

Circuit Court for Montgomery County
Case No. C-15-FM-23-004909

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2035

September Term, 2024

GEORGIA ROSE BAYLY

v.

BRENDAN O'DONNELL RAPP

Berger,
Nazarian,
Ripken,

JJ.

Opinion by Berger, J.

Filed: June 25, 2025

* 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 with Rule 1-104(a)(2)(B). Md. Rule 1-104.

This appeal arises following the Circuit Court for Montgomery County’s granting of Appellee Brendan O’Donnell Rapp’s (“Rapp”) Motion in Limine for Sanctions following Appellant Georgia Rose Bayly’s (“Bayly”) failure to respond to Rapp’s discovery requests. In granting this motion, the court precluded Bayly from presenting evidence during the parties’ contested divorce trial to support her request for alimony and awarded Rapp attorney’s fees.

On appeal, Bayly presents three questions for our review, which we have recast and rephrased as follows:¹

- I. Whether the trial court erred in precluding Appellant from presenting evidence without first making a finding of willful or egregious misconduct.
- II. Whether the trial court abused its discretion by failing to consider lesser sanctions.
- III. Whether the trial court improperly awarded attorney’s fees without evidence of bad faith conduct by the Appellant.

¹ Bayly phrased the questions as follows:

1. Did the trial court err in precluding Appellant from presenting evidence as a discovery sanction without a finding of willful or egregious misconduct?
2. Did the trial court abuse its discretion by failing to consider lesser sanctions, as required under Maryland precedent?
3. Did the trial court improperly award attorney’s fees without evidence of bad faith conduct by Appellant?

For the following reasons, we answer all three questions in the negative and, therefore, affirm.

FACTS AND PROCEDURAL HISTORY

Bayly and Rapp were married in November 2017. The parties had one son together in April 2018. In August 2023, Bayly initiated divorce proceedings against Rapp. At a November 2023 scheduling hearing, the discovery deadline was set for February 1, 2024. On January 2, 2024, Rapp submitted his discovery requests. These requests included twenty-one interrogatories and a request for the production of forty-two documents. According to the record, on August 11, 2024, Bayly produced “a social security statement, a letter from the Social Security Administration pertaining to benefits she has received on behalf of the parties’ minor child, and an ‘income verification’ letter that purports to be from [Bayly]’s employer.” On August 22, 2024, Bayly also filed a long form financial statement. Bayly did not otherwise respond to Rapp’s discovery requests and Rapp did not file a motion to compel discovery.

The parties appeared before the circuit court on November 18, 2024, for a contested divorce trial. Ahead of the trial, Rapp filed a Motion in Limine for Sanctions requesting that Bayly be precluded from presenting evidence and testimony at trial concerning any matter for which she did not produce timely discovery. The motion also requested attorney’s fees in the amount of \$743.00 for one hour and forty-five minutes of work completed by Rapp’s attorney in preparing the motion. In response to this motion, Bayly indicated that the documents she provided “were and are the only documents that [she] intends to introduce at trial,” and that if Rapp “ever needed any documentation other than

what was provided in order to move forward after settling custody they would have been provided.”

During the trial, Rapp argued that, due to Bayly’s discovery violations, a trial on the issue of alimony would not be possible and asked the court to “preclude her offering any evidence or any testimony going to . . . that issue.” Rapp premised this argument on the fact that, without the information he sought in his discovery requests, there was no way to know the full picture of Bayly’s financial situation. Rapp explained,

We’ve asked questions. We’ve gotten no information. So we are under the belief that there could be other information out there regarding other income sources, streams that Ms. Bayly is benefiting from, and we don’t have any information as to those numbers or whether it exists or it doesn’t exist. And we ask direct questions, and we ask for documents directly to those points.

Rapp argued that Bayly’s financial statement “lists expense after expense that we cannot verify in any way, even though we’ve asked for those underlying documents.” As a result, Rapp contended, “we have a right to the information we asked for so that we can have a fair trial, and we can meaningfully prepare and defend and cross-examine Ms. Bayly. And we’re not able to do that.”

In response, Bayly argued that, although discovery had closed six months earlier, Rapp had not filed a motion to compel discovery or otherwise “prod” Bayly for documents. Bayly’s counsel continued that he had “exchanged the only three relevant documents to my client’s income,” and that the “fact is there’s nothing else.” For this reason, counsel argued, this “wouldn’t be trial by surprise. It would have taken me about 10 minutes to go through Ms. Bayly. She doesn’t have anything except what I gave them.”

After hearing both sides, the court explained that “to decide alimony, there’s a list of factors that I need to consider.” The factors include, “the educational background of the requesting party, the employment background of the requesting party,” which were “directly asked by defense counsel in interrogatories number 2 and number 4 that went unanswered.” In making an alimony decision, the court also considers “contributions each made toward the marriage and what was the downfall of the marriage,” questions that were posed in interrogatory 17, “which went unanswered.” Also significant is the “ability of someone to work right now and efforts made to get full time employment, which was largely asked in question 15 of the interrogatories that went unanswered.”

The court explained that the purpose of discovery is not “just turn over what you’ve got. It also answers certain questions. And those questions were tailored toward . . . getting information about these factors that I am to consider in an alimony determination.” The defense asked these questions, as was their right, “and got no response, so they would be, potentially, operating based on unfair surprise. They could be surprised at what she might say.” Based on this, the court found that,

for the failure to comply with discovery . . . not answering any interrogatories at all that were submitted January 2nd of 2024, and only providing three documents with no answers as to the request for production of documents that was submitted on January 2nd, 2024, I am going to sanction the plaintiff with regards to the alimony claim and preclude that request for those reasons.

In granting the motion, the court also granted Rapp’s request for \$743.00 in attorney’s fees. This timely appeal followed.²

DISCUSSION

Standard of Review

We review a trial court's decision to impose, or not impose, a particular discovery sanction for an abuse of discretion. *Dackman v. Robinson*, 464 Md. 189, 231 (2019). “Where a discovery rule has been violated, the remedy is, in the first instance, within the sound discretion of the trial judge . . . Generally, unless we find that the lower court abused its discretion, we will not reverse.” *Cole v. State*, 378 Md. 42, 56 (2003) (citations omitted). An abuse of discretion exists “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.” *Wilson v. John Crane, Inc.*, 385 Md. 185, 198 (2005) (citation omitted). To be reversed, the “decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable.” *Id.* at 199. An abuse of discretion, therefore, “should only be found in the extraordinary, exceptional, or most egregious case.” *Id.*

² In his brief, Rapp argues that this court is empowered to dismiss this appeal due to Bayly’s failure to include a complete record extract in her brief as required by Maryland Rule 8-501. We exercise our discretion not to dismiss on these grounds and, instead, reach the merits of this case.

I. The court did not abuse its discretion by precluding Appellant from presenting evidence in support of an alimony claim.

On appeal, Bayly argues that the circuit court abused its discretion by precluding her from presenting evidence in support of her alimony claim because it did not make a finding of willful or egregious misconduct or first explore lesser sanctions. “One of [the] fundamental and principal objectives” of Maryland’s discovery rules is “to require the disclosure of facts by a party litigant to all of his adversaries, and thereby to eliminate, as far as possible, the necessity of any party to litigation going to trial in a confused or muddled state of mind, concerning the facts that gave rise to the litigation.” *Baltimore Transit Co. v. Mezzanotti*, 227 Md. 8, 13 (1961) (emphasis omitted). To this end, Maryland Rule 2-432(a) provides in relevant part that, “[a] discovering party may move for sanctions under Rule 2-433(a), without first obtaining an order compelling discovery . . . if a party fails to serve a response to interrogatories under Rule 2-421 or to a request for production or inspection under Rule 2-422, after proper service.” Md. Rule 2-432(a). Maryland Rule 2-433(a) provides that upon “a motion filed under Rule 2-432(a), the court, if it finds a failure of discovery, may enter such orders in regard to the failure as are just, including . . . (2) [a]n order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence[.]” Md. Rule 2-433(a)(2).

The trial court has broad discretion to impose sanctions for discovery violations, “and the decision whether to invoke the ‘ultimate sanction’ [of dismissal] is left to the discretion of the trial court.” *Valentine–Bowers v. Retina Grp. of Washington, P.C.*, 217

Md. App. 366, 378 (2014). Sanctions may be justified even without “willful or contumacious behavior” by a party. *Warehime v. Dell*, 124 Md. App. 31, 44 (1998); *see also, Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 725 (2002) (“The power to impose sanctions is not dependent on a finding that the defaulting party acted willfully or contumaciously.”). A trial court may order a default judgment on issues of the case, even if other less stringent alternatives are available. *Lakewood Engineering and Mfg. Co., Inc. v. Quinn*, 91 Md. App. 375, 383 (1992).

In exercising its discretion to impose sanctions for discovery violations, the trial court considers,

(1) whether the disclosure violation was technical or substantial; (2) the timing of the ultimate disclosure; (3) the reason, if any, for the violation; (4) the degree of prejudice to the parties respectively offering or opposing the evidence; and (5) whether any resulting prejudice might be cured by a postponement and, if so, the overall desirability of a continuance. The factors often overlap and do not lend themselves to a compartmental analysis.

Valentine-Bowers, 217 Md. App. at 378-79.

Here, Bayly failed to respond to Rapp’s interrogatories in their entirety and only produced -- more than six months after the discovery deadline -- three documents related to her financial circumstances. Bayly did not provide any explanation for why she failed to respond to these requests other than to say the three documents she produced were “the only three relevant documents” related to her income. This explanation did not speak to why Bayly failed to provide answers to Rapp’s interrogatories regarding her education

background, contributions toward the marriage, reasons for the downfall of the marriage, or ability to work now and in the future.

In ruling on Rapp's Motion for Sanctions, the court properly considered the necessary factors. First, the court laid out the substantial nature of Bayly's discovery violations by expounding on how the lack of discovery would prevent the court from making an informed ruling on alimony. The court also addressed the prejudice these violations caused Rapp, who had properly requested information to support his defense and would now potentially be "operating based on unfair surprise." Timing of disclosure here was of little relevance given that Bayly had still not responded to Rapp's interrogatories or requests for production of documents at the time of trial. The three documents she did provide had been filed more than six months after the discovery deadline. Although the possibility of a continuance was not discussed, Bayly's assertion that she had nothing more to offer beyond the three documents already provided suggests that additional time would not have cured this violation. Pursuant to this analysis and the facts of this case, the court did not abuse its discretion by granting Rapp's Motion for Sanctions and precluding Bayly from presenting evidence in support of her alimony claim.

II. The court did not abuse its discretion in awarding attorney's fees.

On appeal, Bayly argues that the trial court abused its discretion by awarding attorney's fees without first making a finding that she acted in bad faith or deliberately obstructed discovery. Although there are circumstances in which a finding of bad faith is required before attorney's fees may be awarded, there is no case law in Maryland that

requires a court to make such a finding before making such an award pursuant to Rule 2-433(d).

Rule 4-233(d) clearly provides that if

a motion filed under . . . 2-432 . . . is granted, the court . . . shall require (1) the party . . . whose conduct necessitated the motion . . . to pay to the moving party the reasonable costs and expenses incurred in obtaining the order, including attorney’s fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award or expenses unjust.

Here, Rapp filed a motion for sanction pursuant to Rules 2-432 and 2-433. In this motion, Rapp requested attorney’s fees in the amount of \$743.00 for “one hour and forty-five minutes” of work done in “drafting the instant motion and accompanying order.” The court properly granted Rapp’s Motion for Sanctions. In granting this motion, the court was required, pursuant to Rule 2-433(d), to award Rapp “the reasonable costs and expenses incurred in obtaining the order[.]” The court, therefore, did not abuse its discretion in awarding Rapp the specific amount requested in his Motion for Sanctions.

CONCLUSION

For the foregoing reasons, we hold that the court did not abuse its discretion in granting Rapp’s Motion for Sanctions, precluding Bayly from presenting evidence in support of her alimony claim, and awarding Rapp attorney’s fees to cover the time spent preparing and filing his motion.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**