

Circuit Court for Montgomery County
Case No. 130873FL

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0282

September Term, 2021

MOUSSA MOAADEL

v.

DARIA MOAADEL

Reed,
Ripken,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Ripken, J.

Filed: October 13, 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.

Moussa Moaadel (“M. Moaadel”) comes again before this Court asserting error related to an ongoing custody dispute with his children’s mother, Daria Moaadel (“D. Moaadel”). M. Moaadel filed a Petition for Contempt and Motion to Modify Custody. A hearing was held in the Circuit Court for Montgomery County, where both parties appeared *pro se*. Following the hearing, the court issued an order that denied M. Moaadel’s Petition and modified the previous custody order. Thirteen days later, M. Moaadel filed a revisory motion under Maryland Rule 2-535(a). The court denied the motion. M. Moaadel appealed and requests that this Court reverse the underlying order and remand for a new hearing on his Petition for Contempt. For the reasons discussed below, we shall affirm the denial of the revisory motion.

FACTUAL AND PROCEDURAL BACKGROUND

Though the parties appear to agree on little else, the facts underlying this appeal are relatively uncontested. M. Moaadel and D. Moaadel married in December of 2007 and separated in October 2015. There were two minor children born as a result of the marriage. The parties were granted an absolute divorce in the Circuit Court for Montgomery County in November 2016. On March 22, 2017, the court entered a consent order, which granted joint legal custody to D. Moaadel and M. Moaadel, with D. Moaadel having primary residential custody. The court ordered in part that “both parties shall ensure regular and consistent telephone access for one another with the Children.”

Shortly thereafter, M. Moaadel claimed that D. Moaadel was obstructing his telephone contact with the children, in violation of the March 2017 Consent Order. He filed a motion for contempt, and a hearing was held on his motion in September 2018. At that

time, the parties came to a more precise agreement concerning communication, and the court entered a new consent order dated December 7, 2018, reflecting that agreement. The parties' agreement indicated that:

[M. Moaadel] shall have telephone or facetime access with the minor children daily between 6:00 p.m. and 6:45 p.m. If [D. Moaadel] is not able to be with the children during those times on a particular day she will provide an alternate phone number for [M. Moaadel] to use to call the children.

M. Moaadel claims that “[a]s soon as the parties left the courthouse, [D. Moaadel] resumed her obstruction” of his efforts to communicate with the children. M. Moaadel filed a second petition for contempt, this time for failure to comply with the December 2018 Consent Order, and a Motion to Modify Custody. The court held a hearing on both matters on February 16, 2021. Both M. Moaadel and D. Moaadel appeared *pro se* at that hearing.

At the hearing, M. Moaadel testified that D. Moaadel was obstructing his communication with his children. He prepared an exhibit, described as Verizon call logs, which purportedly depicted his 1,466 attempts to call his children over a two-year period. According to M. Moaadel, the 1,466 attempts reflected 924 failed attempts—instances where his calls were not answered. M. Moaadel calculated that he was successful in reaching his children only 20 percent of the time.

M. Moaadel further testified that D. Moaadel routinely hides the phone from the children and tells the children not to answer the phone while her boyfriend is present. The court inquired as to how M. Moaadel knows that D. Moaadel was purposefully obstructing communication. M. Moaadel responded that he was told by his children, and the court informed M. Moaadel that such statements constitute hearsay and cannot be considered as

evidence. The court asked whether any other basis existed for M. Moaadel’s assertions of obstruction, and M. Moaadel responded that D. Moaadel could answer as much if he were permitted to question or cross-examine D. Moaadel. The court did not permit M. Moaadel to question D. Moaadel.

Finally, M. Moaadel argued that D. Moaadel needed to participate in a larger share of driving the children because he is elderly, D. Moaadel recently moved to a house located farther away, and he pays a significant amount for child support. He confirmed that, based on the current agreement, he picked up the children from school on Wednesday night and drove them to school Thursday morning, and he picked up the children from D. Moaadel’s house Sunday morning and drove them to school on Monday morning. The remainder of the driving was done by D. Moaadel.

D. Moaadel testified that since April 2020, she has been working and unable to ensure that the phone calls to the children would be answered. However, she testified that she complied with the December 2018 Consent Order because her father was watching the children while she worked, and she provided M. Moaadel with her father’s phone number.¹ She further testified that the time frame given to call “doesn’t always work” because other activities such as dance classes or family dinners created conflicts. According to D. Moaadel, in those scenarios, she contacts M. Moaadel to reschedule the official time and does not receive a response.

¹ In response, M. Moaadel asserted that he called D. Moaadel’s father’s phone number and was still unable to talk to the children.

The court found that D. Moaadel was not in contempt, but rather there was “a miscommunication about a lot of things including what was reasonable to expect from [D. Moaadel].” The court ordered that M. Moaadel would continue to have one phone call per day, and that D. Moaadel would have the responsibility of calling M. Moaadel each night between 6:00 p.m. and 6:45 p.m. and leave a message if M. Moaadel did not answer.² The court also ordered the parties to discuss alternate options if a phone call could not take place. The court then asked whether either party wanted to deal with any other issue, and M. Moaadel again stated that he wanted to cross-examine D. Moaadel about the 1,466 call attempts. The court again denied his request.

The court issued an order docketed February 23, 2021. In it, the court stated that “[M. Moaadel] produced no evidence that [D. Moaadel] [] purposefully prevented the children from speaking with him.” The court also found that “[D. Moaadel] credibly testified that she ha[d] not kept the children from [M. Moaadel].” The court denied M. Moaadel’s Petition for Contempt, and it issued an order modifying the communication schedule as reflected in the motions hearing record.

On March 8, 2021, M. Moaadel filed, what he titled, a “Fifth Motion to Alter, Amend, Revise and Reconsider Regarding Telephone Access Order Entered Feb 23,

² This portion of the order was almost identical to the December 2018 Consent Order, the only difference being that D. Moaadel was now responsible for initiating the phone calls. There was also much discussion about the time frame during which the calls would take place. M. Moaadel requested a wider range of 8:00 a.m. to 7:00 p.m. The court rejected his suggestion. D. Moaadel suggested the time frame be expanded to 5:00 p.m. to 7:00 p.m., which M. Moaadel refused as he would be “confin[ed] to stay in front of the phone for two hours.” Because of his refusal to cooperate, the court left the narrower time frame of 6:00 p.m. to 6:45 p.m. in place.

2021.”³ There, he reasserted his request that D. Moaadel share in the transportation of the children to each other’s houses. He also asserted that D. Moaadel testified falsely concerning the obstruction of communication, and the court did not allow him to present his case. According to M. Moaadel, the court ignored numerous pieces of evidence including the 1,466 phone calls, emails and text messages exchanged between the parties, as well as allegations M. Moaadel previously put before the court prior to the December 2018 Consent Order, including that the children suffered assault and abuse under D. Moaadel’s care. He also asserted that the trial judge “acted as [D. Moaadel’s] [a]ttorney” and refused his numerous requests to cross-examine D. Moaadel. He concluded that such actions warrant the judge’s recusal.

The court issued an order entered April 20, 2021, denying M. Moaadel’s motion. M. Moaadel filed his Notice of Appeal eight days later, on April 28, 2021.

ISSUES PRESENTED FOR REVIEW

M. Moaadel presents two issues for our review:

- I. Whether the trial judge committed reversible error when she refused [M. Moaadel’s] repeated requests to cross-examine [D. Moaadel] concerning her obstruction of [M. Moaadel’s] telephone visitation with their minor children[?]
- II. Whether the trial judge exceeded the bounds of judicial impartiality in her conduct of the hearing on [M. Moaadel’s] motion for contempt for obstruction of telephone visitation with the parties’ minor children[?]

³ As the name of his motion implies, M. Moaadel filed numerous previous motions. He appealed the denial of two of those motions, which were before this Court in *Moaadel v. Moaadel*, No. 1215, 2021 WL 4282636, at *1 (Md. App. Sept. 21, 2021), and *Moaadel v. Moaadel*, No. 2556, 2021 WL 1263110, at *1 (Md. App. Apr. 6, 2021).

We note that because M. Moaadel’s appeal of the February 23 Order was not timely, as we shall explain, we do not reach the issues he presents inasmuch as they relate to the February 23 Order. Rather, we must determine whether the circuit court abused its discretion in denying M. Moaadel’s revisory motion. We discern no such abuse.

DISCUSSION

We shall focus on the narrow issue that is before us. Following entry of judgment in a trial court, a litigant seeking to revise or modify the order may file one of two post-trial motions: (1) a motion to alter or amend the judgment pursuant to Maryland Rule 2-534; or (2) a motion for the court to exercise its revisory power pursuant to Maryland Rule 2-535.

Where a motion, however labeled, is filed within ten days of the entry of judgment, it shall be treated as a motion under Rule 2-534, and “the filing of the motion stays the time for filing an appeal until thirty days after the court rules on the revisory motion.” *White v. Prince George’s Cnty.*, 163 Md. App. 129, 139–40 (2005); *see also* Maryland Rule § 7-104(a) (“[T]he notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.”). In contrast, if a motion is filed more than ten days but less than thirty days after the entry of judgment, it will be treated as a motion under Maryland Rule 2-535. *Pickett v. Noba, Inc.*, 114 Md. App. 552, 557 (1997). In such a case where a motion is filed more than ten days after the entry of judgment, the time for filing an appeal will not be stayed, but instead “may lapse before the motion to revise is decided.” *Id.*

Where the circuit court denies a motion to revise under Rule 2-535 and the party appeals that denial more than thirty days after the entry of the underlying judgment, the propriety of the underlying judgment is not before this Court. *Id.* at 558–59. Rather, the only question before this Court is whether the denial of the motion to have that judgment revised was an abuse of discretion. *See Stuples v. Baltimore City Police Dept.*, 119 Md. App. 221, 240 (1998).

The court entered judgment on February 23, 2021, denying M. Moaadel’s Petition for Contempt and modifying the previous consent order. M. Moaadel filed his “Fifth Motion to Alter, Amend, Revise, Correct and Reconsider” on March 8, 2021—thirteen days after the February 23 Order. Because this filing was not within the ten-day time frame required for a Rule 2-534 motion, however labeled, his motion must be treated as one under Rule 2-535. Accordingly, the motion did not stay the time for an appeal, which expired thirty days from the February 23 Order. M. Moaadel filed his notice of appeal on April 28, 2021—sixty-four days after the entry of the February 23 Order. Therefore, the issue before this Court is not the propriety of the underlying judgment, but whether the court abused its discretion in denying M. Moaadel’s motion to revise that judgment.

We review the denial of a motion to revise a judgment under the abuse of discretion standard, which is defined as “discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.” *In re Don Mc.*, 344 Md. 194, 201 (1996). “It is hard to imagine a more deferential standard than this one.” *Estate of Vess*, 234 Md. App. 173, 205 (2017). “[E]ven a poor call is not necessarily a clear abuse of discretion.” *Stuples*,

119 Md. App. at 232. Rather, the decision must be “*so far wrong—to wit, so egregiously wrong*—as to constitute a clear abuse of discretion.” *Id.* (emphasis in original).

The circuit court did not abuse discretion in declining to exercise its revisory power. First, M. Moaadel’s motion repeated arguments for custody modifications that he advanced at the February 16 hearing—namely that D. Moaadel should be required to drive the children to and from his residence and that the forty-five minute time frame for calls should be expanded. The motion did not address the February 23 Order’s new dictate that D. Moaadel initiate the phone calls. As to his argument requesting additional driving by D. Moaadel, M. Moaadel confirmed at the February hearing that D. Moaadel was already responsible for a majority of the driving. With regards to the expansion of the time frame, the record reveals that when D. Moaadel proposed a wider time frame during the February 16 hearing, M. Moaadel refused. M. Moaadel did not attempt to explain why requiring D. Moaadel to initiate calls would be insufficient to ensure contact with his children, and thus he has not offered any basis for us to conclude that the circuit court egregiously erred in rejecting his requested modifications.

Next, M. Moaadel’s motion argued that he was not allowed to present his case or cross-examine D. Moaadel, but the record reveals that the trial court allowed M. Moaadel to present his legal arguments and evidence, and on numerous occasions attempted to steer him back in the direction of doing so.⁴ Contrary to M. Moaadel’s arguments that the court

⁴ For example, M. Moaadel attempted to introduce evidence of D. Moaadel’s character dating back to before the divorce. The court emphasized that it was there on a Petition for Contempt for Violation of the December 2018 Consent Order, and stated: “Tell me what Ms. Moaadel did that was not in compliance with the 2018 consent order.”

ignored his call log exhibit,⁵ the circuit court reviewed the entries and, after discussing it with M. Moaadel, appeared to accept the conclusion that M. Moaadel reached his children approximately twenty percent of the time. Although the circuit court did not allow M. Moaadel to question D. Moaadel himself, the circuit court nonetheless asked D. Moaadel why M. Moaadel's calls often failed to reach the children.

As best we can discern, below, M. Moaadel proffered two additional areas of inquiry for cross-examination of D. Moaadel: (1) D. Moaadel's purported agenda of bringing M. Moaadel to court as revenge for the divorce and (2) instances in which the children were not permitted to speak with M. Moaadel when D. Moaadel's boyfriend was present. The first area had no relevance to the petition for contempt or motion to modify custody, both of which M. Moaadel filed. The second area was also of dubious relevance. D. Moaadel conceded that M. Moaadel could not always reach the children during the scheduled time. The circuit court recognized that D. Moaadel had contributed to the problem by having dinners with the children during the telephonic visitation time.

Given the parties' acrimonious relationship and M. Moaadel's repeated forays into irrelevant topics during the hearing, we are not convinced that it was egregious error for the circuit court to deny cross-examination on these proposed topics. *See In re J.J.*, 231 Md. App. 304, 341 (2016) (noting that a trial court has broad discretion to limit cross-examination based on concerns about harassment, prejudice, confusion of the issues, or

⁵ M. Moaadel also cited numerous other pieces of evidence that he contended the court ignored. Those pieces of evidence either predated the December 2018 Consent Order, or were otherwise irrelevant to the February 2021 hearing.

interrogation that is only marginally relevant). We also note that M. Moaadel’s revisory motion alleged that D. Moaadel abused the children. As the court noted in its April 20 Order, M. Moaadel provided no evidentiary basis for these allegations, nor did he raise them at the hearing.

Finally, M. Moaadel’s insinuation that the trial judge lacked impartiality similarly is meritless. The two parties appeared *pro se* and had difficulty focusing on proper evidence and legal arguments. In addition, the parties displayed unreconcilable animosity towards the other. We think the trial judge acted entirely appropriately and exercised patience in disposing of the legal issues presented to the court. We hold the court did not abuse its discretion in denying M. Moaadel’s “Fifth Motion to Alter, Amend, Revise, Correct and Reconsider” the order.⁶

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

⁶ We also note that M. Moaadel argues in his briefing before this Court that the circuit court erred by failing to place D. Moaadel under oath. This argument was not in the revisory motion. Because we are reviewing the circuit court’s decision on the revisory motion, we shall not consider arguments not advanced in that motion.