

Circuit Court for Prince George's County
Case No. CAD19-03199

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1126

September Term, 2020

DANIEL E. LEWIS

v.

MARIE FLORE AGATHE ONYA EZEMBA

Kehoe,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 4, 2021

*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.

In this appeal from a domestic family action in the Circuit Court for Prince George’s County, Daniel E. Lewis, appellant, challenges the court’s award of attorney’s fees to Marie Flore Agathe Onya Ezemba, appellee. For the reasons that follow, we shall affirm the judgment of the circuit court.

On January 25, 2019, Ms. Ezemba, through counsel Douglas Cohn, Esq., filed against Mr. Lewis a complaint for custody of the parties’ two children, child support, and other relief. On February 12, 2019, Mr. Cohn moved to withdraw his appearance, which the court subsequently permitted. On March 25, 2019, Rhon C. Reid, Esq., entered his appearance on behalf of Ms. Ezemba.

On August 22, 2019, the court approved a consent order in which the parties “reached a partial agreement resolving the issues of custody, access, contempt with respect to denial of access[,] and related issues.” The court ordered that the remaining issues, including attorneys’ fees and permanent child support, be addressed at a subsequent hearing. On January 31, 2020, Mr. Reid filed an “Affidavit in Support of Plaintiff’s Request for Award of Attorney’s Fees,” in which he requested “approval for contribution of attorney’s fees in the amount of” \$16,903.42 “for attorneys’ fees attributable to the custody, access[,] and child support matter solely.” Mr. Reid attached to the affidavit copies of the retainer agreement between himself and Ms. Ezemba, the corresponding fee schedule and statement of account, and invoices sent to Ms. Ezemba. On February 2, 2020, Mr. Reid moved to strike his appearance, which the court subsequently granted.

On February 19, 2020, the court issued an order in which it resolved the issue of child support and other issues, and continued the matter “for further hearing on the issue

of [Ms. Ezemba's] request for attorney fees." On September 4, 2020, the court held a hearing on the request for attorney fees, after which the court stated:

Pursuant to the . . . Family Article, this Court . . . may order either party to pay the reasonable and necessary expenses of prosecuting or defending this action. The Court finds that the expenses as outlined in Mr. Reid's affidavit were reasonable and necessary to prosecute this action The Court must consider financial resources of each party and whether there's a substantial justification for prosecuting or defending this action.

[Counsel for Mr. Lewis] himself indicated that the dispute regarding any substantial justification for prosecuting or defending this action. [Counsel] similarly conceded that in his argument. In any event, the Court does find . . . that to be the case.

The other consideration the Court must consider is the financial resources and the needs of both parties. In this case, there is a disparity in the financial resources and needs of both parties. The Court finds that [Mr. Lewis] is a retired . . . firefighter. He's on a pension now. No indication that he's disabled or he can't work or . . . earns his additional incomes, the fact that he has not provided any financial statement.

The Court . . . doesn't endorse, you know, you can't hide . . . assets or income and then benefit from that claim that you are unable to do various things, and when there's no indication that you cannot – there's no dispute that, well[,] there may be a dispute but [Ms. Ezemba] is minimally employed, has presented evidence regarding her financial situation.

The Court is troubled that – regarding the ancillary litigation that surrounded this case, namely the litigation regarding the possible deportation of [Ms. Ezemba] on fees that she had to expend trying . . . to locate her children, but the Court . . . is unable to award fees for a case, and I told this to Mr. Reid, I believe, when he . . . last appeared in this Court, the Court can't award fees for other cases that are not before it . . . that's not related to custody or for the other issues in this case.

The Court does find . . . that there's substantial justification for bringing this case. The Court finds that [Ms. Ezemba] is unable to pay her legal fees that she's incurred, so the Court will award attorney's fees to [Ms. Ezemba] in the amount of \$10,000.

The court subsequently issued an order reflecting its judgment.

Mr. Lewis contends that, in awarding Ms. Ezemba attorney’s fees, the court failed to “sufficiently consider[]” the “factors” that a court is required by Md. Code (1984, 2019 Repl. Vol., 2020 Supp.), § 12-103(b) of the Family Law Article (“FL”),¹ to consider before awarding such fees. We disagree. With respect to the parties’ financial resources, the court recognized that Ms. Ezemba, who “presented evidence regarding her financial situation,” was “minimally employed,” while Mr. Lewis, who failed to file a financial statement, is “a retired . . . firefighter” living “on a pension,” and failed to produce evidence that he is unable to earn additional income. With respect to the parties’ needs, the court recognized that Ms. Ezemba had to pay for “ancillary litigation . . . regarding [her] possible deportation” and in “trying . . . to locate [the parties’] children.” Finally, the court explicitly concluded that there was substantial justification for bringing the proceeding, and recognized that counsel for Mr. Lewis “conceded” as much during the hearing. We

¹FL § 12-103(b) states:

Before a court may award . . . counsel fees under this section, the court shall consider:

- (1) the financial status of each party;
- (2) the needs of each party; and
- (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding.

conclude that the court sufficiently considered the conditions listed in FL § 12-103(b), and hence, the court did not abuse its discretion in awarding Ms. Ezemba attorney's fees.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**