Circuit Court for Carroll County
Case No. C-06-FM-21-001071

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 579

September Term, 2024

LYNDA M. DODDS

v.

CHRISTOPHER A. DODDS

Berger,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, J.

Filed: June 12, 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).

On May 1, 2024, the Circuit Court for Carroll County entered a judgment of absolute divorce between the appellant, Lynda M. Dodds ("Mother"), and the appellee, Christopher A. Dodds ("Father"). In its divorce decree, the court granted the parties joint legal and shared physical custody of the two minor children born of their marriage, with tie-breaking authority to Father. It also awarded Mother sole legal and primary physical custody of a third child born to her before the marriage. Finally, the court denied alimony to Mother and ordered Father to pay child support in the monthly amount of $741.

Mother timely appealed and presents four questions for our review, which we have recast as seven and reordered to reflect the chronology of the proceedings:

I. Did the circuit court abuse its discretion by declining to appoint a best interest attorney ("BIA") to represent the parties' children?

II. Did the circuit court err by permitting a physician, who was not designated as an expert witness, to give testimony regarding "specialized medical topics"?

III. Did the circuit court abuse its discretion by restricting Mother's recross-examination of Father's expert witness?

IV. Did the circuit court err by failing to make explicit, on-the-record findings that Father abused and/or neglected the parties' children?

V. Did the circuit court abuse its discretion by awarding Father tie-breaking decision-making authority?

VI. Did the circuit court commit legal error when calculating the child support award?

VII. Did the circuit court abuse its discretion by declining to grant Mother rehabilitative alimony?[1]

For the reasons that follow, we will vacate the child support award, remand for reconsideration of that issue, and otherwise affirm.

BACKGROUND[2]

A. Facts

Father and Mother were married on or around June 26, 2014. At that time, Mother had an eight-year-old daughter, S., whom Father adopted in 2018. During their marriage, the parties had two sons together: J., born in 2018, and C., born in 2021.[3] J. was diagnosed

[1] Mother raises several other issues in her reply brief. As these matters were not presented in her opening brief, we decline to address them. *See Robinson v. State*, 404 Md. 208, 216 n.3 (2008) ("An appellate court will not ordinarily consider an issue raised for the first time in a reply brief."); *Anderson v. Burson*, 196 Md. App. 457, 476 (2010) ("We shall decline to address any of the issues raised by [a party] for the first time in their reply brief."), *aff'd*, 424 Md. 232 (2011).

[2] The parties are clearly familiar with the record in this case. Given the number of issues raised and to avoid unnecessary repetition, we will offer only a brief summary of the facts and procedural history here, reserving more detailed accounts for our discussion of the issues. Our recitation of the underlying facts, moreover, is based in part on the circuit court's unchallenged findings. *See Park Plus, Inc. v. Palisades of Towson, LLC*, 478 Md. 35, 41 n.3 (2022) ("Neither party has contended on appeal that the court's factual findings were unsupported by the evidence. Thus, our recitation of the facts . . . is drawn from the circuit court's factual findings and the documents admitted into evidence."); *Karen P. v. Christopher J.B.*, 163 Md. App. 250, 254 (2005) ("Our recitation of the facts is based on the findings made by the trial court, and, when express findings were not made, a construction of the evidence most favorable to the court's decision."), *cert. denied*, 390 Md. 501 (2006).

[3] To protect the minor children's privacy, we will refer to the elder daughter by the initial of her first name and to the younger sons by the initials of their middle names, as the initials of their first names are the same.

as an infant with a congenital heart condition, which was surgically repaired when he was approximately one month old and requires that he undergo annual echocardiograms.

In June or July of 2020, Mother lost her job as a senior technical analyst with Oracle American, Inc., her employer of the preceding seven years. Rather than seek alternate employment, Mother assumed the role of a stay-at-home parent while pursuing her bachelor's degree on a full-time basis. Father, in turn, worked full-time as a financial analyst at Northrop Grumman—a position that he retained through trial. The financial strain of transitioning from a dual- to a single-income household was compounded by the parties' decision to purchase a new home ("the marital home") in January or February of 2021. Out of concern for his health, Mother unilaterally elected to withdraw J. from preschool in December of 2021 and homeschooled him through 2023—despite Father's objections and the opinion of J.'s cardiologist that "it was fine for him to return to [public] school."

On November 18, 2021, Mother filed a petition for emergency evaluation of Father, alleging, among other things, that he was "gradually exhibiting changes in behavior that . . . creat[ed a] toxic environment in the household and [endangered] the safety and wellbeing of [their] 3 children." Specifically, she claimed that Father was "abnormally wired[,]" "communicated [with] a raised voice[,]" and excessively used marijuana. [4] On

[4] We take judicial notice of the docket entries in Carroll County Circuit Court Case Number C-06-FM-21-000977, as they are available on both MDEC and the Maryland Judiciary website. *See Lewis v. State*, 229 Md. App. 86, 90 n.1 (2016) ("We take judicial notice of the docket entries . . . found on the Maryland Judiciary CaseSearch website, (continued . . .)

November 19th, the police transported Father from his parents' house—where he had been staying since Mother requested that he leave the marital home two days prior—to Howard County General Hospital for a psychiatric evaluation. Father was discharged the following day after a psychiatric evaluator determined that he was at a "[l]ow risk of self-harm and harm to others."

On December 4, 2021, two weeks after Father's release from the hospital, he and Mother were involved in a physical altercation, which culminated in their separation. Although their accounts of the incident differ, the parties agree that they engaged in a scuffle as Mother attempted to prevent Father from pulling her vehicle out of the garage. S. witnessed the fray and called the police, who promptly responded to the scene. After the altercation, Father left the marital home and moved into his parents' house, where he was still residing at the time of trial. Mother, meanwhile, remained living in the marital home, with Father continuing to pay the mortgage, utilities, and landscaping costs.

While this case was pending in the circuit court, Mother resumed employment. In October of 2022, she was hired as a full-time analyst with MDF Commerce earning $19.23 per hour. After being terminated from that position three months later, Mother obtained part-time employment in March of 2023 as a teacher's aide and assistant director at the Immanuel Montessori School, where she worked roughly twenty-one hours per week at a rate of $17 per hour. Mother continued in that position through trial.

pursuant to Maryland Rule 5-201."), *aff'd*, 452 Md. 663 (2017). That case was dismissed on January 20, 2022.

B. Procedural History

On December 27, 2021, Mother filed a complaint in the circuit court, seeking an absolute divorce and child support, as well as sole legal and primary physical custody of all three children (collectively, "the children"). One month later, Father counterclaimed for divorce, child custody, and child support. Following a *pendente lite* hearing held on April 28, 2022, the presiding magistrate both recommended that the parties be granted "*temporary* joint legal and physical custody" of the children and proposed a regular access schedule. (Emphasis retained.) The court adopted the magistrate's recommendations in a *pendente lite* order entered on June 13, 2022.[5] On August 18, 2022, Mother amended her complaint to include a request for "rehabilitative and/or indefinite alimony[.]"

Trial commenced on December 12, 2023, and proceeded over three consecutive days. When trial could not be completed within that period, the court continued the proceedings to March 19-20, 2024. Over the course of the five-day trial, a total of nineteen witnesses testified. The circuit court announced its findings and rulings from the bench on April 29th. In granting the parties an absolute divorce, it found that their "separation ha[d] been continuous and uninterrupted since December 4, 2021[,]" and that there was "no reasonable hope or expectation" of reconciliation.

Turning to the issue of child custody, the circuit court addressed each of the relevant factors set forth in *Taylor v. Taylor*, 306 Md. 290, 307-11 (1986), and *Montgomery County*

[5] Notwithstanding the access schedule set forth in the *pendente lite* order, Father elected to forgo further parenting time with S. in September of 2022.

Department of Social Services v. Sanders, 38 Md. App. 406, 420 (1978).[6] It then awarded Mother sole legal and physical custody of S., with reasonable access to Father. In so doing, the court noted that S. would turn eighteen in less than two weeks' time—which would likely render the issue moot. As to J. and C., the court concluded that their best interests would be served by awarding the parties joint legal custody and shared physical custody, while maintaining the existing access schedule. Having found that "the parties ha[d] difficulty reaching shared decisions concerning the children[,]" the court granted Father tie-breaking authority "[i]n the event that the parties are unable to reach a decision after meaningful discussions[.]"

When calculating child support, the circuit court relied upon the parties' financial statements, which reflected gross monthly incomes of $2,286 for Mother and $8,560 for Father. It ultimately ordered Father to pay Mother child support "in the amount of $741 per month, beginning May 1, 2024."[7] In distributing the parties' marital property, the court ordered the sale of the marital home, with the proceeds to be divided evenly.[8] However, it granted Mother temporary use and possession of the home and ordered Father to pay the

[6] These factors are enumerated in footnote twenty, *infra*.

[7] We will address the court's child support calculations in greater detail below.

[8] The court valued the marital home at $735,000, with an outstanding mortgage balance of $484,320.

mortgage "[d]uring that use and possession period[.]"[9] Additionally, the court awarded Mother one-half of the marital portion of three of Father's retirement accounts.[10] Finally, after reviewing the applicable factors, it declined to make a monetary award or grant alimony. The court memorialized its oral rulings in a written order entered on May 1, 2024.

As noted above, we will include additional facts in our discussion of the issues presented.

DISCUSSION

I.

We first address Mother's contention that the circuit court erred in denying her motion for appointment of a BIA. She argues that the court was "required" to appoint a BIA given "the significant issues raised concerning [Father's] parenting fitness." By declining "to appoint or reconsider the appointment of [a] BIA[,]" Mother maintains, the court "effectively disregarded the extensive evidence[,]" which called into question Father's "fitness as a custodial parent and his suitability for decision-making authority."

Father responds that the court "appropriately denied [Mother's] motion[,]" as "[t]he parties were not in a financial position to pay . . . the significant costs associated with a [BIA]." He also argues that a BIA was unnecessary because the court had access to

[9] Mother's use and possession period extended "until the earlier of October 1, 2024[,] or closing on the sale of the marital home."

[10] In addition to a 401k, which the court determined was wholly non-marital, Father had two Johns Hopkins University Applied Physics Lab Pension Plans, the marital portions of which totaled $89,494.93. Father also had a Northrop Grumman savings plan, which the court found was entirely marital and valued at $62,951.73.

alternative sources of information relevant to the children's best interests, including the testimony of Child Protective Services ("CPS") workers who investigated Mother's allegations against him. Father similarly asserts that the children's "special physical, educational, or mental health needs" were adequately addressed through the testimony of the "medical professionals who had treated" them. Finally, Father contends that, given the duration of the trial "and the level of contentiousness . . . , this case was far too much [for] an attorney to take on in a pro bono capacity."

A. Best Interest Attorney

A BIA is "a lawyer appointed by a court for the purpose of protecting a child's best interests, without being bound by the child's directives or objectives." *McAllister v. McAllister*, 218 Md. App. 386, 403 (2014) (cleaned up). Section 1-202(a) of the Family Law Article ("FL") of the Maryland Code (1984, 2019 Repl. Vol.) governs a court's authority to appoint a BIA and provides, in pertinent part: "In an action in which custody, visitation rights, or the amount of support of a minor child is contested, the court *may* . . . appoint a lawyer who shall serve as a [BIA] to represent the minor child and who may not represent any party to the action[.]" (Emphasis added.) As is evident from its use of the permissive verb "may," "the statute merely *authorizes* a court to appoint counsel in [contested child custody cases]; it does not *mandate* such an appointment." *Garg v. Garg*, 393 Md. 225, 238 (2006) (emphasis retained). Whether to appoint a BIA thus rests within the sound discretion of the trial court and will not be disturbed on appeal absent a clear abuse thereof. *See id.* ("The decision whether to appoint independent counsel for the child

is a discretionary one, reviewable under the rather constricted standard of whether that discretion was abused."); *see also Miller v. Bosley*, 113 Md. App. 381, 400 (1997) ("We do not seek to usurp the judge's discretion to decide whether to appoint counsel for the child . . . . That is clearly within his [or her] purview[.]").

"[T]here is an abuse of discretion where no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding principles." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 418 (2007) (cleaned up). "An abuse of discretion may also be found where the ruling under consideration is clearly against the logic and effect of facts and inferences before the court or when the ruling is violative of fact and logic." *Id.* (cleaned up). A trial court does not abuse its discretion, however, merely because we would have reached a different result. *See id.* at 436 ("[A]n appellate court should not reverse a decision vested in the trial court's discretion merely because the appellate court reaches a different conclusion."). Rather, "'[a]n abuse of discretion should only be found in the extraordinary, exceptional, or most egregious case.'" *B.O. v. S.O.*, 252 Md. App. 486, 502 (2021) (quoting *Wilson v. John Crane, Inc.*, 385 Md. 185, 199 (2005)).

Maryland Rule 9-205.1 guides the circuit court's discretion in deciding whether to appoint a BIA and provides, in part: "In determining whether to appoint an attorney for a child, the court should consider the nature of the potential evidence to be presented, other available methods of obtaining information, including social service investigations and evaluations by mental health professionals, and available resources for payment." Md. Rule

9-205.1(b). The Rule then sets forth the following "factors, allegations, or concerns" for which appointing a BIA "may be most appropriate":

> (1) request of one or both parties;
>
> (2) high level of conflict;
>
> (3) inappropriate adult influence or manipulation;
>
> (4) past or current child abuse or neglect;
>
> (5) past or current mental health problems of the child or party;
>
> (6) special physical, educational, or mental health needs of the child that require investigation or advocacy;
>
> (7) actual or threatened family violence;
>
> (8) alcohol or other substance abuse;
>
> (9) consideration of terminating or suspending parenting time or awarding custody or visitation to a non-parent;
>
> (10) relocation that substantially reduces the child's time with a parent, sibling, or both; or
>
> (11) any other factor that the court considers relevant.

Id. Notably, Rule 9-205.1(b) is couched in advisory terms and does not, therefore, expressly require that courts either consider the above-enumerated factors or make on-the-record findings as to each.[11]

[11] The advisory nature of these terms is readily apparent when contrasted with the mandatory language used in the immediately succeeding section. *See* Md. Rule 9-205.1(c)(1) ("An order appointing an attorney for a child *shall* . . . . " (emphasis added)); Md. Rule 9-205.1(c)(2) ("The court *shall* send a copy of the order . . . . " (emphasis added)).

B. Proceedings Below

On September 6, 2022, Mother moved for the appointment of a BIA. In her motion, Mother addressed nine of the eleven factors enumerated in Rule 9-205.1(b), identifying the remaining two as inapplicable. One week later, Father filed an opposition to Mother's motion, wherein he argued that appointing a BIA would "likely cause undue delay to the final resolution of this matter." Father also asserted that, because he was "the only employed party . . . and [wa]s solely paying all of the costs associated with the family household . . . [, the] additional cost of a [BIA] [wa]s not substantially justified."

The circuit court denied Mother's motion for a BIA without a hearing in an order entered on September 19, 2022. Rather than draft a new order, the court modified an existing one which would have granted Mother's motion. In so doing, the court added a notation stating: "Based on a review of the court file, the parties are unable to afford a [BIA.]" Undeterred by the adverse ruling, Mother filed a motion for reconsideration on September 29th. In responding to the court's notation, Mother relied upon the Committee Note to Rule 9-205.1, which states, in relevant part:

> A court should provide for an adequate and effective attorney for a child in all cases in which an appointment is warranted, *regardless of the economic status of the parties*. . . . Before asking an attorney to provide representation pro bono publico to a child, the court should consider the number of other similar cases the attorney has recently accepted on a pro bono basis from the court.

(Emphasis added.) Father filed a response to the motion for reconsideration on October 14th, arguing that Mother had "failed to establish a probable evidentiary basis for the need

of the appointment of a [BIA] for the children[.]" The court summarily denied Mother's motion to reconsider in an order entered that same day.

C. Analysis

We discern no abuse of discretion in the circuit court's refusal to appoint a BIA. Although some of the Rule 9-205.1(b) factors referenced in Mother's motion may have weighed in favor of a BIA, they did not compel the court to appoint one. Moreover, the motion did not indicate whether or how a BIA would facilitate the presentation of relevant evidence or otherwise assist the trial court in resolving the issues before it.[12] Nor did it so much as mention the "available resources for pay[ing]" a BIA. Md. Rule 9-205.1(b).

In declining to appoint a BIA, the circuit court found that the parties were unable to afford one. The record then before the court reflected that Father had an annual gross income of $99,200 and monthly expenses of approximately $6,205—or $74,460 annually—while Mother had been unemployed since July of 2020. Those undisputed facts adequately supported the court's finding. In view of the parties' inability to afford a BIA—coupled with Mother's failure to demonstrate the need for one—the court acted within its discretion in denying the motion.

The Committee Note to Rule 9-205.1(b), which Mother cited in support of her motion for reconsideration, does not alter our conclusion. Although "'we read the Rules in

[12] Particularly pertinent is Mother's failure to identify any evidence that could not otherwise be presented through the testimony of CPS workers and/or mental health professionals. *See* Md. Rule 9-205.1(b) ("In determining whether to appoint an attorney for a child, the court should consider . . . available methods of obtaining information, including social service investigations and evaluations by mental health professionals[.]").

light of the Committee notes[,]'" the notes themselves "are not part of the Rules[.]" *Gray v. Fenton*, 245 Md. App. 207, 212 (2020) (quoting *Bijou v. Young-Battle*, 185 Md. App. 268, 288 (2009)). *See also* Md. Rule 1-201(e) ("[C]ommittee notes . . . are not part of these rules."); *Kusi v. State*, 438 Md. 362, 387 (2014) ("'[T]he Committee Note following the Rule lays out the kinds of things a court *may* do." (cleaned up) (emphasis retained)). The Committee Note to Rule 9-205.1(b) encourages courts to exercise their discretion to assign *pro bono* counsel for children in cases where such representation is warranted but would otherwise be financially infeasible. It does not, however, negate the plain language of the Rule, which expressly directs courts to "consider . . . available resources for payment" in determining whether to appoint a BIA. The ability of parents to afford such representation therefore remains a relevant consideration, and the court did not err in taking it into account here.[13]

II.

Next, Mother claims that the court erred by permitting Dr. Melanie Nies, J.'s pediatric cardiologist, to offer improper lay witness testimony, arguing that her "statements involved specialized medical topics, such as [J.'s] susceptibility to respiratory infections and specific cardiac complications." "Addressing these complex areas," Mother maintains, "typically requires expert qualification under Maryland Rule 5-702 to ensure that such

[13] We further note that in neither of her motions did Mother address the feasibility of *pro bono* court-appointed counsel.

assessments are based on comprehensive medical data."[14] In a related vein, she asserts that Dr. Nies's "testimony was limited by not having access to [J.'s] full medical records, which restricted the scope and clarity of her insights into the complexity of his health status."

We will not address the merits of Mother's arguments because they are not properly before us. Maryland Rule 8-131(a) governs the scope of appellate review and provides, in pertinent part: "Ordinarily, an appellate court will not decide any [non-jurisdictional] issue unless it plainly appears by the record to have been raised in or decided by the trial court." Rule 2-517, in turn, prescribes the method of making objections to the admission of evidence in civil cases. That rule states, in relevant part: "An objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." Md. Rule 2-517(a). Finally, "[w]hen specific grounds are given at trial for an objection, the party objecting will be held to those grounds and ordinarily waives any grounds not specified

[14] Maryland Rule 5-702 governs the admissibility of expert testimony and provides:

> Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine
>
> (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,
>
> (2) the appropriateness of the expert testimony on the particular subject, and
>
> (3) whether a sufficient factual basis exists to support the expert testimony.

that are later raised on appeal." *Klauenberg v. State*, 355 Md. 528, 541 (1999). *See also Colvin-el v. State*, 332 Md. 144, 169 (1993) ("Appellate review of an evidentiary ruling, when a specific objection was made, is limited to the ground assigned."); *Banks v. State*, 84 Md. App. 582, 588 (1990) ("[W]hen the grounds for an objection are stated by the objecting party, . . . only those specifically stated are preserved for appellate review; those not stated are deemed waived.").

During the direct examination of Dr. Nies, Mother's counsel made over ten specific objections to questions posed by Father's attorney. At no point, however, did she assert that Dr. Nies's testimony exceeded the bounds of permissible lay witness testimony.[15]

[15] Although Mother's attorney never raised the issue, the court did sustain one of her objections *sua sponte* on that ground and precluded Dr. Nies from answering the question:

> [FATHER'S COUNSEL]: Do you have any knowledge of fertility meds causing Tetralogy of Fallot?
>
> [MOTHER'S COUNSEL]: Objection, Your Honor. Relevance.
>
> THE COURT: I am going to sustain the objection. Are we going to qualify Dr. Nies as an expert? Because --
>
> [FATHER'S COUNSEL]: No. These were all issues that were brought up in this particular case.
>
> THE COURT: Okay. But the question you just asked Dr. Nies, whether she has any knowledge of fertility drugs causing a certain condition would seem to require expertise to answer that question. I mean, I sustained the objection because I -- what is the relevance of that?

(continued . . .)

Mother's remaining objections were likewise unrelated to the issue of whether Dr. Nies's testimony constituted expert testimony subject to Rule 5-702. Finally, although Father's attorney raised concerns regarding Dr. Nies's failure to produce all of J.'s medical records, Mother's counsel never addressed the matter. Because Mother did not object below to Dr. Nies's testimony on the grounds she now asserts, we hold that she has waived those issues for purposes of appeal. *See Perry v. State*, 229 Md. App. 687, 709 (2016) (holding that appellant waived the issue of whether a witness's testimony was "permissible lay opinion" or "impermissible expert testimony" where "nothing in the transcript . . . demonstrate[d] that the court was made aware that the defense objected to [the] testimony because it constituted impermissible expert testimony"), *cert. dismissed*, 453 Md. 25 (2017); *Aron v. Brock*, 118 Md. App. 475, 499 (holding that appellant waived his argument that the testimony of two witnesses "constituted improper opinion testimony" by failing to "object below . . . on those grounds"), *cert. denied*, 346 Md. 629 (1997).

III.

Mother also contends that the circuit court erred by preventing her from eliciting expert testimony from Father's therapist, Mary Beth Bracone, "regarding [Father's] mental

> [FATHER'S COUNSEL]: The relevance is of prior statements that I intend to cross a witness on that I just wanted to ask that question. Well, I can ask if she has ever addressed it if you want me to do it that way.
>
> * * *
>
> THE COURT: . . . I can't allow the witness to answer that question unless you are going to try to qualify [her] as an expert.

illness diagnosis and past [pharmacological] treatment." While Mother acknowledges that "Ms. Bracone [wa]s not qualified to prescribe medications," she insists that such testimony "could still speak to the likely impacts of treatment cessation on an individual diagnosed with bipolar disorder and anxiety." She maintains that "[t]he [c]ourt's insistence on a medical doctor or prescriber to establish this point overlooks [Ms. Bracone's] qualifications to discuss how untreated mental illness may affect [Father's] behavior[.]"

A. Proceedings Below

Ms. Bracone was among the witnesses Father called to testify during his case-in-chief. A licensed clinical social worker, Ms. Bracone was accepted by the court—without objection—as an expert in the field of "individual clinical counseling." On direct examination, Ms. Bracone testified that Father began seeing her in June of 2021. Ms. Bracone diagnosed Father initially with an adjustment disorder and later with an unspecified anxiety disorder.

After the parties had completed their examinations of Ms. Bracone, the court asked her if she knew whether Father was then "prescribed any medication for any mental illness or disorder[.]" Ms. Bracone answered: "It's the medical marijuana as far as I know."[16] Turning to counsel, the court inquired: "Any questions in light of the [c]ourt's questions?" Mother's attorney answered in the affirmative. She then requested the court's permission to ask Ms. Bracone whether she and Father had "discussed any other medications" that

[16] Ms. Bracone testified that Father had informed her that he used prescribed medical marijuana to treat his anxiety. According to Ms. Bracone, however, Father stated that he did not use marijuana around the children.

Father had taken since 2011 to treat "a mental disorder or illness[.]" When the court questioned the relevance of the proposed inquiry, Mother's counsel proffered that Father's previously prescribed psychiatric medications were relevant because she believed he might still require such treatment.

During an ensuing bench conference, the following occurred:

> THE COURT: Have you identified an expert that is going to testify that [Father] should be taking medication?
>
> * * *
>
> [MOTHER'S COUNSEL]: No expert, Your Honor.
>
> THE COURT: Then you won't be able to call a person to testify.
>
> [MOTHER'S COUNSEL]: Okay. That is fine, Your Honor. But the reason . . . that I am bringing it up is evidence that you have already entered in does talk about medications that he no longer takes.
>
> THE COURT: Okay.
>
> [MOTHER'S COUNSEL]: That is for a mental disorder. And so[,] to your point, I guess I can't -- I don't have an expert that will say that he needs to continue to take them. But I do think it is important for the [c]ourt to know that he does have that diagnosis and there is no additional evidence to show he has been cured of that.[17]

The court ultimately precluded Mother's attorney from asking Ms. Bracone about Father's psychiatric prescription history, reasoning: "[T]his witness isn't qualified to say whether

[17] It seems that bipolar disorder was the alleged diagnosis to which counsel was here referring.

he should or shouldn't be taking medication because she is not licensed to dispense medication."

B. Expert Witness Testimony

"[T]he admissibility of expert testimony is a matter largely within the discretion of the trial court, and its action in admitting or excluding such testimony will seldom constitute a ground for reversal." *State v. Matthews*, 479 Md. 278, 306 (2022) (quotation marks and citations omitted). We will not, therefore, disturb a trial court's decision to exclude expert testimony—either in whole or in part—absent an abuse of discretion. *See Rochkind v. Stevenson*, 454 Md. 277, 285 (2017) ("[W]e review a trial court's decision to . . . exclude expert testimony only for an abuse of discretion."); *Streaker v. Boushehri*, 230 Md. App. 101, 111 (2016) ("We review the trial court's decision to exclude expert testimony for abuse of discretion.").

As noted above, Maryland Rule 5-702 permits a trial court to admit expert testimony if it "determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." Md. Rule 5-702. In making that determination, the Rule directs courts to assess, among other things, "whether the witness is qualified as an expert by knowledge, skill, experience, training, or education[.]" Md. Rule 5-702(1). With respect to this requirement, "a trial court should consider whether the expert has 'special knowledge of the subject on which he [or she] is to testify that he [or she] can give the jury assistance in solving a problem for which their equipment of average knowledge is

inadequate.'" *Wantz v. Afzal*, 197 Md. App. 675, 683 (quoting *Radman v. Harold*, 279 Md. 167, 169 (1977)), *cert. denied*, 420 Md. 463 (2011).

The fact that "a witness has been tendered and qualified as an expert in a particular occupation or profession" does not necessarily mean that he or she "may render an unbridled opinion[.]" *Easter v. State*, 223 Md. App. 65, 80 (quotation marks and citation omitted), *cert. denied*, 445 Md. 488 (2015). Even if the trial court finds that a witness possesses sufficient specialized knowledge to testify as an expert in one field, it should not permit him or her to offer expert testimony on a subject for which he or she lacks the requisite qualifications. *See Tapscott v. State*, 106 Md. App. 109, 132 (1995) ("The trial court . . . should not admit testimony of an expert when that testimony concerns a field inappropriate for the expert."), *aff'd*, 343 Md. 650 (1996). In *In re Yve S.*, 373 Md. 551, 613 (2003), the Supreme Court of Maryland explained:

> [T]he mere fact that a witness has been accepted to testify as an expert in a given field is not a license to testify at will. Such a witness only *will be allowed to testify as an expert in areas where he or she has been qualified and accepted*. Where a witness who is qualified as an expert in one area strays beyond the bounds of those qualifications into areas reserved for other types of expertise, issues may arise as to the proper admissibility of that testimony.

(Emphasis added.) *Accord Johnson v. State*, 408 Md. 204, 225 (2009).

C. Analysis

In this case, Mother's counsel proffered that Ms. Bracone's testimony regarding Father's prior psychiatric prescriptions was relevant to his current mental health, effectively intimating that the bipolar disorder purportedly diagnosed in 2011 could only

be adequately managed by medication which Father had allegedly discontinued. The court implicitly found that Father's prescription history was irrelevant without expert testimony establishing that he continued to require such medication—testimony which the court determined Ms. Bracone was not qualified to give.

A medical professional's competence to offer expert testimony is generally defined by the scope of his or her clinical authority. The Maryland Supreme Court has held, for example, that "[a] witness may not testify to the effect of making a diagnosis concerning mental illness unless he or she is a physician qualified to make such a diagnosis or prognosis, or unless they are otherwise authorized by statute to make such diagnosis." *In re Yve S.*, 373 Md. at 615. As a licensed clinical social worker, Ms. Bracone was "allowed . . . to make a mental diagnosis, and therefore, . . . could testify to the same." *Id.* She was not qualified, however, to prescribe medications. *See* Md. Code Ann. (1981, 2021 Repl. Vol.), § 12-101(b) of the Health Occupations Article (defining "authorized prescriber"). Accordingly, to the extent that Mother's counsel sought to elicit expert testimony regarding Father's need for psychiatric medication, the court properly prevented Ms. Bracone from offering it. Moreover, Father's prescription history was not relevant absent competent expert testimony linking his past medication regimen to his present mental health. As Ms. Bracone was not qualified to offer such testimony, the court did not err in precluding her from addressing Father's previously prescribed medications.

IV.

Next, Mother contends that the circuit court "err[ed] by failing to make explicit findings of abuse, neglect, or child endangerment on the record[.]" In support of that assertion, she relies on the testimony of Gianna Diaz as evidence of Father's alleged child neglect. In or around June 2023, Father hired Ms. Diaz to watch C. and J. on "Wednesdays and Thursdays from 12:00 to 5:00 p.m." Ms. Diaz testified, among other things, that she (i) was unaware of any "special conditions the boys might have"; (ii) did not recall having had a conversation with Father regarding "the boys' medical issues"; and (iii) was not CPR certified. Mother claims that Father's "failure to communicate [J.'s] medical needs or ensure proper supervision highlights [his] neglectful approach to the children's safety." She also argues that Ms. Diaz's "lack of CPR certification and training amplifies concerns about [Father's] ability to ensure a safe environment for the children."[18]

Father counters that the court did, in fact, consider Mother's allegations of abuse against him, but "simply did not agree that there was any [such] abuse . . . based on the . . . evidence[.]" He correctly notes that, in announcing its ruling from the bench, the court

[18] In her reply brief, Mother raises several additional arguments in apparent support of her assertion that the court erred by failing to find that Father had neglected or abused the children. Just as we will not address issues raised for the first time in a party's reply brief, neither will we consider supporting arguments first presented therein. *See Oak Crest Vill., Inc. v. Murphy*, 379 Md. 229, 241-42 (2004) ("It is impermissible to hold back the main force of an argument to a reply brief and thereby diminish the opportunity of the appellee to respond to it."); *Dolan v. Kemper Indep. Ins. Co.*, 237 Md. App. 610, 627 (2018) ("Ordinarily, we do not consider arguments that a party raises for the first time in a reply brief."); *Strauss v. Strauss*, 101 Md. App. 490, 509 n.4 (1994) ("A reply brief cannot be used as a tool to inject new arguments."), *cert. denied*, 337 Md. 90 (1995).

attributed Mother's allegations of neglect and abuse to an attempt "to gain . . . some strategic advantage in this case[.]" Thus, Father claims that the court "did not make any findings of abuse or neglect because [it] did not believe there was any." That determination, Father argues, was adequately supported by the evidence presented.

FL § 9-101(a) provides:

> In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.

Under Maryland law, child neglect is defined, in pertinent part, as "the leaving of a child unattended or other failure to give proper care and attention to a child by any parent . . . under circumstances that indicate . . . that the child's health or welfare is harmed or placed at substantial risk of harm[.]" FL § 5-701(s)(1). Child abuse, in turn, includes "the physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed by . . . a parent[.]" FL § 5-701(b)(1)(i)(1). "Abuse" does not include, however, "the physical injury of a child by accidental means." FL § 5-701(b)(2).

Assuming, as Mother alleges, that Father failed to inform Ms. Diaz of "[J.'s] critical heart condition[,]" neither that omission nor his decision to leave J. and C. in her care rose to the level of child neglect—much less abuse. Ms. Diaz testified that she had worked as a nanny for approximately five years and had undergone a background check before beginning her employment with Father. She also averred that Father's parents were "usually always there" while she was with J. and C. and that, in the event of an emergency,

she would simply speak to them. Although it may have been prudent for Father to advise Ms. Diaz of J.'s and C.'s medical conditions before entrusting them to her care, under these circumstances, the omission of this information did not amount to conduct that placed either child at substantial risk of harm.[19] Nor was it necessary for Father to hire a CPR-certified caretaker. Accordingly, the court did not err by declining to find that Father had abused or neglected the children.

V.

Mother's fifth contention is, to some extent, an extension of her fourth. She challenges the circuit court's decision to award tie-breaking authority to Father, arguing that, in crediting Father's account, the court "overlook[ed] key elements in his testimony[.]" According to Mother, the court erroneously disregarded Father's admissions that he had "engag[ed] in inappropriate behavior in the children's presence, displayed aggression toward [her] before them, and . . . shown reluctance to provide necessary medical care." Mother does not argue the first two points with particularity, and we therefore decline to consider them. *See Klauenberg*, 355 Md. at 552 ("[A]rguments not presented in a brief or not presented with particularity will not be considered on appeal."). As to the third, she asserts that Father has demonstrated a "lack of parental responsibility" and "expos[ed] [C.] to harm" by disregarding the medical advice of his pediatric allergist, Jennifer Dantzer, M.D., and pediatric gastrointestinal specialist, Kenneth Ng, D.O.

[19] Mother claims that "Maryland standards emphasize that parents must inform caregivers of any health conditions that affect a child's well-being[.]" She does not refer us, however, to any authority to that effect, and we are aware of none.

A. Tie-Breaking Authority

"Legal custody encompasses 'the right and obligation to make long range decisions involving education, religious training, discipline, medical care, and other matters of major significance concerning the child's life and welfare.'" *Kpetigo v. Kpetigo*, 238 Md. App. 561, 584 (2018) (quoting *Taylor*, 306 Md. at 296). "Joint legal custody," therefore, means "both parents having an equal voice in making long range decisions of major significance concerning the child's life and welfare, and neither parent's rights being superior to the other." *Santo v. Santo*, 448 Md. 620, 632 (2016) (cleaned up). "'[T]he most important factor' in deciding whether to award joint legal custody [is] the 'capacity of the parents to communicate and to reach shared decisions affecting the child's welfare.'"[20] *Id.* at 628

[20] Other relevant factors courts must consider when making custody determinations include:

> (1) The fitness of the parents; (2) The character and reputation of the parties; (3) The requests of each parent and the sincerity of the requests; (4) Any agreements between the parties; (5) Willingness of the parents to share custody; (6) Each parent's ability to maintain the child's relationships with the other parent, siblings, relatives, and any other person who may psychologically affect the child's best interest; (7) The age and number of children each parent has in the household; (8) The preference of the child, when the child is of sufficient age and capacity to form a rational judgment; . . . (10) The geographic proximity of the parents' residences and opportunities for time with each parent; (11) The ability of each parent to maintain a stable and appropriate home for the child; (12) Financial status of the parents; (13) The demands of parental employment and opportunities for time with the child; (14) The age, health, and sex of the child; (15) The relationship established between the child and each parent; (16) The length of the separation of the parents; (17) Whether there was a prior voluntary abandonment or surrender of custody of the child; (18) The potential disruption of the child's social and school life; (19) Any impact on state or
>
> (continued . . .)

(quoting *Taylor*, 306 Md. at 304). "[W]hen parents have difficulties communicating and acting in the best interests of their child[,]" it may be appropriate to award joint legal custody with tie-breaking authority to one parent. *Kpetigo*, 238 Md. App. at 587. In *Santo*, the Supreme Court of Maryland described this custodial arrangement as follows:

> In a joint legal custody arrangement with tie-breaking provisions, the parents are ordered to try to decide together matters affecting their children. When, and only when[,] the parties are at an impasse after deliberating in good faith does the tie-breaking provision permit one parent to make the final call. Because this arrangement requires a genuine effort by both parties to communicate, it ensures each has a voice in the decision-making process.
>
> * * *
>
> [S]uch an award is . . . consonant with the core concept of joint custody because the parents must try to work together to decide issues affecting their children. We require that the tie-breaker parent cannot make the final call until *after* weighing in good faith the ideas the other parent has expressed regarding their children. Such an award has the salutary effect of empowering both parents to participate in significant matters affecting their children.

448 Md. at 632-33 (emphasis retained) (internal citations omitted). *See also Kpetigo*, 238 Md. App. at 585 ("Tie-breaking authority proactively anticipates a post-divorce dispute." (cleaned up)). "We review a trial court's custody determination for abuse of discretion, and

> federal assistance; (20) The benefit a parent may receive from an award of joint physical custody, and how that will enable the parent to bestow more benefit upon the child; (21) Any other consideration the court determines is relevant to the best interest of the child.

Azizova v. Suleymanov, 243 Md. App. 340, 345-46 (2019) (cleaned up), *cert. denied*, 467 Md. 693 (2020).

we reverse only when the court's ruling is clearly against the logic and effect of facts and inferences before the court." *Id.* (quotation marks and citations omitted).

B. Proceedings Below

At trial, Father testified to Mother's belief that J. and C. shared her allergies to "pineapple, seafood, peanut butter[,]" and "lactose." Father did not share Mother's conviction, however, having never witnessed either child experience "an allergic reaction of any kind." According to him, J. and C. routinely ingested these foods without incident while in his care following the parties' separation. Mother, in turn, testified that she had observed C. and J. develop "red bumps around their face area" after eating peanuts and "breakout" on at least one occasion after consuming cod. She also claimed that C. and J. experienced stomach bloating and diarrhea after drinking milk.

In April of 2023, Mother took C. and J. to see Dr. Dantzer.[21] After taking a history from Mother, Dr. Dantzer ordered a blood test to determine whether J. was, in fact, allergic to peanuts, fish, pineapple, or any of several environmental allergens.[22] The blood tests were conducted in June, repeated in July, and were negative for peanut, fish, and pineapple allergies. In light of the history that Mother had provided and the possibility of false-negative test results, Dr. Dantzer recommended that J. undergo "a fish and . . . peanut food challenge[,]" during which she would monitor him after he consumed those foods. She also

[21] Father did not attend this appointment.

[22] Although Mother testified that Dr. Dantzer "saw all . . . three kids[,]" it is not entirely clear from the record whether these same tests were ordered and conducted for C.

advised that J. avoid eating fish and peanuts "until the in-office food challenge was done." Mother did not, however, schedule a "food challenge," explaining at trial that she "didn't have time for" the appointment. Instead, she arranged for J. and C. to be evaluated by Dr. Ng in December of 2023.[23] On December 26th, J. underwent yet another blood test, which was negative for allergies to, among other things, peanuts, seafood, milk, and wheat.

Father testified that Mother did not notify him of the children's medical appointments or of the results of either allergy screening. Rather, he learned of them "through . . . notifications of the portal system." Although J.'s blood tests were negative for food allergies, Father testified that Dr. Ng's examination of C. revealed "a sensitivity to the . . . protein in cow's milk."[24] Upon receiving that information, Father "stopped giving [C.] cow's milk[.]" When asked whether he was "following the recommendations of Dr. Ng[,]" moreover, Father answered: "Yes, I believe so."

Based in part on the foregoing evidence the court found as follows:

> The parties have had sharp disagreements regarding major issues concerning the children. Specifically, medical care and schooling. Many of those disagreements over medical care center on [Mother's] sometimes overzealousness in seeking medical attention, as contrasted with [Father's] more wait and see kind of approach.
>
> * * *
>
> [Mother] continues to believe that the children have various food allergies, though the medical testing has not confirmed that. The initial allergy testing for fish, peanuts, dust mites, et cetera, has been negative in general, and the

[23] Notably, Mother took J. and C. to see Dr. Ng after the trial had begun.

[24] An exchange between Dr. Ng and Father on January 8, 2024 also indicates that C. tested positive for both gluten and wheat allergies.

> allergist testified that negative test results are good at excluding food allergies.
>
> That was Dr. Dantzer's testimony. Dr. Dantzer recommended a food challenge where she would observe [J.] consume certain foods in her presence, and [Mother] did not schedule that food challenge or . . . follow up with Dr. Dantzer in response to that recommendation.

In making its custody determination, the court ultimately determined that Father was more receptive to and compliant with "physicians' recommendations and advice" than was Mother.[25,26]

C. Analysis

Mother claims that Father repeatedly ignored "medical advice regarding dietary restrictions" for C. "despite positive test results for food sensitivities[.]"[27] She maintains that Father's alleged disregard for medical guidance "placed [C.] at risk, which raises concerns about his fitness for making significant decisions about the children's health."

[25] The court's finding in this regard appears to have been informed, at least in part, by Mother's "unreasonable reject[ion] or fail[ure] to understand Dr. Nies'[s] opinion that" J.'s cardiac condition was sufficiently stable that it "was safe [for him] to return to school."

[26] The court also found that Mother was "somewhat unreasonable when it came to the doctors' medical advice."

[27] Mother also asserts that Father "cancel[led] a medically advised wheat challenge without consulting [C.'s] healthcare provider[,] . . . demonstrat[ing] a lack of concern for [C.'s] health[.]" It does not appear, however, that the court was presented with evidence of Father canceling any such appointment before rendering its ruling. As noted above, moreover, Mother admitted at trial on December 13, 2023, that she had not complied with Dr. Dantzer's recommendation that she schedule "a fish and . . . peanut food challenge" for J. and C.

At trial, Mother testified that Father had expressly refused to comply with the recommendations of the children's pediatricians. The court determined, however, that her testimony was not credible because of its "evasive[,]" "rambling[,]" and "non-responsive" nature, as well as Mother's attempt to misrepresent remarks that Father had made to J.'s cardiologist, Dr. Nies.[28] Because the trial court had the opportunity to observe Mother's demeanor on the stand, we will not second-guess its adverse credibility assessment on appeal. *See Petrini v. Petrini*, 336 Md. 453, 472 n.14 (1994) ("[I]t was well within the court's discretion to decide which witnesses it found to be credible."); *Michael Gerald D. v. Roseann B.*, 220 Md. App. 669, 687 (2014) ("It is not our role, as an appellate court, to second-guess [the trial court's credibility] findings.").

Although the court found that Mother was not a credible witness, it expressed no such reservations with respect to Father. At trial, Father acknowledged that he had initially defied Mother's wishes that J. and C. abstain from peanut butter, pineapple, fish, and milk while in his care, explaining that he had never seen them exhibit an allergic or other adverse reaction thereto. Father testified, however, that he stopped serving C. cow's milk after he tested positive for a sensitivity to it. He also affirmed having otherwise complied with Dr. Ng's recommendations.

Deferring, as we must, to the court's credibility finding and viewing the evidence in the light most favorable to Father, we find no fault with the court's determination that he

[28] Specifically, Mother claimed that Father had told the pediatric cardiologist that "there would be some benefit" to J. contracting COVID "because it would boost his immune system."

was comparatively receptive to and compliant with the recommendations of the children's physicians. *See Lemley v. Lemley*, 109 Md. App. 620, 628 ("[A]ll evidence contained in an appellate record must be viewed in the light most favorable to the prevailing party below."), *cert. denied*, 343 Md. 679 (1996). In any event, the decision to grant one parent tie-breaking authority does not turn on any individual finding or factor. In this case, the court meticulously addressed each of the relevant considerations enumerated in footnote twenty, *supra*, and concluded that it was in the children's best interests for Father to have tie-breaking authority. We discern no abuse of discretion in that regard.

VI.

Mother penultimately contends that the circuit court reversibly erred in calculating Father's child support obligation by failing to include S. as among the parties' eligible children. Father counters that the court properly excluded S. from its child support calculations, reasoning that she reached the age of majority shortly after entry of the divorce judgment. In her reply brief, Mother maintains that child "support obligations extend to children under [the age of nineteen who are] still enrolled in high school." Here, she asserts, "[t]he record reflects that [S.] was attending school and residing solely with [her] at the time of judgment[.]" Thus, Mother concludes that the court committed legal error by disregarding S. when fashioning the child support award. We agree with Mother.

A. Child Support

"Ordinarily, child support orders are within the sound discretion of the trial court." *Reichert v. Hornbeck*, 210 Md. App. 282, 316 (2013). "[W]here the order involves an

interpretation and application of Maryland statutory and case law," however, we "must determine whether the lower court's conclusions are 'legally correct' under a *de novo* standard of review." *Id.* (quotation marks and citations omitted).

FL §§ 12-201 to 12-204 set forth the child support guidelines, which (with certain exceptions not here relevant) courts must use "in any proceeding to establish or modify child support[.]" FL § 12-202(a)(1). *See also Gladis v. Gladisova*, 382 Md. 654, 663 (2004) ("[T]rial courts must adhere to the Legislature's plan for calculating the amount and character of a child support award." (cleaned up)). In calculating a child support award, the court must first determine "the amount of 'basic child support obligation,' which is done through a table set forth in FL § 12-204(e)." *Wilson-X v. Dep't of Hum. Res.*, 403 Md. 667, 671 (2008). "[T]he basic child support obligation depend[s] on the parents' combined [adjusted actual] income and [the] *number of children*" *entitled to such support*. *Gladis*, 382 Md. at 663 (emphasis added). *See also Wilson-X*, 403 Md. at 671.

Children are generally entitled to child support until they reach the age of eighteen. *See Kirby v. Kirby*, 129 Md. App. 212, 215 (1999) ("[A] court cannot require a parent to support a child after the child reaches the age of eighteen."); *Quarles v. Quarles*, 62 Md. App. 394, 403 (1985) ("A [parent] may not be compelled to support a child after [the child] reaches majority."). That general rule is, however, subject to exceptions. One such exception is set forth in section 1-401 of the General Provisions Article ("GP") of the Maryland Code (2014, 2019 Repl. Vol.), which provides, in pertinent part:

> (b) An individual who has attained the age of 18 years and who is enrolled in secondary school has the right to receive support and maintenance from both of the individual's parents until the first to occur of the following events:
>
> * * *
>
> (4) the individual graduates from or is no longer enrolled in secondary school; or
>
> (5) the individual attains the age of 19 years.

GP § 1-401(b).

B. Analysis

In this case, the child support provision of the judgment of absolute divorce provided:

> **ORDERED**, that beginning and effective **May 1, 2024**, and continuing on the 1st day of each month thereafter, Father shall pay to Mother the sum of **Seven Hundred Forty-One Dollars ($741.00) per month** for current child support for the parties' minor children. Plaintiff's child support payments shall continue until the first to occur of the following: (1) the death of the children or obligor, (2) the marriage of the children, (3) the children's emancipation, or (4) the children's arrival at the age of eighteen (18) years, so long as the children shall become emancipated by reaching that age and unless the children are attending high school at the time the children turn eighteen (18), in which event the child support shall continue until the children finish high school or turn nineteen (19), whichever shall first occur[.]

(Emphasis retained.) The divorce decree was accompanied by a child support worksheet reflecting the court's calculations. The worksheet lists a combined monthly adjusted actual income of $11,386 but does not include S. among the parties' children. In determining that the parties' basic child support obligation was $2,198, the court evidently referred to the

table set forth in FL § 12-204(e), rounded the combined income up to $11,400 as required by FL § 12-204(c), and selected the amount corresponding to two children:

Combined Adjusted Actual Income	1 Child	2 Children	3 Children	4 Children	5 Children	6 or More Children
		*	*	*		
11400	1573	**2198**	2592	2895	3185	3462

(Emphasis added.)

The court erred by failing to include S. among the parties' minor children when calculating child support. At the time of the court's judgment, S. was seventeen years old and still enrolled in high school. Although S. would reach the age of majority one week after entry of the judgment on May 1, 2024, the record reflects that she was not expected to graduate from secondary school until the following month. Moreover, while S.'s eighteenth birthday was fixed, the court could not have been certain that she would graduate as scheduled. Because S. was entitled to child support until the earlier of her graduation or withdrawal from high school or her nineteenth birthday, we hold that the court erred by excluding her from among the parties' children in conducting its child support calculations. Accordingly, we must vacate the court's child support award and remand for its recalculation.

VII.

Finally, Mother argues that the circuit court erred in denying her request for rehabilitative alimony. She claims that a three-year alimony award was warranted "to

facilitate her transition to self-sufficiency" by funding her pursuit of a master's degree in data analytics. Such an award, Mother maintains, was especially appropriate given the parties' income disparity and her having purportedly "devoted significant years supporting [Father's] career, which impeded her own professional development."

Father responds that, in denying Mother's alimony request, the court properly considered all relevant statutory factors. In his brief, Father highlights the following findings, which he deems particularly pertinent. First, based on Mother's employment history, the court found that she was capable of being self-supporting. Second, the court observed that Mother neither specified the amount of alimony she sought nor provided a "plan for why there was a need for that alimony." Finally, the court found that Father would be unable to meet his own needs and pay child support while also providing for Mother. "Given [its] thorough analysis of the alimony issue," Father concludes that the court "did not abuse [its] discretion in denying alimony to [Mother]."

A. Alimony

'"[A] trial court has broad discretion in making an award of alimony, and a decision whether to award it will not be disturbed unless the court abused its discretion.'" *Ware v. Ware*, 131 Md. App. 207, 228-29 (2000) (emphasis omitted) (quoting *Roginsky v. Blake-Roginsky*, 129 Md. App. 132, 143 (1999), *cert. denied*, 358 Md. 164 (2000)). *See also Whittington v. Whittington*, 172 Md. App. 317, 339 (2007) ("The court had discretion to award no alimony[.]"). In exercising that discretion, courts must consider the following factors:

(1) the ability of the party seeking alimony to be wholly or partly self-supporting;

(2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;

(3) the standard of living that the parties established during their marriage;

(4) the duration of the marriage;

(5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

(6) the circumstances that contributed to the estrangement of the parties;

(7) the age of each party;

(8) the physical and mental condition of each party;

(9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;

(10) any agreement between the parties;

(11) the financial needs and financial resources of each party, including:

(i) all income and assets, including property that does not produce income;

(ii) any award made under §§ 8-205 and 8-208 of this article;[29]

(iii) the nature and amount of the financial obligations of each party; and

[29] FL § 8-205 governs monetary awards, while FL § 8-208 pertains to the award of possession and use of the family home and family use personal property.

(iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

FL § 11-106(b). "These factors are non-exclusive, and 'although the court is not required to use a formal checklist, the court must demonstrate consideration of all necessary factors.'" *Simonds v. Simonds*, 165 Md. App. 591, 604-05 (2005) (quoting *Roginsky*, 129 Md. App. at 143). The burden of proving entitlement to alimony, moreover, rests with the party seeking it. *See Walter v. Walter*, 181 Md. App. 273, 297 (2008) ("[A] decision to grant alimony incident to the grant of an absolute divorce . . . is . . . to be made . . . by consideration of the factors set forth in FL section 11-106, *with the burden of proof on the party seeking alimony*." (emphasis added)); *see also Francz v. Francz*, 157 Md. App. 676, 692 (2004); *Thomasian v. Thomasian*, 79 Md. App. 188, 195 (1989).

B. Proceedings Below

In announcing its ruling from the bench, the circuit court addressed each of the relevant factors enumerated above. In so doing, it determined that Mother and Father were forty-two and thirty-nine years old, respectively, and that neither had any relevant physical or mental condition. It further found that, during their nearly ten-year marriage, the parties "had a typical middle[-]class standard of living[,]" though "they struggled financially . . . for a good part of their marriage." During that time, Father "was the primary financial contributor[,]" while Mother served as the children's primary caretaker prior to the separation. The court recounted that the parties had separated following an "altercation

[that] occurred . . . a few weeks after [Mother] had petitioned . . . to have [Father] committed to a hospital for an emergency medical evaluation."[30]

Turning to the parties' respective financial needs and resources, the court found that Father was employed full-time with a monthly income of $8,560, while Mother earned $2,286 per month as a part-time teacher's aide. The court noted, however, that child support would "equalize, to a certain extent, the financial imbalance." Despite the parties' disparity in income, the court determined that Mother "ha[d] the ability to be self-supporting[,]" reasoning: "She has, in the past, held down well-paying jobs. She, for the time being, is working at the Montessori School, but has just obtained her degree in data science[.]" The court added that Mother had offered neither evidence nor a plan with respect to "the time necessary for [her] to gain sufficient education or training to enable [her] to find suitable employment." In addition to noting that the parties had not reached an agreement on alimony, the court found that Father would be unable to meet his own needs while providing for those of Mother:

> [T]here was a general request for alimony by [Mother], but no specific amount sought. No plan for why there was a need for that alimony.
>
> I have reviewed both parties' financial statements, and I find that [Father] would not be able to meet his own needs, particularly with the child

[30] The court found that Mother had filed the petition either "in an effort to gain an advantage in the custody litigation or . . . as an act of retaliation against [Father for] what she perceived as [his] wrongful conduct during the marriage."

> support obligation. He is not going to be able to meet his own needs while meeting the needs of [Mother].[31]

C. Analysis

Mother does not dispute the circuit court's determination that she failed to produce evidence pertaining to "the time necessary for [her] to gain sufficient education . . . to enable [her] to find suitable employment." FL § 11-106(b)(2). Indeed, although Mother now attributes her rehabilitative alimony request to the pursuit of a master's degree in data analytics, she made no mention of that academic ambition at trial. The court could not, therefore, have erred by failing to consider it.

Mother's income-disparity argument is also unavailing. In a valid exercise of discretion, the court based its alimony assessment on Mother's projected earning capacity—rather than her then-current income. *See Brewer v. Brewer*, 156 Md. App. 77, 121 ("In awarding alimony, the court may impute income to a party if that party is capable of earning more income than he or she is earning at the time of the divorce."), *cert. denied*, 381 Md. 677 (2004); *Crabill v. Crabill*, 119 Md. App. 249, 263 (1998) ("[T]he trial court here properly imputed income to [appellant] based on his experience and ability as a painter."). Although she was working as a part-time teacher's aide earning $17 per hour when the court announced its ruling, Mother was scheduled to receive her bachelor's degree in data science the following month. By Mother's own assessment, the lack of such

[31] In arriving at this determination, the court presumably accounted for Father's obligation to continue paying the mortgage on the marital home during the months that Mother would have exclusive use and possession thereof.

a degree had been "holding [her] back" professionally. Specifically, Mother testified that, upon receiving her degree, she would be "more eligible [for] more senior roles . . . in the IT industry."[32] She also expressed a hope to resume full-time employment "at some point." It stands to reason that the completion of her undergraduate studies, coupled with Father's increased role in caring for the children, would afford Mother the time and flexibility necessary to realize that goal.[33]

Based on the foregoing, the court reasonably found that Mother "ha[d] the ability to be self-supporting." In any event, Father did not bear the burden of proving that Mother could become self-supporting. Rather, the onus was on Mother to prove that she was not. As with custody determinations, moreover, the decision to grant or deny an alimony request does not rest on any single consideration. *See Whittington*, 172 Md. App. at 341 ("[T]he law does not make any of the factors listed in section 11-106(b) determinative or mandate that they be given special weight."). Here, the circuit court addressed the relevant statutory factors, made express findings supported by the evidence, and articulated a rational basis

[32] Even without her degree, Mother's employment history demonstrates a history of professional advancement. During her seven-year tenure at Oracle, she was promoted from a customer analyst to a technical analyst and then to a senior technical analyst before being laid off in July of 2020.

[33] In announcing its ruling, the circuit court found: "In terms of the parents' responsibilities and parenting tasks performed, . . . [Mother] was the primary caretaker. At least prior to the separation. But since the separation the parties have essentially shared these responsibilities when the children are with each of them."

for its decision. On the record before us, therefore, we are not persuaded that the court abused its discretion in declining to award rehabilitative alimony.

JUDGMENT REGARDING CHILD SUPPORT VACATED AND REMANDED TO THE CIRCUIT COURT FOR CARROLL COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. JUDGMENTS OTHERWISE AFFIRMED. COSTS TO BE PAID 85% BY APPELLANT AND 15% BY APPELLEE.