

Circuit Court for Prince George's County  
Case No. CAD17-14272

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 0052

September Term, 2025

---

EMMANUEL AGBARA

v.

EVELYN OKOJI

---

Arthur,  
Ripken,  
Hotten, Michele D.  
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Hotten, J.

---

Filed: March 5, 2026

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

This appeal arises from the calculation of child support obligations for Appellant, Emanuel Agbara (“Appellant”) by the Circuit Court for Prince George’s County. In a previous opinion, we vacated the judgment of the circuit court regarding Appellant’s child support obligations and remanded for the circuit court to consider the deduction of Appellant’s “ordinary and necessary” income-producing expenses regarding his two rental properties, for purposes of determining his “actual income” pursuant to Md. Code Ann., Fam. Law (“FL”) § 12-201(b)(2).

On March 11, 2025, Appellant filed an appeal to the circuit court’s order that was entered around March 3, which recalculated his “actual income” pursuant to FL § 12-201(b)(2) following a remand hearing. During the remand hearing on February 26, 2025, the circuit court did not consider any new evidence and deducted expenses for only one of Appellant’s two rental properties.

On June 3, 2025, Appellant sought an *in banc* panel review to address the following two questions:

1. Is a mortgage on a rental property an ordinary or necessary expense required to produce income from a rental property?
2. Did the circuit court abuse its discretion when it declined to admit evidence or take testimony on remand to determine a child support obligation?

Subsequently, Appellant filed an appellate brief on June 23, 2025, which included an additional question regarding whether the court erred in deducting only one of his rental properties’ expenses. This question was not specifically presented to the *in banc* panel.

Appellant withdrew his notice of appeal to the ACM sometime on or before September 10, 2025.<sup>1</sup>

On November 19, 2025, Appellee filed a Motion to Withdraw Appeal, alleging Appellant was precluded from appealing under Md. Rule 2-551(h) by virtue of his consent to proceed with an *in banc* review. Appellant argued on November 26, 2025 in his Motion in Opposition to Appellee’s Motion to Withdraw that the *in banc* panel exceeded the scope of the issues before it, because Appellant sought review of “whether a mortgage payment on a rental property constitutes an ordinary or necessary expense required to produce income” and not “whether there was ‘credible testimony or evidence to support a finding that the Plaintiff’s mortgage was an ordinary and necessary expense’ required to produce income from rent.”

On December 5, 2025, Chief Judge Wells entered an order, stating the following:

Upon consideration of the appellee’s “Motion to Withdraw the Appellant’s Appeal,” which the Court will treat as a motion to dismiss this appeal, the appellant’s “Motion in Opposition to Appellee’s Motion to Withdraw the Appellant’s Appeal” and “Supplement to Appellant’s Motion in Opposition to Appellee’s Motion to Withdraw Appellant’s Appeal,” it is this 5th, day of December 2025 by the Appellate Court of Maryland,

ORDERED that ruling on the appellee’s motion to dismiss is deferred to the Panel assigned to consider this appeal.

---

<sup>1</sup> Although a transcript is unavailable, the daily docket sheet filed on September 25, 2025 serves as confirmation that Appellant withdrew his notice of appeal prior to the *in banc* panel hearing.

---

Relative to the instant appeal before us, Appellant presents five questions,<sup>2</sup> which are rephrased and reordered for clarity, as follows:

1. Did the circuit court err in failing to deduct “ordinary and necessary expenses” from Appellant’s Maryland rental property’s gross income when calculating his actual income?
2. Did the circuit court err by failing to deduct mortgage expenses when calculating actual income under FL § 12-201?
3. Did the circuit court err in not considering additional evidence regarding Appellant’s rental income?

For the reasons stated below, we treat Appellee’s motion to withdraw Appellant’s appeal as a motion to dismiss and dismiss the appeal.

---

<sup>2</sup> Appellant’s original questions for the instant appeal are as follows:

1. Does the Appellate Court Mandate, “On remand, the circuit court should render a specific factual finding as to what amount constitutes the ordinary and necessary expenses required to produce Agbara's rental income,” require the circuit court to determine the ordinary and necessary expenses required to produce income on each of the two rental properties that produce income towards “his gross monthly rental income of \$5,850”?
2. Does a circuit court have discretion to subtract ordinary and necessary expenses required to produce income from the gross rental income?
3. Did the Appellate Court Mandate limit the trial court to conduct a hearing on Appellant's income from rent on remand to the record?
4. Is a mortgage on rental property a rental expense under FL § 12-201(b)(2)?
5. Does FL § 12-201(b)(2) limit the number of hearing [sic] on an issue of child support obligations?

## BACKGROUND

Following their initial marriage in Nigeria in January 2013, Appellant and Appellee moved to Maryland where they held a second wedding ceremony in Prince George’s County on November 25, 2013. The marriage produced one child, born in January 2015. Several years later, the relationship of the parties became strained and on June 15, 2018, the Circuit Court for Prince George’s County entered a Judgment of Absolute Divorce (“JAD”) awarding Appellee with primary custody and setting forth Appellant’s child support obligations.

On June 29, 2018, Appellant appealed the JAD on the basis that the circuit court erred in calculating his child support obligations by extrapolating his annual income from a single 2018 quarter that included non-recurring overtime. During that appeal, we rejected Appellant’s argument, but nevertheless found the circuit court erred by failing to decide the issue of alimony before determining Appellant’s child support obligation. Additionally, we found an error in the circuit court’s calculation of the parties’ actual monthly income, explaining:

Setting aside, for the moment, Husband’s claim of error in the court’s inclusion of overtime and other pay in its annualization of his first quarter income, it appears that the circuit court erred factually in calculating both Husband and Wife’s actual monthly income. In its oral ruling, and on the child support guidelines worksheet it prepared, the court stated that Husband’s monthly income, based on annualized income of \$164,000, was \$13,776. By our calculation, however, \$164,000 divided by twelve equals \$13,666.67, creating an overstatement by the court of Husband’s income by approximately \$109 per month.

And, after reviewing two of Wife’s paystubs, one of which apparently exhibited her 2018 first quarter income, the court, in calculating her yearly income, stated, it, “that’s a quarter and I multiplied it by 3. It was 7000

something and I multiplied it by 3.” The court then presumably divided its total by 12 to reach monthly income of \$1,778. The proper calculation, however, would have been to multiply Wife’s first quarter income by four and then divide the total by twelve. The court, in its incorrect calculation, excluded three months of Wife’s income, understating her income by one quarter.” For these reasons, we will vacate the child support award, subject to the conditions set out in part 3 of this opinion.

On July 29, 2019, in an unreported opinion, we vacated the child support and alimony awards and remanded the case to the circuit court for further proceedings.

The remand hearing was not scheduled until almost four years later, when Appellant brought the outstanding matter to the attention of the circuit court on August 8, 2023. *Agbara v. Okoji*, No. 264, Sept. Term, 2024, 2024 WL 4814243, at \*3 (Md. App. Ct. Nov. 18, 2024). On March 8, 2024, the circuit court reduced the child support payments and adjusted Appellant’s new income level by combining his 2023 W-2 earnings with an estimated \$3,000 in monthly income from his two rental properties. *Id.* at 4. This \$3,000 rental figure was derived by totaling the gross revenue from his Maryland property (\$3,550) and Florida property (\$2,300), then attributing roughly half of that total to him. *Id.* Consequently, the court ordered a new monthly child support obligation of \$2,004, effective April 1, 2024. *Id.* The complete analysis of Appellant’s actual income by the circuit court is presented below:

This court does not find credible the testimony of Mr. Agbara that his rental properties generate no revenue. His testimony was that his Maryland property generates rental income of \$3550.00 and that his Florida property generates \$2300 in rental income. This court attributed approximately half of this amount to his monthly income and found \$3000.00 in monthly rental income to Mr. Agbara.

*Id.* at 8.

Appellant filed another appeal on the basis that, *inter alia*, the circuit court abused its discretion when it calculated his child support obligations. *Id.* He argued that the circuit court erred by taking approximately half of the total rent he collected and labeling it as “income.” *Id.* He alleged that under FL § 12-201(b)(2), actual income from his rental properties is not just the total amount of checks a landlord receives (gross income); instead, the law requires the court to subtract the “ordinary and necessary expenses” paid to keep the property running before deciding actual income for child support purposes. *Id.*

On November 18, 2024, we affirmed in part and vacated in part. *Id.* We found “it is not clear that the circuit court actually subtracted the ordinary and necessary expenses required to produce [Appellant’s] rental income before applying that income to its calculation of his child support obligations.” *Id.* For this reason, the circuit court “abused its discretion when it decided to attribute approximately half of [Appellant’s] gross monthly rent to his monthly income.” *Id.* Accordingly, we provided the following instructions:

On remand, the circuit court should render a specific factual finding as to what amount constitutes the ordinary and necessary expenses required to produce Agbara’s rental income, and then subtract that amount from his gross monthly rental income of \$5,850 to determine his actual income from rent. Since the circuit court failed to do that in this case, its modified child support award should be vacated.

*Id.*

On February 26, 2025, the circuit court held a hearing, without receiving any new evidence, to reevaluate its previous ruling on Appellant’s child support obligations. The court rendered specific factual findings on what constitutes Appellant’s “ordinary and

necessary expenses,” pursuant to this Court’s instructions. In doing so, the court identified Appellant’s repair costs, condominium fees, and management fees as “ordinary and necessary expenses.” However, the court failed to render findings of fact regarding which expenses belonged to the Maryland and Florida properties respectively, and did not deduct Appellant’s mortgage expenses.

The court issued a final order setting Appellant’s child support payments at \$2,402 monthly, effective April 1, 2024, based on “the gross rental income minus ordinary and necessary expenses based on the testimony and exhibits addmitted [sic] into evidence at the modification hearing.” The court explained its calculation as follows:

In calculating child support, the Court considered the W2s submitted by the parties as well as the rental income testified to by Father. His testimony was that his Maryland property generates rental income of \$3550.00 and that his Florida property generates \$2300 in rental income. This court did not find father's testimony that his rental properties generate no revenue to be credible. Father’s financial statement was admitted into evidence as Defendant Exhibit 8 which established that father’s “secondary residence” had the following related monthly expenses: Mortgage \$2029, repairs \$400, Condominium Fee \$120, Management Fee \$184 for total secondary residence expenses of \$2733. This court deducted the total of these expenses from the rental income testified to by father which reduced the total to \$3117.00. Thereafter the court attributed \$3000.00 in monthly rental income to Mr. Agbara.

In its opinion, the Appellate Court of Maryland referenced *Reichert v. Hornbeck*, 210 Md. App. 282 (2013) which held that it was “error for the circuit court to calculate [a payor’s] child support obligations by including the gross rent he received for his condominium without subtracting ‘ordinary and necessary expenses required to produce [that] income[.]’” 210 Md. App. 282, 327, n.12 (2013) (quoting Md. Code Ann., Fam. Law § 12-201(b)(2)).

In the prior calculation, this court erroneously subtracted the mortgage payment for secondary residence as well as the ordinary and necessary expenses required to produce Agbara’s rental income before applying that income to its calculation of his child support obligations. Mr. Agbara

provided no testimony and presented no evidence regarding any deductions to his rental income and this court finds that the evidence submitted demonstrates that ordinary and necessary expenses required to produce his rental income include the following monthly expenses extrapolated from the Financial statement admitted into evidence as Defendant Exhibit 8: \$400.00 repairs, \$120.00 Condominium Fees, \$184.00 Management fees- for a total of \$704.00 in ordinary and necessary expenses required to produce Agbara's rental income.

On March 11, 2025, Appellant filed the instant appeal, challenging the calculation of his child support obligation. A few months thereafter, on June 3, 2025, Appellant sought an *in banc* panel review to address the following two questions:

1. Is a mortgage on a rental property an ordinary or necessary expense required to produce income from a rental property?
2. Did the circuit court abuse its discretion when it declined to admit evidence or take testimony on remand to determine a child support obligation?

At some point prior to *in banc* review, Appellant withdrew his appeal to the ACM.

On September 10, 2025, a three-judge panel of the circuit court conducted the *in banc* hearing and issued the following findings:

This matter came before the Court on September 10, 2025, for an *In Banc* Review of the Court's hearing on recalculation of child support on February 26, 2025. Plaintiff presents for *in banc* review whether a mortgage on a rental property constitutes an ordinary or necessary expense required to produce income, and whether the Court abused its discretion by declining to admit evidence or take testimony on remand to determine a child support obligation.

Having considered the Plaintiff's memorandum, the record transmitted by the court, and the arguments of both parties, the Court finds no abuse of discretion. The appellate court instructed the circuit court to render specific factual finding as to what amount constitutes the ordinary and necessary expenses required to produce Plaintiff's rental income. On remand, Judge Curry explained and revised her initial calculations, ultimately finding that there was no credible testimony or evidence to support a finding that the Plaintiff's mortgage was an ordinary and necessary expense. The trial court's

conclusion that there was no credible evidence establishing the mortgage payment as an ordinary and necessary expense under Md. Code Ann., Fam Law § 12-201(b)(2) is supported by the record.

As to the Plaintiff’s second issue—whether the Circuit Court erred in refusing to admit additional evidence on remand—the panel finds no abuse of discretion. The remand order directed Judge Curry only to reconsider the child support calculation and to clarify its initial ruling by making specific factual findings regarding expenses. Judge Curry followed that instruction and explicitly stated that no new evidence would be admitted, relying solely on the existing record. Given the limited scope of the remand and the Appellate Court’s instructions, Judge Curry properly declined to allow additional evidence.

On November 19, 2025, Appellee filed a Motion to Withdraw Appeal, alleging Appellant was precluded from appealing under Md. Rule 2-551(h) by virtue of his consent to proceed with an *in banc* review. Appellant argued on November 26, 2025, in his Motion in Opposition to Appellee’s Motion to Withdraw, that the *in banc* panel exceeded the scope of the issues before it because he sought review of “whether a mortgage payment on a rental property constitutes an ordinary or necessary expense required to produce income” and not “whether there was ‘credible testimony or evidence to support a finding that the Plaintiff’s mortgage was an ordinary and necessary expense’ required to produce income from rent.”

On December 5, 2025, Chief Judge Wells entered an order, stating the following:

Upon consideration of the appellee’s “Motion to Withdraw the Appellant’s Appeal,” which the Court will treat as a motion to dismiss this appeal, the appellant’s “Motion in Opposition to Appellee’s Motion to Withdraw the Appellant’s Appeal” and “Supplement to Appellant’s Motion in Opposition to Appellee’s Motion to Withdraw Appellant’s Appeal,” it is this 5th, day of December 2025 by the Appellate Court of Maryland,

ORDERED that ruling on the appellee’s motion to dismiss is deferred to the Panel assigned to consider this appeal.

---

## STANDARD OF REVIEW

“As an appellate tribunal, the *in banc* court ‘is subordinate to this Court just as we are subordinate to the Court of Appeals.’” *Guillaume v. Guillaume*, 243 Md. App. 6, 11–12 (2019) (quotation omitted). In most instances, the appellate court’s primary function is to review the judgment of the trial court. *See id.* Consistent with this principle, when an appeal presents a pure question of law, the standard of review is *de novo*. *See id.* “When reviewing a trial court’s exercise of discretion, however, ‘our standard is abuse of discretion, which is highly deferential to the trial court that is the judicial body that exercised its discretion.’” *Id.* (quotation omitted).

Furthermore, we review challenges to a court’s jurisdiction *de novo*. *See Stephen L. Messersmith, Inc. v. Barclay Townhouse Assocs.*, 313 Md. 652, 664 (1988). Judgments entered without jurisdiction “should be accorded no deference at all on appeal[.]” *See id.* Similarly, “[w]here appellate jurisdiction is lacking, the appellate court will dismiss the appeal sua sponte[.]” *Eastgate Assocs. v. Apper*, 276 Md. 698, 701 (1976).

## DISCUSSION

### **I. An Election for *In Banc* Review Waives the Right to Appellate Review Absent a Statutory Exception.**

Under Md. Rule 2-551(h), the party who seeks and secures an *in banc* review is precluded from pursuing their right to appeal to the Appellate Court of Maryland. That rule states in pertinent part:

Any party who seeks and obtains review under this Rule has no further right of appeal. The decision of the panel does not preclude an appeal to the Appellate Court by an opposing party who is otherwise entitled to appeal.

Since Appellant elected to proceed with an *in banc* review, Appellant waived his right to this appeal. Consequently, we decline to reach the merits of the questions presented.

Appellant’s additional question—concerning whether the circuit court erred by failing to deduct “ordinary and necessary expenses” from the Maryland rental property income<sup>3</sup>—is functionally and legally subsumed into the questions presented to and decided by the *in banc* panel. Since this additional question involves the same property and the same financial records addressed in the *in banc* proceeding, it is a restatement of the same controversy. Therefore, we need not address the additional question on the merits. The *in banc* decision remains final.

### CONCLUSION

For the foregoing reasons, we dismiss Appellant’s appeal.

**APPELLEE’S MOTION TO WITHDRAW APPELLANT’S APPEAL, WHICH WAS TREATED AS A MOTION TO DISMISS APPEAL, IS GRANTED. APPEAL DISMISSED. COSTS TO BE ASSESSED AGAINST APPELLANT.**

---

<sup>3</sup> Rephrased from the question:

Does the Appellate Court Mandate, “On remand, the circuit court should render a specific factual finding as to what amount constitutes the ordinary and necessary expenses required to produce Agbara’s rental income,” require the circuit court to determine the ordinary and necessary expenses required to produce income on each of the two rental properties that produce income towards “his gross monthly rental income of \$5,850”?