Circuit Court for Baltimore County
Case No. C-03-FM-23-005154

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0767

September Term, 2024

DOREEN DAY

v.

CHARLES DAY

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: November 20, 2025

This appeal comes to us from the Circuit Court for Baltimore County following the issuance of a Judgment of Absolute Divorce ("JAD") that dissolved the marriage of Appellant Doreen Day and Appellee Charles Day. Here, Ms. Day challenges the circuit court's granting of rehabilitative alimony for a period of two years.

On appeal, Ms. Day presents one question for our review:

> [Did] the Circuit Court abuse[] its discretion in awarding rehabilitative alimony in the amount of $1,000 per month for a period of two years, despite finding that Appellant is disabled and "unable to hold employment," rendering her unable to self-support within the meaning of FL § 11-106?

We answer this question in the affirmative and vacate the circuit court's judgment as to alimony and retroactive alimony. This decision necessitates that we also vacate the circuit court's monetary award, division of marital property, and denial of Ms. Day's request for attorney's fees. We remand for further proceedings not inconsistent with this opinion.

BACKGROUND

The parties married in April 1983 and separated in April 2022. The couple had one child together, who is now an adult. Also in the household was Ms. Day's child from a prior marriage. On September 7, 2023, Mr. Day filed for absolute divorce, and a couple weeks later, Ms. Day counterclaimed for an absolute divorce, monetary award, alimony, and related relief. At the time of the divorce proceeding, Ms. Day was sixty-five years old, and Mr. Day was about to turn sixty-six.

The parties appeared before the trial court on May 29, 2024, for a merits trial on the issues of divorce, alimony, division of marital assets, and Ms. Day's request for a monetary award and attorney's fees. Both Mr. Day and Ms. Day testified, and they called no other witnesses.

There was "substantial agreement" by the parties on a number of the facts, as acknowledged by the court after opening statements. Ms. Day and Mr. Day were married nearly forty years. Both parties worked throughout the marriage up to 2020, when Ms. Day went on disability leave. In addition to working, the bulk of the household and family obligations fell to Ms. Day. She cleaned, cooked, laundered, and reared the children. But Mr. Day helped with mowing the lawn and with caring for both children. Mr. Day and Ms. Day enjoyed a "comfortable, middle-class lifestyle" while they were married.

They separated more than once during the marriage, but they separated for the final time in the spring of 2022. In 2021, prior to the separation, Ms. Day and Mr. Day moved in with Mr. Day's sister and mother for a short period, so Ms. Day could take care of Mr. Day's sister (who had cancer) and Mr. Day's mother (who is elderly). A year later, the couple again moved in with Mr. Day's sister and mother, to care for Mr. Day's sister when her cancer recurred. Shortly thereafter, the couple had a disagreement, and Ms. Day moved back to their marital home. After about a year, Ms. Day and Mr. Day sold their home and divided the proceeds equally. Ms. Day moved to an independent-living apartment in a retirement community. Mr. Day continued residing at his mother's home. Ms. Day did not request or receive money from Mr. Day since they sold the home.

Mr. Day provided background on his employment, living situation, and financial plans. Mr. Day began working at age fifteen, and he will be eligible for social security benefits upon being nearly sixty-nine (specifically, sixty-six years and eight months old). He works as an operations manager, overseeing an apartment complex. His sister passed away, and he is currently living on the lower level of his mother's house. He takes care of his mother, but she has her own income to pay the bills. He plans to buy the house and make substantial repairs and renovations. He would like to retire within the next two years.

Ms. Day also testified regarding her disabilities and job history. Ms. Day suffers from anxiety, depression, fibromyalgia, Dupuytren's disease, arthritis, and osteoarthritis. Her Dupuytren's disease[1] and osteoarthritis affect her ability to use her hands, and she has a hard time grasping things or driving for long period of time. She also has osteoarthritis in her hips and arthritis in her spine, making it difficult to sit or stand at length and affecting her sleep. She also experiences nerve pain due to her fibromyalgia. She takes painkillers each morning but experiences pain on a daily basis.

[1] Dupuytren's disease is "an abnormal thickening of the skin in the palm of your hand at the base of your fingers" which "can cause one or more finger to curl (contract), or pull sideways or in toward [the] palm." *Dupuytren's Contracture*, Johns Hopkins Medicine, https://www.hopkinsmedicine.org/health/conditions-and-diseases/dupuytrens-contracture (last visited Nov. 17, 2025).

Ms. Day worked throughout the marriage, working for an industrial filtration company for twenty years—up until 2020. As of August 2, 2020, the Social Security Administration deemed Ms. Day disabled, based on her anxiety, depression, and osteoarthritis. She receives $1,474 per month in Social Security Disability Income ("SSDI"). She briefly worked as a caregiver for three weeks in March 2024 but injured her back. Ms. Day does not currently withdraw the interest and income she receives on her assets, including her retirement account.

At the time of the divorce trial, Ms. Day lived alone and paid $1,076 in rent for her two-bedroom apartment. Her brother had lived with her in the apartment and contributed toward expenses for a while, but he moved out in early 2024 and could not move back in with Ms. Day due to a protective order. There was a waiting list for a one-bedroom apartment, which rented for $700 a month, in the same retirement community, but Ms. Day was not on the waiting list. Her daughter, to whom she recently sent cash to help with rent, could not move in with her due to the age restrictions of the retirement community. Ms. Day was not sure if she would move if a cheaper apartment became available, stating, "[m]entally and physically I'm not sure if I can go through that again."

The parties both submitted exhibits during trial, including the closing contract for the sale of the marital home, paystubs and tax documents, financial statements, and credit card bills. Ms. Day introduced her attorney's fees bills. Ms. Day's financial statement indicated a total monthly income of $1,474 and total monthly expenses of $3,268. Mr.

Day's financial statement indicated a total monthly income of \$3,926.95 and total monthly expenses of \$4,146.59.

After closing arguments and a recess, the court delivered its oral ruling, awarding Ms. Day \$1,000 per month alimony for a period of two years, among other things.

> Dealing first with the factors that are applicable to both alimony and marital property under the Family Law Article, the two sections that apply there, they are virtually the same and I think any of the factors don't -- to the extent that I don't mention them, either evidence wasn't provided or it's a *de minimus* factor. So that the parties – let's talk about the parties themselves.
>
> They were married in 1983 and have been separated for the last time in 2022. September of 2022. Excuse me. In April, April 4th of 2022. They separated for the last time. They had been separated on and off prior to that time. Perhaps for as much as a couple of years at points. So this was a marriage of some length. Nearly 40 years they lived together as husband and wife.
>
> In evaluating the contribution of the parties to the household, the testimony was from [Ms. Day] that both parties worked throughout the marriage, at least up through 2020, and in addition to that, [Ms. Day] testified that she would take care of the household. She would do the cooking, the cleaning, the laundry and help raise the kids. The parties have one child between them and [Ms. Day] had another child from another relationship, from a prior marriage.
>
> The testimony was that Mr. Day would do some of the outside work including cutting the lawn. It breaks down to be a fairly traditional division of responsibilities. It sounds like on the whole, [Ms. Day] probably did a little bit more than Mr. Day did, but I think that in fairness, both parties contributed to the well-being of the household, both monetarily and also in non-monetary ways. Again, if I had to choose a tie breaker there, I would probably go with [Ms. Day] having done a little bit more.
>
> In terms of the factors that caused the dissolution of the marriage, in April of 2022, the parties had been having problems. I think it may have been exacerbated by the demands on both parties by the health of Mr. Day's mother and sister. Both of whom required treatment and the testimony was uncontroverted that [Ms. Day], despite her own health issues, stepped in and helped to care for both Mr. Day's mother and his sister, who ultimately succumbed to cancer. I get the sense that that created pressures on the marriage that ultimately kind of brought it down -- otherwise, it's difficult to pinpoint in many marriages and these parties' marriage isn't really different.

> There are all kinds of factors that cause two people to ultimately get to the point where they cannot live together and that's what happened here. I don't find any particular fault on the part of either party. It is a marriage that simply broke down.
>
> In terms of the health and the particulars as to each of the parties, Mr. Day is 66 years old. He will be 66 on June 9th. His health is pretty good. [Ms. Day] is 65 years old and her health is not nearly as good. She has suffered this year from a herniated disc or the effects of it. Whether it was caused this year or not, it gave her enough trouble that she had to seek medical care for it. She has been determined to be disabled since 2020 by the Social Security Administration as a result of a variety of conditions, including anxiety, depression and osteoarthritis.
>
> [Ms. Day] also testified that she suffers from fibromyalgia, all of which in her opinion, and the Court agrees, makes her unable to hold employment at this point in time.
>
> During the course of the parties' marriage, the testimony was consistent that they lived a modest, yet comfortable life. Neither too grand, nor too sparse. They were able to make their bills, raise their family and live in a home that they made for themselves.
>
> At this time in terms of income, the Court finds that Mr. Day, who is employed as a project manager for an apartment complex, earns an amount of $3,926 net per month. I've taken that number from his financial statement that was submitted into evidence. That's in terms of salary that he makes.
>
> [Ms. Day]'s income is from Social Security Disability income from which nets each month in the amount of $1,474.

After addressing division of marital property (including a division of Mr. Day's pensions from his previous employer, from which Ms. Day would receive about $242 in monthly income) and a monetary award to Ms. Day of $31,462 (from Mr. Day's Fidelity accounts) , the court continued its discussion of the alimony factors:

> The other issue and the more thorny one, frankly, is the request for alimony. As I described, [Ms. Day] has a disability that prevents her from working at this point. So she is living on the Social Security Disability income which she receives, at least at this point in time. That may change in the future depending upon eligibility for further Social Security benefits. There was no testimony as to what that might be and I don't take that into account in any way. I take a snapshot of the parties' situations at this point in time.

By dividing the two LaFarge pensions, [Ms. Day] will receive an additional $242 per month. She will also have an amount of approximately $105,000 in assets, retirement assets, at the end of the day. Those assets also generate income and they generate them for Mr. Day as well as [Ms. Day]. So that's all understood.

In evaluating the parties' financial statements, I have no particular reason to disagree with any of them. I do note that the amount listed for food for [Ms. Day] on [Ms. Day]'s statement, which I believe is $800 per month, is inconsistent with her testimony in which she said that she spends about $100 per week on food. So I take that into account in evaluating the overall needs of the parties.

Mr. Day's financial statement is different because he made an estimate as to what his rent would be. That was in January. Since that time, he is determined to purchase his mother's house in which he's been living and that the expenses related to that will be, including mortgage and gas and electric, about $1,400, $1,500. So there is that adjustment to the financial statement.

So considering all of this, and I have taken into account that Mr. -- I have taken into account Mr. Day's testimony and I assumed this was discussed at some point, even though there was no specific testimony on, it's fair to assume that the parties discussed something about their future at some point during their 40 years of marriage and it was Mr. Day's testimony that he always anticipated that he would retire when he got to be 68, 69 when he was eligible. That's about 2 years hence.

Again, I took stock of the parties and their income and needs as of today, not in contemplation of any future event. At this point in time it appears that the statements that Mr. Day, if I can just focus on income because the other matters kind of net out the division of the pension and retirement accounts, that Mr. Day makes approximately twice as much as [Ms. Day] receives at this moment in her disability benefits. If one were to add them together and divide them in half, that would leave a shortfall to [Ms. Day]. I think picking up on [Mr. Day's counsel's] argument that it is appropriate to consider that the transition that [Ms. Day] has gone through over the last couple of years, she had been able to share expenses with her brother up until earlier this year, that change has affected her pocketbook and her income because her brother would pick up some of the expenses. So considering all of that, the Court will award alimony for a period of 2 years. I think that ought to be enough to help [Ms. Day] through the transition. So I will award an amount of $1,000 per month to roughly equalize, and it doesn't exactly equalize it, but roughly equalize the income the parties overall will have or have at this time. I will not make that -- I decline to make that retroactive to the date of filing.

So that covers the issue of alimony.

The court memorialized the award of rehabilitative alimony in its JAD, issued on June 10, 2024. This appeal timely followed.

We will add additional facts as necessary.

STANDARD OF REVIEW

We review an alimony award for clear error and abuse of discretion. *Tracey v. Tracey*, 328 Md. 380, 385 (1992) ("An alimony award will not be disturbed upon appellate review unless the trial judge's discretion was arbitrarily used or the judgment below was clearly wrong."). We apply the abuse of discretion standard to a court's refusal to grant indefinite alimony. *Benkin v. Benkin*, 71 Md. App. 191, 195–96 (1987) (citing *Brodak v. Brodak*, 294 Md. 10, 28–29 (1982), among others). We apply the clearly erroneous standard to the court's factual findings. Md. Rule 8–131(c).

This standard governs our review of both the first- and second-level findings involved in alimony decisions. Specifically, in the first-level facts—like the circuit court's baseline findings on the § 11-106(b) factors in Maryland's Family Law ("FL") Article—we look only for clear error. *Wenger v. Wenger*, 42 Md. App. 596, 607 (1979). In the second-level findings—like whether a basis for indefinite alimony exists under Section 11–106(c)—we also look only for clear error. *Solomon v. Solomon*, 383 Md. 176, 196-97 (2004).

DISCUSSION

I. Legal Framework

Section 11-106 of the Family Law Article guides a court's analysis in determining whether, how much, and for how long to award alimony. *Boemio v. Boemio*, 414 Md. 118, 125 (2010). Specifically, a trial court must consider "all the factors necessary for a fair and equitable award," including twelve enumerated 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;
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> (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;
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> (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;
> >
> > (iii) the nature and amount of the financial obligations of each party; and
> >
> > (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). The court need not "employ a formal checklist, mention specifically each factor, or announce each and every reason for its ultimate decision." *Crabill v. Crabill*, 119 Md. App. 249, 261 (1998). But its ruling must demonstrate "consideration of all necessary factors. After considering the twelve factors, the trial court must then decide whether to grant rehabilitative or indefinite alimony." *Simonds v. Simonds*, 165 Md. App. 591, 605 (2005) (cleaned up).

In Maryland, "the guiding principle [is] that alimony be temporary and rehabilitative" for the recipient spouse. *Karmand v. Karmand*, 145 Md. App. 317, 328 (2002). *See also*, *Malin v. Mininberg*, 153 Md. App. 358, 415 (2003) ("Maryland's statutory scheme favors fixed-term, rehabilitative alimony rather than indefinite alimony." (cleaned up)). We have said,

> The award of alimony in the ordinary case should be for a specific time, and that time should be stated in the Order or Decree making the award. Preferably, that time should be fixed in relation to a specified program or goal on the part of the recipient party that will lead to self-sufficiency before that time.

Karmand, 145 Md. App. at 327 (quoting 1980 *Report of the Governor's Commission on Domestic Relations Laws*, at 4).

Though the statute favors temporary alimony, *Karmand*, 145 Md. App. at 328, the circuit court may award indefinite alimony if the recipient is not capable of progressing toward self-support for enumerated reasons or will have "an unconscionably disparate" standard of living even after making as much progress toward self-support as can reasonably be expected. In this regard, Section 11-106(c) provides:

> (c) The court may award alimony for an indefinite period, if the court finds that:
>
> > (1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or
> >
> > (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

FL § 11-106(c).

Whether an alimony award should be for a fixed period (rehabilitative alimony) or for an indefinite period hinges in significant measure on the recipient spouse's ability to be self-supporting in the future. *St. Cyr v. St. Cyr*, 228 Md. App. 163, 188 (2016) ("The core considerations of FL §§ 11-106(b)(1) and (b)(2) are closely connected to the issue of whether to grant alimony for a fixed or indefinite period."). Where the trial court fails to address "the mandatory factor in [FL] [S]ection 11-106(b)(2), the time required for [the alimony recipient] to become wholly or partially self-supporting[,]" such that we cannot determine "from whence [the trial court's] determination on duration of alimony came[,]" we will vacate the trial court's alimony determination for further evaluation and findings. *Long v. Long*, 129 Md. App. 554, 581–82, 588 (2000). *See also St. Cyr*, 228 Md. App. at 189–90 ("If a reviewing court is in the dark as to what future income the trial judge thought the dependent spouse would have, the court is unable to determine whether the trial judge abused his or her discretion in the alimony ruling." (cleaned up)); *Lee v. Lee,* 148 Md. App. 432, 447, 457–56 (2002) (vacating rehabilitative alimony award where "the duration of the rehabilitative alimony award appears to have been pulled out of 'thin air'"); *Benkin,* 71 Md. App. at 204 (requiring "some relation" between the length of the alimony award and the trial court's conclusion as to income disparity).

In *Long v. Long*, the chancellor granted rehabilitative alimony for four years without explaining this duration. 129 Md. App. at 565. There, Ms. Long (the alimony recipient) suffered from agoraphobia, which prevented her from maintaining a job. *Id.* The chancellor denied the wife's request for indefinite alimony based on her history of employment, demonstrated job skills, and her engagement in therapy at the time of trial. *Id.* Specifically, the chancellor found that the wife could find a job earning a little more than two thousand dollars a month, then awarded alimony of three thousand a month for four years. *Id.* at 581. On appeal, we held that the chancellor's determination of alimony did not align with his findings of fact. *Id.* at 579. We found no error with the chancellor's finding that the wife had valuable work skills and *could* successfully return to the workforce. *Id.* at 581. Instead, we focused on the chancellor's failure to explain how and "why he reached specific findings." *Id.* We were unable to "ascertain from whence his determination on duration of alimony came because he does not specifically treat the mandatory factor in [S]ection 11-106(b)(2), the time required for Wife to become wholly or partially self-supporting." *Id.* at 581–82. Nor did the chancellor's opinion "state from what evidence he determined that Wife could *retain* a job earning $2,083.33 per month, i.e., $25,000 per year, given her current and projected mental condition." *Id.* at 582. We concluded,

> [T]he findings of fact show that the litigant before us is 52 years of age, has few assets, suffers from a mental health condition with an unknowable prognosis for full recovery, and has been out of the workforce, because of illness and perhaps at Husband's behest, for several years. . . . The facts of the story as determined by the court below thus do not match the parsimonious award it ultimately granted. Because the chancellor failed to draw a solid line between the facts and the remedy, explaining fully how the former justifies the latter, he abused his discretion in our view.

Id. at 582–83.

In *Lee*, the chancellor denied indefinite alimony, awarding a wife rehabilitative alimony for a term of three years. 148 Md. App. at 433. There, the chancellor thought the wife "would benefit economically if she took some college courses[,]" but "gave no clue as to why he believed [the wife] could be self-supporting in three years (assuming he did have that belief) or what line of work he thought she could engage in to allow her to become self-supporting." *Id.* at 444. The wife, a high school graduate who had earned a few community college credits, "worked sporadically during the marriage but always at low-paying jobs." *Id.* at 435. Though not involving a claim under Section 11-106(c)(1), we likened this case to *Long* because, in both cases, the chancellor "provided an insufficient rationale" for the duration of the term alimony awarded. *Id.* at 446. We remanded for further findings on whether the wife had the ability to be self-supporting based on the evidence already presented or, if need be, additional evidence. *Id.* at 456. We noted that "if the durational aspect of an alimony award is not sufficiently explained, that deficiency makes it difficult to determine" whether the indefinite alimony factors have been "properly considered." *Id.* at 444–47.

In *Benkin*, we vacated a five-year alimony award after the trial court failed to explain its reasons for the duration of its award. 71 Md. App. at 198–204. Ms. Benkin was fifty-one years old when divorced, had arthritis, and had not been employed outside the home for nearly two decades. *Id.* at 196. We agreed with the trial court's conclusion that Ms. Benkin's arthritis "was not of sufficient magnitude" to support an indefinite alimony award under Section 11-106(c)(1). *Id.* at 198. But the trial court also found that Mr. Benkin was to receive his salary "for some time to come" while Ms. Benkin's "situation . . . [was] almost totally the opposite[]," and that Ms. Benkin's "standard of living [would] decline much more appreciably than" Mr. Benkin's. *Id.* at 202. Concluding that there was "no basis in the record for the five year limitation under the [11-106](c)(2) standard[,]" we held that "there must be some relation between the length of the award and the conclusion of fact as to the income disparity made by the court." *Id.* at 203–04.

II. Analysis

Here, the trial court's findings did not support its denial of Ms. Day's indefinite alimony request. At the time of divorce, according to the trial court's findings, Ms. Day was not self-supporting because her reasonable expenses outstripped her income by about two to one. Thereafter, the trial court made no findings about how long it would take Ms. Day to become self-supporting. Instead, the trial court found that Ms. Day had a disability that prevented her from working and that she was not likely to secure enough additional training or education such that she could make substantial progress to becoming self-supporting. The trial court acknowledged that its findings were a "snapshot in time" as of the time of divorce. In other words, the trial court's findings did not explain how, in the face of her disability, Ms. Day could make substantial progress toward becoming self-supporting during the two-year duration of its rehabilitative alimony award.

A. Ability to be Wholly or Partly Self-Supporting

The trial court's findings suggested that at the time of divorce, Ms. Day was not able to support herself financially.[2] Under Section 11-106(b)(1), the trial court must consider "the ability of the party seeking alimony to be wholly or partly self-supporting[,]" among other factors. FL § 11-106(b)(1). Generally, a party is self-supporting when her income exceeds her reasonable expenses, as determined by the court. *St. Cyr*, 228 Md. App. at 186. Here, the trial court's findings demonstrated that Ms. Day's monthly income, $2,116, was not enough to pay her reasonable monthly expenses of $2,868.

Specifically, the trial court found that Ms. Day "[was] living on . . . Social Security Disability income[,]" a sum "which nets each month in the amount of $1,474." In addition, found the trial court, Ms. Day would receive $242 per month from the

[2] The court found that dividing the parties' total income in half "would leave a shortfall to [Ms. Day]."

LaFarge pensions and $105,000 in retirement and other assets. Of these assets, the trial court found "[t]hose assets also generate income" for Ms. Day. Although the trial court did not make explicit how much income these "other" assets would generate, Mr. Day's counsel estimated in closing argument, and Ms. Day's counsel agreed, that it would be $400 per month, a figure the trial court appears to have adopted. As for Ms. Day's reasonable expenses, the trial court largely accepted the figures on Ms. Day's financial statement but reduced her monthly food expense to $400 per month,[3] leaving a monthly total of $2,868. Even with the passive income she was to receive from her retirement and other assets, the difference between Ms. Day's monthly income ($1,474 plus $242 plus $400, or $2,116) and her reasonable expenses ($2,868) was $752.

B. Ability to Become Wholly or Partly Self-Supporting

With findings suggesting that Ms. Day was not self-supporting at the time of divorce, the trial court failed to determine how long it would take for Ms. Day to become self-supporting. Under Section 11-106(b)(2), the trial court must consider "the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment[.]" FL § 11-106(b)(2). This has been interpreted to mean "the time required for [the dependent spouse] to become wholly or partially self-supporting." *See Lee*, 148 Md. App. at 445.

[3] Ms. Day's financial statement showed a monthly grocery expense of $800, which contradicted her testimony that she spent $400 monthly.

Here, instead of projecting how long it would take for Ms. Day to become self-supporting, the trial court found that Ms. Day was disabled, not able to work, and unlikely to benefit from further education:

> [Ms. Day] is 65 years old and her health is not nearly as good. She has suffered this year from a herniated disc or the effects of it. Whether it was caused this year or not, it gave her enough trouble that she had to seek medical care for it. She has been determined to be disabled since 2020 by the Social Security Administration as a result of a variety of conditions, including anxiety, depression and osteoarthritis.
>
> [Ms. Day] also testified that she suffers from fibromyalgia, all of which in her opinion, and the Court agrees, makes her unable to hold employment at this point in time.

Regarding further education, the trial court found that Ms. Day was not likely to benefit from further education. When**,** during closing argument, Ms. Day's counsel focused on Ms. Day's ability to get more education, the trial court suggested that counsel move along, saying "Okay. You don't have to spend a lot of time on that. She is not going to get a degree in physics."

Moreover, the trial court did not make findings about Ms. Day's ability to become wholly or partially self-supporting in the future. Instead, the trial court largely took "a snapshot of the parties' situations at this point in time[,]" adding that Ms. Day had a disability that prevented her from working "at this point in time."

> As I described, [Ms. Day] has a disability that prevents her from working at this point. So she is living on the Social Security Disability income which she receives, at least at this point in time. That may change in the future depending upon eligibility for further Social Security benefits. There was no testimony as to what that might be and I don't take that into account in any way. I take a snapshot of the parties' situations at this point in time.

C. The Two-Year Duration

Having found that Ms. Day was disabled and unable to work, and unlikely to benefit from further education, the trial court failed to explain why it declined Ms. Day's indefinite alimony request in favor of a fixed, two-year alimony award. Of the two-year duration of its alimony award, the trial court said it was "to help [Ms. Day] through the transition."

> I think picking up on [Mr. Day's counsel's] argument that it is appropriate to consider that the transition that [Ms. Day] has gone through over the last couple of years, she had been able to share expenses with her brother up until earlier this year, that change has affected her pocketbook and her income because her brother would pick up some of the expenses. So considering all of that, the Court will award alimony for a period of 2 years. I think that ought to be enough to help [Ms. Day] through the transition. So I will award an amount of $1,000 per month to roughly equalize, and it doesn't exactly equalize it, but roughly equalize the income the parties overall will have or have at this time. I will not make that -- I decline to make that retroactive to the date of filing.

But the trial court never explained what precisely "the transition" was or how Ms. Day would be self-supporting or would have made substantial progress toward becoming self-supporting after "the transition." At the time of trial, Ms. Day lived in a two-bedroom apartment that she had previously shared with her brother, who helped with household expenses while he lived there. The second bedroom had been vacant since her brother moved out, and Ms. Day was limited in her roommate selection, as the apartment complex only allowed senior residents. Ms. Day's apartment complex had one-bedroom units, but, according to Ms. Day, there was a long waitlist for those units.

But even if Ms. Day were able to move to a one-bedroom apartment, the evidence did not suggest, and the trial court did not find, that she would have been self-supporting as a result. Instead, the evidence showed that even if she moved to a one-bedroom, Ms. Day would not be self-supporting. Specifically, at the time of the divorce trial, Ms. Day's two-bedroom apartment rented for $1,076. A one-bedroom apartment in the same complex would have rented for approximately $700, a difference of $376. Her overall expenses when living in a two-bedroom apartment were $2,868, but her expenses when living in a one-bedroom apartment ($2,492) would still surpass her $2,116 monthly income by $376 per month. In other words, while moving to a one-bedroom may have improved Ms. Day's financial situation somewhat, doing so would not have rendered Ms. Day self-supporting.

Ultimately, where the trial court "fail[s] to draw a solid line between the facts and the remedy, explaining fully how the former justifies the latter, he abused his discretion in our view." *Long*, 129 Md. App. at 582–83. Having found that Ms. Day was not self-supporting, and that she was disabled, the trial court failed to explain what would have changed for Ms. Day over the next two years such a fixed, rather than an indefinite, alimony award was justified. This was error.

Mr. Day argues that the two-year duration "was the amount of time the trial court found sufficient to help Ms. Day through her post-divorce transition prior to the parties' retirement age." We disagree. The trial court never explicitly found that "the transition" meant "the parties' retirement age." More important, even if Mr. Day's anticipated retirement (presumably, Ms. Day would not be retiring in two years because she was not able to work) is what the trial court meant by "the transition," the trial court never found that Ms. Day could be self-supporting, or would make substantial progress toward becoming self-supporting, by the time of Mr. Day's anticipated retirement. Finally, "potential future retirement should not [be] considered in the alimony determination" if a "trial court's consideration of [the payor spouse's] potential future retirement [is] speculative." *K.B. v. D.B.*, 245 Md. App. 647, 678 (2020). Here, Mr. Day was not retired at the time of trial. Nor was it clear precisely when he would retire.[4]

> So considering all of this, and I have taken into account that Mr. -- I have taken into account Mr. Day's testimony and *I assumed* this was discussed at some point, even though there was *no specific testimony* on, it's *fair to assume* that the parties discussed something about their future at some point during their 40 years of marriage and it was Mr. Day's testimony that *he always anticipated* that he would retire when he got to be 68, 69 when he was eligible. That's about 2 years hence.

(Emphasis added).

Mr. Day next argues that Ms. Day does not qualify for indefinite alimony because "regaining employment is not the measure of self-sufficiency[,]" and "[f]ixed term alimony does not necessarily have to provide economic rehabilitation so one can re-enter the work force." To be sure, employability is not the only measure of one's ability to be

[4] This is not to say that Mr. Day will never be able to retire or that he will be required to pay alimony after he retires. An alimony award, whether rehabilitative or indefinite, is modifiable "as circumstances and justice require[,]" FL § 11-107(b), or may be terminated "if necessary to avoid a harsh and inequitable result[,]" FL § 11-108(3). If, on remand, the trial court awards Ms. Day indefinite (or rehabilitative) alimony, Mr. Day (or Ms. Day) will be able to petition the circuit court for modification or termination of the alimony obligation consistent with these statutes.

self-supporting. *See Benkin*, 71 Md. App. at 202–03 (considering income from various pensions to conclude the requesting's spouse's "age and her disability adversely affect her ability to earn income commensurate with her education and qualifications). Here, however, there was no evidence that within two years, Ms. Day would become, or make progress toward becoming, self-supporting, whether through employment, reliance on passive income, reduction of her living expenses, or otherwise. In other words, the trial court did not explain how, after two years, Ms. Day's income and reasonable expenses would change such that she would cease to need the $1,000 in monthly alimony that it awarded her.

Mr. Day next argues that Ms. Day "did not meet the statutory prerequisite for [the] exceptional circumstance" of an indefinite alimony award, because the "facts of this case clearly did not indicate an "unconscionable disparity" in standards of living. Mr. Day points out that both parties here "are in similar, difficult financial circumstances[,]" unlike the parties in *St. Cyr*.

As we understand Mr. Day's argument, he is suggesting that the similarities in the parties' current economic circumstances is a valid basis for denying indefinite alimony. But this contention does not hold up to the plain language of Section 11-106(c). Again, Section 11-106(c) provides,

> (c) The court may award alimony for an indefinite period, if the court finds that:
>
> > (1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or

> (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

FL § 11-106(c). Between Sections 11-106(c)(1) and 11-106(c)(2) is an "or," not an "and." *Benkin*, 71 Md. App. at 196 (observing that Section 11-106(c) "is disjunctive"). In other words, Section 11-106(c) does not mean that a spouse who proves their entitlement to an award under Section 11-106(c)(1) will additionally have to prove that the award will not create unconscionable disparity under Section 11-106(c)(2).[5]

Mr. Day next argues that *Long*, *Lee*, and *Benkin* are unpersuasive because they center around an unconscionable disparity between parties' post-divorce standards of living, a disparity that does not exist here. We agree that there was no evidence of unconscionable disparity here. Nonetheless, and as above, these cases establish that once the trial court determines that it will award alimony, its decision on the duration of that award, whether rehabilitative or indefinite, must be adequately explained. Its decision must stand up to the facts. Here, the trial court did not explain what, during the two-year duration of its alimony award, would have changed for Ms. Day such that the length of its award was adequate.

[5] Presumably, if an alimony award is financially untenable for the payor spouse, that would be reflected in the trial court's analysis of the Section 11-106(b) factors, particularly that of Section 11-106(b)(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"). Here, Mr. Day takes no issue with the trial court's finding on this factor, nor does he challenge the trial court's award of rehabilitative alimony to Ms. Day.

III. The Monetary Award, Retroactive Alimony, the LaFarge Holdings Pension Plans, and Attorney's Fees

Because we vacate the alimony award, we also vacate the trial court's judgment regarding retroactive alimony, monetary award, division of marital property, and Ms. Day's request for attorney's fees. The court's evaluation of the parties' financial circumstances affects a monetary award and attorney's fees as much as it affects the alimony award. *See St. Cyr.*, 228 Md. App. at 198 ("The factors underlying such awards are so interrelated that, when a trial court considers a claim for one of them, it must weigh the award of any other."); *Long*, 129 Md. App. at 585 (requiring the chancellor, on remand, to "reconsider the amount and duration of alimony as he re-evaluates the amount of the monetary award"). Thus, vacating the alimony award necessitates vacating the monetary award, division of retirement assets and other marital property, and the denial of attorney's fees to Ms. Day.[6] *See, e.g., Wasyluszko v. Wasyluszko*, 250 Md. App. 263, 276, 283 (2021) (remanding for the court to adjust its marital property findings).

CONCLUSION

We vacate the trial court's judgment regarding alimony, retroactive alimony, the monetary award, division of marital property, and Ms. Day's request for attorney's fees.

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[6] For clarity, the marital property division that we vacate pertains to the circuit court's disposition of the items in Category 1 of the parties' Joint Statement of Parties Regarding Marital and Non-Marital Property ("Joint Statement") and the M&T primary savings account ending in 4434, which appears in Category 3 on the Joint Statement. The Joint Statement appears at Record Extract Pages 291 to 293. In our Order below, we refer to all of these items collectively as "marital property." We do not disturb the trial court's decisions regarding Ellie Mae, the parties' dog.

We remand for further proceedings not inconsistent with this opinion. On remand, the trial court may accept additional evidence. If Ms. Day's disability and inability to work persist, the trial court must address whether Ms. Day can make progress toward becoming self-supporting and explain its findings in this regard. If the trial court determines that a fixed term of alimony is appropriate for Ms. Day, the trial court should explain why that duration is appropriate. We are not requiring that the trial court award Ms. Day indefinite alimony, though that may well be the trial court's decision. We otherwise affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY VACATED WITH RESPECT TO ALIMONY, RETROACTIVE ALIMONY, MONETARY AWARD, DIVISION OF MARITAL PROPERTY, AND MS. DAY'S REQUEST FOR ATTORNEY'S FEES;

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY OTHERWISE AFFIRMED;

ALIMONY TO REMAIN IN FULL FORCE AND EFFECT AS PENDENTE LITE ORDER PENDING FURTHER ORDERS OF THE CIRCUIT COURT;

CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION;

COSTS TO BE PAID BY APPELLEE.