UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1981

September Term, 2013

GLANVILLE L. WILSON

v.

PRINCE GEORGE'S COUNTY OFFICE OF CHILD SUPPORT ENFORCEMENT, *ex rel.*, JEWELL MUSGROVE

Berger,
Nazarian,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: July 13, 2015

Glanville Wilson and Jewel Musgrove have a daughter (the "Daughter"). After litigating paternity and child support after she was born, the parents agreed to terms, and the Circuit Court for Prince George's County memorialized their agreement in a consent order in 1996. As Daughter's eighteenth birthday approached, the Prince George's County Office of Child Support Enforcement ("OCSE") filed, on Daughter's behalf, a motion to extend Mr. Wilson's support obligations. The motion alleged that Daughter, who has numerous physical and mental health issues, qualified as a destitute adult. Mr. Wilson moved to dismiss, asserting that the circuit court lacked authority to order continuing support because Daughter was no longer a resident of Maryland. The circuit court denied Mr. Wilson's motion, and continued his support obligation after finding that Daughter was a destitute adult unable to support herself. Mr. Wilson appeals and we affirm.

I. BACKGROUND

Daughter was born on September 10, 1994. Shortly after she was born, Ms. Musgrove filed a complaint in the circuit court to establish that Mr. Wilson was the father and to require him to pay child support. On September 5, 1996, Mr. Wilson agreed to the entry of a consent order establishing paternity and establishing his support obligation as $328 per month. At the time the consent order was entered, all of the parties were Maryland residents. Mr. Wilson continues to reside in Maryland, but Daughter currently lives with her mother in Nevada, and has for a number of years.

During her childhood, Daughter developed a number of medical and psychological conditions that impair her ability to function independently. She has been diagnosed with

Type 1 juvenile diabetes and celiac disease. She has a history of seizures, severe respiratory issues, and food allergies. She suffers from a major depressive disorder, and has exhibited traits indicating four different personality disorders: (1) antisocial; (2) borderline; (3) histrionic; and (4) narcissistic. Due to the severity of her medical and psychological conditions, Daughter has been unable to maintain employment, has not performed well in school, and has been unable to maintain friendships with her peers. Her psychologist, Dr. David Hopper, describes her as having "poor life skills, and very poor social skills." To add to her myriad of conditions, Daughter also was sexually molested during her childhood. Despite her many challenges, Daughter is extremely bright—she has an IQ of 160 and has received awards for academic achievement.

Daughter has received medical treatment for her mental illnesses, but her overall prognosis is unfavorable because she does not comply consistently with her prescribed medication regimen. According to Dr. Hopper, Daughter's mental conditions will only worsen due to her refusal to take the prescribed psychotropic medications. And even if Daughter were willing to be fully compliant with the treatment protocol recommended by her doctors, Dr. Hopper testified that it would take at least a year for her to complete her treatment regimen.

In light of Daughter's continuing mental health and medical needs, OCSE, on July 13, 2012 and two months before Daughter was to turn eighteen, filed a motion to amend Mr. Wilson's support obligation, and specifically to extend it past Daughter's eighteenth birthday, because she was unable to support herself. OCSE further requested that the court order Mr. Wilson to obtain medical insurance through his employer that

covered Daughter in Nevada. Mr. Wilson responded on July 30, 2012 with a motion to dismiss, in which he asserted that the circuit court lacked the authority to require him to support Daughter after her eighteenth birthday because she did not reside in Maryland. The court denied the motion to dismiss in an order issued on December 7, 2012.

The circuit court conducted a three-day trial on OCSE's motion on March 4, 2013, June 10, 2013, and July 15, 2013. On July 18, 2013, the court ruled that Daughter was a destitute adult and ordered Mr. Wilson to pay $1,191 per month in support for as long as Daughter remained unable to support herself. On August 2, 2013, the court memorialized its earlier ruling into an order that also ordered Mr. Wilson to pay $19,294 in overdue support and 79.3% of her orthodontic and extraordinary medical expenses. This timely appeal followed.

II. DISCUSSION

Mr. Wilson raises two issues on appeal. *First*, he argues that a parent of a destitute adult child born out of wedlock may not be required to support her if she no longer is a resident of Maryland and that, as a result, the circuit court lacked the authority to require him to continue to support Daughter. *Second*, he claims that the circuit court's finding that Daughter was a destitute adult was clearly erroneous. We disagree on both counts.[1]

[1] Mr. Wilson's brief stated the questions as follows:

> 1. Did the trial court err in denying [Mr. Wilson's] motion to dismiss the [OCSE's] amended complaint/motion for modification of child support for a disabled adult child: (A) lack of jurisdiction over the subject matter and (B) failure to

We review the circuit court's determination that Daughter was a "destitute adult child" unable to support herself under the clearly erroneous standard. *Cutts v. Trippe*, 208 Md. App. 696, 702 (2012) (citations omitted). However, to the extent the circuit court's decision "'involve[d the] interpretation and application of Maryland constitutional, statutory, or case law, [we] must determine whether the [circuit] court's conclusions are 'legally correct' under a *de novo* standard of review.'" *Id.* at 703 (quoting *Schisler v. State*, 394 Md. 519, 535 (2006)).

We begin by addressing Mr. Wilson's threshold contention that the circuit court lacked the authority to require him to support Daughter as a destitute adult because she no longer resides in Maryland. This issue invokes the Paternity Proceedings subtitle ("Paternity Subtitle"), codified at Md. Code (1999, 2006 Repl. Vol.), §§ 5-1001 through 5-1048 of the Family Law Article ("FL"). The Paternity Subtitle "outlines the procedures 'through which the state can establish paternity, and thus hold alleged fathers responsible for parental duties, such as child support. It is also the statute that allows alleged fathers to deny paternity.'" *Mulligan v. Corbett*, 426 Md. 670, 676 (2012) (quoting *In re Roberto d.B.*, 399 Md. 267, 275 (2007)). Because Daughter was born out of wedlock, her paternity needed to be established under the Paternity Subtitle. This requirement was satisfied on September 5, 1996, when the circuit court entered an order, pursuant to FL § 5-1032(a) and with Mr. Wilson's consent, declaring him to be Daughter's father and requiring him to

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> state a claim upon which relief can be granted pursuant to Maryland Rule 2-322?

provide support. *See* FL § 5-1032(a) ("If the court finds that the alleged father is the father, the court shall pass an order that: (1) declares the alleged father to be the father of the child; and (2) provides for the support of the child."). Mr. Wilson's obligation to support Daughter continued until she: (i) became an adult; (ii) died; (iii) married; or (iv) became self-supporting. FL § 5-1032(b)(1). However, if Daughter became an adult and was unable to support herself due to a physical or mental infirmity, she was eligible to receive court-ordered support for the duration of the infirmity:

> If the child is an adult but is destitute and cannot be self-supporting because of a physical or mental infirmity, the court may require the father to continue to pay support during the period of the infirmity.

FL § 5-1032(b)(2).

Mr. Wilson claims that the circuit court exceeded its authority by requiring him to support Daughter as an adult because she resides in Nevada, not in Maryland. He does not dispute that FL § 5-1032(b)(2) contains no requirement that Daughter be a Maryland resident to continue receiving court-ordered support if the original support order was issued pursuant to FL § 5-1032(b)(1). Nor could he: FL § 5-1032(b)(2) says nothing about residency. *See Walzer v. Osborne*, 395 Md. 563, 572 (2006) ("'If the words of the statute, construed according to their common and everyday meaning, are clear and unambiguous and express a plain meaning, we will give effect to the statute as it is written.'" (quoting *Jones v. State*, 336 Md. 255, 261 (1994)). Mr. Wilson counters with the bald assertion that "the proper statutory authority by which a trial court should proceed in determining if a child is in fact an adult disabled child is" FL § 13-102. We disagree.

FL § 13-102 is a part of a broader statutory scheme defining parents' obligations to support their destitute adult children. *See generally* FL §§ 13-101 through 13-109 (the "Destitute Adult Title"); *see also Trembow v. Schonfeld*, 393 Md. 327, 332 (2006) (this title establishes, among other things, "the duty of parents to support their destitute adult children."). The governing definition of "destitute adult child" is the same—"an adult child who: (1) has no means of subsistence; and (2) cannot be self-supporting, due to mental or physical infirmity." FL § 13-101(b); *see also Presley v. Presley*, 65 Md. App. 265, 277-78 (1985) (duty of support on parents of an adult child "arises when the child has insufficient resources and, because of mental or physical infirmity, insufficient income capacity to enable him to meet his reasonable living expenses."). But the section to which Mr. Wilson points, FL § 13-102, *criminalizes* a parent's failure to pay: a "person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year, or both." FL § 13-102(c). And for that reason, it doesn't apply to this case.

Instead, we agree with OCSE that the court had continuing jurisdiction under the Maryland Uniform Interstate Family Support Act, FL § 10-308, to continue the support order that it had entered, pursuant to FL § 5-1032(b)(2) and with Mr. Wilson's consent, in 1996. That statute provides that a Maryland court "that has issued a support order consistent with the law of [Maryland] has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order" and, importantly, if "at the time of [the] filing of a request for modification, *[Maryland] is the residence of the obligor*, the individual obligee, or the child for whose benefit the support

order is issued . . . ." FL § 10-308(a)(1) (emphasis added). Combined with the absence of a residency requirement in FL § 5-1032(b)(2), we see a clear intent by the General Assembly to reach Maryland-based obligors, like Mr. Wilson, even if their once-resident children move out of state.

Mr. Wilson *next* challenges the circuit court's finding that Daughter was a destitute adult who was unable to support herself. But the record contained more than ample evidence to support the court's conclusion that Daughter was unable to support herself due to a mental infirmity. The evidence revealed that (1) Daughter suffers from numerous medical and psychological conditions that impair her ability to function on her own, including major depressive disorder, four different personality disorders, and Type 1 juvenile diabetes; (2) Daughter has suicidal tendencies and has been hospitalized on multiple occasions as a result of unsuccessful suicide attempts; (3) Daughter has been unable to maintain employment due to her conditions; (4) Daughter's overall prognosis is unfavorable; (5) it would take at least one year for Daughter to be effectively treated for her conditions; and (6) Daughter required medical services beyond her mother's limited means.

Mr. Wilson does not contest the veracity of this evidence. Instead, he claims that it was insufficient to support a finding that Daughter was destitute and unable to support herself because there was no evidence Daughter worked with an occupational therapist or engaged in vocational rehabilitation. He also argued that Daughter was not receiving social security disability benefits, and that Dr. Hopper had written a letter of recommendation stating that Daughter was well-qualified to attend a college institution. But the presence

of some contradictory evidence could not, and did not, prevent the circuit court from finding that the *balance* of evidence weighed in favor of finding Daughter to be a destitute adult, and we see no error, let alone clear error, in that conclusion. *See Cutts*, 208 Md. App. at 709 (observing that the child met the "classic statutory definition of 'destitute'" because the child "had no job, received no disability benefits or other assistance, and had no other available financial resources").

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