

Circuit Court for Prince George's County  
Case No. CAD 19-18673

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2488

September Term, 2019

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VERJEANA MCCOTTER-JACOBS

v.

DAVID A. JACOBS

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Graeff,  
Beachley,  
Eyler, Deborah S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Beachley, J.

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Filed: March 9, 2021

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In this appeal from the Circuit Court for Prince George’s County, appellant Verjeana McCotter-Jacobs (“Verjeana”) asserts that the court erred by granting her former husband, appellee David A. Jacobs (“David”), a portion of her pension and by transferring ownership of the marital home to David, despite him failing to include a request for such relief in his pleadings. Perceiving no error or abuse of discretion, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The parties were married on July 13, 2002, but separated in August 2017. They had one child as a result of their marriage, who was eight years old at the time of divorce.

On June 7, 2019, Verjeana filed a *pro se* complaint for absolute divorce and, pertinent here, she requested that the court transfer the marital home to her or, alternatively, order the home sold. Verjeana further requested that “each party shall retain, as his or her sole and separate property, [any] stocks, bonds, . . . savings and checking accounts, certificates of deposit, money market funds, **pensions**, . . . or any other form of retirement or deferred income plan[.]” (Emphasis added). David filed a *pro se* answer in which he substantially admitted the allegations in Verjeana’s complaint. David failed to request any specific relief, but he indicated that he did not object to the court granting the relief sought by Verjeana “except to comply with my forthcoming document requesting relief.” David never filed an amended answer, counterclaim, or any other pleading requesting relief.

The parties appeared before the court as self-represented litigants for the merits hearing on November 20, 2019. At the outset, the parties confirmed the court’s understanding that they had reached an agreement that Verjeana would have physical and

legal custody of their son, and that they wanted the court to use the Maryland Child Support Guidelines to establish child support. The parties also advised the court that they would be able to reach an agreement concerning the division of personal property in the marital home. During this preliminary colloquy with the court, Verjeana advised the court that she and David could potentially reach an agreement as to disposition of the marital home, but they disagreed as to the “timeframe” for David to secure financing. Verjeana then stated “today he brought up the issue of pension, he had previously said that was not an issue.” David immediately confirmed that he was requesting a portion of Verjeana’s pension.

After advising the parties that the Guidelines required David to pay Verjeana \$759 per month in child support, the court advised the parties that it intended to adjourn for lunch and suggested that they “use this time to try and see if you all can’t come to some sort of agreement with respect to the home and pension.”

When the proceedings resumed after lunch, the parties advised the court that they were unable to reach any further agreements. The court then noted that David had not filed a counter-complaint, to which David responded that he did not do so because he had hoped that he and Verjeana would be able to reach an agreement. Without any further comment, the court proceeded to receive testimony from Verjeana, her mother, and David. The court ultimately decided to award David fifteen percent (15%) of Verjeana’s government pension and ordered Verjeana to transfer her interest in the marital home to David, subject to David refinancing the mortgage within ninety days and removing Verjeana’s name “from any and all encumbrances with respect to the Marital Home[.]” This timely appeal ensued.

## DISCUSSION

Verjeana makes a straightforward argument, asserting that the court erred in awarding David a portion of her pension and ordering her to transfer her interest in the marital home because David never requested any relief in his pleadings.<sup>1</sup> She relies primarily on *Huntley v. Huntley*, 229 Md. App. 484, 490 (2016), where we held that the trial court did not err in denying husband's request for a share of his wife's pension where he had not included such a request in his pleadings. Although that principle is undoubtedly good law, we hold that it has no application here because Verjeana never made any objection that David was precluded from seeking such relief. To the contrary, the record demonstrates that Verjeana acknowledged that the pension and marital home were appropriate issues for the court to consider and decide.

Verjeana's acquiescence is evident from the very beginning of the hearing. As the court proceeded to identify the contested issues, Verjeana told the court that it was possible she and David could reach an agreement concerning disposition of the marital home. She then explained that "today [David] brought up the issue of pension, he had previously said that was not an issue." Verjeana volunteered that "for purposes of the pension, we were married in 2002, I retired in 2012." The court then noted that the marital portion of Verjeana's pension would be ten years. Before adjourning for lunch, the court stated, "During that lunch, see if the two of you can talk to one another with respect to [the]

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<sup>1</sup> David has not filed a brief in this Court.

pensions and the home.” At no point during this extensive colloquy with the court did Verjeana object to consideration of these issues on the basis that David never requested any relief in his pleadings.

When the court reconvened after lunch, the court noted that David had not filed a counter-complaint. Despite the court’s statement in this regard, Verjeana interposed no objection. Instead, Verjeana took the witness stand as a witness in her case in chief and provided testimony about both the marital home and her pension. Verjeana then stated, “Those were the two issues before the [c]ourt and that’s my testimony.”

Finally, in closing argument, Verjeana told the court that she would be willing to “sign over the house” to David, and reiterated that “he can have the house and I’d walk away, but my pension stay[s] intact.” Verjeana failed to avail herself of this final opportunity to object to David’s requested relief concerning the marital home and her pension based on his deficient pleadings.

We therefore conclude that Verjeana’s claim that the court erred by granting David relief that he had not requested in his pleadings is not preserved. *See French v. Hines*, 182 Md. App. 201, 244-45 (2008) (“It is well-established . . . that a defendant may waive any objection to a defect in pleading by failing to object to it.” (quoting *Pulte Home Corp. v. Parex*, 174 Md. App. 681, *aff’d*, 403 Md. 367 (2008))). We note that, had Verjeana timely objected, the court would have had the opportunity to exercise its discretion in equity to grant a continuance to permit David to file a counter-complaint or amend his answer as an

alternative to denying David any relief because of his bare-bones *pro se* pleading. As Verjeana's appellate claim was not preserved, we affirm the circuit court's judgment.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY  
AFFIRMED. APPELLANT TO PAY COSTS.**