Circuit Court for Charles County
Case No. C-08-FM-21-000296

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 772

September Term, 2025

BERNICE E. WILLIAMS

v.

JERRY E. WILLIAMS

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

JJ.

Opinion by Eyler, J.

Filed: June 30, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On October 6, 2021, the Circuit Court for Charles County entered a Consent Order on behalf of appellant Bernice Williams ("Wife") and appellee Jerry Williams ("Husband"), which included a provision stating that they would equally divide the marital value of their retirement assets, and that the marital value would be determined by a Certified Public Accountant ("CPA") as of the date of the entry of the Judgment of Absolute Divorce. On October 12, 2021, Husband withdrew $639,224.85 from his IRA. The Judgment of Absolute Divorce was entered on December 8, 2021. After a request by the CPA for clarification concerning the marital property status of the withdrawn funds, on June 12, 2024, the court entered an order dated June 7, 2024, finding that the parties' retirement accounts are marital property with a total value of $1,037,374.45. The court also ordered Husband to deposit "$639,224.85 plus interest into the Registry of this Court within thirty (30) days[.]" Husband filed a motion to alter or amend that order, arguing that the court did not have jurisdiction to make findings concerning marital property. By Order dated November 27, 2024, entered on December 11, 2024, the court granted Husband's motion, and Wife responded with a motion to revise. By Order dated and entered on May 20, 2025, the court denied Wife's motion.

Wife noted this appeal and presents two questions for our review:

1. Did the trial court have to reserve jurisdiction to enforce the Consent Order and [On the Record] Agreement regarding the equalization of retirement assets?

2. Did the trial court err and usurp the authority delegated to the CPA by not permitting the CPA to make marital property character and valuation determinations regarding dissipated funds?

For the reasons to be discussed, we shall vacate the court's orders dated June 7, 2024, and entered on June 12, 2024, dated November 27, 2024, and entered on December 11, 2024, and dated and entered on May 20, 2025, and remand for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

The parties were married on July 2, 1991. On March 15, 2021, Wife filed a complaint for divorce. The parties entered a Partial Marital Settlement Agreement on July 27, 2021, resolving the majority of disputes concerning marital property, and identifying the remaining disputes. With respect to "Pensions and Retirements," the Partial Marital Settlement Agreement provided:

> Parties agree that each of them will receive ½ of the marital portion of the other's pensions, TSPs, and other retirement accounts.
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> This will be accomplished by the preparation of a Qualified Domestic Relations Order by each party to receive their marital share of the other's Federal government pension (unless the parties later agree to waive their interest in the other's monthly government pension after calculating the value of the monthly payment amount to be disbursed to each of them).
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> The aggregate value of the marital portion for all other retirement accounts (IRAs, TSPs, 401s, etc.) will be calculated for each party, and that the total value of the parties marital retirement accounts will be calculated and will be divided equally by the parties, such that the party with the higher value of these total accounts titled to him/her shall pay to the party with the lesser total value of such retirement accounts that are titled to him/her, an amount which represents one-half of the difference between the parties' respective aggregate marital retirement amounts. The effect of this transfer shall be that each party receives one-half of the total value of the marital amount of the parties' retirement funds. The amount to be transferred by the receiving party shall be accomplished by the preparation of one (1) Qualified Domestic Relations Order.

At a hearing on October 6, 2021, the parties presented a proposed Consent Order, resolving their remaining marital property disputes. The Consent Order provided, in part:

> ORDERED, that, pursuant to the parties' Partial Marital Settlement Agreement regarding the equal division of the marital portion of their retirement accounts, the parties agree that they shall jointly select a third party Certified Public Accountant, for the purpose of determining the value of the marital portion of the parties' Individual Retirement Account(s); and it is further,
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> ORDERED, that the parties shall each be entitled to one half of the marital portion of the other party's retirement accounts and pensions, which shall be effectuated by the preparation of one single QDRO to transfer any interest representing the difference in value in the parties' retirement accounts to result in an equal division of said accounts, and by the preparation of one single QDRO to transfer the difference in value in the parties' pensions so as to result in an equal division of said accounts, as of the date of any Judgment of Divorce, entered in this matter[.]

On the record, Husband's counsel summarized the Partial Marital Settlement Agreement and the Consent Order. Counsel provided the following summary of the above-quoted provisions:

> The parties have also agreed that they will each be entitled to one half of the marital portion of their pensions and retirements. The [P]artial [M]arital [S]ettlement [A]greement spells out the method by which the parties will have these pension and retirements divided.
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> The parties have also agreed that they will have a CPA do the calculations, a third-party CPA that's selected mutually by the parties to do the calculations to determine which portion of their retirements and pensions is non-marital versus marital.

The Consent Order also provided that "Husband may use funds from whatever source available to him to purchase the Wife's interest in" two pieces of real property, and he also had to pay Wife $50,000 "as an adjustment of the equities," and an additional $9,000, all within thirty days of signing the Consent Order. The court entered the Consent Order the same day, October 6, 2021.

On October 12, 2021, Husband withdrew a net $620,858.51 from his Venerable IRA. He also incurred a fee for withdrawing the money from his Venerable IRA, resulting in a total reduction in the account value of $639,224.85. He used $205,926.95 of the withdrawn funds to open a new IRA with Allianz. On November 23, 2021, Wife filed a motion for contempt, in part alleging that Husband's withdrawal of funds from his IRA was done in violation of the Consent Order.[1]

The Judgment of Absolute Divorce was entered on December 8, 2021. The Partial Marital Settlement Agreement and Consent Order were both incorporated but not merged into the judgment. The court also reserved jurisdiction to issue "any appropriate Qualified Domestic Relations Orders, so as to effectuate the intent of the parties as expressed in their Agreements with respect to division of retirement and pension benefits[.]"

By Order entered on May 5, 2023, presumably because the parties could not agree on the identity of a CPA referred to in the Consent Order, the court appointed a Trustee to select a CPA on behalf of the parties to "determine the marital portion of the parties' respective retirement and pension benefits . . . as of the date of the entry of the Judgment of Absolute Divorce, said date being December 8, 2021[.]"

The Trustee filed a report on January 11, 2024, with an attached draft report prepared by the CPA ("First Draft Report"). The CPA indicated in the First Draft Report that he was unsure whether the money withdrawn from Husband's IRA in October 2021

[1] Wife filed a second motion for contempt on December 20, 2022. This second motion was also based in part on Husband's withdrawal of funds from his IRA in October 2021.

should be included in the calculation and asked the court to clarify the issue. The CPA concluded that all of Wife's retirement accounts (TSP and Venerable IRA) were marital and valued them as of December 31, 2021, at $396,295.59. With the exception of the $639,224.85 withdrawn from the Venerable IRA, the CPA concluded that Husband's retirement accounts (Venerable IRA and Allianz IRA) were marital. The CPA concluded that neither party provided sufficient documentation to trace any of the retirement assets to a non-marital source.

The CPA valued Husband's Venerable IRA at $431,339.73, and the Allianz IRA at $205,926.95. The CPA noted the withdrawal from the Venerable IRA in October 2021, but the withdrawn amount was not included in the calculations.

In response to the Trustee's report, the court asked the parties to provide written memoranda concerning whether the withdrawn funds should be included as a marital asset in the CPA's calculations. In her memorandum, Wife argued that Husband dissipated the funds he withdrew from the Venerable IRA, and therefore, the funds should be included in the marital value of his retirement accounts. Husband explained in his memorandum that the parties "are bound by the specific language of their agreements[,]" which stated that the retirement accounts would be valued as of the date of the entry of the Judgment of Absolute Divorce, which was December 8, 2021.[2] Husband noted that Wife was aware that Husband was retired and that his retirement accounts were his sole source of income. He

[2] Husband actually stated that the retirement assets must be valued as of December 7, 2021, which was the date the judgment was signed. However, the judgment was not entered into the docket until the next day.

also noted that the Consent Order did not include any prohibition on Husband using funds from his retirement accounts to pay for various expenses incurred as a result of the Consent Order, and in fact expressly stated that Husband may "use funds from whatever source available to him to purchase the Wife's interest in the two pieces of marital real property[.]" Husband explained that he used the withdrawn funds to pay for repairs to one of the marital properties, a jointly owned tax debt, attorney's fees relating to the divorce, an unexpected medical expense, and his father's funeral expenses in addition to the expenses incurred as a result of the Consent Order. He also used a portion of the funds to open a new account with Allianz. He asked that the court accept the First Draft Report.

On June 12, 2024, the court entered the Order dated June 7, 2024, which provided:

> ORDERED, that the Report of Trustee filed January 11th, 2024, including the [First] Draft Report submitted by the accountant and comment section therein, is accepted by the [c]ourt as a fair representation of the marital assets; it is further
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> ORDERED, that both parties' retirement pensions are indeed joint marital property, and therefore the parties' retirement accounts should be calculated in the total amount of $1,037,374.45 plus interest; it is further
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> ORDERED, that [Husband] shall immediately deposit the $639,224.85 plus interest into the Registry of this Court within thirty (30) days of this ORDER; and it is further
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> ORDERED, that the Trustee shall perform a new evaluation within thirty (30) days of this ORDER based upon the sum of the $1,037,374.45 plus interest calculation.

On June 24, 2024, Husband, represented by new counsel, filed a motion to alter or amend the Order entered on June 12, 2024. He argued that the court did not have jurisdiction to make findings concerning marital property because it did not expressly reserve such jurisdiction in the Judgment of Absolute Divorce. He therefore contended that "the Order must be stricken." He also stated that depositing $639,224.85 into the court's registry was impossible because he would have to withdraw the remaining funds from his IRA to do so, which would result in a substantial tax penalty. He asked that the court instead temporarily restrict his ability to withdraw funds from the Venerable IRA. Wife filed a motion to strike Husband's motion to alter or amend, arguing that it was untimely and filed in bad faith.

On July 12, 2024, the Trustee filed a Motion to Clarify Order, which included an updated draft report from the CPA ("Second Draft Report"). The Second Draft Report was prepared "based on the assumption that" the money withdrawn from the Venerable IRA "was marital property and to be included in [the] calculation." However, the CPA sought clarification regarding how the court "calculate[d] the value of the joint marital property as $1,037,375.45[,]" and what interest rate should be used. He also wanted to know if Husband should provide additional documentation concerning the value of the withdrawn funds as of December 2021.

At a hearing on October 17, 2024, the court explained that it calculated the total value of the parties' retirement assets as $1,037,375.45 "from the [$]1[,]276[,]491.53 minus the transferred asset from [October 12, 2021, $]639[,]224.85." The court also clarified that the interest rate to be used is ten percent, and Husband was not required to provide any documentation concerning the value of the withdrawn funds as of the date of divorce. In response to the court's clarifications, the CPA stated that he believed the Second Draft Report "covers it appropriately."

The parties then presented arguments concerning Husband's motion to alter or amend. Counsel for Husband argued that, by finding that the withdrawn funds were marital property to be included in the value of Husband's accounts as of the date of divorce, the court effectively revised the parties' contract in one of two ways. The court either changed the date on which the accounts were to be valued, or it added a restriction against the parties reducing the value of their accounts prior to the entry of divorce. Counsel for Husband also argued that, because the court did not reserve jurisdiction in the Judgment of Absolute Divorce, it lost any jurisdiction to identify and value marital property.

Wife's attorney agreed that the court "does not have revisory power to determine whether a property was marital property." However, he noted that Wife did not request that the court revise the Consent Order or Judgment of Absolute Divorce; Wife filed a motion for contempt. Wife's attorney interpreted the Order entered on June 12, 2024, as upholding "the intent of what the consent order and divorce decree stated."

On December 11, 2024, the court entered the Order dated November 27, 2024, stating:

> ORDERED, that [Husband's] Motion to Alter or Amend Judgement be GRANTED; and it is further
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> ORDERED, that [Wife's] Motion to Strike And/Or Dismiss [Husband's] Motion to Alter or Amend Judgement and [Wife's] Opposition to [Husband's] Motion be DENIED.

There was no subsequent memorandum or order clarifying in what way the June 2024 Order was being altered or amended, or whether the order was to be vacated or stricken.

Wife filed a motion to revise the December 11, 2024 Order, asking that the court reinstate the "previously vacated" June 12, 2024 Order. By Order dated and entered on May 20, 2025, the court summarily denied Wife's motion. This timely appeal followed.

DISCUSSION

Wife argues that the court erred in denying her motion to revise the Order entered on December 11, 2024, and in granting Husband's motion to alter or amend the Order entered on June 12, 2024. Her arguments are based on the assumption that the court had determined it did not have jurisdiction under § 8-203 of the Family Law Article ("FL") of the Maryland Code to make determinations concerning marital property. She argues that the court did not make an FL § 8-203 finding in its June 12, 2024 Order, but instead was merely enforcing the parties' agreements. Alternatively, Wife argues that, assuming the court did make findings concerning marital property in its June 12, 2024 Order, the court improperly "usurped the authority delegated to the CPA[.]" Wife asserts that, if this Court agrees with her alternate argument, we should remand to allow the CPA to make final determinations as to the marital property.

Husband responds that, because the court failed to expressly reserve authority to decide marital property issues in the Judgment of Absolute Divorce, it lost subject matter jurisdiction under FL § 8-203. From this premise, he asserts that the parties could not extend subject matter jurisdiction via the Consent Order, and therefore "any purported authority of a CPA to determine marital character or value was legally meaningless."

We review decisions regarding motions to alter or amend and motions to revise for abuse of discretion. *Barrett v. Barrett*, 240 Md. App. 581, 591 (2019) (citing *Shih Ping Li v. Tzu Lee*, 210 Md. App. 73, 96–97 (2013)). A court's discretion, however, is "always tempered by the requirement that the court correctly apply the law applicable to the case[,]" which we review without deference. *Id.* (quoting *Rose v. Rose*, 236 Md. App. 117, 130 (2018)). "[T]rial courts do not have discretion to apply incorrect legal standards and . . . 'a failure to consider the proper legal standard in reaching a decision constitutes an abuse of discretion.'" *Id.* (quoting *Wilson-X v. Dep't of Hum. Res.*, 403 Md. 667, 675–76 (2008)).

Section 8-203(a) of the Family Law Article, upon which much of this appeal is centered, provides:

> In a proceeding for an annulment or an absolute divorce, if there is a dispute as to whether certain property is marital property, the court shall determine which property is marital property:
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> (1) when the court grants an annulment or an absolute divorce;
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> (2) within 90 days after the court grants an annulment or divorce, if the court expressly reserves in the annulment or divorce decree the power to make the determination; or
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> (3) after the 90-day period if:
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> (i) the court expressly reserves in the annulment or divorce decree the power to make the determination;
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> (ii) during the 90-day period, the court extends the time for making the determination; and
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> (iii) the parties consent to the extension.

Husband's argument that this provision causes a trial court to lose subject matter jurisdiction to make a marital property award if an express reservation is not made in the divorce decree is based upon language in *Russell v. Russell*, 50 Md. App. 185 (1981). In that case, this Court held that, because the trial court "failed to designate the marital property within [the ninety-day reservation period under FL § 8-203], the court lost jurisdiction and any determination thereafter concerning the appellee's pension rights were nugatory. The parties could not confer jurisdiction by consent[.]" *Id.* at 187. The Maryland Supreme Court was not asked to review this decision directly, but stated in *Brodak v. Brodak*, 294 Md. 10, 14–16 (1982), that it disagreed with our conclusion in *Russell* that FL § 8-203 can divest a court of jurisdiction. Instead, the Court held that the consequence of an untimely marital property determination is determined by whether the parties or the court were "at fault" for the delay. *Brodak*, 294 Md. at 24–25. "[I]mpos[ing] a sanction on the parties for the failure of the [court] . . . to act within the period prescribed by statute . . . would be wrong." *Id.* at 25. Numerous cases have since applied the holding in *Brodak* that FL § 8-203 is not jurisdictional. *See, e.g.*, *Zorich v. Zorich*, 63 Md. App. 710, 715–16 (1985); *Williams v. Williams*, 71 Md. App. 22, 25, 33–34 (1987); *Davis v. Davis*, 335 Md. 699, 719 (1994); *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 478–79 (2002). Additionally, in *Steinhoff*, this Court clarified that FL § 8-203's time limit applies only to designating property as marital or non-marital, and not to the valuation of marital property or determination of a monetary award. 144 Md. App. at 471.

The effect of the Partial Marital Settlement Agreement and Consent Order is also involved in this appeal.

"[T]he interpretation of a contract, including the question of whether the language of a contract is ambiguous, is a question of law subject to *de novo* review." *Dennis v. Fire & Police Emps.' Ret. Sys.*, 390 Md. 639, 656 (2006) (citing *Towson v. Conte*, 384 Md. 68, 78 (2004)). "In Maryland, the objective law of contracts is followed when interpreting the language of a contract. Therefore, when the language is clear and unambiguous, 'we must presume that the parties meant what they expressed,' leaving no room for construction." *Barnes v. Barnes*, 181 Md. App. 390, 416 (2008) (cleaned up) (quoting *Smith v. Luber*, 165 Md. App. 458, 471 (2005)). "In these circumstances, the true test of what is meant is not what the parties to the contract intended it to mean, but what a reasonable person in the position of the parties would have thought it meant." *Dennis*, 390 Md. at 656–57 (cleaned up) (quoting *Gen. Motors Acceptance v. Daniels*, 303 Md. 254, 261 (1985)).

"Consent judgments 'are essentially agreements entered into by the parties which must be endorsed by the court. They have attributes of both contracts and judicial decrees.'" *Suter v. Stuckey*, 402 Md. 211, 225 (2007) (quoting *Chernick v. Chernick*, 327 Md. 470, 478 (1992)). Additionally, where "the parties enter[] into an agreement in open court," that agreement "is binding upon the parties[.]" *Barnes*, 181 Md. App. at 409 (quoting *Smith*, 165 Md. App. at 470). "Because a consent judgment embodies the parties' agreement, it is that 'agreement that defines the scope of the decree[,]' meaning that, where an issue as to the scope of the judgment arises, a court looks to the parties' agreement and applies the rules of contract interpretation." *Pettiford v. Next Generation Tr. Serv.*, 467 Md. 624, 645 (2020) (quoting *Long v. State*, 371 Md. 72, 83–84 (2002)).

Here, the Consent Order stated that the parties would "select a third party Certified Public Accountant, for the purpose of determining the value of the marital portion of the parties' Individual Retirement Account(s)[,]" and that they would equally divide their retirement accounts "as of the date of any Judgment of Divorce, entered in this matter[.]" When Husband's counsel read the terms of the Consent Order into the record, she stated that the CPA would "do the calculations to determine which portion of their retirements and pensions is non-marital versus marital."

The language in the Consent Order is different from that which was placed on the record that purported to be a summary of the Consent Order. The Consent Order references value only but the language on the record referred to a determination of what is marital in addition to a determination of value. Regardless, it is immaterial because the CPA determined that all retirement assets are marital and that determination is not challenged on appeal. At various points in the proceedings, both parties have interpreted the Consent Order as agreeing that the CPA could make both determinations.

Because decision-making was delegated to the CPA, there was no longer "a dispute as to whether [the retirement accounts were] marital property" for the court to resolve. *See* FL § 8-203(a). The requirement under FL § 8-203 that the court make such decisions when it issues a divorce decree or expressly reserve the power to make a decision is not relevant under these circumstances. The parties agreed on the disposition of property. *See Barnes*, 181 Md. App. at 423 ("By agreeing to settle the marital property issues in this case, the parties obviated the need for the court to resolve any such disputes."). Thus, the only issue before the court when it entered its June 12, 2024 Order was the claim of dissipation of marital assets raised by Wife.

As stated, the parties entered into a settlement agreement, recorded in part in a Consent Order. FL § 8-105 allows a court to enforce incorporated settlement agreements. In addition, in the divorce decree, the court expressly reserved the right to issue "any appropriate Qualified Domestic Relations Orders, so as to effectuate the intent of the parties as expressed in their Agreements with respect to division of retirement and pension benefits[.]"

Wife claimed that Husband dissipated marital assets. The claim of dissipation of marital assets is not within the scope of the parties' settlement and, in any event, is a mixed factual/legal issue that requires factual findings and a conclusion by the court. We shall remand to the circuit court to make findings relating to Wife's claim of dissipation of marital assets. The Maryland appellate courts have addressed the elements of dissipation on several occasions. *See, e.g.*, *Omayaka v. Omayaka*, 417 Md. 643 (2011); *Goicochea v. Goicochea*, 256 Md. App. 329 (2022).

To aid the court in determining dissipation, we make the following additional comments. Based on the record, it appears Husband withdrew a total of $639,224.85 of marital funds from his Venerable IRA. The calculations contained in the record by the court lack appropriate findings relating to dissipation, and therefore, the CPA's calculations in reliance are not accurate. The record indicates that $205,926.95 of the withdrawn funds were placed in the Allianz IRA. Thus, when a calculation was made adding the $205,926.95 to the court's direction to include $639,224.85, the $205,926.95 was double counted. Moreover, in the first instance, before getting to a calculation, the court did not make findings with respect to whether the withdrawal of funds was a violation of the parties' agreement or the nature of the use of the funds other than what was deposited in the Allianz IRA. In making findings relating to dissipation, the court should consider the full terms of the Consent Order and Partial Marital Settlement Agreement, as well as any documentation provided by the parties concerning the use of the funds, and the parties' statements that the Allianz IRA was funded using the money withdrawn from the Venerable IRA.

To the extent it is still in existence, the Order dated June 7, 2024, and entered on June 12, 2024, is vacated. The Orders dated November 27, 2024, and entered on December 11, 2024, and dated and entered on May 20, 2025, are also vacated.

ORDERS ENTERED ON JUNE 12, 2024, DECEMBER 11, 2024, AND MAY 20, 2025, BY THE CIRCUIT COURT FOR CHARLES COUNTY VACATED; CASE REMANDED TO THE CIRCUIT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION; COSTS TO BE PAID BY APPELLEE.