

Circuit Court for Harford County
Case No. 12-C-02-001120

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 739

September Term, 2017

CHARLES LEE WEAVER, JR.

v.

HOLLIN I. WEAVER

Graeff,
Shaw Geter,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.
Alpert, J., concurs in the judgment only.

Filed: March 1, 2019

*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.

Charles Weaver, appellant, challenges the Orders of the Circuit Court for Harford County, which denied exceptions he filed to the Magistrate's Report and Recommendations regarding child support and ordered him to pay child support to his ex-wife, Hollin Weaver, appellee.¹ Mr. Weaver presents several questions for this Court's review,² which we have consolidated and rephrased, as follows:

¹ Ms. Weaver did not file a brief in this appeal.

² Mr. Weaver presents the following questions for this Court's review:

1. Was the Circuit Court in error by allowing the case under Change in Circumstances when it appears there was no change mentioned and the case didn't have any legal basis but was actually a motion to revise the original consent order and should have been filed pursuant to Maryland Rule 2-535 within 30 days?
2. Was the Circuit Court in error by allowing tax returns to be used for proof of income in the April 10, 2015, Magistrate's hearing which is an acceptable form of income under Md. Family Law Code Ann. § 12-203?
3. Was the Circuit Court in error by allowing the case under Change of Circumstances when there was no change but was actually an attempt to state the Appellant falsely claimed that misrepresented his income?
4. Was the Circuit Court in error by not following the Maryland Rules of Practice and Procedure with regards to Answers to Interrogatories and Request for Production of Documents from the Appellee and did that put the Appellant in a disadvantage?
5. Was the Circuit Court in error by allowing different methodologies to determine income as set forth in Md. Family Code Ann. §§ 12-201 et. seq. and why didn't the Court require the Appellee to produce documents to explain her self-employment deductions such as receipts for expenses as outlined in Md. Family Law Code Ann. § 12-203?

1. Did the circuit court abuse its discretion by not dismissing appellee's complaint for failure to adequately respond to discovery requests?
2. Did the circuit court err in finding a material change in circumstances sufficient to modify the child support award?

For the reasons set forth below, we answer each question in the negative,³ and therefore, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

On January 7, 1997, Mr. and Ms. Weaver were married. The parties have two children together, J.F.W., born in August 1998, and J.M.W., born in December 1999. On April 16, 2002, Ms. Weaver filed a Complaint for Limited Divorce in the Circuit Court for Harford County, which she amended on November 27, 2002. On September 10, 2002, the parties entered into a marital settlement agreement, in which they agreed to joint legal

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6. Was the Circuit Court in error by allowing Appellee's counsel to state that the Appellant made \$50,000 more in September 2016 than in April of 2015, where was the proof ever produced for such a claim?
 7. Was the Circuit Court in error in allowing the *Walsh v. Walsh*, 93 Md. App. 710 (1993) case to be argued before the court without any previous mention to the case law?

³ The remainder of the claims not encompassed in the above two questions are not properly before this Court. Mr. Weaver did not sufficiently address in his argument, or cite authority in support for, questions five, six, and seven. *See Assateague Coastkeeper v. Md. Dep't of the Env't*, 200 Md. App. 665, 670 n.4 (2011) (declining to address an issue where appellant failed to adequately brief it), *cert. denied*, 424 Md. 291 (2012); *Conrad v. Gamble*, 183 Md. App. 539, 569 (2008) (declining to address issue because argument was "completely devoid of legal authority"). And the first question presented, challenging the court's ruling in 2015, is not timely. *See Wilson-X v. Dep't of Human Res.*, 403 Md. 667, 673-74, 676 (failure to appeal a child support order that was entered on June 13, 2006, was grounds for refusing to address issues related to that order in an appeal that was filed months later), *cert denied*, 555 U.S. 849 (2008).

custody of their two children, with Ms. Weaver having primary physical custody. Mr. Weaver agreed to pay Ms. Weaver \$1,100 per month in child support, effective July 1, 2002. On March 20, 2003, the circuit court granted Ms. Weaver an Absolute Divorce from Mr. Weaver. The circuit court's judgment incorporated, but did not merge, the terms of the parties' marital settlement agreement, including Mr. Weaver's responsibility to pay Ms. Weaver \$1,100 in child support.

On October 29, 2014, Ms. Weaver filed a Complaint for Modification of Absolute Divorce, alleging a material change in circumstances. She alleged that the minor children were residing almost exclusively with her, with minimal visitation with Mr. Weaver, and "the parties have both increased their income substantially since the Judgment of Absolute Divorce."⁴

On April 17, 2015, Mr. and Ms. Weaver entered into a Consent Order, agreeing that, effective November 1, 2014, Mr. Weaver would pay child support to Ms. Weaver in the amount of \$1,893 per month, with an additional \$100 for accumulated arrearages.⁵ In arriving at that amount, the parties had agreed to utilize their respective W-2 forms and to not engage in testimony or discovery. The Consent Order was approved and docketed by the circuit court.

⁴ Ms. Weaver's complaint stated that the children were in her sole physical custody, as opposed to shared physical custody pursuant to the parties' marital agreement.

⁵ The child support worksheet dated April 10, 2015, indicates a monthly income of \$10,704 for Ms. Weaver and \$10,613 for Mr. Weaver.

On September 10, 2015, Ms. Weaver filed a Complaint for Modification of Child Support, stating that she “believe[d] . . . that [Mr. Weaver] intentionally misrepresented his income,” and alleging that Mr. Weaver “understat[ed] the same by a significant amount of money.” In his answer to the complaint, Mr. Weaver denied “any intentional misrepresentation of income” and stated that his income had not “materially changed since the entry of the consent order.”

On March 9, 2016, Mr. Weaver filed a motion to dismiss Ms. Weaver’s complaint. Ms. Weaver filed an answer to the Motion to Dismiss and attached her short form financial statement, which indicated that her total monthly income, before taxes, was \$7,964. At a hearing before a magistrate, Ms. Weaver testified that this was a decrease in her income, which was due to a re-calculation of her earnings from her part-time position as a nurse. Ms. Weaver indicated that the position had “a benefit . . . of 20 hours per week,” and her pay check fluctuates because “[a]nything that [she] do[es] above that is . . . [a] per diem.”

On March 24, 2016, the circuit court denied the motion to dismiss. The parties then engaged in discovery.

On August 8, 2016, Mr. Weaver filed a motion for sanctions, alleging that Ms. Weaver had failed to respond to his discovery requests. He also filed a renewed motion to dismiss on the ground that the parties’ use of their W-2 forms to calculate their income was based on a mutual agreement. He asserted that Ms. Weaver’s complaint for modification

was procedurally “misleading and [an] improper attempt to circumvent” the allotted 30-day period to file a motion to revise pursuant to Md. Rule 2-535(a).⁶

Ms. Weaver responded by reasserting that the parties’ prior Consent Order was based on “a material misrepresentation by [Mr. Weaver] to deliberately understate his income,” and she demanded that Mr. Weaver provide “strict proof” of his income. On August 22, 2016, the circuit court denied Mr. Weaver’s renewed motion to dismiss.

On September 20, 2016, in response to Mr. Weaver’s motion for sanctions, the circuit court ordered that Ms. Weaver respond to his discovery requests within 20 days. The order stated that, in the event of a failure to comply, “the [c]ourt shall consider other sanctions, including dismissal of [Ms. Weaver’s] Complaint for Modification of Child Support.” On October 6, 2016, Ms. Weaver’s counsel filed a Notice of Service of Discovery with the court, stating that answers to interrogatories were served on Mr. Weaver’s counsel.

On January 6, 2017, Mr. Weaver filed a new motion for sanctions.⁷ In response, Ms. Weaver’s counsel admitted to not formally responding to Mr. Weaver’s document request, asserting that all documents were provided with the answer to interrogatories sent

⁶ Maryland Rule states, in pertinent part, as follows: “On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534.”

⁷ Mr. Weaver also filed, on January 17, 2017, a motion to reduce child support on the basis that J.F.W. had reached the age of majority in August 2016, at which time he had graduated from high school.

to Mr. Weaver in October 2016 and re-sent in November. Ms. Weaver's counsel also alleged that Mr. Weaver "failed to properly serve the Motion for Sanctions" on Ms. Weaver, noting that the motion was sent to the wrong e-mail address for counsel. Ms. Weaver's counsel alleged that "[Ms. Weaver] ha[d] concerns that this was a deliberate attempt to avoid notifying her of pleadings filed in this case."

Magistrate Hearing

On February 22, 2017, the magistrate held a hearing. Mr. Weaver's counsel renewed his motion to dismiss, but the magistrate stated that the motion was one for a judge to resolve.

Ms. Weaver was first to testify. She testified regarding her employment history, noting that in 2015 she was employed as a part-time nurse, with University of Maryland Upper Chesapeake Health ("Upper Chesapeake"), as a real-estate agent with Coldwell Banker, and with an administrative company, Debt Collection Administration ("DCA"), LLC, which she owned. During this period, her adjusted gross income was \$123,067. She provided her tax returns for 2015 and 2016, stating that her employers remained the same in 2016 and 2017, and she expected her income to remain consistent in 2017. The magistrate stated that he would "use the 2016 income for 2017."

On cross-examination, Mr. Weaver's counsel questioned Ms. Weaver about the expenses she claimed related to each job. She had given documents supporting those expenses to her accountant, but not to counsel. Ms. Weaver testified that, as a nurse, she was scheduled to work 20 hours a week, but she had been picking up some extra hours on

weekends filling in for other nurses. There were shift differentials for night shifts, resulting in extra pay.⁸

Mr. Weaver testified next. He stated that his income from the Army National Guard was \$135,692 in 2015, and he received \$5,400 from a slot machine in a casino. In 2016, his income from the National Guard was \$136,245, and he received an additional \$600 from gambling. At the time of the hearing, his pay was the same, but he stated that he was retiring on July 1, 2017, and his pay would “be cut 45% at least.”

On cross-examination, counsel for Ms. Weaver asked Mr. Weaver if his W-2 was used to ascertain his income for the 2015 order, which he confirmed. The W-2 indicated that his income was \$127,356. Counsel asked if Mr. Weaver also received additional employee benefits provided through his employment with the Army National Guard. Mr. Weaver stated that he received a basic housing allowance of \$3,147 each month, a “flight pay incentive pay” of \$192.50 twice a month, and a “subsistence allowance” of approximately \$250 each month.

Counsel for Ms. Weaver argued that child support should be modified based on a change of circumstances. He asserted that Mr. Weaver’s income proffered in 2015 was \$127,000, and in 2016 it was roughly \$180,000. He asked for a modification from

⁸ During the questioning, the magistrate stated that his wife was a nurse at Franklin Square, and the hours displayed on her pay check did not always match the hours she worked, explaining that if she worked 10 hours as a charge nurse, they would “put 10 hours at an extra \$2 for the extra two bucks she gets at charge nursing.” He said that it was “confusing” and questioned how it was relevant to the issue of child support.

September 2015, when he filed the motion to modify, and again in August 2016, when the oldest child turned 18. Counsel for Mr. Weaver took issue with the income and expenses that Ms. Weaver provided, and he argued there was no changed circumstances to warrant a modification of child support.⁹

As indicated, the magistrate stated that it was going to conduct its calculation for the child support guidelines utilizing the 2016 income totals for their 2017 income. Neither party voiced an objection.

On February 24, 2017, the magistrate issued its report and recommendations. In summarizing the evidence before it, the magistrate noted the parties' respective income, as follows:

The Plaintiff [Ms. Weaver] is employed earning income from three different entities. She works at Upper Chesapeake Medical Center as a Registered Nurse, Coldwell Banker as a real estate agent, and as the owner of a company called Debt Cancellation Administration LLC. Her combined income from those three entities as found on Plaintiff's exhibit number one, her 2015 individual tax return, was \$123,067. In 2016 she earned \$126,574 from those three entities. She expects to earn approximately the same amount in 2017.

The Defendant [Mr. Weaver] is employed with the Army National Guard. In 2015 he earned a total of \$135,692 taxable income from that source and an additional \$5400 in gambling income. In 2016 he earned \$136,245 of taxable income with the Army National Guard and \$600 in gambling income.

...

The taxable income for [Mr. Weaver] is not his only income from the Army National Guard. In 2015 as well as 2016 he had basic housing allowance of \$1719.00 two times a month, incentive of \$247.50 twice a

⁹ Counsel for Ms. Weaver made other arguments that do not relate to the issue of changed circumstances. Because the magistrate limited his finding to that issue, we need not discuss those arguments.

month, and subsistence of \$126.81 twice a month. Those numbers changed effective January 1, 2017 with basic housing allowance being \$1573.50 twice a month, incentive being \$192.50 twice a month, and subsistence being \$126.81 twice a month.

The magistrate acknowledged the circumstances of the parties' consent order and addressed Ms. Weaver's allegations against Mr. Weaver. It stated, as follows:

It should be noted that when Child Support was calculated pursuant to the Consent Order dated April 17, 2015 the only figures used were [Mr. Weaver's] taxable income with the Army National Guard. The basic house allowance, incentive, subsistence and gambling income were not included. [Ms. Weaver] is basically alleging a type of fraud with regard to [Mr. Weaver's] failure to provide his income. [Mr. Weaver] argues that this income was present at the time of the Consent Order and there has been no change of circumstance which would warrant a Modification of Child Support because of that fact.

The magistrate agreed that there was a change of circumstances based on "the discovery of the additional income for [Mr. Weaver]." The magistrate determined that Mr. Weaver's 2015 income was \$15,944 per month,¹⁰ compared to the \$10,613 calculated pursuant to the Consent Order. In 2016, the magistrate calculated Mr. Weaver's income to be \$15,590 a month, based on his salary of \$136,845 from the Army, \$600 in gambling income, and \$4,186 per month in nontaxable benefits. For 2017, the magistrate calculated

¹⁰ The magistrate arrived at this figure by taking his taxable income from the United States Army Reserve and adding the gambling winnings and Mr. Weaver's incentive payments, i.e., basic housing allowance, incentive pay, and subsistence income.

Mr. Weaver's monthly income to be \$15,143, including his income of \$136,245 from the Army and his nontaxable benefits of \$3,789.22 per month.¹¹

The magistrate then addressed Ms. Weaver's income. He found that, for 2015, she made \$123,067, or \$10,256 a month.¹² For 2016, the magistrate calculated Ms. Weaver's income as \$10,548 per month, or \$126,574 for the year, based on her income tax return.

The magistrate calculated child support for four different time periods. From September 5, 2015, the date the complaint for modification was filed, until January 1, 2016, the magistrate recommended child support in the amount of \$2,931 per month. From January 1, 2016, to August 5, 2016, when J.F.W. was emancipated, the magistrate recommended child support in the amount of \$2,860 per month. From August 6, 2016, through January 1, 2017, the magistrate recommended child support in the amount of \$1,939 per month. Finally, from January 1, 2017, forward, the magistrate recommended child support in the amount of \$1,878 per month. The magistrate recommended that Mr. Weaver pay arrearages in the amount of \$250 a month. The magistrate also recommended that Mr. Weaver pay Ms. Weaver \$3,000 for attorney's fees because Ms. Weaver "had to file the Motion for Modification of Child Support because [Mr. Weaver] . . . was not totally honest about his income."

¹¹ The court reduced Mr. Weaver's income by \$250 each month to account for the health insurance expense for the coverage of his two children. When J.F.W. was emancipated, this number was reduced to \$200 per month.

¹² The report says a monthly income of "\$1,256." The remainder of the magistrate's report, as well as the guidelines he used, make clear this is a typographical error.

On March 6, 2017, Mr. Weaver noted his exceptions to the Magistrate's Report and Recommendation. He argued that there was no showing of a change in circumstances justifying the new child support award. He also challenged the magistrate's findings regarding the parties' income, and the recommendation regarding attorney's fees.

Exceptions Hearing

On May 4, 2017, the circuit court held a hearing on Mr. Weaver's exceptions. The court asked the basis for a finding of a material change in circumstances. Counsel for Ms. Weaver replied that Mr. Weaver's income was \$50,000 higher in September 2016 than it was in April 2015, which resulted in an income of approximately \$180,000, and based on the latter amount, application of the guidelines resulted in an increase of child support of more than 50%.

The circuit court found no error in the magistrate's determination that there had been a material change in circumstances, noting that, after the agreement in 2015, Ms. Weaver discovered that Mr. Weaver's income was higher because of "gambling income and also some housing stipends that increased significantly [his] income that was previously agreed to by the parties." With respect to the award of attorney's fees, however, the court granted Mr. Weaver's exception. The court explained that, although Ms. Weaver "had valid reasons for bringing the action in light of the change in income she discovered," its decision to not award attorney's fees was based on "the difficulties [Mr. Weaver] had in obtaining discovery from [Ms. Weaver]" and the "prior court order regarding sanctions and ordering [Ms. Weaver] to comply." With respect to Ms. Weaver's noncompliance, the court stated:

“While the [c]ourt does not necessarily find that the violation was an egregious one requiring dismissal of [Ms. Weaver’s] modification request, the [c]ourt does believe that it is a factor this [c]ourt should consider in determining whether or not the actions taken by [Mr. Weaver] in defending [against the action] were appropriate.” The court stated that, due to the discovery dispute, the magistrate’s recommendation of attorney’s fees for Ms. Weaver was “not proper,” so it would grant Mr. Weaver’s “exceptions on that issue but overrule the rest.”

On May 4, 2017, the court issued an order approving the magistrate’s recommendations regarding the modification of child support. It provided as follows:

ORDERED that effective September 5, 2015 [Mr. Weaver] shall pay Child Support to [Ms. Weaver] in the amount of \$2931 a month, said payments to be made by wage lien and through Harford County Office of Child Support Enforcement; and it is further

ORDERED that effective January 1, 2016 [Mr. Weaver] shall pay Child Support to [Ms. Weaver] in the amount of \$2860 a month, said payments to be made by wage lien and through Harford County Office of Child Support Enforcement; and it is further

ORDERED that effective August 6, 2016 [Mr. Weaver] shall pay Child Support to [Ms. Weaver] in the amount of \$1939 a month, said payments to be made by wage lien and through Harford County Office of Child Support Enforcement; and it is further

ORDERED that effective January 1, 2017 [Mr. Weaver] shall pay Child Support to [Ms. Weaver] in the amount of \$1878 a month, said payments to be made by wage lien and through Harford County Office of Child Support Enforcement; and it is further

ORDERED that [Mr. Weaver] shall pay an additional \$250 a month towards his Child Support arrears, said payments to be made by wage lien and through Harford County Office of Child Support Enforcement.

On June 8, 2017, Mr. Weaver noted a timely appeal to this Court.

DISCUSSION

I.

Dismissal

Mr. Weaver contends that, in light of Ms. Weaver’s “persistent refusal to answer discovery in a timely fashion,” the circuit court was compelled “to impose the ultimate sanction of dismissal” of the complaint. Although Ms. Weaver did not file a brief in this Court, her counsel advised the circuit court that Ms. Weaver did give Mr. Weaver answers to interrogatories and she provided all documents requested.

“Maryland Rule 2-433(a)(3) gives the trial courts broad discretion to impose sanctions for discovery violations, ranging from striking pleadings to dismissals.” *Rose v. Rose*, 236 Md. App. 117, 131, *cert. denied*, 459 Md. 417 (2018). *Accord Klupt v. Krongard*, 126 Md. App. 179, 193 (“Maryland law is well settled that a trial court has broad discretion to fashion a remedy based on party’s failure to abide by the rules of discovery.” (quoting *Warehime v. Dell*, 124 Md. App. 31, 43–44 (1998)), *cert. denied*, 355 Md. 612 (1999). The “‘decision whether to invoke the ‘ultimate sanction’ [of dismissal] is left to the discretion of the trial court.” *Cumberland Ins. Group v. Delmarva Power*, 226 Md. App. 691, 698 (2016) (quoting *Valentine-Bowers v. Retina Group of Washington, P.C.*, 217 Md. App. 366, 378 (2014)), *cert. denied*, 447 Md. 298 (2016).

Here, the circuit court considered Mr. Weaver’s motion for dismissal of the complaint. Although it viewed Ms. Weaver’s lack of complete compliance with her

discovery obligations a basis to sustain the objection to the magistrate’s award of attorney’s fees, it did not find the violation to be so egregious as to warrant dismissal of the complaint. Mr. Weaver has not persuaded us that the court’s ruling in this regard was an abuse of discretion.

II.

Modification of Child Support

Mr. Weaver’s next contention is that the circuit court erred in finding a material change in circumstances to warrant a change in child support. We disagree.

In *Meyr v. Meyr*, 195 Md. App. 524 (2010), we set forth the applicable standard of review, as follows:

In reviewing an action that has been tried without a jury, “the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c). “If there is any competent evidence to support the factual findings below, those findings cannot be held to be clearly erroneous.” *Friedman v. Hannan*, 412 Md. 328, 335–36 (2010) (quoting *Solomon v. Solomon*, 383 Md. 176, 202 (2004)).

The clearly erroneous standard does not apply to legal conclusions. *Karsenty v. Schoukroun*, 406 Md. 469, 502 (2008). “Where a case involves ‘the application of Maryland statutory and case law, our Court must determine whether the lower court’s conclusions are “legally correct” under a *de novo* standard of review”” *Clancy v. King*, 405 Md. 541, 554 (2008) (quoting *Walter v. Gunter*, 367 Md. 386, 392 (2002)).

When a party seeks a modification of an agreement regarding child support, “[t]here are essentially four ways to modify or change” its terms:

[(1)] The parties could mutually agree to change the terms; [(2)] the court could change the terms pursuant to § 8-103 of the Family Law Article [prior to the divorce

if the modification is in the best interests of the child]; [(3)] the court could change the terms pursuant to §§ 12-104 and 12-202 of the Family Law Article [if there has been a material change of circumstances]; or [(4)] the court could change the terms pursuant to [Maryland] Rule 2-535 [on motion filed after 30 days from entry of the judgment, “in case of fraud, mistake, or irregularity.”]

Knott v. Knott, 146 Md. App. 232, 257 (2002).

In *Knott* the issue concerned a consent order by the parties prior to the circuit court’s issuance of a Judgment for Divorce. Because the consent order was interlocutory, the only applicable avenues were (1) through mutual agreement to change the terms or (2) pursuant to Md. Code (2017 Repl. Vol.), § 8-103 of the Family Law Article (“FL”). *Id.* at 257–58.

Here, because the consent order was incorporated in a final judgment of divorce, Ms. Weaver sought to modify the child support on the basis of: (1) Rule 2-535, asserting that Mr. Weaver misrepresented his income; or (2) FL § 12-104(a), asserting that the difference in income that was the basis of the consent order and the income known at the time of filing of the motion constituted a material change in circumstances.

The circuit court, however, granted the motion to modify on the ground of a material change in circumstance based on a change in Mr. Weaver’s income. Accordingly, we will limit our analysis to that issue.

Pursuant to FL § 12-104, a court may modify child support “upon a showing of a material change in circumstance.” A change in circumstance is “material” if two requirements are met:

First, the change “must be relevant to the level of support a child is actually receiving or entitled to receive.” Second, the change must be “of sufficient magnitude to justify modification of the support order.” Thus, the

court must focus upon the alleged change in income or support that have allegedly occurred after the support award was issued.

Wheeler v. State, 160 Md. App. 363, 372 (2004) (quoting *Wills v. Jones*, 340 Md. 480, 488–89 (1995)) (internal citations omitted). “A ‘change that affects the income pool used to calculate the support obligations upon which a child support award’ is based is necessarily relevant.” *Id.* at 373 (quoting *Wills* at 488 n.1).

Here, Mr. Weaver’s income, calculated to include benefits and gambling winnings, increased close to \$50,000 from the amount attributed to him in 2015, from \$135,692 per year in 2015 to approximately \$180,000 at the time the motion to modify was filed. Using the child support guidelines, Mr. Weaver’s support obligation changed from \$1,893 a month to \$2,931 a month, representing an increase of more than 50 percent. Under these circumstances, the circuit court did not abuse its discretion in granting the modification of child support based on a material change in circumstances.

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

Judge ALPERT concurs in the judgment only.