

Circuit Court for Anne Arundel County  
Case No. C-02-FM-19-003651

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1201

September Term, 2021

---

FRANCIS E. ANUSIEM

v.

JANELLE S. ANUSIEM

---

Nazarian,  
Reed,  
Zic,

JJ.

---

Opinion by Nazarian, J.

---

Filed: September 6, 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.

Francis Anusiem (“Husband”) appeals the decision of the Circuit Court for Anne Arundel County awarding indefinite alimony to his now-ex-wife Janelle Anusiem (“Wife”) as part of their Judgment of Absolute Divorce. He challenges the threshold decision to award indefinite alimony, the court’s calculation of the parties’ relative resources and expenses, and the court’s findings about Wife’s future income prospects. We see no error and affirm.

### **I. BACKGROUND**

Husband and Wife were married in Utah in 2006. She had three children from prior relationships and they had three of their own. Wife worked as a registered nurse until 2010, when illnesses prevented her from continuing. She applied for and was granted Social Security Disability benefits in 2012 and, save for a failed stint as a school lunch lady, has not worked since. Husband served in the Air National Guard at the time of the marriage, and the parties relocated to Maryland from Utah in 2015, when he took a job with the U.S. Department of Defense. He continues to serve in the Reserves and receives Veterans Administration disability pay.

Wife filed a complaint for divorce on October 7, 2019. Both parties sought custody of the children and both contested custody, child support, property division, and attorney’s fees. The court held a four-day trial in March 2021 and, on July 9, 2021, ruled on the record and granted Wife’s request for an absolute divorce based on a twelve-month separation and returned her to her maiden name. The court also shifted sole legal and primary physical custody of the children to Husband, divided the parties’ assets, ordered Wife to pay child

support to Husband, and ordered Husband to pay Wife \$2,500 per month in indefinite alimony. The alimony decision is the only one Husband has challenged on appeal, and the one part of the court’s decision we’ll recount in detail.

The court began by making findings about the parties’ relative earnings. The court found that Wife’s monthly income is \$1,505 and Husband’s monthly income is \$13,276, a combined income of \$14,781. After adjusting by \$466 for health insurance and accounting for the court’s alimony award,<sup>1</sup> the court calculated Wife’s base child support obligation as \$1,024. The court then reduced that obligation by \$762 to account for Social Security benefits Wife received monthly for the three children and ordered Wife to pay \$262 in child support to Husband each month. The court didn’t give a monetary award to either party (they kept their own real property and vehicles and remained responsible for their own attorneys’ fees) but did award Wife a fifty percent interest in Husband’s vested-to-date pension benefits, payable at Husband’s retirement.

The court incorporated many of its factual findings on custody and marital property into its findings on alimony. With respect to the parties’ monetary and non-monetary contributions to the marriage, the court found that “even at her most stable, the minor children have been struggling under [Wife’s] care” and that although Wife was home with the children full-time, she “had long periods of mental instability that minimized her ability

---

<sup>1</sup> The court did not state that alimony was included during its oral ruling. But during a later discussion with the parties’ attorneys after awarding alimony, the court clarified that it did account for alimony in its child support award. The Child Support Guidelines Worksheet in the record shows the same.

to consistently make non-monetary contributions” to the family. Husband made non-monetary contributions to the family during these periods in addition to his full-time employment and continued service in the Reserves to make additional money. As for the “circumstances that contributed to the estrangement of the parties[,]” the court found that throughout their fourteen years of marriage, “[Wife’s] mental health diagnosis, her unemployment basis, [Husband’s] control over the parties[’] money, disagreements over parenting styles, and medical and mental health concerns with the minor children” contributed to the divorce, but ultimately that Wife’s petition for a protective order on September 13, 2019 led to the parties’ separation. The court found that Wife’s “unhappiness in the marriage stemmed from her lack of financial control, her desire to be free from [Husband’s] financial control, and her desire to protect [the parties’ high schooler] from potential eviction when he turned 18 . . . .”

In reaching its decision to award indefinite alimony, the court considered and weighed “a number of factors,” beginning with “the ability of the party seeking alimony to be wholly or partially self supporting.” The court recognized that Wife has been diagnosed with schizoaffective disorder, was awarded Social Security Disability benefits in 2012 on the basis of her mental illness, and has not maintained steady employment since 2010. Because her conditions are not temporary, the court found, she is unlikely to receive income from employment in the future and she currently is not working because of her mental health diagnosis.

The court found that Wife has monthly expenses of \$3,914.29 and receives \$1,505

per month in income, all from Social Security Disability income (the children receive benefits separately as well). “Other than the income that she receives from SSDI, tax refunds, and gifts from family,” the court found, “she does not receive any income.” As a result, the court found that she has the ability to be partially self-supporting, but has a monthly deficit of \$2,409.30, and that “once the parties[’] divorce is final, [her] expenses are not likely to either substantially increase or decrease in the future.” She intended to sell her house in Utah and relocate to the Eastern Shore of Maryland, where the court found her housing expenses would be at least the amount she has incurred since the parties separated. Her only additional source of potential income is Husband’s pension, once he starts receiving it at retirement age (he was 47 at the time of the ruling). The court then reduced her expected monthly expenses by \$600: “Since the parties will no longer be in active litigation, she will have the proceeds from the sale of her home [(the court valued them at \$59,399.29)], this Court has determined that her legal fees will be substantially reduced, if not eliminated.” Even so, the court found no evidence to indicate that her living expenses would differ substantially going forward—she would have obligations (including child support of \$262) totaling \$3,576 per month and a monthly deficit of \$2,071.30.

Next, the court considered the time necessary for Wife to gain education or training sufficient to enable her to find suitable employment. But given Wife’s mental health issues, the court found “no evidence presented to indicate that her lack of employment was due to lack of education or training.”

The court then considered the parties’ standard of living during the marriage. It

found that they enjoyed a non-extravagant middle-class life and that after the divorce, Husband's standard of living would remain more or less the same because he was the primary breadwinner. Given Wife's financial deficit of \$2,071.30, though, the court found that her standard of living would change from middle class to "economically disadvantaged."

The court discussed Husband's financial statement next. He claimed \$14,184 per month in expenses for himself and the children. From that figure, the court deducted certain credit card debt, Husband's attorney's fees, and his travel/vacation expenses for himself and the children to travel back and forth to Utah, yielding a total of \$8,685 and a surplus of \$4,592 each month. The court found that "there was no credible evidence to indicate that [Husband] was not able to meet the family's expenses as a breadwinner while [Wife] was still in the home, nor was there any credible evidence presented that indicated that he is not able to meet his own expenses, since the parties['] separation." The court found Husband able to contribute \$2,500 per month to Wife in alimony.

The court also found that Wife "cannot reasonably be expected to make substantial progress toward becoming self supporting." And, "[a]lternatively, . . . the parties['] respective standards of living would become unconscionably disparate if she was forced to pay all of her living expenses without further assistance from [Husband]." Based on all of these considerations, the court awarded Wife indefinite alimony of \$2,500 per month:

[Wife's] income for the foreseeable future will be approximately \$1,500, and [Husband's] income is \$13,276, or approximately 12 percent of [Husband's] income. Under these circumstances, it would lea[d] to unconscionably disparate

results if [Wife] were forced to pay all of her living expenses with that income, when [Husband] has [the] financial resource[s] [to] pay \$2,500, per month.

As a result, this Court is going to award [Wife] indefinite alimony in the amount of \$2,500, per month, beginning August 1st.

The judgment of absolute divorce, including the alimony component, was entered on August 10, 2021. Husband filed a motion to alter and amend the alimony and child support judgment, which was denied on September 22, 2021. Husband timely appealed. We discuss additional facts as necessary below.

## II. DISCUSSION

This appeal presents one issue:<sup>2</sup> whether the trial court properly awarded Wife

---

<sup>2</sup> Husband phrased the Questions Presented in his brief as follows:

1. Did the trial court commit reversible [sic] error in awarding Appellee \$2,500 per month in indefinite alimony?
2. Did the trial court commit reversible error in its determination that Francis would have a \$4,591.00 per month surplus of income from which to pay alimony?
3. Did the trial court commit reversible [sic] error regarding its in its [sic] findings regarding certain factors set forth in Annotated Code of Maryland, Family Law Article, §11-106(b)?
4. Did the trial court commit reversible error in granting the Appellee's claim for indefinite alimony when Appellee failed to meet her burden of proof regarding her inability to work?

Wife phrased her Questions Presented as follows:

- I. Did the trial court abuse its discretion by awarding Ms. Wyler indefinite alimony where it found that she cannot reasonably be expected to become self-supporting due

\$2,500 per month in indefinite alimony. Husband contends that the trial court erred in three ways. *First*, he argues that the court erred in its determination of Husband’s financial needs and resources and thus his ability to meet his and Wife’s needs. *Second*, he argues that the court erred in its determination of Wife’s financial needs and resources. *Third*, he argues that the trial court erred in finding that Wife is unlikely to receive income from employment in the future. Wife responds that the trial court analyzed the statutory factors correctly and that the court’s findings are supported by the evidence. We agree with Wife and affirm.

Maryland Code (1984, 2019 Repl. Vol.), section 11-106 of the Family Law Article (“FL”) governs alimony awards, and indefinite alimony is disfavored in Maryland, where “the ‘statutory scheme generally favors fixed-term or so-called rehabilitative alimony,’ rather than indefinite alimony.” *Solomon v. Solomon*, 383 Md. 176, 194 (2004) (*quoting Tracey v. Tracey*, 328 Md. 380, 391 (1992)). Section 11-106(b) requires the court to consider “all the factors necessary for a fair and equitable award” and includes a list of twelve factors that cover a wide range of considerations about the parties and their earning capacities. Section 11-106(c) allows the court to order indefinite alimony if it finds either that the receiving spouse cannot reasonably become self-supporting or, if they can, if the parties’ standards of living nevertheless will be unconscionably disproportionate:

- (1) due to age, illness, infirmity, or disability, the party

---

to her disability *and* that the parties’ standards of living will be unconscionably disparate?

- II. Did the trial court abuse its discretion by awarding \$2,500 per month in alimony where it addressed all of the statutory factors set forth in Section 11-106(b)?



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.

(Emphasis added.) “The statute places strict limits on a trial court’s ability to grant indefinite alimony and requires a comprehensive case-by-case analysis.” *Solomon*, 383 Md. at 196.

When reviewing an indefinite alimony award, “we look at the decisions through different lenses depending on their character.” *Bryant v. Bryant*, 220 Md. App. 145, 158 (2014). “First-level facts” of the circuit court, baseline findings such as a party’s income or how the parties fare on any one of the FL § 11–106(b) factors, *Wenger v. Wenger*, 42 Md. App. 596, 607 (1979), are pure findings of fact reviewed under the clearly erroneous standard. *Bryant*, 220 Md. App. at 160. “Second-level facts,” those that “necessarily rest[] upon the court’s first-level factual findings,” but also upon “how much weight the court chooses to give to its various first-level factual findings,” involve discretion and are reviewed under the abuse of discretion standard. *Id.* at 160–61 (distinguishing between standards of review for different types of factual conclusions under an “unconscionable disparity” finding).

Husband argues *first* that “[t]he trial court erred in its determination of [Husband’s] income, his existing financial obligations and his ability to meet his own needs,” as well as meeting those of Wife. He argues specifically that the court erred by (1) considering gross income rather than net income after taxes and (2) deducting certain expenses from

Husband’s financial statement. Wife argues that these were discretionary decisions, *see id.*, and the alimony is not so unreasonably high as to amount to an abuse of discretion.

Husband cites *Birdsall v. Birdsall*, 23 Md. App. 502, 514 (1974), for his contention that “the impact of taxes can—and should—in many cases be anticipated and brought to the attention of the trial court . . . .” True enough, but although the trial court didn’t engage in an income tax analysis, it did find that Husband was able financially to provide the support the court ordered. Although Husband points to deductions and withholdings from his 2020 W-2 and recent leave and earnings statements, he didn’t offer any evidence for his *projected* tax consequences, and in any case, tax withholding doesn’t necessarily represent a taxpayer’s total annual tax liability. *See id.* 515 n.9. The court reasoned instead that Husband could meet the family’s expenses while Wife was still in the home and that he has been able to meet his own expenses since the parties’ separation, which included *pendente lite* child support in the amount of \$2,850 per month. After paying alimony, Husband would have an excess of \$2,091 per month to meet his tax obligations, in addition to the child support award of \$262 per month. Under these circumstances, we can’t say the trial court abused its discretion in finding that Husband had the ability to pay.

Husband’s *next* contention is that the court erred in deducting certain expenses from Husband’s financial statement. Again, decisions to reduce expenses to determine the ultimate alimony amount lie within the trial court’s discretion. *See Reynolds v. Reynolds*, 216 Md. App. 205, 226, 234 (2014); *Corby v. McCarthy*, 154 Md. App. 446, 499 n.7 (2003). Here, Husband’s Financial Statement expenses of \$14,184 per month were “plainly

overstated.” See *Birdsall*, 23 Md. App. at 505. And the court painstakingly detailed its rationale for reducing Husband’s expenses:

[Husband’s] financial statement indicates that he has monthly expenses of \$8,100.69; a total of \$14,184, if you include the children’s expenses. [Husband’s] notes and his financial statement [shows] that he has credit card debt. However, [Wife’s] Exhibit 13 showed [Husband’s] Capitol One card, ending in 6062, has a zero balance, and his Capitol One card, ending in 3298, had a balance of—over \$7,000, as of February 13.

But upon review of . . . Exhibit 14, [Husband] made a payment on March 8, 2021, to his Capitol One card, in the amount of \$7,500, making his card have a zero balance. In addition, he indicates that he is also paying for attorney’s fees monthly. However, after the litigation has concluded, that expense will be significantly reduced or eliminated.

So, I deducted the \$1,899, from his expenses. Furthermore, [Husband] included \$1,500 as a monthly expense for him, and \$2,100 for the three minor children to travel to and from Utah each month. I have eliminated that expense, and find that his living expenses for himself are \$4,707. And if you include the children, \$8,685, which leaves a \$4,591 surplus available each month.

The cost of solar panels on the home that Husband claimed as an expense were factored properly into the value of the home in the context of the property division. And the court is not required to explain every single adjustment to expenses in any event. *Allison v. Allison*, 160 Md. App. 331, 345 (2004) (when calculating monthly expenses to determine financial need, the court is “not required to set forth its exact thought process in arriving at conclusions” because financial statements submitted by the parties may be exaggerated). These deductions were not an abuse of discretion.

Husband argues *next* that the trial court erred in determining Wife’s financial needs

and resources. He claims that the court erred when it deducted Wife’s child support payment from her monthly expenses and when it awarded \$2,500 a month in alimony after finding that she had a monthly deficit of only \$2,071.30. This claim has no merit. The Child Support Guidelines Worksheet in the record reveals that alimony *was* figured into the child support calculation, and the court clarified that alimony was considered in its child support award to Husband’s counsel:

[HUSBAND’S COUNSEL]: . . . The 2,500 in alimony, was that factored into the child support guidelines? Because I have [Wife’s] income and monthly at \$4,005, a month.

THE COURT: Thank you for catching that, and yes it [is]. I did not say it at the time because I had not—and I was worried, as I was giving my findings, about whether or not I did include. But then, I pe[e]ked over at the sheet while I was giving my findings. It is there in the child support guidelines worksheet, under (1)(c), plus or minus alimony awarded, in this case at \$2,500.

[HUSBAND’S COUNSEL]: Okay, thank you. And in regard, then, the Court’s calculation and the offset that the Court did f[o]r the Social Security benefits, the SSDI for the minor children. My understanding is, the Court is assuming, and it is the way it should go, that [Husband] would be receiving that benefit as the primary custodian, and that is why the child support has been reduced.

THE COURT: That is my assumption—

[HUSBAND’S COUNSEL]: Okay.

THE COURT:—when I did my calculations.

Husband argues *lastly* that the trial court erred in finding Wife unlikely to receive income from employment in the future because she failed to meet her burden of proof. Husband is correct that “[t]he spouse seeking indefinite alimony bears the burden of proof as to the existence of the prerequisites to entitlement to such an award.” *Simonds v.*

*Simonds*, 165 Md. App. 591, 607 (2005) (quoting *Thomasian v. Thomasian*, 79 Md. App. (1989)). He claims Wife “offered absolutely no testimony or evidence as to why or how her disability prevented her from working in any capacity,” but merely justified her claim based on her SSDI disability qualification “and her own testimony,” all in contravention of this Court’s holding in *Hiltz v. Hiltz*, 213 Md. App. 317 (2013).

In *Hiltz*, the trial court granted indefinite alimony based solely on the payee spouse’s own testimony and her status as a Social Security disability benefits recipient. *Id.* at 331. The payee spouse was diagnosed with fibromyalgia, but her condition was “managed by prescription medications” such that she enjoyed “a fairly active lifestyle.” *Id.* at 323. We held that “no rational basis exists to support an *automatic* finding that every social security disability recipient completely lacks the capacity to work or earn any income . . . .” *Id.* at 342–43 (emphasis added). But we also noted the limited applicability of our holding, and did not “foreclose the possibility, however, of instances where the party alleging the disability and inability to work is readily apparent, without the need for expert testimony and extensive medical reports. But such apparent impairment is not present in the instant case.” *Id.* at 344.

In this case, the court made detailed factual findings about Wife’s capacity to work and mental health diagnosis that are supported by ample evidence (and, in any event, not contested or opposed by Husband), including her non-monetary contributions to the family due to her mental instability and her work history. The court didn’t rely solely on Wife’s testimony and her SSDI disability qualification, as the court in *Hiltz* had—it relied as well

on Wife’s therapy records, medical records, fact witness testimony about Wife’s mental instability, expert witness testimony by Wife’s therapist, and statements made to the custody evaluator regarding Wife’s depressive episodes. Husband’s own testimony only bolstered Wife’s mental disability—he stated that “she’s always depressed . . . a little situation can just alter everything, plans, immediately.” He also testified that Wife suffered from delusions and paranoia requiring “a lot of hospitalizations” over the course of the parties’ relationship. The evidence presented at trial was sufficient to support a finding that Wife’s medical conditions impaired her ability to earn money. *See, e.g., Brashier v. Brashier*, 80 Md. App. 93, 99 (1989) (upholding award of indefinite alimony “[g]iven the history of the plaintiff’s psychiatric problems”). We find, as Wife asserts, that her impairments were readily apparent, and that is enough support for this alimony award.

In the alternative, the court also cited FL § 11-106(c) as a basis for its indefinite alimony award. In addition to Wife’s readily apparent impairment, which makes it so that she “cannot reasonably be expected to make substantial progress toward becoming self-supporting[,]” FL § 11-106(c)(1), the court found that even after making “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)(2). Wife’s sole sources of projected income going forward are disability benefits and, when he retires, her share of Husband’s pension payout. Husband doesn’t claim otherwise, but the trial court’s

analysis of the parties' projected relative income and earning ability also supports indefinite monthly alimony in the amount of \$2,500.

**JUDGMENT OF THE CIRCUIT COURT  
FOR ANNE ARUNDEL COUNTY  
AFFIRMED. APPELLANT TO PAY  
COSTS.**