

Circuit Court for Queen Anne's County  
Case No. C-17-FM-20-000125

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0880

September Term, 2021

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JONATHAN R. JACKSON

v.

CHRISTINA M. JACKSON

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Friedman,  
Beachley,  
Adkins, Sally D.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Adkins, Sally D., J.

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Filed: August 3, 2022

\*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.

Christina Jackson filed for divorce from Jonathan Jackson in the Circuit Court for Queen Anne’s County.<sup>1</sup> After a two-day trial, the circuit court granted the parties an absolute divorce, and—in relevant part—ordered Jonathan to pay Christina a monetary award of \$50,000 and ordered the sale of the marital home and an equal division of the proceeds thereof—despite Jonathan’s request to keep the marital home for business purposes and purchase Christina’s interest in the real property. Jonathan filed a Motion to Alter or Amend Judgment of Absolute Divorce, which the circuit court denied. This timely appeal followed.

Jonathan presents us with the following questions on appeal:

1. Did the circuit court err by granting a monetary award in excess of the value of the parties’ marital property?
2. Did the circuit court err by granting a monetary award in an amount, which included the value of the marital home, while additionally ordering that home sold and the proceeds from the sale thereof distributed equally to the parties, thereby compensating the Appellee twice, in part, for her interest in the marital home?
3. Did the circuit court abuse its discretion by ordering the sale of the marital home, in lieu of a transfer of ownership pursuant to Md. Code, § 8-205(a)(2)(iii) of the Family Law Article, when the uncontroverted evidence established that the property was an essential and necessary component of the Appellant’s livestock business, from which he derives his only production of income, and the Appellant requested such a transfer?
4. Did the circuit court err by failing to address the respective obligations of the parties regarding payment of the mortgage, taxes, and insurance secured by the marital home, and any resulting *Crawford* credits?

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<sup>1</sup> Hereinafter we refer to Christina Jackson and Jonathan Jackson by their first names. We do so for clarity and mean no disrespect by this informality.

5. Did the circuit court err by failing to limit the duration of its order for use and possession of the marital home consistent with Md. Code, § 8-210 of the Family Law Article?

For the following reasons we affirm in part and vacate in part. We vacate the distribution of the marital property and remand to the circuit court solely for the purpose of determining what—if any—*Crawford* credits are owed and the parties' respective obligations for future payment of the marital home's mortgage, taxes, and insurance during the period of use and possession.

### **FACTS AND PROCEDURAL HISTORY**

Christina and Jonathan were married on June 7, 2014 and had one child born to them. At some point their relationship began to deteriorate, and the parties officially separated on May 1, 2020. Christina filed a Complaint for Divorce on June 30, 2020 in the Circuit Court for Queen Anne's County. A two-day trial transpired in the Circuit Court in May 2021 to determine the grounds for divorce, child custody and visitation, child support, alimony, marital and non-marital property, use and possession of marital property, monetary award, and attorneys' fees. At issue in this appeal is the distribution of marital property and the monetary award. The circuit court relied on the following factual background in making its marital property and monetary award decisions.

Christina worked for Carols Western Wear since 1997 and worked her way up in the business. While working there, Christina was able to take the parties' child to work with her until she began school. Christina was paid \$33,000 a year and did not have to pay for daycare costs. Carols Western Wear, unfortunately closed in October 2019, leaving

Christina without a job. Christina did not look for other employment and received unemployment benefits for some time.

Jonathan started his own company—Jackson Livestock—after he graduated from high school. He had worked for other employers for extra income, but continued to work at Jackson Livestock, as well. Jonathan travels to various states to buy and sell cattle. As the business expanded, Jonathan and Christina purchased and lived on a working cattle farm in Ingleside, Maryland. The parties owned this property—their marital home—as tenants by the entireties. Jonathan worked the farm at their home, raised and delivered animals, and had a side business doing landscaping and snow plowing.

The circuit court determined that, after losing her job, Christina’s home, child, and farm duties became her employment—in addition to teaching occasional horseback riding lessons. Christina had not been employed outside the home since October 2019, including the period of the parties’ separation. The circuit court determined that Christina’s annual income—for purposes of monetary award, child support, and alimony—was \$33,000 because she “can earn wages of that amount, as she has essentially done so before.”

During the separation, Christina lived with the parties’ child in the marital home, while Jonathan resided with his girlfriend in her father’s home or stayed at his mother’s home. Jonathan testified that during this time he paid Christina “small amounts of money” for food, personal, and home expenses, but “ceased any contributions when he noticed alcohol and gas expenditures” of Christina. Jonathan further testified that he “took back” the vehicle Christina had been driving—a 2018 Dodge Ram Truck—due to Christina

smoking in the vehicle. Jonathan subsequently purchased her a 2000 Chevy Tahoe that—according to Christina—is “not reliable.”

The circuit court concluded that—although presented with little credible evidence about his monthly income—Jonathan’s income for purposes of child support was \$75,000. Despite this income, Jonathan “failed to pay the mortgage on the farm and family home and is in a trial payment plan.” The circuit court also found that Jonathan “spent marital funds and increased debts during the separation” period by buying a new truck and tractor and not paying the mortgage, despite receiving a USDA grant of approximately \$80,000 for business expenses—which Christina applied for. The circuit court could not determine, based upon the record, what the \$80,000 in grant money was spent on because Jonathan’s family debts, credit card debts, and business debts did not decrease.

Most assets, aside from the home and few pieces of farm equipment, are titled to Jonathan. Jonathan holds title to three pick-up trucks, a tractor, three trailers, and a variety of farm equipment and supplies. Jonathan “claim[ed] an interest in the 2019 State Income Tax refund of \$7,216.00, which [Christina] spent for the divorce proceedings, and only \$900 remains.” Both parties also disputed the distribution of the 2019 federal income tax refund of \$14,994.00 and a government-provided stimulus check of \$4,200.00.

Based upon the foregoing, the circuit court granted the parties an absolute divorce and determined the following valuation and distribution of marital property. The court determined that the jointly held personalty—including the tax refunds, stimulus checks, household personal property, and various farming equipment—was valued at \$30,594.00. It further determined that the net value of the marital home was \$70,500. The total net

value of the jointly held assets was \$101,094.00. The circuit court determined that Christina had no assets in her own name. It determined that Jonathan’s assets—including the various vehicles, trailers, and other farming equipment—had a total net value of \$18,775.00. It could not determine the value of Jonathan’s businesses and was unable to determine how Jonathan spent the \$80,000 in USDA grant money. The circuit court further determined that Jonathan had personal debts of approximately \$50,000—not including secured debts.

After determining the valuation of property and considering the factors for determining a monetary award outlined in Md. Code, § 8-205(b) of the Family Law (hereinafter “FL”) Article, the circuit court ordered that Jonathan pay Christina a monetary award of \$50,000 “to be partially satisfied by awarding [Christina] the income tax checks (totaling \$20,094.00) so that she may purchase a vehicle that she will need for employment and child transportation.” The parties were ordered to “divide the family use personal property and home furnishings, with the majority for [Christina], as she will have primary custody of the minor child.”

Despite Jonathan’s request to purchase Christina’s interest in the marital home, the circuit court ordered that the marital home be listed for sale and the proceeds of such sale be divided equally.<sup>2</sup> During the pendency of the sale, it directed, Christina can remain in

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<sup>2</sup> In its memorandum opinion, the circuit court found that although Jonathan hoped to purchase Christina’s interest in the farm, “he provided no plan to the Court that would indicate that he would qualify for a loan and be able to do so.”

the home and use it as her primary residence and Jonathan has the right to access the farm, farm lane, barns, and surrounding lands where he conducts his business.

On July 1, 2021, Jonathan filed a Motion to Alter or Amend Judgment of Absolute Divorce. The circuit court denied Jonathan’s motion. This timely appeal followed.

### **STANDARD OF REVIEW**

“Ordinarily, it is a question of fact as to whether all or a portion of an asset is marital or non-marital property. Findings of this type are subject to review under the clearly erroneous standard embodied by Md. Rule 8-131(c); we will not disturb a factual finding unless it is clearly erroneous.” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 229 (2000) (citing *Noffsinger v. Noffsinger*, 95 Md. App. 265, 285 (1993)).

When an action 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). When findings are supported by substantial evidence, they are not clearly erroneous. *Innerbichler*, 132 Md. App. at 230.

“With respect to the ultimate decision regarding whether to grant a monetary award and the amount of such an award, a discretionary standard of review applies.” *Id.* (citing *Alston v. Alston*, 331 Md. 496, 504 (1993)). We will not substitute our judgment for that of the fact finder, even if we may have reached a different finding. *Innerbichler*, 132 Md. App. at 230.

### **DISCUSSION**

#### ***The monetary award***

Jonathan first raises two issues relating to the circuit court’s grant of a \$50,000 monetary award to Christina. He asks us to determine that the circuit court erred in granting a monetary award greater than the net value of the marital property and that it erred in compensating Christina twice for her share of the marital home (by including its net value in determining the monetary award). Both of Jonathan’s contentions, however, rely on the premises that the monetary award either exceeded the net valuation of marital property or was determined by including the net value of the marital home. Upon review of the record, neither are the case.

The circuit court determined that the value of the parties’ jointly held property—not including the marital home—was \$30,594. Additionally, the circuit court concluded that the \$80,000 in grant money from the USDA was also marital property.<sup>3</sup> Thus, the total value of the parties’ marital property—excluding the marital home—is \$110,594. The \$50,000 monetary award that the circuit court ordered Jonathan to pay Christina does not exceed the total value of marital property excluding or including the marital home. We see no error by the circuit court.

*Sale of the marital home*

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<sup>3</sup> In his challenge of the monetary award, Jonathan does not appeal the circuit court’s factual determination that the \$80,000 in grant money from the USDA is marital property or the alleged finding that he intentionally dissipated the property. Because Jonathan did not raise either issue in his brief, we will not address them. *See, e.g., Thompson v. State*, 229 Md. App. 385, 400 (2016) (quoting *Wallace v. State*, 142 Md. App. 673, 684 n.5 (2002)) (“[A]rguments not presented in a brief or not presented with particularity will not be considered on appeal.”).



Jonathan next asks this Court to determine whether the circuit court abused its discretion in ordering the sale of the marital home instead of allowing him to purchase Christina’s ownership interest in the home. Pursuant to FL § 8-205(a)(2)(iii), the circuit court may transfer ownership interest in real property that was used as the principal residence of the parties when they lived together by: (1) ordering the transfer of ownership of the real property to one party and releasing the other party from any lien against the real property; (2) authorizing one party to purchase the other party’s ownership interest in the real property, subject to terms and conditions set by the court; or (3) both.

Section 8-205(a)(2)(iii) of the Family Law Article is purely discretionary. The circuit court “*may*” order the transfer of or purchase of one party’s ownership interest in real property, but nothing in the section requires it to do so. *See* FL § 8-205(a)(2)(iii) (emphasis added). If the court decides to transfer ownership interest in the marital home or authorize the purchase of ownership interest in the home, the circuit court must consider the factors enumerated in FL § 8-205(b). The circuit court considered the FL § 8-205(b) factors in determining the amount of the monetary award, but it did not need to consider the factors for the transfer of ownership interest in the marital home because the circuit court elected not to order the transfer of ownership interest or authorize the purchase of ownership interest in the home; it ordered the sale of the marital home instead.

The circuit court is vested with the authority to order a sale of the jointly held real property and a division of the proceeds thereof. *See* FL § 8-202(b)(2). Jonathan points to no authority that would require the circuit court to order a transfer of or purchase of ownership interest by one party in lieu of a sale of the real property. Therefore, we hold

that the circuit court did not abuse its discretion in ordering the sale of the marital home and equal division of the sale's proceeds.

Jonathan also argues that the circuit court abused its discretion in granting use and possession of the marital home to Christina during the pendency of the sale of the home. The circuit court must consider the following factors in awarding use and possession of the marital home:

- (1) the best interests of any child;
- (2) the interest of each party in continuing:
  - (i) to use the family use personal property or any part of it, or to occupy or use the family home or any part of it as a dwelling place; or
  - (ii) to use the family use personal property or any part of it, or to occupy or use the family home or any part of it for the production of income;
- (3) any hardship imposed on the party whose interest in the family home or family use personal property is infringed on by any order issued under §§ 8-207 through 8-213 of this subtitle.

FL § 8-208(b).

Jonathan concedes in his brief that the circuit found competing interests in the marital home and that it arguably gave equal weight to factors (2)(i) and (2)(ii). The circuit court in its order granted use and possession of the marital home and yard to Christina during the pendency of the sale to address Christina and the child's need for a dwelling place.<sup>4</sup> To address Jonathan's production of income needs, Christina's use and possession of the property was subject to Jonathan's right to access the farm, farm lane, barns, and

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<sup>4</sup> Christina was granted primary physical custody of the minor child.

surrounding lands where he conducts his business. The record is clear that the circuit court weighed each party’s interest in the marital property and did not abuse its discretion.

*Allocation of mortgage, tax, and insurance payments*

Jonathan next asks us to remand this case to the circuit court to determine and allocate the mortgage, tax, and insurance payments on the marital home during the period of use and possession before the sale of the marital home is finalized. As part of this determination, Jonathan seeks a determination of whether *Crawford*<sup>5</sup> credits are owed.

The term “*Crawford* credits” refers to the credits or contribution payments one spouse is owed for paying mortgage, insurance, tax, and other up-keep payments on the marital home when the parties are separated, but before divorce is finalized. *See generally Crawford v. Crawford*, 293 Md. 307 (1982). “[A] co-tenant in a tenancy by the entireties is entitled, to the same extent as a co-tenant in a tenancy in common or joint tenancy is entitled, to contribution for that spouse’s payment of the carrying charges which preserve the property.” *Id.* at 311. When co-tenants are married, however, there is a presumption of gift of any payment made to purchase, improve, or preserve the property. *Id.* (citations omitted). The Court of Appeals in *Crawford* limited this presumption of gift to apply only to payments and purchases made when the married parties are living together—not when they are separated. *Id.* The Court of Appeals reasoned that the presumption of gift exists because “married couples usually contribute their physical, emotional, and financial efforts

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<sup>5</sup> *Crawford v. Crawford*, 293 Md. 307 (1982).

for their mutual benefit,” which is not the case upon separation of the parties. *Id.* at 311–12.

The presumption of gift applies to any payments made by Jonathan or Christina—prior to their physical separation—to purchase, improve, or preserve the property they hold as tenants by entireties. *See id.* at 311. Any payments made by either party to purchase, improve, or preserve the property after the parties physically separated on May 1, 2020 are not presumed to be gifts. *See id.* The spouse who makes such payments after the parties separate is entitled to contribution from the other spouse. *See, e.g., id.* at 309, 314–15; *Baran v. Jaskulski*, 114 Md. App. 322, 332 (1997).

Although the right to contribution of separated spouses owning property as tenants by the entireties was established in *Crawford*, and ‘is entitled to contribution’ language is frequently used, such contribution is discretionary and not mandatory. *E.g., Flanagan v. Flanagan*, 181 Md. App. 492, 541 (2008) (quoting *Woodson v. Saldana*, 165 Md. App. 480, 493 (2005)) (“[T]he court must exercise its discretion to determine whether *Crawford* credits are warranted, and it is therefore not accurate to say that the spouse who pays mortgage and other carrying charges that preserve the property is *entitled* to receive such credits in all cases.”) (cleaned up); *Kline v. Kline*, 85 Md. App. 28, 48 (1990) (“The reason contribution is not mandatory between spouses at the time of divorce is that contribution is an equitable principle[.]”).

Based upon the record, Jonathan was in default under the mortgage for not having paid for many months, but, as Christina concedes in her brief, he made two mortgage payments since the parties separated and before the trial in May 2021. The record is not

clear as to what other payments were made for the marital home since the parties' separation. The circuit court did not address *Crawford* credits or who is responsible for payment of the mortgage, taxes, and insurance during the use and possession period in its order or memorandum opinion. If any *Crawford* credits are owed, this will affect the trial court's order regarding distribution of marital property. We therefore shall vacate the portion of the circuit court's order distributing the marital property and remand to the circuit court on the limited issue of what, if any, *Crawford* credits are owed, and to clarify the parties' future obligations regarding any such payments until the home is sold.

***Limitation on use and possession of marital home***

Jonathan's final argument is that the circuit court erred by failing to set a definitive limitations period for the use and possession of the family home. Section 8-210(a)(1) of the Family Law Article provides that any order concerning the family home "shall terminate no later than 3 years after the date on which the court grants an...absolute divorce." It is settled Maryland law that the circuit court does not need to provide a specific termination date for use and possession of the marital home because, by statute, the use and possession must terminate three years from the date of the circuit court's order. *See Scott v. Scott*, 103 Md. App. 500, 523 (1995) ("Clearly the termination of the use and possession period will be January 6, 1996 [three years after the wife was granted use and possession], because under [FL § 8-210], the maximum period allowed for use and possession is three years.").

**CONCLUSION**

Because the circuit court did not address *Crawford* credits and did not address future payment of mortgage, taxes, and insurance on the marital home during the use and possession period, we vacate the portion of the court's order distributing the marital property and remand to the circuit court with instructions to determine what—if any—*Crawford* credits are owed and determine the parties' future obligations regarding such payments. The circuit court should also reconsider any other aspects of its previous order that it deems appropriate in light of such credits and obligations. *See Reichert v. Hornbeck*, 210 Md. App. 282, 369 (2013).

**JUDGMENT OF THE CIRCUIT COURT  
FOR QUEEN ANNE'S COUNTY  
AFFIRMED IN PART AND VACATED  
IN PART. CASE REMANDED FOR  
FURTHER PROCEEDINGS NOT  
INCONSISTENT HEREWITH. COSTS  
TO BE PAID 3/4 BY APPELLANT AND  
1/4 BY APPELLEE.**