

Circuit Court for Washington County
Case No.: C-21-FM-23-000505

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2372

September Term, 2023

LEONARD MCNAIR

v.

VALERIE MCNAIR

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned)
JJ.

PER CURIAM

Filed: November 13, 2024

* This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Appellee, Valerie McNair (“Ms. Scott”¹), filed a complaint for absolute divorce against appellant, Leonard McNair (“Mr. McNair”) in the Circuit Court for Washington County. Mr. McNair filed a counterclaim for divorce. The matter proceeded to trial, where Ms. Scott appeared with counsel and Mr. McNair, who was incarcerated at the time, failed to appear. After finding that Mr. McNair had not requested to attend, trial proceeded in his absence. The court granted Ms. Scott an absolute divorce based upon the parties’ six-month separation and awarded her sole legal and primary physical custody of the parties’ only then-minor child (both of the parties’ children are now emancipated by age) and use and possession of the parties’ home. Mr. McNair noted the instant appeal.

Mr. McNair’s claims on appeal primarily challenge the court’s decision to conduct trial in his absence. He asserts that, on the day of trial, he “filed for a writ” and thus, that he “should have been transported” to attend the trial. Alternatively, he contends that “the case should have been postpone[d] until [he] was able to get there.” We note, however, that the record reflects no filings by Mr. McNair seeking to postpone or appear at trial, and Mr. McNair does not point to any on appeal. Accordingly, Mr. McNair’s contentions are not preserved for our review. Md. Rule 8-131(a).

Even had Mr. McNair properly raised either issue before the trial court, as the Maryland Supreme Court has made clear, the right of a party in civil trial to be present is not “absolute[.]” *Green v. N. Arundel Hosp. Ass’n, Inc.*, 366 Md. 597, 619 (2001) (quoting *Gorman v. Sabo*, 210 Md. 155, 167 (1956)). Indeed, “in the discretion of the court, with

¹ Appellee was restored to her former name, Valerie Ann Scott, by way of the divorce judgment.

due regard to the circumstances as to prejudice, the case may be tried or finished when a party, including a defendant, is absent.” *Id.* (quotation marks and citation omitted). Here, Mr. McNair provides no support for his contention that the court abused its discretion in failing to *sua sponte* postpone the parties’ divorce trial after he failed to appear, and this Court is not aware of any.

Finally, Mr. McNair contends that Ms. Scott “lied” at trial, pointing to testimony regarding his alleged unfaithfulness during the marriage, regarding a date he allegedly sexually assaulted her, and regarding one instance where Ms. Scott misstated one of the children’s date of birth. As we have previously made clear, “[i]t is not our role, as an appellate court, to second-guess the trial judge’s assessment of a witness’s credibility.” *Gizzo v. Gerstman*, 245 Md. App. 168, 203 (2020). Instead, the trial court is permitted “to accept—or reject—all, part, or none of the testimony of any witness, whether that testimony was or was not contradicted or corroborated by any other evidence.” *Omayaka v. Omayaka*, 417 Md. 643, 659 (2011). Here, the circuit court found Ms. Scott’s testimony at trial “credible[,]” and Mr. McNair provides no compelling reason to disturb that credibility determination on appeal.

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