of Tiffany's 401K account as marital property, but the magistrate, despite noting, in reference to the TSPs, that the "lady has way more than the gentleman has," declined to recommend a monetary award. He alleges that although the magistrate reasoned that such a distribution was not

[10] The transcript in the record is date-stamped August 30, 2016 by the clerk of the circuit court.

requested during the proceedings, there was a fair understanding at the start of the proceedings that the matters at the hearing included property distribution. And, there was no distinction as to which of the parties' marital property could be distributed. He argues, based on this, that the circuit court abused its discretion in failing to award him any distribution of Tiffany's pension, valued at $85,879, when his pension, valued at $13,465, was substantially less in value.

Analysis

In Maryland, "marital property" is "property, however titled, acquired by 1 or both parties during the marriage." Md. Code Ann. (1984, 2012 Repl. Vol.), Family Law ("FL") § 8-201. "In a divorce proceeding where property disposition is at issue, the party asserting a marital property interest in specific property has the burden of producing evidence as to the identity and value of that property." *Pickett, Houlon & Berman v. Haislip*, 73 Md. App. 89, 97 (1987); *see also Malin v. Mininberg*, 153 Md. App. 358, 428 (2003) ("The party who claims a marital interest in property has the burden of proof as to that claim."); *Green v. Green*, 64 Md. App. 122, 139 (1985) (holding that the trial court properly omitted items of furniture and appliances from determination of marital property where Mrs. Green failed to present the court with evidence of identity and value of those items).

The "function [of the monetary award] is to provide a means for the adjustment of inequities that may result from distribution of certain property in accordance with the dictates of title." *Alston v. Alston*, 331 Md. 496, 506 (1993) (quoting *Herget v. Herget*,

319 Md. 466, 471 (1990)). When a marital award interest is claimed, the court employs a three-step process: (1) it determines first which property is marital property (FL § 8-203); (2) it then determines the value of all the marital property (FL § 8-204); and (3) then it *may* grant an equitable monetary award or transfer of ownership interest after considering enumerated factors (FL §§ 8-205(a) and (b)).[11] *See, e.g.*, *id.* at 499; *Brown v. Brown*, 195 Md. App. 72, 109-110 (2010).

The record does not reflect that Charles sought marital distribution of Tiffany's 401K account during the hearing before the magistrate. It was only after the magistrate announced his recommendation that the following exchange occurred:

[11] The court shall determine the amount and the method of payment of a monetary award, or the terms of the transfer of the interest in property described in subsection (a)(2) of this section, or both, after considering each of the following factors:

(1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

(2) the value of all property interests of each party;

(3) the economic circumstances of each party at the time the award is to be made;

(4) the circumstances that contributed to the estrangement of the parties;

(5) the duration of the marriage;

(6) the age of each party;

(7) the physical and mental condition of each party;

(8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;

(9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;

(10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and

(11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

FL § 8-205(b).

> [COUNSEL]: -- the pension? I guess, the opposing side, I believe, was $83,000 and no marital division of that? Your Honor, honestly?
>
> [MAGISTRATE]: Your client didn't plead it, didn't prove it, didn't ask for it.
>
> [COUNSEL]: We did. Your Honor, we did plead it. Your Honor, we pleaded it in the counter-claim.
>
> [MAGISTRATE]: Yeah, but there was no argument made.

At the hearing, Tiffany argued that she was entitled a monetary award, which Charles contested, but he did not ask for a distribution of Tiffany's pension or a marital award in his favor. After hearing arguments and considering evidence, the magistrate ultimately declined to recommend any award because he did not find "much to differentiate between the parties on that issue."[12]

In sum, Charles failed to assert his marital interest in Tiffany's 401K, to meet his burden of proof at the magistrate's hearing as to why he was entitled to an award, and to pursue his exceptions in a timely fashion. We are not persuaded that, under these circumstances, the circuit court's ratification of the magistrate's recommendation regarding the monetary award was an abuse of discretion in the first instance. And, therefore, it was clearly not an abuse of discretion to deny the motion to alter the judgment thereafter.

[12] Maryland Rule 9-207 provides, "When a monetary award or other relief pursuant to [FL] § 8-205 is an issue, the parties shall file a joint statement listing all property owned by one or both of them." Charles failed to contribute to a joint marital property statement and to produce necessary discovery before the merits hearing, pursuant to the scheduling order, in order to facilitate the distribution of marital property. In addition, Tiffany testified that she had filed for bankruptcy in order to save her residence and several of the items on the marital property statement reflected negative equity.

Child Support Award

Standard of Review

When "the ultimate conclusion of the chancellor [is] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the chancellor's decision should be disturbed only if there has been a clear abuse of discretion." *In re Priscilla B.*, 214 Md. App. 600, 624 (2013). But, when it "appears that the chancellor erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless." *Id.*

Contentions

Charles contends, without citation to fact or law, that the court erred as a matter of law when it ordered that he pay $2,308 per month in child support because this amount is not in compliance with the statutory child support guidelines. He posits that the correct amount is $1,857 per month.

Analysis

In awarding child support, the circuit court follows the statutory child support guidelines set forth in FL § 12-204 of the Maryland Code, enacted by the legislature to comply with federal law and regulations. *Voishan v. Palma*, 327 Md. 318, 322 (1992). A schedule (or chart) for basic child support awards is provided in FL § 12-204(e), up to the combined parental monthly earnings amount of $15,000. But, "[i]f the combined adjusted actual income exceeds the highest level specified in the schedule . . . the court may use its discretion in setting the amount of child support." FL § 12-204(d).

In exercising discretion in "above the guidelines" cases, the trial court may extrapolate from the schedule, but extrapolation does not necessarily or "presumably establish the correct amount of child support." *Jackson v. Proctor*, 145 Md. App. 76, 87 (2002). This is because "above the guidelines" awards "def[y] any simple mathematical solution." *Bagley v. Bagley*, 98 Md. App. 18, 39 (1993). The judge is entrusted to "exercise his or her own independent discretion in balancing the best interests and needs of the child with the parents' financial ability to meet those needs." *Voishan*, 327 Md. at 329 (internal quotations omitted). At the same time, "[t]o effectuate the legislative intent to improve the consistency of child support awards, trial judges should bear in mind the guidelines' underlying principles when deciding matters within their discretion." *Id.* at 328-329. As the *Voishan* Court, quoting the attorney general's amicus brief in that case, noted:

> [A]t very high income levels, the percentage of income expended on children may not necessarily continue to decline or even remain constant because of the multitude of different options for income expenditure available to the affluent. The legislative judgment was that at such high income levels judicial discretion is better suited than a fixed formula to implement the guidelines' underlying principle that a child's standard of living should be altered as little as possible by the dissolution of the family.

Id. at 328.

Here, Tiffany's income was found to be $10,023 per month and Charles's was $9,727 per month based on their 2016 incomes. Combined, their monthly income equals $19,750, which exceeds the highest level specified in the schedule. For the hearing, Tiffany prepared a worksheet of incomes and expenses, which was admitted into

evidence. The worksheet listed each party's income[13], listed a "basic child support obligation" of $3,749 (by "extrapolation")[14], added daycare and school tuition expenses[15], and calculated the total child support obligation at $7,060 per month. After multiplying the total obligation by each parent's percentage of shared income[16], it arrived at a "recommended child support order" of $3,331 per month against Charles.

The hearing transcript indicates that the magistrate did consider the guidelines based on the parties' incomes and the children's expenses in determining the child support award. First, he noted: "I got the lady's income at $10,023 . . . based on her pay stub. I've got the gentleman's at [$]9[,]727 . . . based on his pay stub for 2016." He then calculated $1,086 per month of expenses for before- and after-care for the children.[17] Adding $1,086 (additional expenses) to $3,749 (the extrapolation amount), and then

[13] Listing Tiffany's monthly pre-tax income as $10,023 and Charles's as $9,727.

[14] This figure is within $1 of the above the guidelines amount, extrapolated using the schedule in FL § 12-204 and the parents' combined monthly income of $19,750.

[15] It listed $1,060 in monthly work-related child care expenses and $2,101 in monthly daycare and tuition expenses.

[16] Tiffany's is 50.7%; Charles's is 49.3%.

[17] This amount is less than Tiffany's listed expenses. After the hearing, the magistrate reasoned that daycare and before- and after-care would be included, but that neither child's private school tuition would be included in the child support award.

multiplying the sum by Charles's percentage of shared income (49.3%), the result is roughly $2,380, which is somewhat more than the child support award of $2,308.[18]

The amount that Charles advances as the correct obligation under the guidelines, $1,857, was the *pendente lite* award ordered on September 17, 2014. Without a worksheet or transcript of the *pendente lite* hearing, we cannot know how the court arrived at this award. But, there is no requirement that the final child support award after a merits hearing match the *pendente lite* award. Circumstances may change and new information may be submitted into evidence affecting the child support obligation. For example, the August 9, 2016 order did not include $1,200 per month in mortgage contributions from Charles.

Because the circuit court neither erred nor abused its discretion in establishing Charles's child support obligation at $2,308 per month in the first instance, it clearly did not abuse its discretion in denying the motion to alter the judgment.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.

[18] We are not prepared to assume on this record that a clerical mistake, transposing the "80" and "08," occurred.