

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2247

September Term, 2023

JOHN KIRLAN JOSEPH

v.

ALICIA JONES JOSEPH

Berger,
Nazarian,
Ripken,

JJ.

Opinion by Ripken, J.

Filed: June 25, 2025

*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 Rule 1-104(a)(2)(B).

In January of 2024, Alicia Joseph (“Wife”) and John Joseph (“Husband”) were granted a judgment of absolute divorce by the Circuit Court for Baltimore County. Husband filed a timely notice of appeal, and seeks review of the following issues:¹

- I. Whether the circuit court abused its discretion in declining to order a marital award.
- II. Whether the circuit court abused its discretion in awarding *Crawford* credits.

Although we shall hold that the circuit court did not abuse its discretion with respect to the first issue, for the reasons to follow, we shall vacate the judgment of the circuit court so that, as to the second issue, the court may more fully explain its exercise of discretion in relation to the award of *Crawford* credits.

FACTUAL AND PROCEDURAL BACKGROUND

Background and Issues Resolved Before Trial

The parties were married in August of 2004. They had two children born to the marriage in 2005 and in 2009. During the course of the marriage, the parties purchased a marital home in Baltimore County, Maryland, where they resided with the children. Both parties were jointly obligated on the mortgage encumbering the home. Both parties contributed portions of their monthly earnings to cover the household expenses, including the mortgage. Both parties contributed to parenting the children.

¹ Rephrased and reordered from:

- 1. Did the court commit legal error in awarding “*Crawford* Credits” to Wife from the proceeds of the marital home?
- 2. Did the court abuse its discretion in failing to adjust the equities in awarding a monetary award to Husband?

Husband moved out of the marital home in March of 2022. The children continued to reside with Wife in the marital home. In April of 2022, Wife filed a complaint seeking an absolute divorce, which she amended in August of 2022. In August of 2022, Husband filed a counter complaint also seeking an absolute divorce. Both parties sought sole legal custody of the children; Husband sought shared physical custody of the children, and Wife sought primary physical custody. Both parties sought child support and the division of marital property. During the pendency of the litigation, Husband did not pay child support or contribute to the mortgage.

The parties eventually reached an agreement regarding custody of the minor child.² They also reached an agreement regarding the division of certain marital assets, including a timeshare and proceeds from real property in North Carolina. They further agreed to mutually waive any claims for alimony or legal fees and agreed that each party would be responsible to pay any debts in his or her name. Several issues remained for trial, including division of property—which was comprised of the marital residence; the contents of the marital residence; the automobiles; various savings and checking accounts; and the parties' retirement accounts—as well as child support payments and child support arrearages.

Evidence at Trial

A trial was held to resolve the remaining issues over two days, one in October of 2023 and the other in January of 2024.

² By the time the parties reached this agreement, their older child had turned eighteen. The record does not reflect when the older child completed high school.

The parties agreed that they were married in 2004 and had two children together. Wife testified that another child was born during the marriage between Husband and another woman. Wife testified that the child was brought to the marital home in 2017, and that Wife took care of the child from that time until Husband took that child and left the marital home in March of 2022. Wife testified that following the separation, Husband utilized some visitation time with the children; however, he did not spend overnights with them. Wife testified that apart from school shopping and sports training for one of the children, Husband did not contribute to child-related expenses following his departure from the marital home. Husband acknowledged that he did not have overnight visits with the children subsequent to the separation. He testified that apart from the contribution to his son's sports camp, he did not provide any child support.

Wife testified that prior to the parties' separation, they both contributed funds each month to a joint checking account from which bills, including the mortgage, were paid. Wife testified that she contributed \$4,000 per month while Husband contributed \$2,000 per month. Husband initially testified that he contributed \$3,000 per month to the joint account. He also testified that he contributed his entire regular paycheck to this account, less any amounts earned via overtime, which he withdrew with the intention of starting a business with a coworker. Husband later acknowledged that in the year preceding the separation, he left only slightly over half his income in the joint account, withdrawing the remainder of the funds which he intended to use to start a business. In the thirteen-month period preceding the separation, Husband, via direct deposit, contributed \$60,540.66 to the joint account and withdrew \$29,141.00, leaving the balance of \$31,399.66 as the sums he

contributed to the joint account.³ Husband acknowledged that he did not start the purported new business. Husband testified that he deposited the withdrawals into his Wells Fargo account; however, according to the joint property statement filed by the parties, that account held only \$413 in October of 2023.

Wife testified that Husband had not contributed any funds to the joint account since he moved out of the marital home in March of 2022. Husband acknowledged that he stopped depositing money in the joint account in 2022.

In relation to the request for use and possession of the family home, Wife testified that she made the request because the children had lived there for their entire lives, and maintaining a stable environment was in the children's best interest. Wife also introduced a mortgage amortization schedule identifying the principal and interest she paid on the mortgage each month as \$1,998.96. Evidence was admitted at trial that in January of 2024, the outstanding mortgage balance encumbering the property was \$266,112.10. Husband introduced evidence of an appraisal conducted in October of 2023 valuing the property at \$421,000.

With respect to the parties' personal property, Wife testified that the parties had an agreement that Husband could retain property she valued at \$6,000, which included a pool table, a weight set, and other personal items. In accordance with that agreement, Husband removed these items from the personal property itemized. She valued the remaining personal property that had not been part of the agreement at \$6,000 and testified that most

³ This sum results in an average monthly contribution by Husband of \$2,415.35 per month.

of the other personal property in the house, including furnishings and television sets, had been purchased used. Husband agreed that the value of the property he removed per the agreement equaled \$6,000. Husband estimated that the other personal property in the house was valued at \$25,050; however, he did not provide a basis for this estimation. He acknowledged that the furniture was purchased secondhand.

Both parties agreed that Husband drove a 2007 Toyota Tundra and Wife drove a 2011 Toyota Camry. Wife testified that she estimated the value of each vehicle—at \$10,000 and \$4,000 respectively—based on use of the Kelley Blue Book in consideration of the mileage and VIN numbers. Husband did not testify concerning the value of the vehicles.

In relation to the parties' other financial accounts and assets, Wife testified that she had a federal pension⁴ and a Thrift Savings Plan ("TSP"). The value of the TSP fluctuated with the market. At the time of the second day of trial the TSP had a value of \$331,288.58. Wife testified that during the marriage, she had on occasion withdrawn funds from her TSP: for a down payment on the family home; to fund the purchase of the parties' rental property in North Carolina; and to cover household expenses. Wife also testified that she had a loan against the TSP, a substantial portion of which had been used to cover tuition expenses for the parties' daughter. Some funds from the TSP loan had also been used to cover a portion of Wife's attorney's fees.

⁴ Wife introduced evidence that the estimated monthly pension payment would be \$2,757, with a net amount of \$1,468.22. Wife testified that this estimate was provided by her counselor and reflected what was "currently available to [Wife], if [Wife] was to retire" on the day the benefit report was made.

Husband testified that he had a retirement account valued at approximately \$34,000. He testified that at one point he had bought and sold stock through Robin Hood; however, his testimony was unclear as to the value of the stock. Husband testified that he had sold \$10,000 in stock at some point and used the proceeds to finance a trip to Las Vegas or to take the children to an amusement park. However, when the court inquired further, Husband also stated that he may have used part of the \$10,000 to cover his attorney's fees.

Wife testified that in terms of non-economic contributions to the household, although Husband sometimes contributed to household responsibilities such as cleaning, Wife bore primary responsibility for managing the children's extracurricular activities, household maintenance, cooking, and managing the finances. Husband testified that he helped the children with homework, provided them advice, took the children to visit family and amusement parks, spent time with them, and was generally available to talk to them if they needed to talk.

Concerning the circumstances leading to the divorce, Wife testified that prior to the separation, the parties disagreed on financial matters. Specifically, Husband wanted to invest in real estate, while Wife believed other expenses should be prioritized. Wife also testified that during the marriage, while she was saving for retirement, Husband had called her "cheap" and accused her of not taking financial risks. She further testified that she had suggested Husband start an additional retirement account when he commenced his work for the Department of Corrections; however, Husband declined, indicating that "he would

do what he wanted to do with his money.” Wife additionally identified as a factor contributing to the separation Husband’s relationship with one of his coworkers.⁵

Husband testified that there were “a multitude of things” that led to the breakdown of the marriage. Husband first testified at length that a primary reason for the breakdown of the marriage was Wife allowing her brother to live in the parties’ rental property in North Carolina. Husband acknowledged that the decision to have Wife’s brother live in the property had been made approximately ten years previously; he later acknowledged that Wife’s brother had lived at the property for only three years, and that the property had been vacant for seven years thereafter. When testifying, Husband made disparaging remarks concerning Wife’s hygiene before discussing his extramarital affair. Husband additionally stated that “finances” were another basis for the breakdown of the marriage.

Wife testified that her annual income was roughly \$165,000; Husband testified that his annual income in 2023 was \$74,171. In their joint financial statement, the parties acknowledged and agreed upon the existence of the various bank accounts and the contents of those accounts.

⁵ Wife specifically testified concerning an incident where Husband’s coworker had an accident, and Husband went to the hospital and waited with the coworker’s family for several hours. This incident occurred after Husband’s extramarital affair that resulted in the birth of a child. Wife indicated that Husband had provided this coworker money to purchase a residence and had given the coworker dishes from the marital home. Husband asserted that the relationship between himself and his coworker was that of business partners. Husband also testified that after the separation, he moved into the same coworker’s basement and paid rent to her.

Judgment of Divorce and Appeal

Subsequent to the trial, the court issued an opinion and a judgment granting the absolute divorce. Based on the parties' incomes, their agreed parenting access schedule, and the child support guidelines, the court ordered Husband to pay child support in the amount of \$875 per month for the parties' remaining minor child. The court also established a child support arrearage for the months during which Husband did not contribute to the support of the minor children.

The court then assessed and divided the marital property that had not yet been previously agreed upon by the parties. The court first evaluated the value of the family home. The court accepted Husband's estimated valuation of the property as \$421,000, which was encumbered by a mortgage in the undisputed amount of \$266,112. The court then calculated the net value of the marital asset at \$154,888. The court further considered whether to award *Crawford* credits with respect to the home. The court noted that it was undisputed that Wife had paid the mortgage alone over a twenty-two-month period in the amount of \$43,977.12. The court concluded that it was equitable to award *Crawford* credits, and ordered that upon sale of the home, Wife would be entitled to a credit of \$43,977.12 from Husband. The court further "award[ed] credit for any payment made by either party" from the date of the order until the sale of the home. Finally, after considering the appropriate factors, the court concluded that it would be in the minor child's best

interest to remain in the marital home for another year, and therefore awarded use and possession of the home to Wife for one year.⁶

Next, the court considered the value of the personal property. The court observed that Husband had claimed the personal property was worth \$10,000 at one time and \$25,050 at another time. However, Husband acknowledged that the furniture, other than a single couch, had all been purchased secondhand. The court indicated that there was “no other testimony offered as to the specifics of any items within the home or the value of any such items.” Based on the “variations in [Husband’s] estimations and the lack of specificity,” the court did not find Husband’s estimations of the value of the property to be credible. The court, acknowledging that Wife managed the parties’ financial affairs, relied on Wife’s estimation of the value of the personal property which was \$6,000. Because the parties both agreed that Husband had taken with him \$6,000 of marital property when he departed the home, the court ordered that the remaining \$6,000 of marital property would remain with Wife; therefore, the parties would each retain the \$6,000 worth of marital personal property already in their separate possession.

The court then considered the parties’ automobiles. The court found credible Wife’s testimony that she had used the vehicles’ mileages and VIN numbers to obtain estimations as to their value from the Kelley Blue Book. The court valued the vehicle Husband

⁶ The court’s order accompanying the opinion clarified that upon the sale of the home, after the mortgage obligation, closing costs, *Crawford* credits, and other costs were paid, the parties would equally divide the remaining proceeds from the sale of the home.

routinely operated at \$10,000 and the vehicle Wife routinely operated at \$4,000. The court ordered that each party retain the vehicle they routinely operated.

The court then considered the parties' financial accounts, all of which the court concluded contained "negligible" sums.⁷ The court ordered that each party would retain the accounts that were in his or her own name. The court ordered that Wife would retain the single joint account.

The court next examined the parties' retirement accounts. The court indicated that Husband's retirement account with the State of Maryland was valued at \$33,986.43, while Wife's Thrift Savings Plan account was valued at \$331,288.58. The total value of all the marital property assessed by the court equaled \$548,695.91.

The court then considered several factors listed in section 8-205(b) of the Family Law Article of the Maryland Code (1984, 2019 Repl. Vol.) ("FL") in determining whether to transfer ownership of any interest in property or to grant a monetary award.

Based on the court's consideration of the factors, the court found that the equities did not require retitling of any property; nor did the court grant Husband a marital award. The court found that the "equitable considerations dictate[d] that each party retain the retirement plans and savings accounts currently held or titled in their individual names[.]"

The court then entered a judgment of divorce consistent with the memorandum opinion. Husband noted this timely appeal.

⁷ The accounts described by the court included \$8.90 in a joint checking account; \$413 in a savings account in Husband's name; \$50 in another savings account in Husband's name; \$2,051 in a checking account in Wife's name; and \$10 in a Robinhood stock account in Husband's name.

Additional facts will be introduced as they become relevant to the analysis.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION BY DECLINING TO GRANT A MARITAL AWARD TO HUSBAND.

A. Party Contentions

Husband asserts that the circuit court abused its discretion in declining to grant Husband a marital award. He asserts that the court failed to identify the equitable considerations it contemplated when determining that retitling marital property was unnecessary. He further claims that the court's decision resulted in a distribution that left him with "less than 20% of the marital property."

Wife contends that the circuit court did not abuse its discretion in its division of the marital property. Wife asserts that the division of property, no matter the ratio, is an equitable decision within the trial court's discretion. She argues that the trial court's decision was consistent with its factual findings and was fair and equitable.

B. Analysis

The purpose of a marital award "is to correct any inequity created by the way in which property acquired during marriage happened to be titled." *Doser v. Dosier*, 106 Md. App. 329, 349 (1995). "The monetary award is thus an addition to and not a substitution for a legal division of the property accumulated during marriage, according to title. It is intended to compensate a spouse who holds title to less than an equitable portion of that property." *Id.* (quoting *Ward v. Ward*, 52 Md. App. 336, 339 (1982)).

When a party requests a monetary award as part of a divorce proceeding, a trial court must evaluate that request using a three-step process. *Wasylyuszko v. Wasylyuszko*, 250 Md. App. 263, 279 (2021). The trial court must first categorize each item of disputed property as marital or non-marital. *Id.* (citing *Abdullahi v. Zanini*, 241 Md. App. 372, 405 (2019)). Second, the court must determine the value of all the marital property. *Id.* Finally, the trial court must decide if division of marital property according to title would be unfair; if so, the court “may make a monetary award to rectify any inequity created by the way in which property acquired during the marriage happened to be titled.” *Flanagan v. Flanagan*, 181 Md. App. 492, 519–20 (2008) (internal citations and quotation marks omitted). In evaluating the final step, the trial court must consider the factors outlined in FL section 8-205(b). *Wasylyuszko*, 250 Md. App. at 280.

Determining whether an asset is marital or non-marital property and determining the value of each item of marital property are “question[s] of fact.” *Flanagan*, 181 Md. App. at 521. “Findings of this type are subject to review under the clearly erroneous standard embodied by Md. Rule 8-131(c).” *Wasylyuszko*, 250 Md. App. at 269 (quoting *Collins v. Collins*, 144 Md. App. 395, 408–09 (2002)) (further citation omitted). We review the ultimate decision of whether to grant a monetary award for an abuse of discretion. *Id.* (citing *Abdullahi*, 241 Md. App. at 407).

Here, the parties did not disagree over the marital character of any of the assets. Further, while there were disagreements at trial concerning the value of some of the assets, neither party presents an argument that the court erred in valuing the property. The issue raised by Husband is that the court abused its discretion in determining that equity did not

require retitling any of the marital property or the granting of a marital award. We examine that argument.

As discussed *supra*, the trial court valued the marital property, resulting in a total of \$548,695.91. The court then discussed the FL section 8-205(b) factors for determining what would be an equitable distribution and whether to transfer ownership of any interest in property or to grant a monetary award.

In reviewing the factors, the court considered the contributions of each party to the well-being of the family.⁸ The court found that although both parties had contributed to the family, Wife had contributed more financially while also serving as the primary caregiver for the children and managing the cooking, cleaning, extracurricular activities, and the household finances. The court found that Husband had withdrawn marital income to start a business and to invest in the stock market; however, the business was not started, and the stock market funds were depleted. The court noted that Husband had served in a parental role for the children and had helped them with homework. The court also noted that for several years, Wife had also helped raise Husband's daughter whom he had fathered with another woman during the marriage. The court concluded that Wife had "contributed more significantly to the well-being of the family both in monetary and non-monetary ways."

The court next considered the value of the property interests of each party that had been outlined.⁹ The court noted that the parties' economic circumstances reflected that

⁸ See FL § 8-205(b)(1).

⁹ See FL § 8-205(b)(2)–(3).

Wife earned more than Husband and that she also saved more financially. The court indicated that it considered the parties' financial statements.

With respect to the length of the marriage and the circumstances leading to the parties' estrangement,¹⁰ the court noted that the parties had been married since 2004. The parties grew apart for a variety of reasons, including Husband's infidelity as well as disagreements over "family, finances, the children and their lifestyles." The court next considered the parties' ages and physical and mental conditions.¹¹ The court found that both parties generally had good health, and that any health conditions were managed through medication that did not impact employment or lifestyle.

The court next considered the manner in which certain marital property was acquired and the efforts expended by each party in accumulating the marital property.¹² The court noted that to acquire the marital residence, the parties used a down payment drawn from Wife's TSP account. The court noted that Wife also withdrew funds from her TSP account on other occasions for the benefit of the family, including when the parties purchased the North Carolina rental property and again for household expenses at times finances were strained. The court noted that Wife had encouraged Husband to open a supplemental retirement account, but that he had declined. The court observed that Husband used income to invest in the stock market, but that the funds used for that

¹⁰ See FL § 8-205(b)(4)–(5).

¹¹ See FL § 8-205(b)(6)–(7).

¹² See FL § 8-205(b)(8).

investment had been depleted, as Husband had withdrawn money “for a trip to Las Vegas and other activities.” The court also credited Husband’s testimony that he had withdrawn income from the parties’ joint account to place into a savings account with another individual to start a business. The court noted that the business was never started and that the funds were gone. The court also noted Husband’s testimony that Wife was “cheap and would not buy name brands.” The court further indicated that Wife had made “sacrifices” to save for retirement, and that she had borrowed against her retirement account to pay for the college tuition of the parties’ daughter.^{13,14}

Based on the court’s consideration of these factors, the court found that the equities did not require retitling of any property; nor did they warrant granting Husband a marital award. The court found that the “equitable considerations dictate[d] that each party retain the retirement plans and savings accounts currently held or titled in their individual names,” and ordered that Wife would retain the full value of her TSP.

¹³ FL section 8-205(b)(10) requires consideration of “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[.]” The court did not expressly consider this factor; however, “a trial judge’s failure to state each and every consideration or factor” does not constitute an abuse of discretion if the record demonstrates that “appropriate factors were taken into account in the exercise of discretion.” *Flanagan*, 181 Md. App. at 533 (quoting *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 445 (2003)). Here, the trial court’s opinion in totality demonstrates that it considered use and possession of the family home, as its award of that asset appeared one page prior to its marital award analysis.

¹⁴ The circuit court did not consider FL section 8-205(b)(9)—contribution of non-marital assets towards the acquisition of real property held as tenants by the entirety—which was not relevant to the court’s analysis because neither party contended that any contribution to marital property was made with non-marital funds.

The parties’ retention of the marital property held in their own names resulted in the following division:

Asset	Value	Sum Retained by Wife	Sum Retained by Husband
Family Home	\$154,888	\$77,444	\$77,444 ¹⁵
Personal Property	\$12,000	\$6,000	\$6,000
Vehicles	\$14,000	\$4,000	\$10,000
Financial Accounts	\$ 2,532.90	\$2,059.90	\$473
Retirement Accounts	\$365,275.01	\$331,288.58	\$33,986.43
Totals:	\$ 548,695.91	\$420,791.58	\$127,903.43

This distribution resulted in Husband retaining slightly more than 23% of the marital property, without consideration of the further reduction from the *Crawford* credits awarded to Wife. On the other hand, Wife retained nearly 77% of the marital property.

“In Maryland, as in the majority of equitable distribution states, ‘equitable’ does not necessarily mean ‘equal.’” *Jackson v. Sollie*, 449 Md. 165, 196 (2016) (quoting *Alston v. Alston*, 331 Md. 496, 508–09 (1993)). Courts are not required to equally divide marital property. *See Ward v. Ward*, 52 Md. App. 336, 339 (1982). A trial court, “after a consideration of the factors listed in [FL section] 8-205, may decree an unequal division and state the reasons for such an allocation.” *Caccamise v. Caccamise*, 130 Md. App. 505, 521 (2000). “Although the law does not require a court to divide marital property equally between parties, the division of such property must be ‘fair and equitable.’” *Brewer v.*

¹⁵ This sum does not reflect any reductions with respect to the *Crawford* credits awarded by the court.

Brewer, 156 Md. App. 77, 105 (2004) (quoting *Long v. Long*, 129 Md. App. 554, 577–78 (2000)).

Here, the trial court provided reasons as to why allocating the marital assets according to title in a fashion that was not equal was equitable. The court explained that Wife “contributed more significantly to the well-being of the family in monetary and non-monetary ways” as demonstrated by her contributing more to the household finances than Husband, and by contributing more to managing the household as well as being the primary caregiver to the children. The court found that Wife’s retirement accounts were “the result of her prioritization” and careful saving habits. The court further noted Wife’s “sacrifices” and contributions to the family outside the course of routine bills, including the loans she took against her TSP account to provide for the family, to fund the purchase of other marital property, and to aid the parties’ daughter in attending college. The court noted that “[b]oth parties benefitted” from Wife’s spending decisions during the marriage.

The court contrasted Wife’s saving habits, which benefitted the family, with Husband’s spending practices, which were limited to his sole benefit. The court took note that Husband withdrew marital income to start a business and to invest in the stock market, observing that the business was not started, and that “those funds are gone.” The court further took note that Husband had depleted marital funds to fund his trip to Las Vegas and “other activities.”

The court therefore provided substantial explanation as to the reason that the unequal allocation of marital assets was fair and equitable under the circumstances.

Husband relies on *Ward* and *Long* to support his assertion that because the court's division of marital property led to a substantial disparity between the parties, the result was inequitable and therefore an abuse of discretion. *Ward* and *Long* are distinct from the facts of this case.

As relevant to this appeal, we vacated the marital award in *Ward* in part because the FL section 8-502(b) factors analyzed by the trial court suggested that “the inescapable conclusion” flowing from a consideration of the factors was that “the balance was even.” 52 Md. App. at 342–43. Based on the trial court's findings as related to the factors, we held that there was “nothing fair or equitable” in the five-to-one division of property ordered by the trial court. *Id.* at 343–44. In other words, we vacated the award because the trial court's explanation of its consideration of the factors did not support the award. *Id.* at 343–44.

In *Long*, we vacated the trial court's ultimate award where the fact finder's consideration of the factors contradicted the result of the ultimate award. 129 Md. App. at 577–78. We noted that the trial court's findings reflected that:

[w]here the facts were controverted, the chancellor generally found [the wife's] evidence more credible than that of [the husband], including [the wife's] information regarding the acquisition and valuation of the train collection and valuation of the business. The chancellor noted that [the husband] was the source of the marital fault. He noted [the wife's] mental health problems, her present unemployment and lack of job training, and her non-monetary contribution to the marriage.

Id. at 577. We held that “when the chancellor weighed the equities, he failed to give adequate force to his own findings about [the wife's] mental condition, unemployment, dearth of personal resources, real marital contribution, and lack of marital fault.” *Id.* at 578.

We noted that the factfinder had found certain assets to be marital and that the wife

participated in the acquisition, yet the final award “short-chang[ed] [the wife] of her benefit for the expenditure of marital resources.” *Id.* This Court vacated the order of the trial court where the order was contradicted by the trial court’s factual findings; we remanded so the trial court could give “adequate force” to those findings. *Id.* at 578–79.

We further noted in *Flanagan* that this Court has overturned monetary awards “when the trial court’s disposition demonstrated a great disparity in light of the statutory factors.” 181 Md. App. at 527. We noted that the trial court did not explain the reason for the disparity. *Id.* We held that “the sizeable, *unexplained* disparity resulting from the monetary award” required this Court to vacate the award. *Id.* (emphasis added).

Ward, *Long*, and *Flanagan* therefore do not suggest that an equal disposition of marital property is required; the holdings in each of these cases indicate that a trial court’s ultimate award must be supported by the court’s factual findings and consideration of the statutory factors. *Ward*, 52 Md. App. at 343–44; *Long*, 129 Md. App. at 578; *Flanagan*, 181 Md. App. at 527. If there is a disparity in the marital property retained by each party, the disparity must likewise be consistent with and explainable by the trial court’s factual findings and consideration of the statutory factors. *Ward*, 52 Md. App. at 343–44; *Long*, 129 Md. App. at 578; *Flanagan*, 181 Md. App. at 527.

As explained earlier in this analysis, the trial court here considered the appropriate statutory factors. The trial court’s findings explained the equitable basis for declining to make a marital award, including Wife’s more significant contributions to the well-being of the family, both financial and otherwise; Wife’s careful saving and contributions for the benefit of the family; and Husband’s use of marital funds for his personal benefit. The

decision not to make a marital award was therefore consistent with the trial court's findings, rendering the facts of this case inapposite with the facts of *Ward*, 52 Md. App. at 343–44, *Long*, 129 Md. App. at 578, and *Flanagan*, 181 Md. App. at 527 (where disparate marital awards were either inconsistent with the trial courts' factual findings or otherwise unexplained).

We perceive no abuse of discretion in the trial court's declination to order a marital award.

II. THE CIRCUIT COURT ABUSED ITS DISCRETION IN ORDERING *CRAWFORD* CREDITS.

A. Party Contentions

Husband asserts that the court erred in awarding *Crawford* credits. First, he claims that a trial court is prohibited from awarding *Crawford* credits when the paying spouse has made the payments for the jointly owned property from marital funds. Second, he contends that even if an award of *Crawford* credits is legally permissible, the trial court in this case abused its discretion by ordering Husband to pay 100% of the mortgage payments paid by Wife during the twenty-two-month separation period. Finally, he asserts that the trial court's order awarding contribution credits for either party during the use and possession period was an abuse of discretion because, in Husband's view, the effect of that order makes one party responsible for the entirety of the mortgage.

Wife asserts that an award of *Crawford* credits is an equitable determination that is within a trial court's discretion. She asserts that *Crawford* stands for the proposition that once married parties separate, the presumption that a payment towards jointly owned

property constitutes a gift ceases; therefore, she asserts, even if a payment for jointly owned property is made from marital funds, the paying spouse may still be entitled to contribution. She next argues that the calculation of the amount of *Crawford* credits was within the discretion of the trial judge. Finally, she asserts that the award of credits during the use and possession period was not in error because both parties were responsible for half of the mortgage payment and would therefore receive credits that would be equally divided.

B. Analysis

“Generally, one co-tenant who pays the mortgage, taxes, and other carry charges of jointly owned property is entitled to contribution from the other.” *Abdullahi v. Zanini*, 241 Md. App. 372, 423 (2019) (quoting *Crawford v. Crawford*, 293 Md. 307, 309 (1982)). Under this doctrine, a trial court may apply the general law of contribution between cotenants of jointly owned property to married parties when they separate. *Id.* at 423–24. *Crawford* credits allow a trial court to take into consideration the preservation of jointly owned property and the benefit accrued to the non-paying cotenant. *See Gordon v. Gordon*, 174 Md. App. 583, 641 (2007). “A married, but separated, cotenant is, in the absence of an ouster (or its equivalent) of the nonpaying spouse, entitled to contribution for those expenses the paying spouse has paid.” *Abdullahi*, 241 Md. App. at 424 (quoting *Gordon*, 174 Md. App. at 641) (further citation omitted). “A trial judge is not obligated, however, to award contribution at the time of divorce.” *Id.* Contribution “is an equitable remedy within the discretion of the court.” *Id.* (quoting *Gordon*, 174 Md. App. at 642).

- i. Whether payments made from marital funds are eligible for the remedy of contribution under Crawford.*

In *Crawford*, the Supreme Court of Maryland explained that ordinarily, advancements and payments by one spouse during a marriage towards the purchase or improvement of jointly owned property is “presumed to be a gift to the other spouse” to the extent of the other spouse’s interest in the property. 293 Md. at 311 (internal citation omitted). The Court explained that the presumption of the gift doctrine only applies while the married couple is living together. *Id.* at 314. This Court later recognized that *Crawford* “abolished the presumption of [a] gift between separated spouses and permitted a spouse to seek contribution in those instances when married parties were not residing together and one of them, or the other, had paid a disproportionate amount of the carrying costs of property.” *Baran v. Jaskulski*, 114 Md. App. 322, 328 (1997).

Husband relies on four cases to support his argument that payments made by one spouse using marital funds—in this case, income earned by Wife during the separation period—are ineligible for a contribution award under *Crawford*. Each of these cases is distinguishable from the facts of the present case, and we evaluate each in turn.

In *Wassif v. Wassif*, the husband was employed as an anesthesiologist earning over \$400,000 in 1987; the wife held a high school diploma and had no substantial work history due to caring for the parties’ children. 77 Md. App. 750, 754–55 (1989). During the marriage, the mortgage payments were necessarily paid solely from the husband’s salary, as that was the only source of marital property. *See id.* at 754. During the three-year divorce proceeding, the wife was granted pendente lite use of the family home. *Id.* at 766. In the

final judgment of divorce, the trial court also granted the wife use and possession of the family home; however, the court also awarded *Crawford* credits in favor of the husband for both the pendente lite period and the post-divorce use and possession period. *Id.* This Court eliminated the award of *Crawford* credits for payments made by the husband during the pendente lite period, reasoning that the source of those payments was marital property. *Id.*

Wassif is factually distinguishable from the present case. Whereas in *Wassif*, only one party contributed to the financial acquisition of marital property during the marriage, here, both Husband and Wife worked throughout the marriage, jointly acquiring marital property and jointly contributing to the mortgage. Further, this Court’s ruling in *Wassif* maintained the status quo of the parties’ previous arrangement through the pendente lite period. Conversely here, Husband and Wife had an arrangement whereby each mutually earned and contributed to the mortgage obligation; Husband then unilaterally elected to cease contributions to the mortgage obligation, even though he continued financially earning.

Husband next cites to *Broseus v. Broseus*, 82 Md. App. 183 (1990). Husband asserts that in *Broseus*, this Court “approved the denial of *Crawford* credits to the payor spouse on the ground that his payments had been made from marital funds[.]” We read *Broseus* differently. In *Broseus*, the issue decided by this Court was whether a trial court was required to award contribution credits. *Id.* at 191–92. This Court held that “entitlement to contribution is an equitable matter and not a matter of right[,] and is within the sound discretion of the trial court.” *Id.* at 192. As further support for the conclusion, this Court

noted that the payments “were made from marital funds and *contribution was not mandated*.” *Id.* at 193 (emphasis added). This Court did not suggest that a contribution order was precluded, and further noted that the issue of the source of funds used to pay the mortgage was not raised in *Crawford*. *Id.* at 194 n.4.

Husband’s reliance on *Woodson v. Saldana*, 165 Md. App. 480 (2005) is likewise misplaced. In *Woodson*, after the wife moved out of the family home, the husband continued to make the mortgage payments, pay community association dues, and make home improvements via his military housing allowance. *Id.* at 492. Without considering equitable factors and based upon its incorrect understanding that contribution credits were mandatory, the trial court awarded the husband *Crawford* credits. *Id.* at 493. This Court vacated the trial court’s award of *Crawford* credits and remanded for the trial court to exercise its discretion in determining whether *Crawford* credits were warranted. *Id.* This Court did not devote any part of its disposition to a determination of whether the housing allowance income was marital or not; nor did it direct the trial court to do so on remand. *See id.* at 492–93.

Finally, Husband cites to *Caccamise v. Caccamise*, 130 Md. App. 505 (2000). In *Caccamise*, this Court affirmed *Crawford* credits awarded to a husband for mortgage payments made towards real properties which were marital. *Id.* at 524–25. In discussing the history of contribution credits, the *Caccamise* court stated that “[t]here are four exceptions that preclude contribution; namely (1) ouster; (2) agreements to the contrary;

(3) payment from marital property; and (4) an inequitable result.” *Id.* at 525.¹⁶ However, neither this Court, nor the trial court in the excerpt of its order examined on appeal, discussed the source of the husband’s mortgage payments. *Id.* This Court simply affirmed the award of *Crawford* credits and stated that the decision reached by the trial court “was not clearly erroneous.” *Id.* This outcome suggests that the source of a payment being from marital property is not necessarily dispositive on the issue of whether a *Crawford* contribution is warranted. *See id.* at 524–25.

From our review of these cases, the source of the funds used to pay the mortgage for the period between separation and divorce is not dispositive in a trial court’s determination of whether to award *Crawford* contribution credits. Rather, the decision of whether to award *Crawford* credits is an equitable, non-mandatory decision left to the trial court; the source of the funds used to pay the mortgage or other property upkeep may be one factor a trial court considers in determining what is equitable. *Compare Wassif*, 77 Md. App. at 766, *with Broseus*, 82 Md. App. at 193–94 *and Woodson*, 165 Md. App. at 492–93; *see also Caccamise*, 130 Md. App. at 524–25. To hold otherwise would lead to a result that eliminates discretion of trial courts in a decision which at its core is premised in equity. *Abdullahi*, 241 Md. App. at 424 (“Rather, contribution ‘is an equitable remedy within the discretion of the [trial] court.’” (quoting *Gordon*, 174 Md. App. at 642)). Allowing contribution credits only where the source of the payment is non-marital funds is contrary to the holding in *Crawford* that a spouse may be entitled to contribution for “payment of

¹⁶ We note that the *Caccamise* court did not cite to authority in listing these exceptions; nor was “payment from marital property” at issue in the case. *See id.* at 524–25.

the carrying charges of property” made after the parties separate because the presumption no longer exists that such a payment is a gift. 293 Md. at 312.

This understanding of *Crawford* credits is supported by this Court’s decision in *Gordon*, wherein we addressed an award where one spouse argued that the subject mortgage payments were ineligible because they were comprised of marital funds. 174 Md. App. at 639. Judge Hollander, writing for this Court, reasoned that preservation of real property accrues a benefit for the cotenant, which supports entitlement of the paying spouse to contribution for mortgage and tax payments. *Id.* at 641. This Court noted, however, that trial judges are not obligated to award such a contribution between spouses at the time of divorce because “the award of contribution is an equitable remedy within the discretion of the court.” *Id.* at 641–42. This Court noted that in the case before it, one spouse had paid for “virtually all of the expenses” for the family home, while the non-paying spouse retained and utilized a benefit with respect to tax deductions related to the home. *Id.* at 642. We acknowledged *Caccamise*’s statement that payment from marital property was an exception that precluded contribution. *Id.* at 639. However, we noted that *Caccamise* “affirmed the decision of the circuit court, without discussing the source of the funds used to make [the mortgage] payments, stating that ‘the decision reached by the trial court . . . was not clearly erroneous.’” *Id.* at 643 (quoting *Caccamise*, 130 Md. App. at 525). In *Gordon*, despite that the payments subject to contribution were made with marital funds, this Court affirmed the award of *Crawford* credits. *Id.*

This Court likewise remanded a *Crawford* award in *Flanagan*, where we determined that payments made on a home equity line of credit were eligible for contribution credit

consideration, even though the payments were made from employment income that “technically [was] marital property[.]” 181 Md. App. at 540 n.17, 543.

Based on the above, a trial court is not precluded, as a matter of law, from awarding *Crawford* credits solely because the paying spouse made the carrying cost of the property from marital funds. Here, the circuit court did not abuse its discretion in ordering *Crawford* credits to Wife for mortgage payments she made from income earned during the marriage (i.e., marital property).

ii. *Whether the trial court abused its discretion in determining the amount of the Crawford award.*

As described above, the decision to award contribution credits under *Crawford* is an equitable determination, subject to a trial court’s exercise of discretion. *Abdullahi*, 241 Md. App. at 424; *see also Flanagan*, 181 Md. App. at 541. Because review of contribution awards requires appellate courts to examine the trial court’s exercise of discretion, trial courts should also explain the basis of the contribution award and why the award is warranted. *See Flanagan*, 181 Md. App. at 542–43.

Here, the parties did not dispute that for the twenty-two-month period between the date of separation and the date of the divorce, Wife solely paid the mortgage payments. There was also evidence in the record that the amount of principal and interest paid by Wife towards the mortgage during this period totaled \$43,977.12. The court found that it was equitable to award contribution credits in this case, as Wife, who resided at the family home with the parties’ minor son, had paid the entirety of the mortgage during the pendency of the divorce proceedings. The court found that “the carrying costs of this marital asset

[had] not been borne equally during the pendency of the litigation.” However, the court did not explain why it determined that Husband’s contribution should equal 100% of the carrying cost of the property, or why that figure was equitable. The basis for this decision is difficult to understand considering the remainder of the court’s decision, which ordered foregoing payments towards the maintenance of the property, as well as proceeds from the sale of the property, be divided equally. The absence of an explanation is further compounded by the evidence regarding the parties’ division of finances prior to the separation—both parties acknowledged that during the marriage Wife contributed more to the monthly expenses than Husband.

Because the trial court did not explain the basis of its calculation of the contribution credits owed by Husband, we vacate the award and remand for the trial court to reconsider and explain what, if any, portion of the \$43,977.12 carrying costs is an equitable sum for Husband to contribute.

iii. Whether the trial court abused its discretion in awarding Crawford credits for the duration of the use and possession period.

Husband’s final assertion is that the trial court’s award of *Crawford* credits during the use and possession period was an abuse of discretion because the award results in “one party . . . being responsible for the entirety of the mortgage.”¹⁷ We disagree. The *Crawford* provision had the effect of making the parties equally responsible for the carrying costs of

¹⁷ Husband also asserts that this decision was legal error; however, he presents no authority to support that contention. We note that this Court has on several occasions affirmed orders that awarded *Crawford* credits or apportioned carrying costs during use and possession periods or pending sale of property. *See, e.g., Baran*, 114 Md. App. at 327–29; *Wassif*, 77 Md. App. at 766; *Abdullahi*, 241 Md. App. at 424.

the property. This interpretation is confirmed by the trial court's accompanying order that clarified the following with respect to the property:

During the [u]se and [p]ossession [period], all taxes, major repairs on the house, and all mortgage payments are to be split equally between the parties[.]

* * *

The proceeds [of the sale of the family home] are to be distributed in the following order of priority: (1) all mortgages and outstanding liens on the property; (2) all commissions, fees and closing costs associated with the sale; (3) \$43,977.12 to [Wife] as reimbursement for mortgage payment previously and solely incurred; (4) credit to either party for any taxes and mortgage payments made but not equally shared pursuant to [the prior paragraph]; (5) credit to either party for any major repairs not equally shared pursuant to [the prior paragraph]; (6) any remaining proceeds shall be split equally between the parties[.]

The effect of these provisions is that each party equally bears the carrying costs of the family home for the one-year use and possession period. We perceive no abuse of discretion in this decision.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY VACATED FOR THE TRIAL COURT TO RECONSIDER AND EXPLAIN WHAT, IF ANY, PORTION OF THE \$43,977.12 CARRYING COSTS IS AN EQUITABLE SUM FOR HUSBAND TO CONTRIBUTE. COSTS TO BE EVENLY SPLIT BY APPELLANT AND APPELLEE.