

Circuit Court for Anne Arundel County
Case No. 02-C-09-143632

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1143

September Term, 2019

MICHAEL JOSEPH RAEDER

v.

LAURIE JEAN HANLEY

Wells,
Gould,
Maloney
(Specially Assigned),

JJ.

Opinion by Maloney, J.

Filed: July 27, 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.

Appellant Michael Joseph Raeder was ordered by the Circuit Court for Anne Arundel County to make a monthly child support payment for his destitute adult child in the amount of \$1,114. In this appeal, Mr. Raeder takes exception with not only the amount of the child support but also with the limits on his ability to control the expenditures of these payments.

Mr. Raeder raises four issues on appeal. We will reorder and slightly rephrase them while combining the last two because they touch on the same question involving the payee parent's authority over the adult destitute child and his expenditures:

- I. Did the circuit court err in calculating the amount of child support when it failed to deviate from the child support guidelines considering the child's reasonable living expenses and financial resources?
- II. Did the circuit court err when it reduced Mr. Raeder's child support obligation by only 58% of the monthly Social Security benefit received by his adult destitute child?
- III. Did the circuit court err when it declined to order that Mr. Raeder could be involved in determining the expenditure of the support payments, or when it declined to enforce a previous custody agreement pertaining to the now adult child?

BACKGROUND

Mr. Raeder and appellee Laurie Jean Hanley were married on June 20, 1992. They had two children: Colin, born October 6, 1995 – the child that this appeal concerns – and Seth, born February 14, 1999. The parties were divorced on September 24, 2009. Ms. Hanley was given primary custody of the two boys pursuant to a Marital Separation Agreement and Colin remains living with his mother.

Colin has Autism Spectrum Disorder (ASD) and suffers from anxiety. He is considered highly intelligent with high verbal skills. Colin was not working at the time of the circuit court hearing but was a student at a local community college. He has failed and has had to drop some classes in the past. He has twice attempted to work, both times as a stocker at a grocery store, and has been fired each time. These setbacks have had negative effects on Colin's confidence such that he is hesitant to try to work again.

Colin has an academic advisor at the community college and counselor at a Division of Rehabilitation Services (DORS). Based upon their recommendations, Colin is concentrating on his academics. The goal is that he could hopefully graduate college and achieve full-time employment.

Colin also receives online life coaching through a company called Asperger Experts, which works with individuals with high-functioning autism. Moreover, Ms. Hanley was able to get Colin into the adult autism program at Johns Hopkins, which provides a psychiatrist who Colin sees for therapy.

Colin has his driver's license, but experiences too much anxiety to drive on his own so his mother must drive him to appointments. Colin walks the one-mile commute to his community college.

Colin's relationship with his father is strained. Mr. Raeder expresses concerns that his attempts to contact Colin rarely result in a reply. He is also concerned that his ex-wife does not assist in improving his relationship with Colin.

Colin receives a monthly payment of \$534 from the Social Security Administration, comprised of \$129 for Supplemental Security Income (SSI) and \$405 for Social Security Disability Insurance (SSDI). Recently, Colin started his own bank account for the Social Security benefits and has been able to spend his own money. He does not pay for any living expenses at his mother's home, but he has been responsible for buying his own schoolbooks and has started to buy his own clothes and other things. He also hopes to save enough to purchase a car.

The parties agreed in their Marital Separation Agreement that Ms. Hanley would pay 20% of the children's college costs while Mr. Raeder would pay 30%, and the children would pay the remaining half. However, Ms. Hanley testified that she had been paying for Colin's half along with her 20% contribution because he could not afford it — although Colin recently has started to contribute from his Social Security payments. Additionally, Colin is on Mr. Raeder's health insurance.

PROCEDURAL HISTORY

The 2009 Marital Separation Agreement called for Mr. Raeder to pay child support for the two children. It also called for joint custody with a detailed plan of how the parties would address disputes. Colin emancipated and, when he was 19, the Circuit Court for Anne Arundel County found that he was an adult destitute child pursuant to

Section 13–101(b) of the Family Law Article.¹ A court order issued on April 2, 2015, required Mr. Raeder to pay a combined child support amount of \$1,800 for Colin and his then-minor brother Seth through the Office of Child Support Enforcement. The court found that a downward departure from the child support guidelines was appropriate “in consideration for Colin contributing to expenses in the sum of \$250 per month through income earned through employment.”

Once Seth emancipated, the parties entered into a consent order on November 9, 2017, that required Mr. Raeder to pay \$1,378 for the support of Colin.

Mr. Raeder thereafter filed the present Motion to Enforce Marital Separation Agreement and Motion to Modify Child Support for Colin. Mr. Raeder requested that he be provided with more information and input into Colin’s medical, therapeutical, educational, and employment matters. Mr. Raeder subsequently filed a separate Motion to Modify Marital Separation Agreement to alter the requirement that he pay 30% of Colin’s college tuition since it was not anticipated that he would also be paying support for Colin when he was of college age.

¹ In this title, “destitute adult child” means an adult child who:

- (1) has no means of subsistence; and
- (2) cannot be self-supporting, due to mental or physical infirmity.

Md. Code Ann., Fam. Law § 13-101 (West).

The trial court ruled preliminarily that it could not enforce the Marital Separation Agreement as to legal custody since Colin is over 18. The court also held that it could not alter the Marital Separation Agreement, which required Mr. Raeder to pay a portion of Colin’s college expenses.

The court then made findings as to the incomes of each party, the projected expenses of Colin, and extrapolated the child support guidelines. After Mr. Raeder filed a motion for modification, the court altered the amount of child support to account for Colin’s Social Security payments by reducing each party’s obligation by a proportionate amount of their income: 58.9% for Mr. Raeder and 41.1% for Ms. Hanley. In the end, Mr. Raeder was ordered to pay \$1,114 to Ms. Hanley to be paid by a wage lien through the Office of Child Support Enforcement.

Mr. Raeder timely noted this appeal from the circuit court’s ruling.

DISCUSSION

I. Did the circuit court err in calculating the amount of child support when it failed to deviate from the child support guidelines considering the child’s reasonable living expenses and financial resources?

The parties’ child, Colin, was found to be a destitute adult child by order of the Circuit Court for Anne Arundel on April 2, 2015, when he was 19 years old. A “destitute adult child” is “an adult child who: (1) has no means of subsistence; and (2) cannot be self-supporting, due to mental or physical infirmity.” Md. Code Ann., Fam. Law (“FL”) § 13–101(b). Maryland takes the obligation of parents to support a destitute adult child

so seriously that the failure to do so has been criminalized as a misdemeanor offense punishable by up to 1 year of imprisonment.² The finding of Colin as a destitute adult child is not before us on this appeal.

What is before us is the calculation of Mr. Raeder’s required support. The child support guidelines in FL § 12–204 apply equally to a destitute adult child case such as this. *Goshorn v. Goshorn*, 154 Md. App. 194, 218–19 (2003). That is because the legislature intended “to place failure to support an incapacitated child on equal footing with failure to support a minor child.” *Stern v. Stern*, 58 Md. App. 280, 295 (1984) (quoting *Smith v. Smith*, 227 Md. 355, 360 (1962)).

In applying the child support guidelines, the circuit court found that Ms. Hanley’s income was \$7,982 per month and Mr. Raeder’s income was \$11,354 per month. Mr. Raeder does not challenge these findings. He does, however, challenge the finding of Colin’s expenses and the court’s discretion in determining the amount of support.

² Section 13-102 of the Family Law Article details the penalties for failing to support a destitute adult child:

(a) If a destitute adult child is in this State and has a parent who has or is able to earn sufficient means, the parent may not neglect or refuse to provide the destitute adult child with food, shelter, care, and clothing.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.

FL § 13-102.

It is unclear exactly which of the trial court’s findings as to Colin’s expenses is being contested by Mr. Raeder. There was no mention in his brief as to a challenged finding, nor was the issue addressed in argument before this court. There is a conclusionary statement in Mr. Raeder’s brief that “it is undisputed Colin’s monthly needs are \$640.50.” A review of the transcript of the hearing below indicates just the opposite.

How Mr. Raeder reached the \$640.50 figure remains uncertain, but from reading the argument below, it appears that it was based on a review of amounts listed by Ms. Hanley in her financial statement attributable to Colin while ignoring other necessities that were lumped under the heading for Ms. Hanley in the financial statement.

The court did not, nor could it, disregard the items ignored by Mr. Raeder such as mortgage, utilities, food, insurance, repairs, furnishings, homeowner’s fees, repairs and the like.³ We cannot say that the court’s finding of a total child support obligation of \$2,596 was erroneous.

The trial court strictly applied the child support guidelines in this case based on the parents’ income and Colin’s expenses.⁴ Based on that calculation, the recommended child

³ That is not even to mention the costs of therapists, coaches, cable TV, education expenses and routine household costs.

⁴ There was no income attributed to Colin in this case nor a request to impute any since Colin was a full-time student at the time of the hearing.

support amount was \$1,432. The court’s calculation of the numbers is not challenged but the failure to deviate from that calculation is.⁵

Since the parties’ combined income is over \$15,000 a month, the application by the trial court of the child support guidelines is discretionary. FL § 12-204(d). In an “‘above-guidelines case,’ . . . the trial court enjoys significant discretion in determining the amount of the basic child support award.” *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018) (citing *Karanikas v. Cartwright*, 209 Md. App. 571, 596 (2013)). We will not disturb the trial court’s discretionary determination as to an appropriate award of child support absent legal error or abuse of discretion. *Smith v. Freeman*, 149 Md. App. 1, 20 (2002) (quoting *Ware v. Ware*, 131 Md. App. 207, 240 (2000)); *see also Kaplan v. Kaplan*, 248 Md. App. 358 (2020). “As long as the trial court's findings of fact are not clearly erroneous and the ultimate decision is not arbitrary, we will affirm it, even if we may have reached a different result.” *Kaplan*, 248 Md. App. at 385 (quoting *Malin v. Miniberg*, 153 Md. App. 358, 415 (2003)).

Oftentimes, the complaint in an above-guidelines case is that the trial court abused its discretion and deviated from the extrapolated statutory schedule of basic child support obligations provided by FL § 12-204(e). Here, the alleged error is just the opposite —

⁵ Mr. Raeder’s objection is that the trial court did not deviate from the child support guidelines, and it is accurate that the circuit court’s initial ruling did not deviate from the extrapolated schedule of child support guidelines found in Md. Code Ann., Fam. Law § 12-204(e). However, after a Motion to Modify, the court did in fact deviate from the guidelines *in Mr. Raeder’s favor*, as will be described in the next section of this opinion, based upon Social Security payments received by Colin.

that the trial court followed the guidelines. Mr. Raeder argues in his appeal that “to rely on child support guidelines is to foster stagnation of an adult destitute child” by creating a disincentive for Colin to become self-supporting and independent.

The record shows that Colin had lost confidence after being fired from two different grocery clerk jobs. He was concentrating on his college education based upon the recommendations from his counselors. Mr. Raeder does not point to any area where Colin was living either an extravagant or prodigal lifestyle or that the cited expenses were superfluous. The trial court found that Colin was “a young man with a lot of challenges.” We do not agree with Mr. Raeder’s assertion that reducing a basic child support obligation would alter Colin’s challenges or his ability to confront them.

We also find that the trial court properly used its discretion in this above-guidelines case. The trial judge initially stated that the calculated guidelines amount of \$1,432 was a “starting point” and then went through its analysis of Colin’s expenses and the income of the parties. After this analysis, the court found that the guidelines amount was “fair.” We find that the trial court’s analysis of Colin’s expenses to be far more realistic than the \$640.50 figure proposed by Mr. Raeder.

Therefore, we do not find that the trial court either erred or abused its discretion by following the child support guidelines in this case.

II. Did the circuit court err when it reduced Mr. Raeder’s child support obligation by only 58% of the monthly Social Security benefit received by his adult destitute child?

As just described above, the trial court initially calculated the child support guidelines to require Mr. Raeder to pay \$1,432 per month in support. Mr. Raeder filed a motion asking the court to modify its order, with one of the arguments being that the court incorrectly applied the Social Security benefits that Colin was receiving.⁶ At a hearing on the motion, both sides cited *Tucker v. Tucker*, suggesting how the court should alter the support payment based upon Colin’s monthly benefits. 156 Md. App. 484 (2004). After hearing the arguments, the court reduced each party’s support obligation by the respective percentage of their combined income of Colin’s benefit payment. That is, since Mr. Raeder earned 58.9% of the parties’ combined income, his obligation was reduced by 58.9% of the \$534 combined Social Security benefit, and Mr. Raeder’s obligation was reduced to \$1,114 per month.⁷

Mr. Raeder takes issue with the how the court addressed Colin’s Social Security benefits. Despite the trial court agreeing with Mr. Raeder to amend the order and allowing him to acquire the lion’s share of the reduced obligation, Mr. Raeder still takes offense with the trial court’s handling of his motion. However, it is not clear from the

⁶ There were suggestions in the pleadings and in argument at the trial court that the Social Security benefits had been incorrectly imputed by the court as income to the parties. We do not see any indication from the record of that actually occurring.

⁷ Despite numerous attempts, this court’s calculation did not correlate precisely with the trial court’s calculation of the final support obligation based upon the chosen method. Since the issue raised is about the methodology of factoring Colin’s Social Security benefits and not the mathematical calculation, this court will not address that issue.

briefs or argument why Mr. Raeder disputes the trial court’s treatment of the Social Security benefits or how he believes it should be remedied.

Maryland child support statutes do not describe how a child’s Social Security benefits should be addressed when a child support award is made, but Maryland case law has addressed this issue. In an above-guidelines case such as this, the trial court must consider a child’s Social Security benefits “as simply one fact of the many available to it upon which to base an award.” *Anderson v. Anderson*, 117 Md. App. 474, 489, (1997), *vacated on procedural grounds*, 349 Md. 294 (1998). Such benefits are income for Colin. *Id.* at 483. That does not mean that the court must reduce the child’s reasonable expenses by the amount of the payment since “[n]either Maryland law . . . nor federal regulations governing Social Security benefits, require such a result. But the court may, in exercising its discretion, adjust the parties’ total child support obligation by reducing it in some measure to reflect the Social Security benefits” received by a child. *Tucker*, 156 Md. App. at 495–96.

That is precisely what the trial court did in this case: it used its permitted discretion to reduce Mr. Raeder’s obligation by nearly 60% of the benefits received by Colin. This created a below-guidelines award *in Mr. Raeder’s favor* that the court found in its order to be warranted and justified. It is unfathomable how this action by the trial judge was either improper or prejudiced Mr. Raeder, and he fails to direct this court to such a reasoning. Accordingly, we find the trial court’s action regarding the Social Security benefits to have been a proper use of discretion.

III. Did the circuit court err when it declined to order that Mr. Raeder could be involved in determining the expenditure of the support payments, or when it declined to enforce a previous custody agreement pertaining to the now adult child?

The greatest thrust of Mr. Raeder’s appeal concerns his disappointment over not being more involved in Colin’s life. Mr. Raeder takes great exception to the fact that he is responsible for payments for Colin’s support, yet he is not authorized to have a say as to what is done with such funds. Moreover, Mr. Raeder is quite concerned about his lack of involvement in other aspects of Colin’s life. He has minimal contact with Colin, he is provided little information about Colin’s activities, and he has no input as to Colin’s educational and occupational decisions. Mr. Raeder would like this court to find that a person who makes payments for an adult destitute child has rights similar to those of a non-custodial parent of a minor child.⁸

Furthermore, Mr. Raeder is asking this court to reverse the trial court’s ruling that it lacked authority to enforce the custody and visitation schedule that existed when Colin was a minor. Mr. Raeder admits that there is no case law nor statutes that support his position. However, he finds it to be a logical extension of the earlier mentioned case law that equates an adult destitute child with a minor child in a shared custody situation for child support. He also believes the legislature’s silence on this issue as it pertains to an

⁸ It is questionable whether the Motion to Modify or Amend put this issue before the trial court except in regard to enforcing the Marital Settlement Agreement. However, since the trial court addressed this issue after argument by both sides and it has been briefed without objection here, we also will address it.

adult destitute child gives this court the opening it needs to make this public policy determination.

While Maryland case law is rather clear that adult destitute children are to be supported in the same manner as children who fall under the child support laws, that is where the analogy ends as to a shared custody situation. As previously stated, FL § 13–101 *et seq.*, was written to place the support of an adult destitute child on equal footing with a minor child in need of support. *See Presley v. Presley*, 65 Md. App. 265 (1985). There is no mention in any Maryland case law, nor in our review of the legislature’s intent, to place *a parent* of an adult destitute child on equal footing with a non-custodial parent of a minor.

Adult destitute children are still adults and do not lose that designation because they cannot support themselves due to a mental or physical infirmity. As General Provisions Article points out:

- (a)(1) The age of majority is 18 years.
- (2) Except as provided in subsection (b) of this section or as otherwise specifically provided by statute, an individual at least 18 years old is an adult for all purposes and has the same legal capacity, rights, powers, privileges, duties, liabilities, and responsibilities that an individual at least 21 years old had before July 1, 1973.

Md. Code Ann., Gen. Prov. § 1-401(a).

To rule as Mr. Raeder requests would be to deprive Colin of his status as an adult. While it is unfortunate that Mr. Raeder and Colin did not have, at the time of the trial

court hearing, a robust father-son relationship, this court cannot create authority to force an adult child to include his father in the day-to-day activities of his life. Colin maintains his right to associate with whom he chooses.

This is not a guardianship situation where a court has found by clear and convincing evidence that an adult lacks the capacity to make decisions about their welfare. *See* Md. Code Ann., Estates & Trusts § 13-704 *et seq.* Mr. Raeder seems to be asking this court to create a type of pseudo-guardianship situation when an adult destitute child exists. We cannot create such a novel legal entity out of whole cloth.

The adult destitute child statute cannot give relief to a parent who is seeking an improved relationship with an adult child or more input into his adult child’s life. Such a change to the statute would have to come from the legislature.

Likewise, this court cannot extend a previous child custody order to cover a 23-year-old adult. To take Mr. Raeder’s argument to its logical conclusion, Maryland trial courts would end up having custody and visitation disputes about “children” in their 50s.

While again conceding that there is no authority for such a proposition, Mr. Raeder asks this court to make an exception to the age of majority in adult destitute children cases. Again, such a seismic shift in the law would have to come from the legislature.

**JUDGMENTS OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY ARE
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**