Circuit Court for Washington County
Case No. 21-C-17-058885

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2319

September Term, 2018

MARK ROBERT DILANDRO

v.

JILL HAWKSWORTH DILANDRO

Graeff,
Reed,
Gould,

JJ.

Opinion by Gould, J.

Filed: September 9, 2020

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

Appellant Mark DiLandro appeals from a judgment of absolute divorce in the Circuit Court for Washington County in which the court granted indefinite alimony and a monetary award to his ex-wife, appellee Jill Hawksworth DiLandro. Mr. DiLandro challenges the decision on a variety of grounds, arguing in large part that the circuit court failed to adequately explain its conclusions and that such conclusions were not supported by the evidence. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mr. DiLandro and Ms. Hawksworth[1] married in 1984 and had three children together. Ms. Hawksworth held various administrative support positions and pursued a master's degree during the early years of their marriage. When the children began attending school, she took a position teaching English as a Second Language at Hagerstown Community College. Mr. DiLandro was an officer for the United States Army until he retired as a Major in 1996. After 1996, Mr. DiLandro worked various construction jobs until he took a job with Frederick County, where he worked until 2009.

In January 2010, Mr. DiLandro relocated to Wilmington, North Carolina to take a position with the U.S. Army Corps of Engineers. Ms. Hawksworth and their youngest daughter, Dominique, remained in Maryland because she and her husband could not agree on which school Dominique would attend in North Carolina.

In April 2011, Ms. Hawksworth discovered that Mr. DiLandro was sharing his home in North Carolina with another woman and confronted him. Although the parties disagree

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[1] Ms. Hawksworth's maiden name was restored during the Absolute Divorce proceedings on May 30, 2018.

about whether this experience effectively ended their marriage, it appears that after this confrontation, any time subsequently spent together was purely to see their children and family.

In 2017, Ms. Hawksworth filed a Complaint for Limited Divorce in the Circuit Court for Washington County. The court held a two-day trial and heard testimony from both parties, as well as an expert for Mr. DiLandro, before announcing its decision.

The circuit court issued an oral ruling, initially explaining that its intention was to divide the marital property equally between the parties. To that end, the court ordered (in relevant part):

- That the marital home in Smithsburg, Maryland be sold (or auctioned, should the home not sell within 90 days), with both parties responsible for its upkeep until the sale.

- That their home in the U.K. remain in Ms. Hawksworth's name and half the value of the property, $30,000, be credited to Mr. DiLandro.

- That Mr. DiLandro pay (after receiving a $30,000 credit for the U.K. property) Ms. Hawksworth $73,149.04 "as an adjustment of rights and equities in their marital property."

- That the various retirement funds and checking and savings accounts be divided equally between Mr. DiLandro and Ms. Hawksworth. **[T5, 6]**. In that regard, Ms. Hawksworth was granted a 50% interest in Mr. DiLandro's Federal Employee Retirement System ("FERS"), United States Military Retirement Pay benefits, and Frederick County pension.

Finding that "it would be close to impossible if not impossible [for Ms. Hawksworth] to be wholly self-supporting," the court granted Ms. Hawksworth alimony in the amount of $3,500 per month, to be reduced to $2,600 when Ms. Hawksworth reaches the age of 66 years and two months.

The court entered a Judgment of Absolute Divorce, which Mr. DiLandro now appeals.

DISCUSSION
I.
The Monetary Award

Md. Code Ann., Family Law ("FL") § 8-203 (1984, 2019 Repl. Vol.) provides that in divorce proceedings, "if there is a dispute as to whether certain property is marital or non-marital property, the court shall determine which property is marital property." Melrod v. Melrod, 83 Md. App. 180, 185 (1990). FL § 8-204 then requires the court to value said marital property. Id. Finally, FL § 8-205(a) authorizes the court to grant a monetary award to adjust the equities and rights of the parties. Id.

Initially, Mr. DiLandro argues that:

> The Circuit Court abused its discretion in granting Wife a monetary award in the amount of $73,149.04. In so doing, the Court erred in [several] ways. First, the Circuit Court failed to determine the value of the marital home. Second, the Circuit Court failed to adequately explain its calculation of the monetary award. Third, the Circuit Court failed to properly consider FL § 8-205(b)(8) in awarding Wife a portion of Appellant's FERS pension and TSP.

We reject these contentions because: 1) Mr. DiLandro suggested to the court that, in lieu of valuing the marital home, the parties should sell it and split the proceeds, and thus waived any claimed error; 2) the circuit court adequately explained its calculations as to the challenged portions of the marital award; and 3) the court properly considered the factors set forth in FL § 8-205(b) in determining the award.

A.
The Marital Home

Mr. DiLandro first argues that the circuit court failed to establish a value for the marital home as required by FL § 8-204. He contends that because there was a discrepancy between the parties' valuations of the property, the court's alleged oversight necessarily "affected the Court's view of the parties' respective financial positions and available resources." Because Mr. DiLandro failed to preserve this issue by taking the diametrically opposed position at trial, we will not consider this argument.

At trial, Ms. Hawksworth opined that the marital home was worth $228,000, and Mr. DiLandro contended that it was worth $267,000. During his closing argument, Mr. DiLandro's counsel proposed a solution that did not require the court to fix the value of the home—selling it:

> Each party is entitled to half of that equity whether it's sold and divided practically as a result of sale or whether Ms. DiLandro, is awarded a specific judgment that orders Major DiLandro to convey his interest in it to her for a refinance of the balance of the mortgage plus something representing his share of the equity. *Six and one half dozen of the other to us*, except to the extent that the Court decides what the value of the property is. . . . *A sale, I would suggest of that property, avoids the import of deciding what the value of the home is.* If you decide the value of the home in order [for] Major DiLandro to sell his half interest to Ms. DiLandro, then that number matters a lot more. If the property is ordered sold and the parties are left to decide between and among themselves whether there's a buyout in lieu of that Court order of sale before those costs are incurred, that's a different approach.

(Emphasis added, cleaned up).

An appellant may fail to preserve his argument, and thus lose his right to appeal, by taking a position at trial that is inconsistent with his stance on appeal. <u>See</u> <u>Brass Metal Prod., Inc. v. E-J Enterprises, Inc.</u>, 189 Md. App. 310, 367 (2009); <u>cf.</u> <u>State v. Rich</u>, 415 Md. 567, 575 (2010) (cleaned up) (addressing the invited error doctrine applicable in the

criminal setting and noting that it "stems from the common sense view that where a party invites the trial court to commit error, he cannot later cry foul on appeal"). Here, assuming without deciding that the circuit court erred by failing to value the house, this error was the direct result of a specific request made by Mr. DiLandro, a position that is thoroughly inconsistent with his current claim of error. Accordingly, we shall not consider the merits of Mr. DiLandro's claim of error on this issue.

B.
The Explanation of the Award

Mr. DiLandro contends that the court erred by insufficiently explaining its calculation of the marital award. Mr. DiLandro argues that: 1) despite "uncontroverted testimony" to the contrary, the court found that Mr. DiLandro's "First Command money market account" (the "First Command account") was "commingled" with marital property; and 2) the court gave a $30,000 credit for Mr. DiLandro's interest in Ms. Hawksworth's home in England without sufficient explanation. We address both contentions in turn.

Mr. DiLandro contends that his uncontroverted testimony was that ever since he deposited money from his inheritance into the account, he did not make any further deposits of marital funds in the account, and thus the account was not marital property.

Under FL § 8-201(e), marital property does not include property "acquired by inheritance or gift from a third party" or directly traceable therefrom. "'Directly traceable' is not synonymous with 'attributable.'" Melrod, 83 Md. App. at 187. An "inability to trace property acquired during the marriage directly to a non-marital source simply means that all [of the commingled property] is marital property." Id. Here, the burden of tracing the

allegedly non-marital property was on Mr. DiLandro. See Noffsinger v. Noffsinger, 95 Md. App. 265, 288 (1993) ("Without offering evidence or testimony tracing payment for these improvements to nonmarital sources Dr. Noffsinger has failed to meet the burden of proving that the property (or improvement) was acquired with nonmarital funds.").

The trial court was well within its discretion to find that Mr. DiLandro failed to meet this burden. At trial, the evidence regarding the First Command account was scant. Mr. DiLandro explained that he created the First Command account as a savings account after he and Ms. Hawksworth "split." When his mother passed away, he received money from his inheritance, which he also put into this account. Though he provided roundabout estimates of what he received in his inheritance, he did not give the actual amount that he deposited into the account, nor was he clear about which (marital) funds were already in the account prior to depositing the inheritance money:

> [COUNSEL FOR MS. HAWKSWORTH]: How much money was in that account when you put the money in from your mom's estate?
>
> [MR. DILANDRO]: I don't know the value when I put the money in there. I'm -- we supplied so many documents, I'm sure there's a print-out. If there's an exact amount, I don't know it. It could have been $100. It could have been -- account was active. It was money -- it was an active account. It was open.

Counsel for Ms. Hawksworth picked up on this during closing argument, stating:

> As far as the First Command -- the one where the parties aren't in agreement as to whether the following property is marital or non-marital, he does admit that he comingled it. And he can't show anything as to how much was in that account. He said maybe $100. It was open. He hasn't really been able to display to the Court how much was comingled. We would maintain or represent to the Court that we believe that that is all marital.

The court agreed, explaining in its ruling that it found that the account had been commingled and that it did not accept that the money in the account was "purely an inheritance." Based on Mr. DiLandro's unspecific testimony at trial, we cannot say that the court was clearly erroneous in putting the First Command account in the marital property column.[2] See Dave v. Steinmuller, 157 Md. App. 653, 664 (2004) (cleaned up) (finding that the circuit court's decision regarding traceability "will not be set aside on the evidence unless clearly erroneous and due regard will be given to the opportunity of the lower court to judge the credibility of the witnesses").

Turning now to the court's treatment of the home in England, Mr. DiLandro argues that, in awarding Mr. DiLandro a $30,000 credit towards the marital award for his share in the home that the couple owned in England, the court's explanation was "insufficient to inform the parties and this Court as to whether the Court indeed (i) properly classified and assessed marital property titled separately and jointly, and (ii) based its exercise of discretion in determining the award and amount of the monetary award on an informed and reasonable basis." Presumably, Mr. DiLandro believes he was entitled to a larger credit towards the award. If so, we disagree.

Ms. Hawksworth testified that the house in England, purchased by the parties during their marriage, was worth approximately $62,459 (according to an appraisal requested by Mr. DiLandro's attorney). The court explained:

> When I divided the accounts in half including what I've been calling cash accounts, checking account, savings account, the monetary award [to Ms.

[2] This is especially so given that, according to Mr. DiLandro, the documents necessary to trace the funds existed.

> Hawksworth] came to $103,149.04. However, on equitable grounds, I recognize that Mrs. DiLandro is getting a house in the U.K. free and clear and that that house has a value of approximately $60 -- I think we said $60,000, $62,000 or so. So on equitable grounds, I'm giving Mr. DiLandro credit for $30,000 of that, half the value of -- of that house. And I'm reducing the monetary award to Mrs. DiLandro to the amount of $73,149.04.

It seems evident that the trial court classified the home in England as marital property and, based on its uncontroverted value, awarded Mr. DiLandro credit for half of the home. Mr. DiLandro did not offer any evidence contrary to Ms. Hawksworth's estimated value of the house. But even if he did, "valuation is not an exact science," and the court was free to accept or reject the opinions expressed by the parties. Williams v. Williams, 71 Md. App. 22, 36 (1987) (citations omitted). Accordingly, we reject Mr. DiLandro's claim of error on this issue.

C.
FL § 8-205(b)(8)

> In determining the amount of a monetary award, a trial court must consider:
>
> (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.

FL § 8-205(b). "While consideration of the factors is mandatory, the trial court need not go through a detailed check list of the statutory factors, specifically referring to each, however beneficial such a procedure might be for purposes of appellate review." Doser v. Doser, 106 Md. App. 329, 351 (1995) (cleaned up). Instead, the court need only "state[] that the statutory factors were considered." Malin v. Mininberg, 153 Md. App. 358, 429 (2003).

Mr. DiLandro argues that the court failed to consider the eighth factor—how and when specific marital property was acquired and the contribution that each party made towards its acquisition—when "awarding Wife an equal interest in the marital portion of Husband's FERS and TSP accounts." He claims that both accounts were acquired after the parties had separated, and thus Ms. Hawksworth made no contribution to the accumulation of these accounts.

As explained above, the court is not obligated to explain the thinking behind every factor in its analysis, and is only required to state that it considered all of the requisite statutory factors in its analysis. Malin, 153 Md. App. at 429. The court represented in its order granting the judgment of absolute divorce that it considered "the factors as set forth in Maryland Code, Family Law Article §§ 8-201 to 8-205 et seq." in arriving at its decision. We have no basis to doubt the court's assertion.

Moreover, when looked at holistically, the record supports a finding that the other factors outweighed FL § 8-205(b)(8). The court noted, despite his protestations to the contrary, that Mr. DiLandro was having an affair with another woman, and that this affair was the impetus for the couple's estrangement. See FL § 8-205(b)(4). The court found that Ms. Hawksworth took care of the majority of the child-rearing responsibilities and the day-to-day management of the household, and that she was the primary non-monetary contributor to the well-being of the family. See FL § 8-205(b)(1). As discussed above, the court also discussed why, due to her age and educational level, Ms. Hawksworth's economic prospects were much weaker than Mr. DiLandro's. See FL § 8-205(b)(3), (6); Based on this analysis, we do not believe that the court abused its discretion in determining that these factors were more important than the extent to which Ms. Hawksworth contributed to the FERS and TSP accounts.[3] See Collins v. Collins, 144 Md. App. 395, 409 (2002) (cleaned up) (noting that "the decision whether to grant a monetary award is generally within the sound discretion of the trial court").

[3] In terms of financial contributions, it's not at all clear that Ms. Hawksworth could have lawfully contributed funds to these accounts even if she had wanted to.

II.
The Alimony Award

In determining alimony, a court must consider:

(1) the ability of the party seeking alimony to be wholly or partly self-supporting;

(2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;

(3) the standard of living that the parties established during their marriage;

(4) the duration of the marriage;

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

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

(7) the age of each party;

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

(9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;

(10) any agreement between the parties;

(11) the financial needs and financial resources of each party, including:

> (i) all income and assets, including property that does not produce income;
> (ii) any award made under §§ 8-205 and 8-208 of this article;
> (iii) the nature and amount of the financial obligations of each party; and
> (iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

FL § 11-106 (b). Given the nature of Mr. DiLandro's challenge, it bears repeating once again that a trial court is not required to "articulate every reason for its decision with respect to each factor" in its analysis but must "clearly indicate" that it has considered them. Doser, 106 Md. App. at 356. "Where the trial court's review of the factors is not clear, [we] may look to the record as a whole to determine whether the trial court's findings were based on a review of the factors." Doser, 106 Md. App. at 356.

Mr. DiLandro argues that the circuit court's error lies in its conclusion that Ms. Hawksworth had only a nominal ability to support herself going forward. Specifically, he argues that the court did not make explicit findings as to what Ms. Hawksworth was earning at the time of trial and what she could reasonably make going forward. He also contends that the court failed to consider Ms. Hawksworth's living expenses and argues that the court's factual finding that Ms. Hawksworth could not support herself was "clearly erroneous" based on the record.

Mr. DiLandro also argues that the court failed to consider his financial expenses in determining his ability to pay alimony.

Finally, he argues that the court failed to take Ms. Hawksworth's potential Social Security benefits into account in determining alimony. Mr. DiLandro contends that because Ms. Hawksworth could have elected to begin receiving Social Security benefits as of the time of trial, the court should have included the benefits then available in determining her income.

We are not persuaded.

A.

Ms. Hawksworth's Ability to Support Herself

Contrary to Mr. DiLandro's suggestion, the court did make explicit findings as to Ms. Hawksworth's present and future earning ability. **T5 at 10-13, 17**. The court explained:

> As the fact finder, I find that at this point in Mrs. DiLandro's life it would be close to impossible if not impossible to be wholly self-supporting. I further find that it would be -- she has the ability to be partly self-supporting, but it really would be a nominal amount. Looking over her work history, there have been periods where she didn't work at all in terms of a traditional job, a paycheck-earning job. And Mrs. DiLandro, please don't take offense as to what I'm about to say. But Mrs. DiLandro is sixty-three years old and does not have the education that the market in this area would require for her to earn a -- a self-supporting income. There was talk of Mrs. DiLandro going back to school perhaps earning her master's. Again, she's sixty-three years old. If she goes back to school now, if she's lucky, she'd complete that by age sixty-five, and she'll be graduating with people that are twenty-one, twenty-three years old, who not only would possess then the same education that she has, but they would also possess skills that the younger generations seem to pick up just by virtue of -- of going to a public school or having friends. They have computer skills, internet skills, app skills, social media skills, skills that -- that employers are looking for. I did not hear of any other skills, anything that would make Mrs. DiLandro stand out in -- in the market that would -- that would cause her to rise above the other candidates that she would be competing against. Simply put, her age and time is -- is working against her. And she doesn't have a career of steady employment that perhaps an employer could look back upon and say, you know, "Well there are qualities here. She's developed qualities by -- by working. She didn't get the education, but she got the -- the on-the-job training, and she's done other things for other employers that I would find necessary." Mrs. DiLandro was working, perhaps not earning a paycheck, for years not earning a paycheck. But[,] and I recognize that Mr. DiLandro was financially supporting the family, supporting his -- his wife, his home, his three children, himself while serving our country. Mrs. DiLandro was not sitting at home on the sofa eating bonbons. She [w]as playing the role of a military wife. She was maintaining a home. . . . But because of that sacrifice on her part, I find that she's not an asset to the current workplace market. And I believe her that she's tried. I believe that she has done internet searches for -- for jobs. I believe that she has reached out and tried to find some kind of gainful employment. But, again, time is -- time is working against her. And the

> market is working against her because as we speak, there are new graduates rolling out of colleges all over the country, all over the world that are competing for the same jobs.
>
> Second factor to consider, the time necessary for the party seeking alimony to gain sufficient education or training to enable the party to find suitable employment. I just covered that. If Mrs. DiLandro chooses to go back to school, I think she could get a master's reasonably in about two years. But then what? What do you do with a master's without a work history competing against so many others? I don't find that there's -- because of her age that there is enough time to build up the resume that she would need to make herself wholly self-supporting.
>
> * * *
>
> ". . . The Court may award alimony for an indefinite period if the Court finds that, one, due to age, illness or infirmity or disability, the party seeking alimony cannot reasonably be expected to make substantial progress towards becoming self-supporting." And I find that's exactly the situation here due to Mrs. DiLandro's age and her -- her lack of resources in terms of education, in terms of -- of work history, it cannot be reasonably expected -- she cannot reasonably be expected to make substantial progress towards becoming self-supporting. . . . Looking over her work history, 2010, oh, I'm sorry, 1989 was Mrs. DiLandro's best year, earning $22,781. Then we have to fast-forward to 2010 before we see a number close to that. 2010, $19,575, while Mr. DiLandro earns $127,000. I do find if Ms. DiLandro did everything that she could, there would still be an unconscionably disparate situation between the two parties.

Next, also contrary to Mr. DiLandro's assertions, the court considered Ms. Hawksworth's living expenses in its determination of alimony. The record contained detailed evidence as to Ms. Hawksworth's current and future expenses (including her testimony and financial statement), and the court explained that it contemplated such evidence by stating that it considered "the financial needs and financial resources of each party." The court was not required to provide further insight into its analysis. See Doser, 106 Md. App. at 356.

As to the court's finding that Ms. Hawksworth had only a nominal ability so support herself, this too was supported by the record. Ms. Hawksworth testified that:

- She hadn't had a full-time job for at least the past 20 years.
- She was pushed out of her previous job because she lacked a master's degree.
- Because of her age, it was uncertain whether getting a master's degree to take on a full-time teaching job would be cost effective.
- She had been unsuccessfully searching for a teaching job for years.
- At the time of trial, in order to work even part-time, she had to cobble together a variety of hours from numerous tutoring and clerical roles.

Based on this testimony, we cannot say that the court's factual finding was clearly erroneous.[4] See Azizova v. Suleymanov, 243 Md. App. 340, 372 (2019) (cleaned up) (noting that a "trial court's findings are not clearly erroneous if there is competent or material evidence in the record to support the court's conclusion").

B.
Mr. DiLandro's Needs

During his testimony, Mr. DiLandro submitted a statement of income and expenses and explained the expenses in detail, including his rent, his mortgage on a second home,

[4] Mr. DiLandro also contends that, because the court made no mention of his vocational expert's analysis of Ms. Hawksworth's job prospects in its opinion, it must have necessarily failed in its duties to evaluate expert testimony and determine whether to accept it. On the contrary, we assume the trial court listened to the vocational expert, rejected her conclusions, and found the testimony so unpersuasive as to be undeserving of mention in its ultimate opinion. This impression is supported by the great detail in which the trial court explained Ms. Hawksworth's job prospects and the barriers to full-time employment that she faced. In addition, as noted above, the Judgment of Absolute Divorce confirms that the court considered "all evidence" in arriving at its findings and conclusions.

the cost of vacations, his car payments, and life insurance payments. Then, in its oral ruling, the court explained:

> Ninth factor, the ability of the party from whom alimony is sought to meet the party's needs while meeting the needs of the party seeking alimony. Mr. DiLandro not only has his two pension[s], but he's -- he's currently employed making, going by memory, but I think the current income is $127,000. *Based on the evidence presented, I do find that Mr. DiLandro is capable to meet his own needs* while meeting the needs of the party seeking alimony.

(Emphasis added). This statement, combined with the court's representation in the Judgment of Absolute Divorce that it considered all of the evidence, demonstrates that the court gave sufficient consideration to this factor.

C.
Ms. Hawksworth's Social Security Benefits

Ms. Hawksworth testified that, although she was immediately eligible to receive Social Security benefits, the total amount of benefits would increase if she waited:[5]

> [MR. DILANDRO'S COUNSEL]: Now, Ms. DiLandro, you will acknowledge that you have earned enough credits through the course of your lifetime of employment to get a Social Security benefit here in the United States? Correct?
>
> [MS. HAWKSWORTH]: We just looked at that, yes.
>
> [MR. DILANDRO'S COUNSEL]: You do get a Social Security benefit; correct?
>
> [MS. HAWKSWORTH]: Yes.
>
> [MR. DILANDRO'S COUNSEL]: Do you know what that -- what benefit you might be entitled to today if you elected to receive . . .

[5] This point does not appear to be in dispute. In his closing argument, Mr. DiLandro's counsel admitted that Ms. Hawksworth's Social Security benefits would increase if she waited until she was older before electing them.

> [MS. HAWKSWORTH]: . . . I think it's $632 a month or something like that.
>
> [MR. DILANDRO'S COUNSEL]: Okay. And have you applied to receive that benefit?
>
> [MS. HAWKSWORTH]: No.
>
> [MR. DILANDRO'S COUNSEL]: Why not?
>
> [MS. HAWKSWORTH]: Because it would be worth a lot more -- no one -- I mean the idea is to -- to hold off on getting your Social Security because it compiles, and it will be worth a lot more later on.
>
> * * *
>
> [THE COURT]: . . . So when you testified that you'd be willing -- that you intend to wait for that amount to increase, are you waiting to sixty-six and two months? Are you waiting to the seventy?
>
> [MS. HAWKSWORTH]: Well I -- I'm -- I'm not sure. I think probably more like sixty six. But, uh, since there are so many variables right now with regard to the house, selling the house, where I'm gonna live, uh, I don't want to dip into that until I know everything's stabilized a little bit. And then hopefully, sixty-six, uh, because you don't kind of know beyond that what's gonna happen. It's -- it's kind of, you know, if you leave it too late, you might not be around to get it kind of thing so.

(Cleaned up).

The court found this explanation compelling and imposed an automatic reduction in the alimony once Ms. Hawksworth reaches 66 and two months, at which time the monthly social security benefit will be increased:

> I accept Mrs. DiLandro's explanation for why although she's eligible for Social Security, she's electing not to take Social Security at this time. Because if she waits until she's sixty six and two months, there's a substantial increase. And that's a monthly payment from the government that -- that continues until death. So it doesn't seem reasonable to me for her to accept a smaller amount now when she can wait not that much longer and receive a bigger amount. . . .

> What I do have faith in is this document that came from the government, "Your Social Security Statement." And right at the top, "Your payment would be about $879 a month at full retirement age." There it is in black and white from the U.S. Government. That I still have faith in. So I recognize that in about three years that's something that will become, that amount, will become available to Mrs. DiLandro but not yet.
>
> The Court finds, as I indicated, that alimony is appropriate in this case, indefinite alimony is appropriate in this case and orders Mr. DiLandro to pay Mrs. DiLandro the amount of $3,500 per month until Mrs. DiLandro reaches age sixty-six and two months. At which point, that amount will reduce will reduce on a monthly basis to $2,600 per month to encourage Mrs. DiLandro to take advantage of her Social Security benefits. And the Court recognizes that that will then become available to her.

There is no question that the court considered and accounted for Ms. Hawksworth's deferral of her Social Security benefits, and Mr. DiLandro has pointed us to nothing in the case law that suggests that the way the trial court handled the issue was an abuse of discretion.

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