

Circuit Court for Baltimore County  
Case No. 03-C-13-004393

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2665

September Term, 2016

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EDWARD J. NORRIS

v.

KATHLEEN A. KENNEDY  
(F/K/A KATHLEEN K. NORRIS)

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Leahy,  
Reed,  
Shaw Geter,

JJ.

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Opinion by Reed, J.

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Filed: August 27, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellant, Dr. Edward J. Norris (“Dr. Norris”), appealed the decision of the Circuit Court of Baltimore County finding in favor of Appellee, Kathleen A. Kennedy (“Dr. Kennedy”). Dr. Norris alleges that the trial court was clearly erroneous and abused its discretion when it found that the parties’ standard of living would be unconsciously disparate if it did not award Dr. Kennedy indefinite alimony.

This Court, in *Norris v. Kennedy*, No. 2267 (Md. App. Jan. 19, 2016) (“*Norris I*”), found that the trial court abused its discretion by awarding indefinite alimony in favor of Dr. Kennedy without providing a factual basis in support of its decision. On remand, the trial court found that Dr. Kennedy was entitled to indefinite alimony in the amount of \$3,000 per month, because she would not be able to resume the standard of living that she had grown accustomed to while married to Dr. Norris. Dr. Norris argues that the decision of the trial court was clearly erroneous and/or an abuse of discretion because the trial court did not provide sufficient facts to support its finding that: (1) Dr. Kennedy was not contributing to her retirement; and (2) that Dr. Norris had \$10,000 in excess income. In the present appeal (“*Norris II*”), Dr. Norris raises the following three questions, which we have consolidated and reworded for clarity:

- I. Whether the trial court erred and/or abused its discretion when it found that Dr. Kennedy was entitled to indefinite alimony to prevent an “unconscionable disparity” in her standard of living because (1) she was no longer contributing to her retirement fund or savings and (2) Dr. Norris had 10,000 dollars of “excess income” each month?<sup>1</sup>

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<sup>1</sup>Appellant presented his questions exactly as follows:

In making an award of indefinite alimony to Appellee, was the trial court clearly erroneous, and/or did it err as a matter of law or abuse its discretion?

For the following reasons, we vacate the trial court’s award of indefinite alimony to Dr. Kennedy and remand the case so that the court can reconsider and further explain its mathematical computations of indefinite alimony.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **A. *Norris I* Facts**

The present appeal arises out of the divorce of Drs. Kathleen A. Kennedy and Edward J. Norris. Dr. Kennedy and Dr. Norris were married in a religious ceremony on September 12, 1987 in Williamsport, Pennsylvania, and after twenty-six years of marriage, Dr. Kennedy filed for absolute divorce on May 1, 2013.

Dr. Kennedy holds a Ph.D. in Genetics and is a college professor at the Baltimore City Community College (“BCCC”), where she has taught Biotechnology and Life Sciences since 1989. Dr. Norris is a licensed anesthesiologist who works for the United States Department of Defense as the Chief Anesthesiologist. As a professor at BCCC, Dr. Kennedy earns a gross monthly pay of \$7,175—a salary in excess of \$80,000 annually. In his role as an anesthesiologist, Dr. Norris earns a gross monthly pay of about \$27,500 and a salary in excess of \$300,000 annually.

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- I. Was the trial court clearly erroneous when it found that, post-separation, Kennedy was no longer contributing to her retirement or savings?
  - II. Was the trial court clearly erroneous when it determined that Norris had, after reasonable expenses, \$10,000 “excess income” per month?
  - III. Did the trial court properly determine the finances of the parties?
  - IV. Was there any evidence before the trial court to substantiate an award of indefinite alimony?

The parties have four children between them—two together and two from Dr. Kennedy’s previous marriage. At the time of the divorce filing, their two children together had reached the age of majority and were no longer living with Drs. Norris and Kennedy. During the course of their marriage, Drs. Kennedy and Norris purchased a marital home, which was paid off by the time of the divorce; several vehicles; and opened joint savings accounts and retirement accounts.

Dr. Kennedy filed for absolute divorce alleging that Dr. Norris was “too controlling,” and as a result she was unable to live in the marital home. Dr. Kennedy also alleged that Dr. Norris had stalked her, poisoned her, and tampered with her vehicle. She also alleged that since the time of their separation Dr. Norris had dissipated or wasted marital assets and property without any family purpose.<sup>2</sup> Dr. Norris answered her complaint for absolute divorce on June 21, 2013, and subsequently filed a counter-complaint for limited divorce on August 21, 2013, which Dr. Kennedy answered on September 19, 2013. On December 4, 2013, Drs. Kennedy and Norris agreed to a *Pendente Lite* Consent Order and the parties agreed that, as a result of the consent order, Dr. Kennedy waived any entitlement to *pendente lite* alimony. In return for waiving this right, she was able to use joint marital funds that were in her possession at the time of separation, and Dr. Norris agreed that, subsequently, he would not argue that the marital funds in her possession were “prepayment” for her portion of the divided marital assets. On February

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<sup>2</sup> The trial court determined that these claims could not be substantiated, and on appeal, Ms. Kennedy only argued, with respect to these allegations, that the trial court improperly found that Dr. Norris had not dissipated marital assets. As such, we only address those facts relevant to the award of indefinite alimony.

11, 2014, Dr. Kennedy filed an amended complaint for absolute divorce, and Dr. Norris answered the amended complaint on February 25, 2014.

The divorce proceedings in the Circuit Court for Baltimore County began on March, 10, 2014. In lieu of holding closing arguments, each party submitted written memoranda and answers to the other's memoranda after a five-day trial. The trial court summarily applied the factors under MD. CODE ANN., FAM. LAW ("FL") § 11-106(b), and on June 12, 2014, the trial court granted Dr. Kennedy an absolute divorce and ordered Dr. Norris to pay Dr. Kennedy indefinite alimony in the amount of \$5,000 per month, and retroactive alimony totaling \$26,000 (\$2,000 per month for 13 months). The court denied both parties' claims for attorney's fees.

On June 23, 2014, Dr. Norris submitted a Motion for Reconsideration, challenging the trial court's award of indefinite alimony. Subsequently, Dr. Kennedy filed a petition to enforce the judgment in her favor, the sale of the marital home, the sale of disputed personal property, and for reconsideration of the \$26,000 awarded for retroactive alimony. The trial court heard each motion on October 20, 2014, and issued a revised memorandum opinion and order on December 1, 2014 responding to the issues addressed during the motions hearing. Subsequently, the court made adjustments to the value of marital property and assets, and made a monetary award of \$16, 612.07 to Dr. Norris, which was deducted from the original \$26,000 awarded to Dr. Kennedy.

### **B. *Norris I* Appeal**

On December 31, 2014, Dr. Norris appealed the decision to this Court under FL § 11-106 (c)(2), and Dr. Kennedy filed a cross-appeal on January 9, 2015. This Court held

that the trial court (1) erred by awarding Dr. Kennedy thirteen months of retroactive alimony after the parties had entered into a *pendente lite* consent agreement and (2) abused its discretion by awarding indefinite alimony without sufficient factual evidence showing that Dr. Kennedy’s standard of living would be unconscionably disparate without the alimony. This Court reversed the portion of the trial court judgment that ordered Dr. Norris to pay Dr. Kennedy thirteen months of retroactive alimony totaling \$26,000 and vacated the portion of the judgment that granted her indefinite alimony in the amount of \$5,000 per month. Subsequently, this Court remanded the case to the Circuit Court for Baltimore County for reconsideration of Dr. Kennedy’s claim that she was entitled to indefinite alimony. In *Norris I*, this Court provided the following reasoning for vacating and remanding this issue:

In this case, the circuit court concluded that “[w]hile the parties’ spending habits since the separation suggest that both can meet their basic needs, it is also clear that without support being given to [Kennedy], the respective standards of living of the parties will become unconscionably disparate.” Other than mentioning Kennedy’s need to delay her retirement and summarily referring to “all of the evidence, including the arguments and submissions of counsel regarding the use of alimony guidelines, and ... [FL] 11-106(b),” the court explained nothing else before stating that “the respective standards of living of the parties will be unconscionably disparate even after the marital property is divided.”

*Norris v. Kennedy*, No. 2267 (Md. App. Jan 19, 2016). According to this Court, the circuit court did not necessarily err in applying the factors under FL § 11-106(b) by granting indefinite alimony or in determining the specific amount of the award for indefinite alimony. Rather, this Court held, “the [trial] court abused its discretion in awarding

indefinite alimony *without explaining* ‘how it arrived at the conclusion that, without an award of alimony, the part[y’s] respective standards of living would be unconscionably disparate.’ (emphasis in original) *Id.* (citing *Lee v. Andochick*, 182 Md. App. 268, 228 (2008)).

Dr. Kennedy claimed in her cross-appeal that the trial court erred in finding that Dr. Norris did not dissipate any marital assets and that the trial court abused its discretion in denying her request for attorney’s fees. This Court remanded the issue of attorney’s fees for the trial court to address with the alimony issue. It also affirmed the trial court’s finding that Dr. Norris did not dissipate any marital assets.

### **C. Court Proceedings and Trial Court Decision in *Norris II***

The case was remanded on February 18, 2016. On remand, the trial court judge heard a motion for recusal filed by Dr. Norris on April 7, 2016. The trial judge denied the motion for recusal and the case was heard on the remanded issues of indefinite alimony and attorney’s fees on September 26, 2016. On November 29, 2016, the trial court issued its Memorandum Opinion and Order. Dr. Kennedy was granted indefinite alimony in the amount of \$3,000 per month and her request for attorney’s fees was denied. According to the trial court, the standard of living for the parties would be unconscionably disparate because, after accounting for Dr. Kennedy’s monthly expenses, she would be left with a deficit of \$62.31. The trial court found that, unlike Dr. Norris, Dr. Kennedy stopped making payments to her retirement and savings accounts. If Dr. Kennedy were to contribute to her retirement and savings in addition to other monthly costs, as she had been doing over the course of their twenty-six-year marriage, her deficit would increase to \$3,062.31. Based on

submitted financial statements, Dr. Norris' expenses were calculated at \$17,159.82—some of which are temporary in nature. The trial court also noted that many of the expenses far exceeded the standard of living that the couple enjoyed while they were married. As such, the trial court found that Dr. Norris had excess monthly income of roughly \$10,000 per month.

As a result, Dr. Norris filed a Motion to Alter or Amend and a Memorandum in Support of the Defendant's Motion to Alter or Amend. On December 27, 2016, Dr. Kennedy filed a response to Dr. Norris' Motion, as well as her own Motion for Reconsideration. Subsequently, Dr. Norris opposed her Motion for Reconsideration. The trial court responded to the aforementioned motions ordering \$3,000 per month in retroactive alimony from June 2014—the month that the divorce was granted—to date. The trial court also ordered that Dr. Norris' future indefinite alimony payments of \$3,000 per month be credited with \$26,000 or the amount actually paid to Dr. Kennedy for the reversed retroactive alimony award. All remaining motions were denied.

As such, Dr. Norris filed this timely appeal, alleging that the trial court's decision was clearly erroneous and/or an abuse of its discretion because it did not sufficiently provide a basis for indefinite alimony.

## **DISCUSSION**

### **A. Parties' Contentions**

Dr. Norris argues that the trial court erred and abused its discretion in awarding indefinite alimony on the basis of unconscionable disparity because there was no evidence in the record to support a finding that the post-divorce standard of living for the parties



would be unconscionably disparate. More specifically, Dr. Norris takes issue with the calculation of indefinite alimony in the amount of \$3,000 per month because, according to Dr. Norris, Dr. Kennedy was still contributing to her retirement savings post-separation, contrary to the findings of the trial court. He also argues that the trial court's decision was clearly erroneous when it determined that Dr. Norris had in excess of \$10,000 per month after reasonable expenses. Dr. Norris claims that the trial court provided inaccurate mathematical calculations based on this incorrect information about Dr. Kennedy's retirement savings and his income.

Dr. Kennedy argues that, even if she was able to become completely self-sufficient and self-supporting, an award of indefinite alimony was appropriate because the respective standards of living for the parties would be unconscionably disparate. Dr. Kennedy also contends that the award of indefinite alimony should be affirmed to ensure equity, given the nature of Dr. Norris and Dr. Kennedy's relationship. She further maintains that she was not contributing to her savings and retirement accounts as she had been prior to the separation. According to Dr. Kennedy, the contributions to her retirement that Dr. Norris references were "involuntary" contributions from her gross salary to her pension. We agree and explain.

### **B. Standard of Review**

"A trial court's finding of unconscionable disparity under subsection (c) [of FL § 11-106] is a question of fact, and [therefore], we review it under [a] clearly erroneous standard[.]" *Roginsky v. Blake-Roginsky*, 129 Md. App. 132, 143 (1999). As such, this Court reviews the grant of indefinite alimony in the amount of \$3,000 per month for

unconscionable disparity and determines whether the decision of the trial court was clearly erroneous. This Court “will not set aside a judgment on the evidence” or facts, unless the decision is clearly erroneous, and there is not “competent or material evidence in the record to support the court’s conclusion.” Md. Rule 8-131(c); *see also, Lemley v. Lemley*, 109 Md. App. 620, 628 (1996).

Generally, “a trial court has broad discretion in making an award of alimony, and a decision whether to award it will not be disturbed unless the court abused its discretion.” *Roginsky*, 129 Md. App. at 143. There is an abuse of discretion “where no reasonable person would take the view of the [trial] court,” or when the court acts “without reference to any guiding rules or principles.” *Smith v. State Farm Mut. Auto. Ins. Co.*, 169 Md. App. 286, 289 (2006). An abuse of discretion can also be found where the ruling goes against facts or logic. Ultimately, the court’s decision to grant indefinite alimony cannot be arbitrary. *Malin v. Mininberg*, 153 Md. App. 358, 415 (2003).

### **C. Analysis**

As this Court set forth in *Norris I*, in determining whether alimony is appropriate, as well as the amount and duration of the alimony award—should it be deemed appropriate—the court shall consider all the factors necessary for a fair and equitable award under FL § 11-106(b). These factors include:

- (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 non-monetary, of each party

- (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 the 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 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.

*Norris*, No. 2267, at 5 (citing FL § 11-106(b)). After applying these factors to determine if alimony is appropriate, the court then determines whether indefinite alimony is warranted. Under this statute, a trial court may award alimony indefinitely if it determines that (1) “due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting;” or (2) “even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.” *St. Cyr v. St. Cyr*, 223 Md. App. 163, 188–89 (2016) (citing FL § 11-106(c)). “Unconscionable disparity,” or “gross inequity” is determined on case-by-case basis. *See Wittington v. Wittington*, 172 Md. App. 317, 199 (2009). In assessing whether there is an “unconscionable disparity,” Maryland appellate courts have

found unconscionable disparity “based on the relative percentage the dependent spouse’s income was of the other spouse’s income.” *Solomon v. Solomon*, 383 Md. 176, 198 (2004).

The Court of Appeals has also held that the length of the marriage can be used as a factor to justify an award of indefinite alimony. *See Boemio v. Boemio*, 414 Md. 118, 143 (2010). It reasoned that “[an award of] indefinite alimony in a twenty-year marriage is not at all unusual” and it is well established in Maryland that a long marriage is “more likely to result in indefinite alimony.” *Id.* As previously stated by this Court in *Norris I*, “when awarding indefinite alimony, the [trial] court must [also] discuss how, in its opinion, the ‘living standards would be unconscionably disparate absent [the] award[.]’” *Lee v. Andochick*, 182 Md. App. 268, 288 (2008).<sup>3</sup> As such, the trial court must evaluate the evidence with respect to the parties’ post-divorce standard of living before it can award indefinite alimony. *See Tracey v. Tracey*, 328 Md. 380, 393 (1992).

In *Lee*, this Court reversed the award of indefinite alimony because the income deferential alone was not enough to warrant a finding of unconscionable disparity. It also found that the dependent party did not meet her burden of showing her own income would not allow her to maintain the standard of living she enjoyed during the marriage. Here, like in *Lee*, the Court requires a showing that Dr. Kennedy would have to “give up certain amenities or activities that she enjoyed prior to separation.” *Norris*, No. 2267, at 8. Given

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<sup>3</sup> Because this case was remanded from this Court for failure to explain how the trial court arrived at the determination that Dr. Kennedy was entitled to indefinite alimony for unconscionable disparity under § 11-106(c), our analysis is based on whether the trial court sufficiently met this burden or was clearly erroneous.

the mandate of this Court in *Norris I*, the trial court must also explain *how*, based on the facts at hand, “it arrived at the conclusion that, without an award of alimony, the respective standards of living would be unconscionably disparate.” *Lee*, 182 Md. App. at 288.<sup>4</sup> Dr. Norris disagrees with the trial court’s reasoning and explanation as to unconscionable disparity, particularly the finding that indefinite alimony was appropriate because: (1) Dr. Kennedy was no longer contributing to her savings, and (2) Dr. Norris had an excess of \$10,000 per month.

### **1. Retirement Savings**

Based on the facts in the record, the trial court was not clearly erroneous when it found that Dr. Kennedy was not making contributions to her savings or retirement accounts, post-separation; however, the trial court was clearly erroneous when it found that Dr. Kennedy was used to making payments of \$3,000 per month to her retirement and savings accounts over the course of the twenty-six-year marriage. The Court abused its discretion by finding, that because Dr. Kennedy had contributed roughly \$3,000 per month to her retirement and saving accounts during a “catch-up” period prior to separation, she was entitled to that same amount, indefinitely. The trial court states:

Prior to the parties’ separation, a substantial portion of the [Dr. Kennedy’s] salary (\$5,995) was diverted to her various retirement accounts, resulting in net pay of approximately \$1,180.00 (citation omitted) ...however, the plaintiff only received half of the money from the retirement and saving account utilized during the course of the marriage. Therefore, this Court finds

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<sup>4</sup> Because this case was remanded from this Court for failure to explain how the trial court arrived at the determination that Dr. Kennedy was entitled to indefinite alimony for unconscionable disparity under § 11-106(c), our analysis is based on whether the trial court sufficiently met this burden, or its reassessment of the alimony award was an abuse of discretion.

that [Dr. Kennedy] was accustomed to saving approximately 3,000 dollars (1/2 of \$5,995) per month during the course of the marriage, a luxury that she is no longer able to afford.

In *Norris I*, this Court stated that the trial court could have factored in the ability to save for retirement in its determination that Dr. Kennedy was entitled to indefinite alimony because of an unconscionable disparity. According to this Court, the issue was not the reasoning itself, but the lack of explanation behind the court's reasoning. Now, the trial court has explained *how* it arrived at its decision to award \$3,000 per month in indefinite alimony; however, the basis for the award is factually and logically flawed.

The determination that Dr. Kennedy was accustomed to saving \$3,000 per month for retirement accounts—leaving her with a monthly deficit of \$3,062.31 a month—was clearly erroneous because the facts in the record indicate that Dr. Kennedy was only contributing the amount referenced by the court right before the time of separation, and not consistently during the course of her marriage to Dr. Norris. Per the request of this Court, the trial court explained how it arrived at the determination that Dr. Kennedy should get indefinite alimony; however, the basis of this determination is that Dr. Kennedy was “accustomed to saving approximately 3,000 dollars per month (1/2 of \$5,995) over the course of the marriage,” and that statement is incorrect.

On remand, the trial court provided insufficient explanation for its finding of unconscionable disparity based, in large part, on a disparity in each party's ability to save, post-divorce. In awarding indefinite alimony in favor of Dr. Kennedy, the trial court stated that it looked at: (1) the income disparity between the two parties, (2) the differences in what the parties' “wish and expect to spend their money on,” and (3) length of the marriage.

However, the ability of Dr. Kennedy to save for retirement was the most significant factor in the determination that Dr. Kennedy was entitled to indefinite alimony in the specific amount of \$3,000 a month. According to the trial court, Dr. Norris had substantially more income than Dr. Kennedy, which allowed him to enjoy both luxuries that the couple had while married, as well as others that they did not—all while continuing to save and put money away for his future retirement.

In the financial documents submitted by Dr. Kennedy and Dr. Norris, it is clear that Dr. Kennedy’s 401(k)/457(b) contributions post-separation were at zero. Dr. Norris challenges this finding by pointing to evidence in the record of contributions to Dr. Kennedy’s pensions. The issue here is not the money that was contributed “involuntarily” to her pension each month, but the separate “voluntary” contributions she was used to making prior to the separation. According to testimony from Dr. Kennedy, the State Teachers Alternate Pension, which Dr. Norris references as retirement savings that Dr. Kennedy was still contributing to, is taken out of her paycheck automatically, unlike the contributions she makes to her 401(k) and 457(b). We must agree—the state pension system is not the type of retirement contribution nor savings that Dr. Kennedy was accustomed to saving during the course of her marriage; however, the trial court was not correct about how much Dr. Kennedy was used to saving each month, separate from her state pensions.

Based on the information in the record, Dr. Kennedy was only contributing approximately \$3,000 a month to her retirement accounts during a “catch up” period. Dr. Kennedy and Dr. Norris agreed that she would “catch-up” on saving for retirement prior to

separation because she was approaching retirement age. As a result, she was contributing more to her savings later in her marriage than she had been throughout the twenty-six years they were married. If the trial court was going to award alimony on the basis that Dr. Kennedy was approaching retirement age and she should be able to continue to “catch-up” on her retirement savings as planned, post-separation, the trial court should have explained that and awarded alimony in the amount of \$3,000 until she was “caught-up”—not indefinitely. However, that is not the logic or explanation that the trial court provided.

As such, the finding that Dr. Kennedy was no longer contributing to her retirement or savings was not clearly erroneous, but the trial court was clearly erroneous in finding that Dr. Kennedy was accustomed to saving \$3,000 a month for retirement over the course of the marriage, and therefore was entitled to indefinite alimony to prevent an unconscionable disparity.<sup>5</sup> However, the record reflects that any error in the calculation of Dr. Kennedy’s retirement contributions probably did not prejudice Dr. Norris because there are other offsetting errors. For instance, the trial court seemed to discount Dr. Kennedy’s other monthly expenses such as vacations and gifts for her family based on the court’s mistaken assessment that Dr. Kennedy’s monthly retirement savings had already placed

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<sup>5</sup> In vacating the award of indefinite alimony in the amount of \$3,000 per month, we are not finding that the trial court incorrectly applied the unconscionable disparity analysis or that Dr. Kennedy is not entitled to indefinite alimony, but that the basis for awarding Dr. Kennedy \$3,000 a month was an abuse of discretion.



her at a monthly deficit. Additionally, the court attributed half of Dr. Kennedy's savings to Dr. Norris without attributing half of Dr. Norris's savings to Dr. Kennedy.

Dr. Kennedy represents that the trial court's mathematical errors were in "roughly the same amount on both sides," and asks us to affirm the trial court's judgment. It may be that any errors cancel out and \$3,000 per month remains an equitable award. But the determination of how much alimony to award is vested in the trial court's discretion. *See Walter v. Walter*, 181 Md. App. 273, 288 (2008). It is beyond our province on appeal to say how the trial court's factual errors in computation may have affected its discretionary decision to craft an award. As such, we vacate the trial court's award and remand the case for further proceedings consistent with this opinion.

## **2. Excess Income**

The trial court was not clearly erroneous in finding that Dr. Norris had \$10,000 in excess income after reasonable monthly expenses. However, the decision to award indefinite alimony on the basis that Dr. Norris had \$10,000 in excess income is not mathematically or factually correct because the trial court did not clearly explain how it calculated his financial contributions, monthly expenses, and income based on the undisputed facts and information in the record. Dr. Norris cites *Walter v. Walter*; however, the facts of this case are distinguishable from *Walter*. 181 Md. App. 273, 284–86 (2008). In *Walter*, this Court found that the decision of the trial court to award \$1,500 per month in alimony was clearly erroneous because Mr. Walter's gross monthly income minus monthly expenses was only \$667 before taxes, and it would have been unreasonable to expect Mr. Walter to live on less than \$667 a month after paying \$1,500 to Mrs. Walter.

*Id.* Here, Dr. Norris has a gross monthly income of nearly \$30,000 and his stated living expenses are replete with luxuries that the couple did not enjoy while married and costs that are only temporary. It is likely that Dr. Norris will actually have more than \$10,000 in excess income per month. Unlike Mr. Walter, Dr. Norris is not left with such a small amount of money each month after alimony that he cannot afford to take care of his basic living expenses. In that case, the mathematical error in income calculation, and subsequent alimony award, was so significant that it deprived Mr. Walter of his ability to meet his own needs.

In *Norris I*, the trial court stated that, “[Dr. Norris’] net pay is \$12,247.25 per month. His net pay was higher in 2013, but over the course of the last year he increased the amount of his tax withholding, thereby reducing his net pay.” However, on remand the trial court used Dr. Norris’ gross monthly pay of \$27,500 pre-tax and deducted his estimated monthly expenses of \$17,159.82 to get more than \$10,000 dollars in excess income per month. The same calculations from gross monthly pay were done for Dr. Kennedy to determine a monthly deficit of \$62.31 (excluding monthly retirement savings and contributions).

The trial court further explained that Dr. Norris’ financial statements included expenses that were temporary in nature, meaning that he would not incur some of these costs every year, or even, every month. Additionally, Dr. Norris’ tax withholdings were higher in 2014 than they had been in the past. As such, the Court based its determination

of income based on gross monthly income and reasonable expenses provided by each party in the record.

### CONCLUSION

For the foregoing reasons, we vacate the trial court's award of indefinite alimony to Dr. Kennedy and remand the case so that the court can reconsider and further explain its mathematical computations of indefinite alimony.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY VACATED,  
AND THE CASE IS REMANDED FOR  
PROCEEDINGS CONSISTENT WITH  
THIS OPINION; COSTS TO BE SPLIT  
EVENLY BY THE PARTIES.**