Circuit Court for Calvert County
Case No. C-04-FM-24-000336

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1280

September Term, 2025

Allison Hoff

v.

Michael Perez

Wells, C.J.
Nazarian,
Reed,

JJ.

Opinion by Reed, J.

Filed: April 27, 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).

The instant appeal arises out of Michael Perez's ("Appellee") Complaint for Absolute Divorce against Allison Hoff ("Appellant"), which was filed on June 12, 2024. During the pendency of this divorce case, Appellee filed a Motion for Emergency Custody of the parties' only minor child ("G.").[1] Following a hearing on August 12, 2024, the court found that an emergency existed and granted Appellee sole legal and physical custody of G. on an emergency basis, "with visitation and access between [the child] and [Appellant] to be supervised as determined by [Appellee] under the circumstances." Leading up to the court's merits hearing on this case, numerous motions were filed by the parties, which are described in greater detail below.

A merits hearing took place over the course of three days, April 29, April 30, and June 9, 2025, in the Circuit Court for Calvert County. Appellee moved to have Appellant's mental health records that the court deemed relevant during its in-camera review marked and admitted, to which Appellant's counsel objected. The court ruled that the psychiatrist-patient privilege had been waived and admitted the records. On July 18, 2025, the court issued a Judgment and Opinion granting the parties an Absolute Divorce based on six-month separation. The court also granted Appellee sole legal and physical custody of G. and awarded Appellant supervised visitation of the child. The court ordered that Appellant pay Appellee $1,703.00 per month in child support, with additional accompanying orders

[1] Since the parties' child is a minor, this Court will refer to the child by his first initial, G.

on the method of payment. The court denied Appellant's claim for alimony. Finally, the court ruled on the division of the parties' property.

On August 18, 2025, Appellant noted this timely appeal.[2] In bringing her appeal, Appellant presents three questions for our review:

> I. Did the trial court commit reversible error when it admitted [Appellant's] psychiatric and mental health records over objection?
>
> II. Did the trial court abuse its discretion in awarding Appellee sole legal and physical custody of the Parties' son?
>
> III. Did the trial court abuse its discretion in failing to grant Appellant a monetary award?

For the following reasons, we affirm the Circuit Court for Calvert County's judgment on the admissibility of Appellant's mental health records and on child custody. We reverse and remand the court's division of marital property, in part, solely pertaining to the erroneous classification of Appellee's Police FCU Savings Account.

FACTUAL & PROCEDURAL BACKGROUND

The parties were married in October 2020 in a civil ceremony in Friendship, Maryland. The parties separated around August 27, 2024, and have remained separate and apart since. Prior to their separation, the parties began having disagreements, principally about finances, Appellant's increased religious involvement, their differing opinions on what religion their child, G., should be raised as, and whether to vaccinate G. Both Appellee

[2] Appellant's Notice of Appeal was filed 31 days after entry of the judgment in this case. However, the 30th day after entry of judgment fell on a Sunday, in which case "the period runs until the end of the next day that is not a Saturday, Sunday, or holiday[.]" Md. Rule 1-203(a)(1).

and Appellant's Mother, Faye Hoff, testified that they found Appellant's increased religious involvement concerning. Specifically, Appellee testified about one instance when Appellant said she "was told by Jesus to [g]o down to a field and worship[,]" and brought G. with her.

There were additional instances that caused Appellee to grow concerned for G.'s safety and wellbeing when he was in Appellant's care. Specifically, on April 29, 2024, Appellee observed a bruise on G.'s forehead and on May 6, 2024, Appellee noticed G. had a black eye. Appellee testified that G. had been in Appellant's care on both of those days. Also, Appellee testified that on May 15, 2024, Appellant left G. unattended in the bathtub. Appellee also testified that Appellant took a video of G. crawling under the kitchen sink, where there were cleaning materials and mouse poison, rather than stopping him.

On June 12, 2024, Appellee filed a Complaint for Absolute Divorce against Appellant. The parties continued residing together, sleeping in separate bedrooms, until around August 27, 2024.

Appellee and many of those close to Appellant grew concerned with Appellant's mental health. These concerns culminated in early August 2024. Appellee testified that since he worked the nightshift, the "[m]ajority of the time it was [Appellant] doing the drop-offs in the morning, unless it was predetermined that I would[.]" On August 2, 2024, Appellee testified that when he woke up after his night shift, G. was crying in his crib with a dirty diaper and wearing the same clothes Appellee put G. in the night before. When Appellee went to find Appellant, she was awake and stated that she thought Appellee was watching G. The child was then taken to the house of Deb Lineberry, G.'s babysitter, for

her to watch G. as usual.

Deb testified that when she brought G. home that afternoon, Appellant was outside, "stumbled off that first step. Her arms were crossed, and there was no eye contact. There was no – no light on, really it seemed." Deb testified that Appellant repeatedly yelled, "in the name of Yah, get out[,]" seemingly talking to voices in her head. Deb asked Appellant if she was okay and if she wanted her to keep G. longer, to which Appellant said yes. Appellant told Deb she was coming with her, and got in Deb's car with Deb, Deb's daughter, and G. Appellant was not wearing shoes. Deb testified that Appellant was in and out of sleep, and kept repeating, "in the name of Jesus, get out, in the name of Yah, get out." When they returned to Deb's house, Appellee had arrived, and he had called the police. Once inside Deb's house, Appellant "got down on all fours and was chanting, crying," and saying, "in the name of Yah, get out, in Jesus' name, get out."

Deb took G. and her children to a nearby beach to remove them from the situation, and Deb testified that when they returned Appellant was spread out, face down on the floor by her front door. Deb's husband told Deb that Appellant had been like that for about an hour and refused any help. Deb and Appellee decided Deb would keep G. for the night, and Appellee had to physically move Appellant to his truck to bring her home. Once the parties were home, Appellant found spare keys to Appellee's truck, and "erratic[ally]" drove it back to Deb's house. Appellant eventually returned home.

Appellee testified that on August 3, 2024, Appellant repeatedly said, "One, two, three," and jumped where she stood. A video was played at the hearing showing this behavior. That same day, the parties and others who were present had a discussion in which

Appellant agreed she should go to the hospital. This conversation was also reflected in a video that was played at the hearing. On this day, Appellee accompanied Appellant to Anne Arundel Medical Center, where she "was involuntarily admitted to the psych department at the emergency room." While Appellant was hospitalized, Appellee and Appellant's mother took turns visiting Appellant.

On August 6, 2024, Appellee filed a Motion for Emergency Custody, asserting that Appellant had "voluntarily checked herself into Anne Arundel Medical Center ("AAMC") due to a mental breakdown[,]" and "was deemed involuntary" and "transferred to inpatient care at McNew Medical Center[,]" where she was "under an involuntary petition." The court held a hearing on this matter on August 12, 2024, and ultimately found that an emergency existed and that the necessary remedy was to grant Appellee sole legal and physical custody of G. on an emergency basis, "with visitation and access between [the child] and [Appellant] to be supervised as determined by [Appellee] under the circumstances.

Appellant was ultimately transferred to McNew Medical Center and was later released on August 16, 2024. Appellant returned to the family home, where Appellee was also residing. Appellee testified that Appellant "didn't follow her plan of care and stopped taking her medicine, which ultimately led to her kicking in my door one day[,]" and provided a photo at the hearing of the damaged door. On August 18, 2024, Appellant was again involuntarily committed to McNew Medical Center.

In accordance with the Emergency Custody and Visitation Order, either Appellant's mother or Deb were often present for supervised visitations between Appellant and G.

However, after some time, Deb found Appellant's behavior concerning and ultimately "realized [she] was not equipped for this" and supervising visits between Appellant and G. was not "something [she] wanted to continue doing[,]" noting that it was "hard to watch."

On September 17, 2024, Appellant filed a Motion for Pendente Lite Hearing on Access, in which she requested that the court grant her unsupervised access to the minor child on an equal share-time basis pending the final custody hearing. The court set a Pendente Lite Hearing for November 14, 2024.[3]

On September 19, 2024, Appellant answered Appellee's Complaint for Absolute Divorce, stating therein that she denied the allegations contained in Appellee's Complaint and requesting that Appellee's Complaint be dismissed and that she "be awarded such other and further relief as just and proper."

On September 25, 2024, Appellee filed a Response to Appellant's Motion for Pendente Lite Hearing on Access, in which he denied the allegations set forth in Appellant's Motion and requested that the court deny Appellant's request for unsupervised visitation.

On November 13, 2024, the court granted in part Appellee's Motion for Sanctions for Failure of Discovery and ordered that Appellant "shall produce full and complete Answers to Interrogatories and Responses with all documentation responsive to [Appellee's] Request for Production of Documents by November 15, 2024." In the same Order, the court also ordered that the pendente lite hearing set for November 14, 2024, be

[3] This hearing was postponed due to pending discovery disputes and ultimately obviated by Appellant's Motion to Modify Custody.

postponed until after Appellant produced answers and documents in compliance with the order.

On December 3, 2024, Appellant's counsel's Motion to Withdraw Appearance was granted, and Appellant proceeded pro se in this matter. Acting pro se, on December 31, 2024, Appellant filed a Petition to Modify Custody and Visitation; a Md. Rule 9-203(b) Financial Statement; a Request for Emergency Custody Hearing; a Counterclaim for Absolute Divorce; a Md. Rule 9-203(a) Financial Statement; a "Parenting Plan Tool"; a Motion for Emergency/Expedited Pendente Lite Relief (RE1. 158-59); and a Motion to Shorten Time. On the same day, the court denied Appellant's Motion for Emergency/Expedited Pendente Lite Relief and her Motion to Shorten Time.

In December 2024, while working, Appellee stopped in a hotel in Washington D.C. to use the restroom and coincidentally ran into Appellant sleeping in the hotel lobby. On another day in December 2024, Appellant called Appellee while he was working and said she was at a restaurant and was not feeling well. When Appellee arrived, Appellant was in the back of an ambulance and Appellee was told that Appellant had passed out in the restaurant and was going to be taken to the hospital. Appellant was taken to Georgetown University Hospital.

In January 2025, under the supervision of Appellant's mother, Appellant and G. went to California to visit Appellant's family. Patty Buchanan, Appellant's aunt, testified that she found Appellant's behavior and treatment of G. during this visit concerning.

On January 13, 2025, Appellee filed a Motion for Order Authorizing Release of Medical and/or Mental Health Records and to Compel Discovery. On January 24, 2025,

Appellant filed an answer to this motion.

On January 27, 2025, Appellant filed an Amended Petition to Modify Custody and Visitation that was accompanied by many exhibits, including letters from friends expressing their view of Appellant's character and the parties' relationship history and personal letters from Appellant to Appellee. These lengthy letters included information about the current custody and divorce case and allegations that Appellee had previously physically and emotionally abused Appellant. On February 4, 2025, Appellee filed an Answer to this Amended Petition to Modify Custody and Visitation and filed an Answer to Appellant's Counterclaim for Absolute Divorce.

On February 6, 2025, the court issued an Order granting in part and denying in part Appellee's Motion for Order Authorizing Release of Medical and/or Mental Health Records and to Compel Discovery. Specifically, the court ordered:

> the custodian of records for [Appellant's] medical and/or mental health records regarding treatment commencing January 1, 2024 to present, including but not limited to treatment records from Luminis Health Anne Arundel Medical Center and Georgetown University Hospital shall release said records to the Circuit Court for Calvert County, Maryland for an In Camera review to consider [Appellee's] Motion Authorizing Release of Medical and/or Mental Health Records[.]

Further, the court ordered that Appellant shall provide Appellee's counsel a full and complete answer to Appellant's Interrogatory No. 22 in writing and under oath within five days of the order, and if she failed to do so, "[Appellee's] Request to Compel Discovery [would be] reserved for consideration at the merits hearing."

On March 13, 2025, Appellant filed another Motion for Emergency/Expedited Pendente Lite Relief, with supporting exhibits, and another Motion to Shorten Time. In the

Motion for Emergency/Expedited Pendente Lite Relief, Appellant again raised accusations that Appellee had abused her in the past. The next day, the court denied Appellant's Motion for Emergency/Expedited Pendente Lite Relief and denied Appellant's Counterclaim for Absolute Divorce "having been filed with the court and the case is to proceed in due course."

On April 1, 2025, and again on April 7, 2025, the Family Services Coordinator issued a memo acknowledging that records from Luminis Health[4] were received.

Notably, Appellant's mother testified that in April and May of 2025 she witnessed some concerning behavior from Appellant, including Appellant talking to herself again.

A merits hearing on this matter took place over the course of three days, April 29, April 30, and June 9, 2025, before the Circuit Court for Calvert County. On the first day, Deb Lineberry, the parties' former babysitter for G., and Appellee testified. On the second day, Appellee completed his testimony and Patty Buchanan, Appellant's aunt, testified. On the third and final day of the merits hearing, Appellant and her mother both testified.

Circuit Court's Ruling on the Admissibility of Appellant's Psychiatric and Mental Health Records

During their opening statement, Appellant's counsel stated:

> We would, however, remind the Court that under *Laznovsky v. Laznovsky*, the patient–psychiatric patient– privilege applies even in cases of child custody matters. We'd request that all records related to mental health of the [Appellant] cited and planned to be utilized be barred from admission under Maryland case law."

[4] The Luminis health records are the records from Anne Arundel Medical Center.

At the merits hearing, Appellee's counsel asked the court to mark and take judicial notice of the Georgetown University Hospital records and the Luminis Health records, which the court did, marking them as Plaintiff's Exhibit No. 5 and Plaintiff's Exhibit No. 6. Appellee's counsel then offered these exhibits for admission, noting that the court deemed them relevant during the court's in-camera review. Appellee's counsel also stated:

> I would ask the court to take judicial notice that hospital records meet the criteria of what would be considered a business record.
>
> Also that statements in the medical records are made for the purposes of medical diagnosis.
>
> I would also assert to the court that [Appellant] did give consent. I mean there's consent forms included in both of the packets executed by [Appellant] to the release of the documents. And she also provided directly to my office through – I believe it was when she was with [her former attorney], but in her first round of discovery, she also produced records. But the consent forms are included in there.
>
> So my position would be the totality of these.

Appellant's counsel responded:

> I would argue that my client had no understanding of her legal rights at this point to give consent to medical records being disclosed. She believed she was under a Court order to provide records and didn't wish to violate.
>
> …
>
> At the time, I don't believe she had representation of Counsel, but if she had, I would have objected to producing those records.
>
> In addition, *Laznovsky* is very clear that mental health records are protected from psychiatric privilege and would protect her for not producing those records even for purposes of child custody cases.

Appellee's counsel argued that the instant situation is different than that in *Laznovsky*, and that Appellant waived her psychiatrist-patient privilege.

At the merits hearing, the Judge ruled from the bench on the admissibility of these records, stating in relevant part:

> Obviously, Health General Article 4-307 indicates that mental health records are generally confidential. And it cites also to [Cts. & Jud. Pro. § 9-109], which is the communications between patient and psychiatrist and psychologist. Obviously, that deals with situations where there's no waiver or there's no authorization of release.
>
> …
>
> [Appellant's counsel] argues, well this doesn't even apply because these are medical records, they're no mental health records. I don't know enough about that distinction to say that that's a basis.
>
> But then we come to the issue of waiver and authorization. First of all, … [Appellant] … provided her Luminis records in discovery. She didn't assert that privilege as to those records at that time. She can't provide them in discovery and then turn around and say they're privileged after the fact.
>
> So to the extent she provided the Luminis records in discovery, I find that she waived her right to assert the privilege as to those records. Even if they're considered mental health versus medical.
>
> In addition, as it related to the Georgetown University records, I don't know that she produced those. But the indication there, I think, is a little more straightforward. She was hospitalized allegedly for seizures, not for necessarily mental health. So I don't think that this privilege applies there.
>
> …
>
> … I find that A, she's waived any privilege by providing the documents in discovery to opposing Counsel, and B, she signed releases as to both sets of documents. And certainly it's relevant because fitness is at issue in this case, and she is asserting that her hospitalizations, for reasons having to do with chemical imbalance or seizures and not related to any mental health issue that she was suffering.
>
> So certainly for those reasons, I think it's relevant – as to whether or not that's accurate or not or whether there is a mental health issue.
>
> So based on that, I find that she's waived the privilege by not asserting it, by providing the documents and by executing releases relating to the documents.

> And I don't think this is like the *Laznovsky* case in that there is something more here. This isn't just your standard custody case where someone says, oh, I know my wife or my husband is seeing a counselor, so I'm just going to subpoena the records and find out what's going on with their mental health.
>
> There is more here, in that we know – I don't think there's a dispute that [Appellant] here was hospitalized at various different points, including in August and then again in December.
>
> … I'm going to admit Plaintiff's Exhibit No. 5 and 6.

The Circuit Court's Judgment and Opinion

A. Grounds for Divorce

On July 18, 2025, the Judge issued a Judgment and Opinion granting the parties an Absolute Divorce based on six-month separation.

B. Alimony

The court denied Appellant's claim for rehabilitative alimony. In reaching this conclusion, the court considered the factors under Md. Code, Fm. Law, § 11-106 and based its denial on the fact that the parties' marriage was relatively short, both parties are highly educated, Appellant is a licensed physical therapist and owns and operates her own physical therapy business, she "has earned nearly $75,000 per year in the past and testified that she could earn between $70,000.00 and $100,000.00 per year in her profession[,]" Appellant did not present credible evidence that she is unable to work and instead maintains that her mental health is managed and under control, and she receives between $4,000.00 and $5,000.00 monthly from her parents and inherits over $30,000.00 annually.

C. Division of Marital Property and Monetary Award

In reaching its conclusion on the division of marital property, the court followed the

three-step process set out in Md. Fam. Law § 8-203-05, in which the court must: (1) determine what property is marital; (2) determine the value of the martial property; and (3) balance the equities and rights of the parties based on the factors set forth in § 8-205. The court determined that Appellee's 457(b) Plan and his District of Columbia Police Officers and Firefighters Retirement Plan were partially marital property, insofar as the property that was accrued in these entities after the parties' marriage. The court also held that AM Concierge Physical Therapy, the Pacific Premier Checking and Savings Account, and the parties' two dogs were also martial property. The remainder of the property analyzed by the court was deemed non-marital, including the "Police FCU" accounts.

The court valued the martial portion of the 457(b) Plan at $56,917.74, the court could not provide a valuation of the District of Columbia Police Officers and Firefighters Retirement Plan, the court valued AM Concierge Physical Therapy at zero, the court valued the Pacific Premier Checking Savings Account at $5,324.05, and the court valued both dogs at zero.

Based upon the factors set forth in Md. Fam. Law § 8-205, the court awarded Appellant 50% of the 457(b) Plan's $56,917.74 in marital assets, her marital share of Appellee's pension through the District of Columbia Police Officers and Firefighters Retirement Plan, and that "each party shall retain any personal property that it titled in their own name as identified in the Court's Opinion[.]" The court noted that "[a]ll other claims for division of property and monetary award" are denied. Notably, this awarded Appellant a total of $33,930.35 plus her marital share of Appellee's pension, including her 50% share of the 457(b) Plan ($28,458.87), her Police FCU S-0 and S-99 accounts ($5,092.39;

$55.04), and her Pacific Premier checking and savings accounts ($324.05). This awarded Appellee a total of $52,292.30 minus Appellant's marital share of his pension, including his 50% share of the 457(b) Plan ($28,458.87), his GMC Sierra ($10,587.73), his Police FCU checking account ($2,743.42), his E-Trade account ($6,125.21), and his Robinhood account ($4,377.07). Finally, the court ordered that Appellee's claim for attorney's fees and costs was also denied.

D. Child Custody & Child Support

In reaching its custody decision, the court noted that it "is guided by the best interests of the child" and considers the "non-exhaustive list of factors set forth in *Taylor v. Taylor*, 306 Md. 290, (1986); *Montgomery County v. Sanders*, 38 Md. App. 406 (1978)[.]" The court concluded that "[t]he evidence showed that the parties are unable to communicate effectively with one another to reach shared decisions regarding the minor child[.]" Additionally, the court stated that it "has serious concerns about [Appellant's] mental fitness to care for [G.]" based on "[t]he testimony and evidence presented by [Appellee], as well as witnesses Ms. Lineberry, Patty Buchanan ([Appellant's] aunt), and Faye Hoff[.]" The court concluded that Appellee has a "very close and loving bond with [G.,]" and that Appellee has made "considerable effort" to maintain contact between G. and Appellant. The court found that both parties were sincere in their requests for custody, but that Appellant minimized her mental health issues.

Based on these determinations, the court concluded it was in the best interests of the child that Appellee be granted sole legal and physical custody of the parties' minor child, G., and the court awarded Appellant supervised visitation of the child with an agreed upon

supervisor or child supervision center, "the cost of which shall be borne by [Appellant]." The court stated that it has "serious concerns with [Appellant's] mental fitness and […] ability to care for [G.] in an unsupervised setting." Further, the court noted that "[s]hould [Appellant] wish to transition to unsupervised visitation, absent an agreement of the parties, [Appellant] shall undergo a full psychological evaluation by an agreed upon or Court ordered psychologist[.]"

Finally, the court ordered that Appellant pay Appellee $1,703.00 per month in child support, with additional accompanying orders on the method of payment.

Post Judgment Filings & The Instant Appeal

On August 18, 2025, Appellant filed a Motion for Reconsideration with a Supplemental Memorandum and Supporting Exhibits. On August 18, 2025, Appellant filed a Notice of Appeal. On August 28, 2025, Appellee filed an Opposition to Appellant's Motion for Reconsideration. On August 28, 2025, the circuit court denied Appellant's Motion for Reconsideration.

Originally, this case was scheduled for oral argument before this Court on February 2, 2026. However, on January 25, 2026, Appellant filed an Emergency Motion for Extension of Time to File Reply Brief or to Allow Supplement to Same and to Postpone Oral Argument. In this Emergency Motion, Appellant provided that Plaintiff's Exhibits 5 and 6, containing Appellant's records from two hospitalizations, had been sealed and admitted in the records of the instant appeal. Appellant's counsel stated that it became clear that "review of the records by this Court would be relevant to the issues raised on appeal." Thus, Appellant's counsel filed a motion to unseal the two exhibits, which the circuit court

granted on January 9, 2026. Appellant then filed an Uncontested Motion to Correct the Record, and this Court ordered that the exhibits be transmitted from the circuit court to this Court.

Appellant's Emergency Motion provided, "[w]ith the motion to unseal the exhibits still pending in the [circuit court], Appellant filed an Appendix to her principal brief including the two sets of records, under seal, so that this Court would not be delayed[.]" Appellant stated that they believed the records supplied in their Appendix "were identical to those that constituted Plaintiff's Exhibit 5 and 6." However, Appellee's brief stated that the records in Appellant's Appendix were not identical to Plaintiff's Exhibits 5 and 6. Specifically Appellee stated that Appellant's records failed to include signed waivers by Appellant that were present in the actual exhibits. Appellant's Emergency Motion provided that upon this discovery, Appellant underwent significant efforts to acquire a copy of the exhibits. However, Appellant was not initially successful and would not be able to view the exhibits until the circuit court re-opened following inclement weather, which would be after Appellant's reply brief was due to this Court.

Appellant's Emergency Motion acknowledged that Appellee objected to the relief requested by Appellant's Emergency Motion and declined Appellant's request that she receive full copies of the exhibits directly from Appellee. However, Appellee did not object to Appellant viewing the exhibits in person upon the circuit court's reopening.

For the foregoing reasons, Appellant requested this Court grant its Emergency Motion and extend the deadline for filing Appellant's reply brief by seven days to allow the circuit court to locate the exhibits and allow Appellant to review them. Appellant also

requested that oral arguments for the instant appeal be postponed.

On January 28, 2026, this Court granted Appellant's Emergency Motion for Extension of Time to File Reply Brief or to Allow Supplement to Same and to Postpone Oral Argument, ordered that Appellant's Reply Brief shall be filed on or before February 2, 2026, and ordered that this appeal shall be rescheduled for oral argument in the April 2026 session.

DISCUSSION

Admission of Appellant's Psychiatric and Mental Health Records

A. Parties' Contentions

Appellant argues that the court committed reversible error by admitting privileged psychiatric and psychological records over her objection. In support of this, Appellant highlights the following events: on October 18, 2024, Appellee filed a Motion for Sanctions for Appellant's failure to respond to discovery; on October 28, 2024, Appellant's former counsel, Mr. Hansen, filed a Motion to Strike his Appearance; on October 31, 2024, Appellant responded to Appellee's Motion; on November 13, 2024, the court granted Appellee's Motion in part, ordering Appellant to respond to the discovery requests. Appellant provides that Mr. Hansen filed a Certificate of Discovery stating that Answers to Interrogatories and Response to Request for Production of Documents were mailed to Appellee's counsel. Then, on December 3, 2024, Appellant states that the court granted Mr. Hansen's Motion to Strike his appearance as Appellant's counsel.

As for the admission of the Luminis records, Appellant states that:

Apparently, in March 2024, without having had an opportunity to review

> same, [Appellant] acting *pro se*, executed a release to [Appellee's] counsel allowing her to obtain some part of the records from Luminis. She had already been the subject of an Order compelling full and complete disclosure of responses to requests for production of documents.

Appellant provides that "[h]er counsel objected to disclosure of the records at trial, based on the mental health records [privilege]." Appellant summarily asserts that in these circumstances, it was "unconscionable" for the court to conclude that Appellant waived her psychiatrist-patient privilege for the Luminis records "after the court demanded them and after opposing counsel allegedly served a waiver upon her."

As for the Georgetown records, Appellant argues that the court erred in deeming these records to be medical and not psychiatric because "those records contain a directive and implicit diagnosis that [Appellant] was being treated for schizophrenia, which takes those records out of the realm of purely medical records." Appellant also asserts that "an admission for seizures would otherwise be irrelevant to child custody[,]" and that Appellant never waived any privilege with regard to these records.

Appellant concludes that the court committed "reversible legal error in finding that *Laznovsky* did not apply to the Georgetown record[s], and abused its discretion in admitting the Luminis […] records after finding a knowing waiver of privilege."

Appellee argues that "the validity of the waivers prior to trial is not an issue preserved for appeal," because Appellant conceded that her acts of disclosing the records in discovery and executing the authorization forms for the records "constituted a waiver." Appellee asserts that Appellant instead argues that she could revoke her waiver at the merits hearing, "and based upon the revocation of her waiver, *Laznovsky* barred admission

of the records." However, Appellee argues that regardless of the validity of the waivers prior to the merits hearing not being preserved for appeal, "the [c]ourt's ruling was correct."

Appellee rejects Appellant's assertion that her waiver constituted "a limited waiver or a release 'for insurance and billing purposes' executed upon admission." Instead, Appellee points out that the "plain language of the releases signed by [Appellant] authorized 'all records' be released to the Circuit Court for Calvert County, an entity not involved in billing or insurance in any way." Additionally, Appellee acknowledges that while Appellant was permitted to revoke her waiver of privilege, "the revocation is effective only as of the date the privilege was revoked, not retroactively[.]" Appellant revoked her waiver on April 29, 2025, which all the records predated, and therefore "privilege did not apply to the Georgetown and Luminis records and the [c]ourt properly admitted the records."

Finally, Appellee argues that if the court erred by finding that the Georgetown records were medical records and not mental health records, "it [was] harmless error because [Appellant] waived her privilege as to the Georgetown records." Appellee states that "[i]t is not probable that the admission of the records prejudiced [Appellant] in the [c]ourt's custody decision" because the court did not reference any of the records in its findings nor custody ruling[,]" and there was "ample evidence to support the findings of [Appellant's] parental unfitness and questionable mental health exclusive of the Georgetown and Luminis records."

In Appellant's Reply Brief, Appellant states that she "signed the alleged privilege waiver under order of the court after affirmatively invoking privilege and the record does

not include proof that (or which) records were disclosed in discovery[.]" Specifically, Appellant argues that nothing in the record supports Appellee's argument that Appellant disclosed the records during discovery and thus waived the privilege. Additionally, Appellant reiterates her argument that the court erred in categorizing the Georgetown records as medical records.

B. Standard of Review

First and foremost, "[o]rdinarily, an appellate court will not decide any [] issue unless it plainly appears by the records to have been raised in or decided by the trial court, but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal." Md. Rule 8-131(a).

In *St. Luke Inst., Inc. v. Jones*, 471 Md. 312, 328-29 (2020), the Supreme Court of Maryland provided the applicable standard of review, stating:

> With respect to the application of discovery rules, "it is long settled that the trial judges are vested with a reasonable, sound, discretion in applying them, which discretion will not be disturbed in the absence of a showing of its abuse." *Ehrlich v. Grove*, 396 Md. 550, 560 (2007) (internal quotations and citations omitted). Although we generally review discovery disputes under an abuse of discretion standard, the dispute in this case involves a civil litigant's right to obtain mental health records that are ordinarily protected from disclosure by statute and may only be obtained in accordance with the express statutory provisions authorizing such disclosure. When a trial court's order involves an interpretation and application of statutory and case law, we must determine whether the lower court's conclusions are legally correct under a *de novo* standard of review. *Nesbitt v. Gov't Emps. Ins. Co.*, 382 Md. 65, 72 (2004).

Under Md. Health Gen. § 4-307, mental health records are generally confidential and "not discoverable or admissible as evidence in any criminal, civil, or administrative action[,]" unless an exception outlined in the statute applies. One of these exceptions is that

"[a] healthcare provider shall disclose a medical record without the authorization of a person in interest[,]" in accordance with a court order as permitted under Cts. & Jud. Pro. § 9-109. Md. Health Gen. § 4-307(k)(1)(iv).

Md. Code, Cts. & Jud. Pro., § 9-109 provides the law concerning the "patient-therapist privilege," which applies to communications between licensed psychologists and psychiatrists and their patients. Md. Code, Cts. & Jud. Pro., § 9-109(a). In relevant part, this statute states:

> (b) Unless otherwise provided, in all judicial, legislative, or administrative proceedings, a patient or the patient's authorized representative has a privilege to refuse to disclose, and to prevent a witness from disclosing:
>
> > (1) Communications relating to diagnosis or treatment of the patient; or
> >
> > (2) Any information that by its nature would show the existence of a medical record of the diagnosis or treatment
>
> …
>
> (d) There is no privilege if:
>
> > …
> >
> > (6) The patient expressly consents to waive the privilege, or in the case of death or disability, his personal or authorized representative waives the privilege for purpose of making claim or bringing suit on a policy of insurance on life, health, or physical condition;
> >
> > …

Md. Code, Cts. & Jud. Pro. § 9-109(b); (d).

In *In re Matthew R.*, 113 Md. App. 701, 707-10 (1997), this Court relied on *Harrison v. State*, 276 Md. 122 (1975), which evaluated waiver of the attorney-client privilege, to guide its determination of whether the psychiatrist-patient privilege had been waived. In

Harrison, the Supreme Court of Maryland stated that one's intent to waive a privilege must "be expressed either by word or act, or omission to speak out." *In re Matthew R.*, 113 Md. App. at 707-10 (quoting *Harrison*, 276 Md. at 137). Further, "[o]nce the confidential matter has been disclosed, it is no longer secret and the privilege which might be claimed disappears." *Harrison*, 276, Md. at 137-38. Furthermore, "a privileged party cannot fairly be permitted to disclose as much as he pleases and then to withhold the remainder to the detriment of the defendant." *Parler & Wobber v. Miles & Stockbridge, P.C.*, 359 Md. 671, 693 (2000).

C. Analysis

The issue of whether there was a valid waiver was preserved for review by this Court because it was "raised in or decided by the trial court[.]" Md. Rule 8-131(a). Even though Appellant conceded that there was a valid waiver at the merits hearing, and instead argued that her waiver could be and was recanted, the court still decided this issue, stating "I find that she waived her right to assert privilege as to [the Luminis] records."

We agree that there was a valid waiver of the psychiatrist-patient privilege as to the Luminis records. Appellant was represented by her former counsel, Mr. Hansen, until December 3, 2024, when the court granted Mr. Hansen's Motion to Strike his appearance as Appellant's counsel. Thus, Appellant was represented by Mr. Hansen when she provided the Luminis records in discovery to Appellee on November 12, 2024. Appellant's act of providing these records in discovery, while represented by counsel, effectively expressed Appellant's "intent to waive [her] privilege." *See In re Matthew R.*, 113 Md. App. at 707-10 (quoting *Harrison*, 276 Md. at 137).

Additionally, on March 18, 2025, Appellant signed a release for the Luminis records that explicitly stated, "[r]elease my health information to: Calvert County Circuit Court[.]" Notably, Appellant obtained a new lawyer and filed an Entry of Appearance on March 24, 2025. Thus, Appellant signed the release without representation of counsel. Regardless, signing the release, coupled with her explicit disclosure of these records in discovery, bolstered the validity of Appellant's waiver of her psychiatric-patient privilege.

At the merits hearing, on April 29, 2025, Appellant attempted to invoke her psychiatric-patient privilege for the Luminis records, arguing that *Laznovsky*, 357 Md. 586, barred the admission of these records. This is the first time Appellant asserted the psychiatric-patient privilege. However, at this point, Appellant had already waived this privilege for the Luminis records by the act of giving the records to Appellee during discovery and signing the release of the documents to the court. *See In re Matthew R.*, 113 Md. App. at 707-10; *Harrison*, 276 Md. at 137-38); *Parler & Wobber*, 359 Md. at 693. Further, *Laznovsky*, 357 Md. 586, is not on point for the instant case. In *Laznovsky*, the Supreme Court of Maryland held that a party in a child custody case does not waive their psychiatrist-patient privilege by asserting they are fit to have custody of their child. This is not instructive because Appellant did not waive her psychiatrist-patient privilege by asserting she is fit to have custody of her child, but rather she waived her psychiatrist-patient privilege by providing the Luminis records to Appellee during discovery and signing the release for these records. *See In re Matthew R.*, 113 Md. App. at 707-10; *Harrison*, 276 Md. at 137-38); *Parler & Wobber*, 359 Md. at 693.

Additionally, the Georgetown records were also properly admitted. However, the

court did err in ruling that the psychiatrist-patient privilege did not apply to Georgetown records because she was being treated for seizures rather than for mental health concerns. Md. Code, Cts. & Jud. Pro. § 9-109(b) provides that the psychiatrist-patient privilege applies to: "(1) Communications relating to diagnosis or treatment of the patient; or (2) Any information that by its nature would show the existence of a medical record of the diagnosis or treatment[.]" Appellant's Georgetown records state Appellant is a "single Female w/ PPH Bipolar disorder and Schizophrenia…" The records also reflect that Appellant denies these diagnoses, that Appellant's prior hospitalization at Anne Arundel Medical Center for mental health concerns, and include comments from Appellee and Appellant's mother regarding Appellant's mental state. The nature of this information certainly shows "the existence of a medical record of the diagnosis or treatment," and thus the court should have determined that the Georgetown records were subject to the psychiatrist-patient privilege. Md. Code, Cts. & Jud. Pro. § 9-109(b).

However, this was a harmless error because if the court had found the psychiatrist-patient privilege was applicable to these records, it also would have concluded that Appellant waived the psychiatrist-patient privilege by explicitly providing the records to the court and Appellee. On March 14, 2025, Appellant signed a release for her Georgetown records to be sent to the Circuit Court for Calvert County. As noted above, Appellant obtained a new lawyer and filed an Entry of Appearance on March 24, 2025, and thus Appellant signed this release without representation of counsel. Regardless, the principles in *In re Matthew R.*, 113 Md. App. at 707-10; *Harrison*, 276 Md. at 137-38); and *Parler & Wobber*, 359 Md. at 693; dictate that Appellant waived her privilege as to the Georgetown

records, and she "cannot fairly be permitted to disclose as much as [she] pleases and then to withhold the remainder to the detriment of the defendant." *Parler & Wobber*, 359 Md. at 693.

Therefore, the court's error in ruling that the psychiatrist-patient privilege did not apply to Georgetown records was a harmless error because the documents would have been admitted either way and thus Appellant was not prejudiced by the error. *See* Md. Rule 5-103(a) (stating that "[e]rror may not be predicated upon a ruling that admits or excludes evidence unless the party is prejudiced by the ruling."); *see also Lamalfa v. Hearn*, 457 Md. 350, 372-73 (2018) (holding that "even if manifestly wrong, we will not disturb an evidentiary ruling by a trial court if the error was harmless[,]" and that the probability of prejudice guides the appellate inquiry).

The circuit court did not commit reversible error in admitting both Appellant's Luminis and Georgetown records.

Child Custody Award

A. Parties' Contentions

Appellant argues that the circuit court abused its discretion by granting Appellee sole legal and physical custody for two main reasons:

> (1) caselaw concerning parties to a custody battle that cannot effectively communicate about decisions regarding the child counsels for a joint custody award, and the trial court did not partake in a detailed analysis for deviating from a joint custody finding; and (2) the trial court improperly considered [Appellant's] religiosity when determining her fitness as a parent, and misstated the trial testimony related to the same.

As for "(1)", Appellant argues that the court's order is "far afield from the guideposts in [*Santo v. Santo*, 448 Md. 620 (2016)] and its supporting authorities" and did not adequately detail "why a deviation from pure joint legal custody is in the best interests of the [child]." Appellant asserts that "the trial court's lack of one single case law citation whatsoever (other than perfunctory citations to *Taylor* and *Sanders*[)], … is an abuse of discretion[,]" and "[a]t the very least, the scant analysis should entitle [Appellant] to a limited remand on the issue."

As for "(2)", Appellant argues that "[a] dangerous conflation that permeates this case is [Appellant's] struggles from August 2024 to January 2024 with her strongly held and genuine religious beliefs." Appellant asserts that in considering religion when making child custody determinations, *Levitsky v. Levitsky*, 231 Md. 388 (1963); *Bienenfield v. Bennett-White*, 91 Md. App. 488, 507 (1992); *Quiner v. Quiner*, 59 Cal. Rptr. 503, 516-18 (Cal. Ct. App. 1967); "and their progeny draw the line at physical or psychological harm to the child." Thus, Appellant asserts that here, the "[c]onsideration of the testimony regarding [Appellant's] religion was an abuse of discretion."

Appellee argues that the court's award of sole legal and physical custody was not an abuse of discretion. Specifically, Appellee argues that the court "made ample factual findings in support of the award of sole legal and physical custody to [Appellee][,]" and listed these factual findings. Appellee asserts that the court considered all the required factors set out in *Taylor v. Taylor*, 306 Md. 290 (1986) and *Montgomery County v. Sanders*, 38 Md. App. 406 (1978), and individually reviewed each factor in its opinion.

Appellee rejects Appellant's argument concerning *Santo*, 448 Md. 620, and asserts

that the court's decision was "logical and consistent with the conclusion of a reasonable person" based on the testimony given at the merits hearing, the court's credibility determinations, and the extensive evidence presented at the merits hearing. Appellee specifically highlighted that "testimony of [Appellant's] concerning behavior came from four (4) separate witnesses," two of which were Appellant's family members, and that the court made a credibility determination from observing Appellant during the three days of the merits hearing that Appellant "was minimizing her mental health issues." Additionally, Appellee noted that the court relied on evidence that spanned from August 2024 through May 2025. Thus, Appellee concludes that "[t]he [c]ourt's decision cannot be characterized as 'well removed from any center mark imagined by the reviewing court…'"

Appellee also argues that the court did not consider Appellant's religious views in reaching its custody determination. Appellee asserts that his concern with the incident when Appellant took G. to a field "at Jesus' alleged direction" related to G.'s safety, not specifically religion. Appellee notes that this instance was also concerning given the context of G. having sustained injuries while in Appellant's care. Appellee also provides that cross examination from Appellant's attorney elicited his testimony about Appellant's religious behaviors and the parties' religious differences. Appellee argues that the court did not rely on Appellant's religious behaviors in reaching its decision, but even if it had, that is allowed as it relates to the safety of the child.

B. Standard of Review

When reviewing child custody matters, Maryland appellate courts apply three distinct standards of review. *See Burak v. Burak*, 455 Md. 564, 616 (2017) (citing *In re Yve*

S., 373 Md. 551 (2003)). First, when an appellate court "scrutinizes factual findings, the clearly erroneous standard" applies. *In re Yves S.*, 373 Md. at 568. Second, "if it appears that the [trial court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless." *Id.* Third, "when the appellate court views the ultimate decision of the [trial court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [trial court's] decision should be disturbed only if there has been a clear abuse of discretion." *Id.*

Under this framework, "it is within the sound discretion of the [trial court] to award custody according to the exigencies of each case," and "a reviewing court may interfere with such a determination only on a clear showing of abuse of that discretion." *Id.* at 585-86. An abuse of discretion occurs:

> Where no reasonable person would take the view adopted by the [trial] court … or when the court acts "without reference to any guiding rules or principles." An abuse of discretion may also be found where the ruling under consideration is "clearly against the logic and effect of facts and interferences before the court," or when the ruling is "violative of fact and logic[.]"

Wilson v. John Crane, Inc., 385 Md. 185 (2005) (citing *In re Adoption/Guardianship No. 3598*, 347 Md. 295 (1997) (internal citations omitted)). Further, in *Davis v. Davis*, the Supreme Court of Maryland noted:

> Such broad discretion is vested in the [trial court] because only he sees the witnesses and the parties, hears the testimony, and has the opportunity to speak with the child; he is in a far better position than is an appellate court, which has only a cold record before it, to weigh the evidence and determine what deposition will best promote the welfare of the minor.

Davis v. Davis, 280 Md. 119, 125 (1997).

Additionally, *Taylor v. Taylor*, 306 Md. 290 (1986), sets out the factors to be

considered when the trial court is deciding whether to award joint legal custody.[5] These considerations include:

i. The capacity of the parents to communicate and reach shared decisions affecting the child's welfare;
ii. The willingness of the parties to share custody;
iii. The fitness of the parents;
iv. The relationship established between the child and each parent;
v. The preference of the child;
vi. The potential disruption of the child's social and school lives;
vii. The geographic proximity of the parental homes;
viii. The demands of parental employment;
ix. The age and number of children;
x. The sincerity of both parent's requests;
xi. The financial status of the parties; and
xii. The benefit to the parents.

See Viamonte v. Viamonte, 131 Md. App. 151, 158-59 (2000) (citing *Taylor*, 306 Md. at 304-11).

C. Analysis

Here, we cannot say that the circuit court abused its discretion in granting Appellee sole physical and legal custody of G. The circuit court judge properly considered testimony and evidence pertaining to each of the factors set forth in *Taylor*, 306 Md. 290 and *Sanders*, 38 Md. App. 406. Notably, the court found that the parties are "unable to reach shared decisions regarding the minor child and that joint legal custody would not be in the best interests of the minor child[,]" and considered the parties willingness to share custody.

[5] As noted by the circuit court, on October 1, 2025, the law for child custody determinations changed from being determined based on the best interest factors set out in *Taylor*, 306 Md. 290, to the factor set out in Md. Code, Fam. Law, § 9-201.

Regarding the fitness of the parents, the court considered the testimony and evidence presented at the hearing and concluded that "the [c]ourt has serious concerns about [Appellant's] mental fitness to care for G." The court concluded Appellee has a "close and loving bond with G." and that since Appellant's hospitalizations in August 2024, "Appellant does not have as strong a bond as [Appellee] with the minor child." The court found Appellee has made "considerable effort" to maintain contact between G. and Appellant. The court noted Appellee's work schedule and recognized that he has hired an au pair for G. The court found that both parties were sincere in their requests for custody, but that Appellant minimized her mental health issues. Notably, the court's factual findings regarding child custody make no mention of Appellant's mental health records.

The court's factual conclusions are appropriately based on the testimony and evidence presented at the hearing and thus are not clearly erroneous and are due deference on appeal. We must give due regard to the court's credibility determination that Appellant minimized her mental health issues and that "the [c]ourt has serious concerns about [Appellant's] mental fitness to care for [G]." Based on these factual determinations, we cannot say "no reasonable person" would reach the conclusion that it is not in G.'s best interests for Appellant to have legal or physical custody or unsupervised visitation. *Wilson*, 385 Md. 185 (citing *In re Adoption/Guardianship No. 3598*, 347 Md. 295 (internal citations omitted)). In reaching this conclusion, the court properly relied on the relevant "guiding rules or principles[,]" set out in *Taylor*, 306 Md. 290 and *Sanders*, 38 Md. App. 406. Therefore, the court did not commit an abuse of discretion in awarding Appellee sole physical and legal custody of G.

Failure to Grant Appellant a Monetary Award

A. Parties' Contentions

Appellant argues that the court abused its discretion by failing to grant Appellant a monetary award. Specifically, Appellant argues that awarding Appellee "almost 95% of the marital property, failing to adjust the equities, while simultaneously declining to award alimony to the Appellant and assessing 100% of the cost of supervised visitation as a community center is an abuse of discretion."

Appellant asserts that the court's conclusion that the "Police FCU Account" is non-marital because "[Appellant] received her share of these funds, totaling $53,484.84 on or about April 22, 2024[,]" was clearly erroneous. Appellant states that a check was written on April 22, 2024, for $53,484.84 to "***Michael Perez,***" (emphasis in original) not to Appellant. Appellant provides that these funds were deposited into Appellee's personal account at the Police Federal Credit Union. Appellant states that this account showed total deposits of $125,361.23, from which Appellee "unilaterally deducted six months of alleged deficit to cover family expenses for totaling $15,816.00[,]" and "deducted an additional $12,444.83 for alleged monies 'Allison Borrowed from Family Accounts for AM Concierge Physical Therapy.'" Appellant also notes that Appellee wrote Appellant a check for $42,327.79 for what he "erroneously claimed was her share of the marital funds."

Appellant contends that she did not consent to these deductions. Further, Appellant argues it was an abuse of discretion for the court to conclude that these deductions were "an agreed disposition of marital property, but Appellant's contribution of [$48,497.08] to the marital estate from her personal injury settlement" were not counted as part of the

marital property analysis.[6] Appellant asserts that the marital property totaled $125,361.23, making Appellant's 50% share $62,680.61, but since Appellee paid Appellant $43,327.79, "a 50% division of the marital property entitled Appellant to an award of $19,352.82." Appellant acknowledged that an even split of marital property is not mandated.

Appellant argues that the court erroneously determined that "[Appellee] held marital property worth $80,751.17, and [Appellant] held only $5,471.48, not taking into account the monies kept by [Appellee] in dividing the Parties' accounts." Therefore, Appellant concludes that "[t]he [c]ourt granted [Appellant] a 50% interest in the marital share of the pensions but failed, utterly, to make an equitable division of the marital property." Appellant contends that this division of property, coupled with denying Appellant's claim for alimony and assigning Appellant 100% of the cost of supervised visitation centers, was an abuse of discretion and thus "[t]he judgment should be reversed and remanded for a new trial before a different judge."

Appellee states that "the identification of [Appellee's] PFCU Savings Account as non-marital was a mistake but asserts the error is harmless[.]" Appellee argues that under Md. Rule 5-103, *Flanagan v. Flanagan*, 181 Md. App 492, 515-16 (2008), and given the evidence and the court's reasoning for denying the monetary award, "it is not probable that adding [Appellee's] PFCU $3,418.02 savings account balance to the marital property

[6] On December 11, 2023, Appellant received an automobile accident settlement in the amount of $48,497.08. Appellant alleges that she deposited this money into the parties' joint account with a note, "To Mike … because marriage is worth more than money." The court concluded it was unable to account for these funds because they were co-mingled with other funds.

would make any difference in the [c]ourt's monetary award analysis."

Irrespective of the PFCU savings account, Appellee provides that when the 50% split of Appellee's pension is taken into account, Appellee received $52,292.30 in marital property and Appellant received $33,930.35 in marital property. Appellee asserts that the court "systematically considered all of the factors set forth in Md. Code Ann., Family Law § 8-205," considered all the testimony and evidence, and thus did not commit an abuse of discretion. Further, Appellee notes that Appellant wrongfully relies on bank account balances from July 1, 2024, over a year before the divorce and nine months before the merits hearing. Appellee asserts that under *Gravenstine v. Gravenstine*, 58 Md. App. 158, 177 (1984), "the relevant inquiry involves the value of marital property on the date of divorce, not date of separation or any prior date[.]"

Additionally, Appellee argues that Appellant never argued at the merits hearing that Appellee dissipated assets, Appellant does not make that argument on appeal and thus has not preserved that issue for appeal. Appellee notes that even if Appellant had made a dissipation argument, "the [c]ourt found [Appellee's] explanation regarding the expenditure of funds credible and the [c]ourt would be correct in relying upon the account balances at or about the time of divorce.

In Appellant's Reply Brief, Appellant argues that "the court erroneously failed to consider Appellant's dissipation claim in determining a marital award." Appellant asserts that Appellee wrote a check for $53,484.84 from the parties' joint bank account for their business, Presence Real Estate Investments ("PREI"), which he deposited into his PFCU savings account. Appellant maintains that she never consented to this transfer of funds and

that Appellees made this transfer in contemplation of divorce. Appellant argues that "[t]he [c]ourt made a clearly erroneous factual finding that this check was a payment to [Appellant] as an agreed settlement division of the Police FCU account, converting this account to non-marital property." Appellant asserts that this deposit was Appellee's "unilateral attempt to divide the parties' joint bank accounts[.]" Appellant states that she raised in her brief her "contention that [Appellee] 'embezzled' the monies in the PREI account when he divided the parties' property," and that "[i]t is immaterial that Appellant did not use the precise word 'dissipation' at trial or in her brief[.]" In conclusion, Appellant asks this Court to "remand the case to the [circuit court], with directions to grant a marital award of $19,352.82, or, alternatively, remand for a new trial as to the disposition of marital property, including the $53,484.84 diverted from the parties' business account."

B. Standard of Review

In determining whether to grant a monetary award, the trial court must follow a three-step process. *See Flanagan*, 181 Md. App. at 519 (citing Md. Fam. Law §§ 8-203; 8-204; 8-205) (citations omitted); *see also Alston*, 331 Md. at 498-99. First, the trial court must determine which property is "marital property" under Md. Fam. Law §§ 8-201(e); 8-203. *See id.* Md. Fam. Law § 8-201(e) defines marital property as:

> (e)(1) "Marital property" means the property, however titled, acquired by 1 or both parties during the marriage.
>
> (2) "Marital property" includes any interest in real property held by the parties as tenants by the entirety unless the real property is excluded by valid agreement.
>
> (3) Except as provided in paragraph (2) of this subsection, "marital property" does not include property:

(i) acquired before the marriage;

(ii) acquired by inheritance or gift from a third party;

(iii) excluded by valid agreement; or

(iv) directly traceable to any of these sources.

Second, the trial court must determine the value of all marital property under Md. Fam. Law § 8-204. *See Flanagan*, 181 Md. App. at 519; *see also Alston*, 331 Md. at 498-99. "Whether property is marital and, if so, its value, are both factual questions that we review for clear error." *Sims v. Sims*, 266 Md. App. 337, 353-54 (2025). Third, the trial court must consider the factors outlined in Md. Fam Law § 8-205 to determine a fair division of marital property, which can be accomplished by transferring property or issuing a monetary award. *See id.* The factors set forth in Md. Fam Law § 8-205 are as follows:

(1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

(2) the value of all property interests of each party;

(3) the economic circumstances of each party at the time the award is to be made;

(4) the circumstances that contributed to the estrangement of the parties;

(5) the duration of the marriage;

(6) the age of each party;

(7) the physical and mental condition of each party;

(8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;

(9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants

by the entirety;

(10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and

(11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

Md. Fam. Law § 8-205(b)(1)-(11).

A trial court's decision whether to grant a monetary award and the amount of such an award "is generally within the sound discretion of the trial court." *Alston v. Alston*, 331 Md. 496, 504 (1993) (internal citations omitted). Thus, "a discretionary standard of review applies." *See Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000) (internal citations omitted). This Court will only overturn the circuit court's decision whether to grant a monetary award and its amount if there was an abuse of discretion. *See Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008) (citing *Alston*, 331 Md. at 504) (citations omitted). "This means that we may not substitute our judgment for that of the fact finder, even if we might have reached a different result." *Innerbichler*, 132 Md. App at 230.

C. Analysis

Here, in determining whether to grant a monetary award, the trial court undertook the proper three-step process of: (1) identifying a marital property; (2) determining the value of all marital property; and (3) considering the factors set out in Md. Fam Law § 8-205 to determine a fair division of marital property. *See Flanagan*, 181 Md. App. at 519; *Alston*, 331 Md. at 498-99; Md. Fam. Law §§ 8-201(e); 8-203; 8-204; 8-205. As for steps

(1) and (2), all of the court's factual determinations of which property was marital property and the value of each item of marital property were not clearly erroneous and supported by the evidence, except the court's classification of Appellee's Police FCU savings account, which was clearly erroneous. *See Sims*, 266 Md. App. at 353-54. The court erred by classifying Appellee's Police FCU savings account as non-marital property. For step (2) specifically, Appellee correctly points out that many of Appellant's arguments about the value of items of marital property rely on bank account balances from many months before the merits hearing or the parties' divorce. Here, the court properly relied on evidence of various from the time of the merits hearing and the ultimate divorce when determining each item's value. *See Omayaka v. Omayaka*, 417 Md. 643, 653 (2011).

For step (3), the court was not clearly erroneous in awarding Appellant a total of $33,930.35 plus her marital share of Appellee's pension, including her 50% share of the 457(b) Plan ($28,458.87), her Police FCU S-0 and S-99 accounts ($5,092.39; $55.04), and her Pacific Premier checking and savings accounts ($324.05). The court was also not clearly erroneous in awarding Appellee a total of $52,292.30 minus Appellant's marital share of his pension, including his 50% share of the 457(b) Plan ($28,458.87), his GMC Sierra ($10,587.73), his Police FCU checking account ($2,743.42), his E-Trade account ($6,125.21), and his Robinhood account ($4,377.07). These determinations were supported by evidence and the court properly considered each of the factors set forth in Md. Fam Law § 8-205.

However, as noted above, the court erred by classifying Appellee's Police FCU savings account as non-marital property. Notably, Appellant's Police FCU S-0 account,

Police FCU S-1 account, and Police FCU S-99 account were all classified as marital property. Appellee agrees with Appellant that the court's identification of Appellee's Police FCU savings account as non-marital "was a mistake[.]" We also agree. The money in the Police FCU savings account was deposited from from the PREI bank account, which was the parties' joint bank account for their business. Thus, the funds in the Police FCU savings account were clearly marital property. *See* Md. Fam Law. 8-201(e). Further it was clearly erroneous for the trial court to conclude that the Police FCU savings account was non-marital because "[A]ppellant received her share of these funds, totaling $53,484.84 on or about April 22, 2024[,]" when a check on that date and for that amount was actually written to "Michael Perez," Appellee, not Appellant. Thus, there was no such valid agreement for the division of this account that would deem the account non-marital. *See* Md. Fam. Law 8-201(e) (identifying that "marital property" does not include property that is "excluded by [a] valid agreement").[7]

While the parties agree that the trial court's classification of the Police FCU savings account as non-marital was erroneous, the parties disagree on whether this mistake was a harmless error. A lower court's error is reversible when it results in substantial prejudice. *See Flanagan*, 181 Md. App. at 516 (citing *Fry v. Carter*, 375 Md. 342, 36 (2003)).

[7] While we agree with Appellant that the Police FCU savings account was erroneously classified as non-martial property, we reject Appellant's dissipation argument on appeal. Appellant's argument that "[i]t is immaterial that Appellant did not use the precise word 'dissipation' at trial or in her brief[,]" is incorrect. Appellant did not specifically raise a dissipation argument in the trial court or in her brief on appeal. Appellant first raised dissipation in her reply brief, and thus this issue is not preserved for consideration on appeal. Md. Rule 8-131.

"Prejudice can be demonstrated by showing that the error was likely to have affected the verdict below; an error that does not affect the outcome of the case is harmless error." *Flanagan*, 181 Md. App. at 516 (citing *Crane v. Dunn*, 382 Md. 83, 91 (2004)).

As of April 17, 2025, and thus at the time of the parties' divorce judgment, Appellee's Police FCU Savings account was valued at $3,418.02. While this is not a substantial sum of money, compared to the total amounts awarded to each party in this matter, $33,930.35 to Appellant plus her marital share of Appellee's pension and $52,292.30 to Appellee less Appellant's marital share of his pension, this amount is not insignificant. Failing to classify this account as marital property, and thus not including it in the evaluation and division of marital property, arguably prejudiced Appellant because it allowed Appellee to keep marital assets without any equitable evaluation by the court. Therefore, this case must be reversed and remanded solely insofar as Appellant's Police FCU account is concerned.

CONCLUSION

Accordingly, we affirm the Circuit Court for Calvert County's judgment on the admissibility of Appellant's mental health records and on child custody. We reverse and remand the court's division of marital property, in part, solely pertaining to the erroneous classification of Appellee's Police FCU Savings Account.

JUDGMENT OF THE CIRCUIT COURT FOR CALVERT COUNTY AFFIRMED IN PART; REVERSED AND REMANDED IN PART; 2/3 OF THE COSTS TO PAID BY

APPELLANT AND 1/3 TO BE PAID BY APPELLEE.

The correction notice(s) for this opinion(s) can be found here:

https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1280s25cn.pdf