

Circuit Court for Prince George's County
Case No.: CAD22-00708

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2045

September Term, 2023

DEREK BIGESBY

v.

LISA BIGESBY

Reed,
Zic,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: September 12, 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 to Rule 1-104(a)(2)(B).

In this appeal, appellant asks us to do what we have historically and consistently declined to do, *i.e.*, second guess a trial judge’s conclusions based on the judge’s consideration of the evidence presented at trial. Again, we decline to do so.

After a bench trial in the Circuit Court for Prince George’s County, the court entered a judgment of absolute divorce which, in pertinent part, granted appellee, Lisa Bigesby (“Wife”) use and possession of the marital home for three years and ordered that appellant, Derek Bigesby (“Husband”) pay the parties’ Home Equity Line of Credit (“HELOC”) loan during that time.

In his appeal, Husband asks:

1. Whether the [c]ircuit [c]ourt err[ed] in determining the amount of [Wife’s] income?
2. Whether the [c]ircuit [c]ourt err[ed] in ordering [Husband] to pay the HELOC loan on the marital home?

As we discuss, we answer both questions in the negative. Accordingly, we shall affirm the judgment of the circuit court.

BACKGROUND

Husband and Wife married in 2001 and have three children in common, only one of whom was a minor at the time of the instant litigation. In 2021, Husband separated from Wife, and in January 2022, he filed a complaint for absolute divorce. Trial was held on December 15, 2022 and September 5, 2023.

Husband testified that he is employed by the Smithsonian Institution, where he earns an annual salary of \$123,000. He also operates a personal IT computer repair business, from which he reported earning \$2,576 in 2021. Wife has operated a daycare from the

marital home for nearly twenty years. She testified that her monthly income fluctuates between \$4,000 and \$4,500 based upon the number of children enrolled from time to time. At trial, Wife testified that she was then earning \$4,000 per month.

The parties' minor child, G., suffers from sickle cell disease. Wife testified that G. has been hospitalized three or four times due to flare-ups relating to the disease and that operating the in-home daycare has permitted her to care for G. as needed. Finally, the parties agreed that they purchased the family home in 2001 and have two mortgages on the property, including a HELOC loan obtained several years prior to the parties' separation.

In November 2023, the court issued an oral ruling granting Wife a judgment of absolute divorce from Husband. The court assessed Wife's income at \$4,250 monthly and Husband's income at \$10,258 monthly, granted Wife use and possession of the family home for three years, and ordered that, during that time, Wife pay the first mortgage on the home and Husband pay the HELOC loan.¹

DISCUSSION

In substance, Husband's appeal concerns only one issue: the court's calculation of Wife's income. Specifically, he contends that the court failed to consider Wife's testimony that she was earning more at the time of trial than in earlier years and that as a result, the court "inexplicably excluded over \$20,000 of disputed gross income which was earned by [Wife] in 2021." Additionally, he contends that the court erred in ordering him to pay the

¹ Wife was granted primary physical custody of G. consistent with a mediation agreement between the parties. Husband does not challenge the court's custody determination on appeal. Likewise, Husband does not challenge the court's use and possession order in favor of Wife.

parties’ HELOC loan during Wife’s use and possession of the family home because that decision was “based in part, if not entirely, on its erroneous finding that [Wife’s] monthly income is between \$4,000 and \$4,500 per month.” Wife responds that the court correctly “adopted the midpoint of [Wife’s] estimated income” and that the court properly ordered that Husband pay the HELOC “[g]iven the record evidence of [Husband’s] higher earning capacity[.]”

Our standard of review is clear. “When an action has been tried without a jury, an appellate court will review the case on both the law and the evidence.” Md. Rule 8-131(c). Therefore, we “will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” *Id.* “Clear error exists where the trial court’s factual findings are not supported by competent evidence.” *EBC Props., LLC v. Urge Food Corp.*, 257 Md. App. 151, 165 (2023). In other words, “[i]f there is any competent material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” *YIVO Inst. for Jewish Rsch. v. Zaleski*, 386 Md. 654, 663 (2005). Finally, when reviewing divorce proceedings, “absent evidence of an abuse of discretion, the trial court’s judgment ordinarily will not be disturbed on appeal.” *Boemio v. Boemio*, 414 Md. 118, 125 (2010) (quotation marks and citation omitted).

The relatively sparse record before us reveals that the evidence of the parties’ respective incomes was disclosed by their testimony and income tax returns. We do not find in the record extract any indication that Husband offered evidence to rebut Wife’s

testimony about her daycare earnings. His assertions on appeal amount to no more than conjecture.

The court assessed Wife’s income at \$4,250 per month, a finding supported by Wife’s testimony that her monthly income fluctuated between \$4,000 and \$4,500 depending on the number of children enrolled in her in-home daycare. Wife testified that, at the time of trial, her income was only \$4,000 per month, that she recently had a child “age out” of daycare leaving her with just five of eight daycare places filled, and that enrollment has dropped as low as one child after the onset of the COVID pandemic.

Husband points to the fact that Wife testified that she was earning more than she was in 2021, when she reported earning \$69,772, and accordingly, that the court erred in calculating Wife’s monthly income at \$4,250, or \$51,000 per year. However, Wife explained that, although she reported earning \$69,772 in 2021, “a lot of that money was from grant[s]” from the county due to the COVID pandemic. She asserted that the grants were “calculated as income [on her tax return], because that’s what it was used for, to support providers.” Wife further testified, and Husband did not dispute, that at one point in 2021, enrollment dropped to one child, and she was earning only \$900 per month. In sum, the court’s finding regarding Wife’s income struck a reasonable average, was supported by the record and not inconsistent with Wife’s testimony that she was earning more than she earned in 2021.²

² There was no evidence that Wife received, or expected to receive, additional grants after 2021.

Finally, Husband’s sole challenge regarding the HELOC loan is that the court’s ruling was based on an erroneous finding regarding Wife’s income. We find no error relating to Husband’s ordered payment of the HELOC loan. The court was permitted to order “that either or both of the parties pay all or any part of . . . any mortgage payments or rent . . . [or] any indebtedness that is related to” the family home when granting a divorce. *See* Md. Code Ann., Family Law § 8-208(c)(1)-(2). The court ordered that Wife pay the first mortgage on the family home, and that Husband pay the HELOC loan. The court’s decision is further supported by several factual findings, including that Husband “earns more than twice” the income that Wife earns, and that he has “the ability to do a side job[.]” Husband does not challenge those findings.

In sum, the court’s finding regarding Wife’s income was supported by competent evidence and is not clearly erroneous. Moreover, we find no abuse of discretion regarding Husband’s ordered payment of the HELOC loan.

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