Circuit Court for Queen Anne's County
Case No. C-17-FM-16-000152

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2181

September Term, 2017

ASTON BARRETT

v.

JENNIFER MILLER

Wright,
Reed,
Friedman,

JJ.

Opinion by Wright, J.

Filed: May 14, 2019

For a period of three years, Aston Barrett ("Mr. Barrett"), appellant, failed to pay child support to Jennifer Miller ("Ms. Miller"), appellee, for the parties' six children. As a result, Ms. Miller filed a complaint in the Circuit Court for Queen Anne's County to enforce an agreement that she and Mr. Barrett signed in April 2008. Following a trial on October 23, 2017, the circuit court ordered Mr. Barrett to pay Ms. Miller child support arrearages, monthly child support, and attorney's fees. On appeal, Mr. Barrett presents the following questions for our review:

> 1. Did the trial court err by accepting a reconstructed agreement as a valid agreement to pay child support?
>
> 2. Did the trial court err by failing to retroactively reduce the amount set forth in the child support agreement?
>
> 3. Did the trial court err by using potential income instead of actual income to determine [Mr. Barrett's] child support obligation?
>
> 4. Did the trial court err by ordering [Mr. Barrett] to pay a portion of [Ms. Miller's] counsel fees?

For the reasons to follow, we answer all four questions in the negative and affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In 1969, Mr. Barrett began playing drums for the internationally known reggae band Bob Marley and The Wailers; he is the sole-surviving member of the band.[1] Mr.

[1] The current iteration of The Wailers is known as "The Wailers Tour," which is owned and managed by Mr. Barrett's son, Aston Barrett, Jr.

Barrett and Ms. Miller met in 1988, and she became the band's manager. She served in that role until approximately September 2015.

Although unmarried, Ms. Miller and Mr. Barrett have seven children together whom range in age from nine years old to twenty-five years old; the oldest child is emancipated. To provide for the care of their children, the parties signed a custody agreement (the "original agreement") on April 16, 2008. Through the agreement, Mr. Barrett agreed to pay Ms. Miller $10,000.00 dollars a month for child support. The agreement language read:

> This Agreement is made and entered into by and between Jennifer Miller . . . and [Mr. Barrett.] The parties hereby acknowledge and agree as follows:
>
> 1. Ms. Miller and Mr. Barrett are the biological parents of seven children.
>
> * * *
>
> 2. The parties' children reside with Ms. Miller and she has primary legal and physical responsibility for the minor children.
>
> 3. Mr. Barrett makes monthly payments of $10,000.00 to Ms. Miller to assist her in the financial support of the parties' children. The parties agree that Mr. Barrett's monthly payments satisfy *his current legal obligation* to support the parties' children.

(Emphasis added).

At the advisement of Ms. Miller's accountant, in September 2014, the parties signed a second child support agreement (the "reconstructed agreement") after Ms. Miller lost the original agreement. It is undisputed that from the signing of the original agreement until May 2016, Mr. Barrett paid Ms. Miller $10,000.00 a month for child support. In May 2016, he ceased payments and communication with the children. On

November 3, 2016, Ms. Miller filed a complaint to enforce Mr. Barrett's child support payments under the reconstructed agreement. A few days before the October 23, 2017 hearing, Mr. Barrett paid Ms. Miller $3,100.00.

The circuit court heard the parties' testimony on October 23, 2017. At trial, Mr. Barrett never testified to or denied the existence of the original agreement.[2] During his testimony, Mr. Barrett appeared unable to answer several questions about the original agreement, his support of his children, and his income:

> Q: [D]o you know how much money you earned in 2015? Do you know how much money you earned in 2015?
>
> A: No. That's a long story. I mean, for me to remember. There are people checking on things for me.
>
> Q: How much money did you earn in 2015?
>
> A: 2015. I don't even know myself. I have to call on my son.
>
> [Appellee Counsel]: Your Honor, Counsel has agreed to stipulate to a wage and income transcript the Internal – from the Internal Revenue Service [(the "IRS")] indicating that Mr. Barrett's income for 2015 [was] $199,464[.00].
>
> * * *
>
> Q: Have you filed your income taxes for 2015?
>
> A: You know – you know, people that work with me closely I know that's supposed to be their department. Keep up this.[3]

[2] In his opening statement, Mr. Barrett's counsel stated "we do believe that there are circumstances surrounding when the signing of the alleged agreement [occurred] and the circumstances under which it was followed [,] to raise questions as to its validity."

[3] Mr. Barrett's counsel stipulated to an IRS Wage and Income Transcript for the tax period of 2015. That Transcript indicated that Mr. Barrett earned an income of

* * *

Q: Did you file your income taxes for 2016?

A: People who work they should have brought those figures for me.

Q: You understand my question?

A: I don't know myself, but I figure the other people who work closer with me should have that.

* * *

When asked about his payment to Ms. Miller days before trial, Mr. Barrett responded as follows:

Q: Mr. Barrett, did you make a child support payment last week to Jennifer Miller? Or did somebody on your behalf make a child support payment to Jennifer Miller?

A: I always take care of my kids.

Q: How much money?

A: I can't – I know they're being taken care of. If you get any report from that – from her, but I do my best every time.

$199,464.00 in 2015. According to the IRS, Wage and Income Transcripts "show[] data from information returns [the IRS] receive such as Forms W-2, 1099, 1098 and Form 5498, IRA Contribution Information . . . . A transcript can show return and/or account data. It also can show changes or transactions made after you filed your original return." Internal Revenue Service, *Transcript Types and Ways to Order Them* (2019), https://www.irs.gov/individuals/tax-return-transcript-types-and-ways-to-order-them (last visited April 25, 2019).

Mr. Barrett testified that he received money from The Wailers Tour but had not been working with them regularly because of his previous strokes. However, Mr. Barrett acknowledged that his face appeared on advertisements for The Wailers, and that he believed he collected money on royalties.[4]

Mr. Barrett called his son, Kevin, to testify about Mr. Barrett's income. Kevin said he "sometimes" received money from his brother, Aston Barrett, Jr., the owner of The Wailers Tour, to care for Mr. Barrett:

> [Defense Counsel]: Okay. And how – do you know how much money you've received this year from The Wailers Tour?
>
> A: So far, around [$20,000.00] – around [$20,000.00] – [$24,000.00, $25,000.00] somewhere around that figure.

When questioned about additional sources of income, Kevin testified that his father likely was receiving money from "royalties or something" but that he did not believe "much money comes from that at the moment." Kevin stated that although his father continued to perform with The Wailers Tour, he only played "about five to seven or eight songs at the most" before Kevin had to take him off the stage because "he can't manage."

Ms. Miller testified as to the validity and enforceability of the reconstructed agreement and identified Mr. Barrett's signature. During the period 2008-2016 when her position was terminated, Ms. Miller's source of income was from Back Bay

[4] Mr. Barrett had difficulty understanding the acronyms of several performing rights societies, but acknowledged that he was a member of the American Society of Composers and Publishers ("ASCAP").

Management, the company that managed the tour. Those payment were made to Ms. Miller's company, Dread Lion Management, which was a wholly owned LLC. Ms. Miller received child support by making charges on Mr. Barrett's credit card and wires from Back Bay Management. She testified that Mr. Barrett paid her $10,000.00 per month in this manner under the terms of the agreement until the payments stopped in May 2016, excluding the $3,100.00 payment she received the Friday before trial.

Regarding the needs of her children, Ms. Miller testified that, because Mr. Barrett stopped paying child support, six of her children were working part-time, and the eldest child who was working full-time. Accordingly, "none" of her children's financial needs were being met.

As to her working ability and income, Ms. Miller testified that since September 2017, she had been taking care of an elderly woman and received $18.00 an hour. To care for her children, Ms. Miller testified that she borrowed approximately $19,700.00 from her children, $45,000.00 from her two brothers, $4,000.00 from her father, and $4,000.00 from a friend.

When questioned about Mr. Barrett's income and work, Ms. Miller said she knew he continued to tour with The Wailers Tour because she followed the band on social media. She acknowledged that Mr. Barrett had numerous bank accounts which carried negative balances, that he owned property in Jamaica, and that during her time with the band, she signed Mr. Barrett up for performing rights societies to receive "very substantial" royalties on the band's music. For instance, Ms. Miller said that "in August

of 2015, I signed him up [for ACTRA RACS[5]] and I believe it was about 18 months he had received $15,000[.00]."

In a written order dated December 14, 2017, the circuit court ordered Mr. Barrett to pay Ms. Miller $166,900.00 in child support arrearages, $4,500.00 a month in child support beginning November 1, 2017, and $8,275.00 in attorney's fees. This appeal followed.

STANDARD OF REVIEW

Md. Rule 8-131(c), which governs our standard of review in this case, states:

> When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

In *Walter v. Gunter*, 367 Md. 386, 391-92 (2002), the Court of Appeals articulated the standard of review for child support orders as follows:

> Review by this Court involves interpreting whether the circuit court's order was legally correct. While child support orders are generally within the sound discretion of the trial court, [the court's ruling should] not to be disturbed unless there has been a clear abuse of discretion, where the order involves an interpretation and application of Maryland statutory and case law, our Court must determine whether the lower court's conclusions are "legally correct" under a *de novo* standard of review.

(Cleaned up).[6]

[5] The Alliance of Canadian Camera, Television, and Radio Artists' Recording Artists' Collection Society.

[6] The Court of Appeals recently explained the recent increase in use of "cleaned up" as a parenthetical. The parenthetical "signals that the current author has sought to improve readability by removing extraneous, non-substantive clutter (such as brackets, quotation marks, ellipses, footnote signals, internal citations or made un-

The award of counsel fees is also reviewed under the abuse of discretion standard. *Meyr v. Meyr*, 195 Md. App. 524, 552 (2010). An abuse of discretion arises "when no reasonable person would take the view adopted by the [trial court' or when the courts acts without reference to any guiding rules of principles." *Santo v. Santo*, 448 Md. 620, 626 (2016) (citation and quotation omitted).

DISCUSSION

Maryland law is clear – "[t]he parents of a child are his natural guardians and . . . owe [their] children a legal, statutory obligation of support." *Lacy v. Arvin*, 140 Md. App. 412, 422 (2001). This legal and statutory obligation exists regardless of whether the parents were previously married. *Id.* Most importantly, this support is owed to and for the care of the child, not the other parent. *Id.*

I.

The main issue at trial was whether the reconstructed agreement was valid and enforceable. Ms. Miller argues that the agreement was valid and enforceable because it was "signed, witnessed and performed by both parties." The circuit court found that, because of both Mr. Barrett's signature and Ms. Miller's undisputed testimony, the contract was valid.

"A contract is defined as 'a promise or set of promises for breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty.'"

bracketed changes to capitalization) without altering the substance of the quotation." *Lopez v. State*, 458 Md. 164, 195 n.13 (2018).

Kiley v. First Nat'l Bank, 102 Md. App. 317, 333 (1994), *cert. denied*, 516 U.S. 866 (quoting Richard A. Lord, 1 *Williston on Contracts* § 1:1, at 2-3 (4th ed. 1990)). To be enforceable, a contract "must express with definiteness and certainty the nature and extent of the parties' obligations." *Kiley*, 102 Md. App. at 333.

To form a contract, the parties must mutually assent to the terms of the contract and must express an intent to be bound. *Klein v. Weiss*, 284 Md. 36, 63 (1978). "In discerning an intent to be bound, . . . we look to what a reasonably prudent person in the same position would have understood as to the meaning of the agreement." *Falls Garden Condominium Ass'n, Inc. v. Falls Homeowners Ass'n, Inc*., 441 Md. 290, 303 (2015) (quotations, citation, and footnote omitted). Signatures are indicative of an intent to be bound and a party that signs a contract agrees to be bound by its terms. *See Clancy v. King*, 405 Md. 541, 561 (2008); *see also Walther v. Sovereign Bank*, 386 Md. 412, 430 (2005) (footnote omitted).

Kramer v. Kramer, 26 Md. App. 620 (1975), is instructive on what constitutes a valid, enforceable agreement manifesting an intent to be bound in the context of child support agreements. There, a married couple filed for absolute divorce. *Id.* at 622. At the time of the initial complaint, the parties had three minor children. *Id.* By the time the circuit court issued its order, one of the parties' daughters had turned 18 years old. *Id.* The court awarded the father custody of the two minor daughters, but did not award any child support payments to the mother for the oldest daughter. *Id.* at 622. Allegedly, the father verbally agreed to support his children, but on appeal he claimed that because

"there was no agreement to support the children until age 21," the mother was not entitled to child support for the oldest child. *Id.* Under that verbal agreement, father agreed to pay the mortgage, utilities, insurance expenses, and $150.00 biweekly to support their three children. *Id.* at 625-26. This Court found an agreement existed between the parties:

> There is no requirement that there be a formal written agreement in matters involving separation, alimony, child support and custody. *The existence of an agreement with respect to such matters may be verified from testimony, the conduct of the parties, and other evidence in the case.* Here, the mother's acceptance of payments unilaterally determined by the father to be appropriate, for a period of six years, without resort to a support action, constitutes acquiescence in and acceptance of an offer of support for the children made by the father, and, therefore, constitutes an agreement between the parties with respect to support payments for the three children.

Id. at 626-27 (emphasis added) (quotations, citations, and footnote omitted).

Here, the existence of a valid, enforceable agreement is supported not only by the testimony at trial and the conduct of the parties, but also by a written, signed agreement. Mr. Barrett's assertion that "there is no evidence that [he] made an offer of support to [Ms. Miller,] [or that the] offer was accepted, or what the amount of that offer of support was," is incorrect. Ms. Miller's act to accept the payments of $10,000.00 a month from before the original agreement until 2016 "constitutes acquiescence in and acceptance of an offer for support." *Kramer*, 26 Md. App. at 627. Mr. Barrett's acquiescence to a $10,000.00 payment for support of his children was an acceptance of his responsibility for child support.

In addition, Mr. Barrett signed both the original agreement and the reconstructed agreement indicating an intent to be bound by its terms. *See Clancy*, 405 Md. at 561.

Ms. Miller identified Mr. Barrett's signature, which Mr. Barrett failed to dispute. This agreement is not invalid or unenforceable because it addresses a current obligation and not a future obligation. We reiterate that under Maryland law it is abundantly clear that parents have a legal, moral, and statutory obligation to support their minor children. *See Gordon v. Gordon*, 174 Md. App. 583, 644 (2007). This evidence supports the rational inference that an agreement between the parties existed in 2008 and was incorporated into the reconstructed agreement.[7] We discern no clear error or abuse of discretion in the circuit court's decision to accept the reconstructed agreement as a valid agreement to pay child support.

II.

Mr. Barrett argues that the circuit court "placed an unnecessary restriction on its right to modify support" by assessing a child support arrearage against him for $166,900.00. Mr. Barrett further argues that "the trial court has set two rules for an agreement to pay child support: (1) for the recipient, the agreement is fully enforceable as a court order, and (2) for the obligor, the agreement is *not* a court order and the obligor

[7] At trial, Mr. Barrett disputed the reconstructed agreement because it was a duplicate and was not the physical copy the parties signed. However, the duplicative nature of the reconstructed agreement is not dispositive. Md. Rule 5-1003 clearly states that:

> A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

See also State v. Brown, 129 Md. App. 513, 526 (1999).

must have the agreement accepted as a court order to modify it." Ms. Miller contends that Mr. Barrett must pay the arrearage because he failed to request a modification of the agreement in his answer and because the parties were only litigating whether the agreement was valid and enforceable.

Md. Code (1984, 2012 Repl. Vol.), Family Law Article ("FL") § 12-104(b) prohibits the court from retroactively modifying a child support award prior to the date of a filing of a motion for modification. Based on our review of the record, Mr. Barrett never filed a motion to modify his child support payments.

Zouck v. Zouck, 204 Md. 285 (1954), is instructive in addressing Mr. Barrett's concern that for the obligor this agreement is *not* a court order and must be accepted by the court to be modified. In *Zouck*, a separation agreement had a provision for father to pay mother $25.00 weekly to support his child. *Id.* at 290. As the father had not made any payments since the agreement was executed, the court ordered arrearages against the father in a "lump sum." *Id.* In discussing the validity of the separation agreement, the Court noted that "Zouck did not deny the execution of the agreement or claim that it was procured by fraud or duress." *Id.* at 296. The Court discussed that a parent owes his or her child an obligation that "remains the same whether it be calculated and required by original order of the court, by voluntary agreement, or by voluntary agreement specifically ordered to be performed by order of the court." *Id.* at 298.

The Court held that "[a] contract by a father to support a child, found by a court to be fair and reasonable, and so, judicially decreed to be enforced, is the equivalent of a

court awarding support to the child[.]" *Id.* at 299. Addressing the lump sum of arrearages, the Court noted "[t]he fundamental nature of the support looked for by the agreement is not changed because the [father] is now required to pay at one time what he should have paid week by week." *Id.*

The same is true in the instant case. The reconstructed agreement between Mr. Barrett and Ms. Miller is the functional equivalent of a court order to pay child support. As such, Mr. Barrett could have elected to file a motion to modify the agreement by alleging a change in circumstances. He did not. Therefore, he incorrectly states that the court "placed an unnecessary restriction on its right to modify support" by ordering him to pay arrearages. Like the father in *Zouck*, Mr. Barrett's obligation to support his children does not change because he must now pay arrearages of $166,900.00, which is the amount that became due to his children once he ceased paying his child support obligation in 2016, an obligation that he owes his children under the law.

Had the circuit court exercised its discretion to retroactively reduce the amount set forth in the child support agreement, it would have committed error. *See Ley v. Forman*, 144 Md. App. 658, 677 (2002); *see also Reese v. Huebschman*, 50 Md. App. 709, 713 (1982) (footnote omitted).

III. Child Support Award

Mr. Barrett contends that the circuit court erred by using his 2015 IRS tax transcript to support its finding that the parents' joint income was above the Maryland Child Support Guidelines. Specifically, he argues that by using his 2015 IRS wage transcript that showed an income of $199,464.00, the court inadvertently determined his

potential income and not his actual income. Ms. Miller responds that Mr. Barrett cannot accuse the court of failing to consider his "actual income" because he failed to provide the court with a Long Form Financial Statement or any evidence of his income. At the October 23, 2017 hearing, Mr. Barrett's counsel stipulated to his IRS Wage and Income Transcript for 2015. The court later used that Transcript as evidence of Mr. Barrett's actual income in its written order.

Above, we noted that parents owe a legal, statutory, and moral obligation to care for their children. The courts have wide discretion in setting the amount of child support, and we review those decisions for an abuse of discretion. *Knott v. Knott*, 146 Md. App. 232, 246-47 (2002); *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018).

FL § 12-204 provides child support guidelines assigning child support obligations proportionate to the parents' income. If the parents' monthly combined adjusted income is less than $15,000.00, the use of the guidelines is mandatory. FL § 12-204 (a), (e). If their combined income is over $15,000.00, the court has discretion to set the amount of child support. FL § 12-204(d). Here, the court found that the parties' total adjusted monthly income exceeded the highest levels of the child support guidelines, based in large part on Mr. Barrett's 2015 income.

In determining the parties' total adjusted monthly income, the court must consider actual income and expenses based on documentation of both current and past actual income. *See* FL §§ 12-201(c), (p); 12-203(b). Income is defined as "(1) *actual income of parent, if the parent is employed to full capacity*; or (2) potential income of a parent, if

the parent is voluntarily impoverished." FL § 12-201(h) (emphasis added). Circuit courts enjoy "latitude to consider all the relevant circumstances in a particular case" before determining what to include in the calculation of actual income. *See Petrini v. Petrini*, 336 Md. 453, 463-64 (1994) (holding that the trial court did not abuse its discretion when it increased father's actual income by approximately $10,000.00 based on evidence of "gifts" that the father regularly received from his family, like rent-free lodging, health insurance, and a spending allowance). Here, we will only address whether the circuit court erred as to actual income, as it did not find that Mr. Barrett was voluntarily impoverished.

"'Actual income' means income from any source." *Reichert v. Hornbeck*, 210 Md. App. 282, 317 (2013) (quoting FL § 12-201(b)(1)). For a parent who is self-employed, actual income would include "rent, royalties, [and] proprietorship of a business," and would include "gross receipts minus ordinary and necessary expenses required to produce income." *Id.* at 317 (emphasis in original) (quoting FL § 12-201(b)(2)).

A party's actual income could also include salaries, wages, social security benefits, income from self-employment, severance pay, and gifts, among others. *Id.* at 317-18. In its determination, the court "must rely on the verifiable income of the parties," because failure to do so can lead to an "inaccurate financial picture." *Ley*, 144 Md. App. at 670. This verifiable income could include pay stubs, empower statements, and copies of each parent's three most recent tax returns. FL § 12-203(b)(2)(i).

At trial, Mr. Barrett failed to provide verifying documentation to support Kevin's testimony that his income was less than $199,464.00. Although his son testified as to the amount he received from his royalties and from The Wailers Tour, Mr. Barrett provided no documentation to support his claim. While the court certainly could have credited Kevin's testimony, it was not required to do so. *See Petrini*, 336 Md. at 463-64. The only "actual income" documentation Mr. Barrett offered into evidence were his three most recent tax statements, thereby satisfying FL § 12-203(b)'s requirement that income statements be supported by "suitable documentation of actual income[.]" The circuit court properly exercised its discretion in relying upon the documentation Mr. Barrett provided and in awarding child support in this above guidelines case.

IV.

Initially, the circuit court denied attorney's fees. However, by the time the court issued its written opinion, its position had changed. The court found that because Ms. Miller testified that she incurred legal fees of $16,549.37, $13,942.37 of which she paid using loans from family members and friends, she had "substantial justification for bringing this proceeding to recover arrearages of child support and seeking continued support under current circumstances." After considering the needs and financial statuses of the parties, the court awarded Ms. Miller $8,275.00 in attorney's fees.

FL § 12-103, which governs the court's award of attorney's fees in child support and custody cases, provides:

> (a) *In general.*—The court may award to either party the costs and counsel fees that are just and proper under all the circumstances in any case in which a person:
>
> (1) applies for a decree or modification of a decree concerning the custody, support, or visitation of a child of the parties; or
> (2) files any form of proceeding:
>
> (i) to recover arrearages of child support;
>
> (ii) to enforce a decree of child support; or
>
> (iii) to enforce a decree of custody or visitation.
>
> (b) *Required considerations.*—Before a court may award costs and counsel fees under this section, the court shall consider:
>
> (1) the financial status of each party;
>
> (2) the needs of each party; and
>
> (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding.
>
> (c) *Absence of substantial justification.*—Upon a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, and absent a finding by the court of good cause to the contrary, the court shall award to the other party costs and counsel fees.

After finding substantial justification under FL § 12-103(b), the court must then review "the reasonableness of the attorney's fees, and the financial status and needs of each party before ordering an award under [FL §] 12-103(b)." *Davis v. Petito*, 425 Md. 191, 204 (2012). The trial court has wide discretion to "decid[e] whether to award counsel fees and, if so, in what amount." *Malin v. Mininberg*, 153 Md. App. 358, 435-36 (2003) (citation omitted).

Davis v. Petito, supra, is instructive in our analysis of the issues related to FL § 12-103(b)(1)-(2). There, the primary custodial parent filed to modify child custody after alleging that the father had sexually abused their daughter. *Id.* at 195. The mother paid for a private attorney before securing *pro bono* legal representation; the father spent substantially more on his legal services. *Id.* at 195-96. The circuit court awarded the father attorney's fees because he had substantial justification in defending himself, and because he accrued signification debt during litigation, while the mother received *pro bono* representation. *Id.* at 197.

After this Court affirmed, the Court of Appeals granted certiorari and reversed. *Id.* at 193-95. The Court ruled that "[FL §12-103] contemplates a systematic review of economic indicators in the assessment of the financial status and needs of the parties, as well as a determination of entitlement to attorney's fees based upon a review of the substantial justification of each of the parties' positions in the litigation, mitigated by a review of the reasonableness of the attorneys' fees." *Id.* at 206. Looking to the text of FL § 12-203 and the precedent applying to that provision, the Court decided "that financial status and needs of each of the parties must be balanced in order to determine ability to pay the award to the other; a comparison of incomes is not enough." *Id.* at 205. Because the circuit court considered the fees the father paid, as well as the debt he incurred to pay those fees (essentially double-counting the cost of the fees), but failed to consider the mother's needs, "such as her lack of savings or disposable income," the Court determined that the trial court had failed to adequately compare the parties'

financial statuses and needs, and remanded the case for the trial court to consider the statutory factors set out in FL § 12-203. *Id.* at 204-06.

In the instant case, the circuit court considered Ms. Miller's financial status stating, "[Ms. Miller] has testified that she has incurred legal fees in the total amount of $16,549.37 of which she has paid $13,942.37 *mainly by loans from family members*." The court also addressed Mr. Barrett's financial status when discussing the factual background of the case and its findings as to child support. Lastly, we note that the court properly considered the entire financial status of the parties, in its comprehensive written opinion.[8] We are cognizant of no reason to disturb the exercise of the circuit court's discretion. *See Wagner v. Wagner*, 109 Md. App. 1, 52 (1996).

JUDGMENTS OF THE CIRCUIT COURT FOR QUEEN ANNE'S COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.

[8] The court noted that Mr. Barrett had property in Kingston, Jamaica, which is valued at $200.000.00 based on representation to Ms. Miller by Mr. Barrett. Ms. Miller also testified that Mr. Barrett is a United States citizen living primarily in Florida and is eligible for Social Security.