

Circuit Court for Baltimore County
Case No. 03-C-11-006845

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2970

September Term, 2018

GREGORY F. SCHAFFER

v.

MARGARET G. SCHAFFER

Berger,
Leahy,
Wilner, Alan M.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Leahy, J.

Filed: August 18, 2020

*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, Gregory F. Schaffer, upon his retirement, filed a petition to terminate alimony in the Circuit Court for Caroline County on March 21, 2017. Shortly thereafter, Margaret S. Schaffer, appellee, filed a petition for contempt for failure to pay alimony in the Circuit Court for Baltimore County—the same county in which the parties once resided and in which a judgement of absolute divorce was entered on April 22, 2013.

The alimony obligation is found in the parties’ Marital Settlement Agreement (“MSA”) wherein Gregory¹ agreed to pay Margaret \$8,750.00 per month until she either remarries or one of the parties dies. The MSA was incorporated (but not merged) into the judgment of divorce and provided that the alimony payments could be subject to modification or termination.

After some legal scuffling, the parties agreed to consolidate the cases and proceed before the Baltimore County court. The court held a one-day trial, during which Margaret’s daughter from a previous marriage,² Lisa Zowada, testified, and both parties presented evidence regarding their financial situations. The court issued a memorandum opinion and order modifying Gregory’s alimony payments. Specifically, based on the parties’ relative financial situations, the court modified the alimony payments from \$8,750 per month to \$2,500 per month, retroactive to January 1, 2018. The circuit court also awarded Margaret

¹ Meaning no disrespect, we refer to the parties by their first names for the sake of clarity.

² Margaret resides in an assisted living facility, suffers from dementia, and has executed a Durable Power of Attorney appointing her daughter as her attorney-in-fact. Consequently, her daughter was substituted as a party on her behalf pursuant to Md. Rule 2-241.

\$20,000 in attorneys' fees. Gregory timely appeals from the order of the Circuit Court for Baltimore County and challenges both the trial court's failure to terminate alimony, as well as the award of attorneys' fees.³

We hold that the circuit court properly modified, rather than terminate, Gregory's alimony obligation. The record demonstrates that the trial court, with reference to accepted legal authority, detailed both parties' income, assets, and expenses and gave due consideration to their medical needs and concerns. Discerning no abuse of discretion on the part of the circuit court, we affirm the court's alimony modification and award of attorneys' fees.

BACKGROUND

On April 13, 2013, after 20 years of marriage and a three-year separation, the Circuit Court for Baltimore County entered a judgement of absolute divorce, dissolving the marriage between Gregory and Margaret. Four years later, after retiring from work, Gregory unilaterally terminated his alimony payments and then petitioned the circuit court

³ Gregory's questions presented were stated as follows:

- I. "Did the trial court abuse its discretion in failing to terminate alimony, thereby leading to a harsh and inequitable result?"
 - a. "Did the trial court err in discounting Margaret's assets that she diverted to a family trust?"
 - b. "Did the trial court err in failing to state how Gregory's 2018 income justified a \$2,500 monthly alimony obligation?"
- II. "Did the trial court make an improper award of attorney's fees, effectively sanctioning Gregory for his initial filing in the Circuit Court of Caroline County, when said court had proper venue?"

in Caroline County to “terminate, or in the alternative modify alimony.” At that time, Gregory was residing in Caroline County with his new wife, Hon. Ethelyne Teatte Price.

Proceedings in Caroline County

Judge Larry Daniels, a visiting judge in Caroline County, heard argument on Margaret’s motion to dismiss Gregory’s petition on the ground that it was filed in an improper venue. He found that venue was improper in Caroline County but set the matter for a hearing to determine if it was a more convenient forum. Margaret filed a motion to oppose Judge Daniels’ directive to hold a hearing, and while it was pending, Margaret’s contempt petition came before the Circuit Court for Baltimore County. The parties were able to reach a stipulation that Gregory would pay Margaret \$25,000 toward any potential arrearages without prejudice, Margaret would reserve her claim for attorneys’ fees, and the case would be consolidated and transferred to the Circuit Court for Baltimore County.

Proceedings in Baltimore County

The Circuit Court for Baltimore County held a one-day trial, on June 5, 2018, to determine whether alimony should be terminated. Margaret argued that although Gregory’s retirement was a change of circumstance, it did not justify unilateral termination of alimony payments. She asserted that the alimony calculation should be based on Gregory’s overall ability to pay alimony and not solely his current income.

Gregory argued that Margaret had substantial financial resources to take care of herself. To show that she was capable of self-supporting, Gregory pointed to the fact that Margaret was awarded one-half of his retirement savings, one half of the proceeds of the

house, and an additional marital award in the divorce. Additionally, he noted that Margaret received one-half of his pension every month, as well as her own Social Security income. Gregory also pointed out that in July 2013, Margaret and her daughter, Lisa Zowada, went to see a financial planner and set up a trust into which Margaret deposited over \$200,000. He argued that Margaret should not be allowed to put funds from the divorce into a trust for her daughter and then live off of alimony payments from Gregory.

Gregory was called as a witness at the trial. He testified, over objection, that he and Margaret both understood the Marital Settlement Agreement to provide for the termination of alimony upon his retirement. In response to questioning, he also stated that, on April 1, 2017, his income dropped from approximately \$700,000 per year to \$112,000. His attorney highlighted, on redirect examination, that \$536,541.62 of the dollars Gregory reported on his taxes in 2017 were from end of service benefits and a supplemental retirement plan.

Ms. Zowada was the only other witness called to testify. She testified regarding the irrevocable trust and power of attorney that Margaret executed in 2016. She explained that her mother transferred approximately \$200,000 into an irrevocable trust, titled the “Schaffer Family Trust Agreement,” on March 7, 2016. Ms. Zowada was named the sole beneficiary of the trust. After transferring the money into the trust, Margaret still maintained assets in the form of 1) real estate valued at \$275,000, 2) \$119,173 in cash, 3) \$139,132 in retirement funds, and 4) an automobile valued at \$8,815. At the time of trial, Margaret’s financial statement to the court indicated a net worth of approximately \$250,000.

Ms. Zowada also gave a detailed account of Margaret's medical issues over the past several years and reasons that she needed care. She explained that, for the purposes of Medicaid eligibility, her mother compensated her for her services under a caregiver contract. She gave up her employment in January 2016 to care for her mother full time. Ms. Zowada also gave an accounting of her mother's monthly expenses.

On cross-examination, Gregory's attorney questioned Ms. Zowada about a sum that was wired from the irrevocable trust into Margaret's bank account by mistake. Gregory's attorney also elicited testimony about \$10,000 that was withdrawn from the trust to pay the retainer for Margaret's attorney and quizzed Ms. Zowada on the monetary awards Margaret received in the divorce. Additionally, he questioned Ms. Zowada extensively on ways she could reduce her mother's monthly expenses.

Post-trial Memoranda

At the close of Ms. Zowada's testimony, the circuit court requested that the parties submit memos within seven days. In her post-trial memorandum, Margaret argued that Gregory failed to justify his cessation of alimony payments in April 2017. She averred that Gregory's financial situation had actually improved since the divorce, despite his retirement. She also contended that the alimony modification must be determined based on entire ability to pay and not merely income. Margaret conceded that a modification of alimony was appropriate, but maintained that termination was not. She requested that the court modify the alimony payments to \$3,285/month beginning January 1, 2018. She further argued that the creation of the family trust was irrelevant to the alimony

modification proceeding. Finally, she requested attorneys' fees because of the extra funds expended litigating the case in two separate venues.

In his responsive post-trial memo, Gregory argued that the MSA contemplated that alimony payments would come solely from earned income and not out of his savings or other assets. He also contended that his lump sum retirement payouts in 2017 should not be considered as income for that year. He averred that Margaret's financial planning documents showed that she contemplated that alimony would terminate in 2016, upon Gregory's retirement.

Circuit Court's Findings and Order

The circuit court issued a memorandum opinion and order on September 11, 2018. In his opinion, Judge Robert E. Cahill noted that Gregory maintained that the parties had an unwritten agreement that the agreed upon alimony payments were to be based solely on earned income, and therefore both parties contemplated that alimony would terminate upon his retirement. The judge found, however, that the MSA was fully integrated and did not include such an understanding. Thus, the judge refused to terminate alimony based on an unwritten agreement.

The judge continued on to consider the parties' financial positions, financial needs, and resources and determined if modification was appropriate under the applicable statutes and case law. The judge specified that alimony modifications require a court to consider overall ability to pay alimony and not just earned income. He observed that Gregory's

2017 taxable income was \$732,476.00, that the retirement income of Gregory and Ms. Price is some \$232,000.00 annually; Gregory and Ms. Price, have at

all times since April 2017 owned stocks, investments and cash which combined, exceeded \$800,000.00 in value; and including real estate, Gregory and Ms. Price enjoy a total net worth of \$1,386,307.00.

Margaret, on the other hand, has a fixed net monthly income of \$4,777.00 after taxes and monthly expenses of \$9,322.60.⁴ The judge found that Margaret's assessed living expenses were reasonable and calculated fairly. Based partially on the fact that Margaret still had access to \$249,947.00 in assets from the divorce, he determined that alimony should be reduced to \$2,500 per month, retroactive to January 1, 2018, and that Margaret could draw from her own assets to cover any deficit. The judge found that this number also fairly addressed the significant reduction in Gregory's monthly income.

Finally, Judge Cahill granted Margaret's request for an award of attorneys' fees. He explained that the determination was largely based on consideration of the parties' financial needs and resources. The judge also noted, however, that "the tactical decision, made by Gregory's prior counsel, to try and move proceedings between the parties to the Circuit Court for Caroline County enjoyed no serious legal support and required appreciable work on the part of Margaret's counsel." Therefore, the judge ordered Gregory to pay \$20,000 toward Margaret's legal fees.

From this opinion and order, Gregory noted his timely appeal.

⁴ This number includes \$2,050.50 per month in expenses related to Margaret's home which was, at the time of the order, listed for sale. Margaret conceded at trial that this amount should not be considered in calculating her continued entitlement to alimony.

DISCUSSION

I.

Alimony Modification

Standard of Review

Pursuant to Maryland Rule 8–131(c), “[w]hen 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 reviewing an award of alimony we defer to the findings and judgments of the trial court.” *Ridgeway v. Ridgeway*, 171 Md. App. 373, 383 (2006) (citation, brackets, and internal quotations omitted). “We will not disturb an alimony determination ‘unless the trial court’s judgment is clearly wrong or an arbitrary use of discretion.’” *Id.* at 383-84.

An abuse of discretion occurs when “no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding rules or principles.” *Santo v. Santo*, 448 Md. 620, 625-26 (2016) (citation and internal quotation marks omitted). “Under discretionary review, ‘a trial judge’s failure to state each and every consideration or factor’ does not, without demonstration of some improper consideration, ‘constitute an abuse of discretion, so long as the record supports a reasonable conclusion that appropriate factors were taken into account in the exercise of discretion.’” *Flanagan v. Flanagan*, 181 Md. App. 492, 533 (2008). Accordingly, we turn to review the circuit

court's factual findings for clear error and the ultimate alimony modification for abuse of discretion.

Parties' Contentions

Gregory argues that the trial court erred in failing to terminate his alimony obligation because it did not explain how Gregory's income justified modifying his alimony obligation to \$2,500/month or why it did not count the money that Margaret had put into a trust for her daughter as an asset. Gregory contends, in his brief, that Margaret's transfer of approximately \$200,000 into an irrevocable trust amounted to voluntary impoverishment or dissipation of assets. At oral argument and in his reply brief, however, he conceded that this action could not be properly termed a dissipation. He argued, instead, that Margaret's creation of the Schaffer Family Trust Agreement, on March 7, 2016, was an improper diversion or depletion and the circuit court should have considered the trust funds as an asset when evaluating Margaret's financial situation.

Margaret responds that there was substantial evidence in the record to support the trial court's decision to modify the alimony payments to \$2,500/month. After detailing the parties' relative income and living expenses, Margaret contends that the \$2,500 alimony award still leaves Gregory with a monthly surplus and Margaret with a monthly deficit. As to the trust, Margaret argues that the parties were divorced in 2013, and after that point she had no duty to account for the use of her assets. Additionally, she asserts that the creation of the trust amounted to nothing more than traditional and timely elder law planning, the purpose of which was to become eligible for Medicaid.

In his reply, Gregory asserts that the relevant family law statutes demand that alimony be terminated to avoid a harsh and inequitable result and that modifying his alimony payments to \$2,500/month produces such a result. Gregory argues that the transition to retirement and a fixed income require discontinuation of all alimony and not merely a reduction. Both parties agree that it was proper to continue Gregory’s alimony obligation through 2017.

Statutory Considerations

Alimony modifications are governed by Maryland Code (1984, 2012 Repl. Vol.), Family Law Article (“FL”), § 11-107(b). The statute provides that “[s]ubject to § 8-103 of this article and on the petition of either party, the court may modify the amount of alimony awarded as circumstances and justice require.” FL § 11-107(b). The party petitioning for modification bears the burden to establish, by submitting evidence to the circuit court, that the facts and circumstances of the case justify modification. *Ridgeway*, 171 Md. App. at 384. “Upon a proper petition, the court may modify a decree for alimony ‘at any time if there has been shown a material change in circumstances to justify the action.’” *Id.* (citation omitted). A court may terminate alimony entirely if it finds that it is necessary to avoid a “harsh and inequitable result.” FL § 11-108. “Whether a result is harsh and inequitable is a subjective determination[,]” *Bradley v. Bradley*, 214 Md. App. 229, 237 (2013), and one that is “most appropriately determined by a trial court judge in whose judgment the exercise of sound discretion in such matters is reposed.” *Blaine v. Blaine*, 97 Md. App. 689, 706 (1993), *aff’d*, 336 Md. 49 (1994).

Retirement may alter a retiree's financial circumstances and thereby constitute a material change of circumstance that warrants a court's consideration of a petition for alimony termination or modification. *Ridgeway*, 171 Md. App. at 384. As FL § 11-107(b) does not provide any guidance for a court to determine an appropriate award, courts have looked to FL § 11-106(b), which sets out the factors that a circuit court must consider when awarding alimony in the first instance. *Blaine v. Blaine*, 336 Md. 49, 72 (1994). They are:

Required considerations. — In making the determination, the court shall consider all the factors necessary for a fair and equitable award, including:

- (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 for whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

FL § 11-106(b). “A number of these factors are relevant to the parties’ relative financial situations, consistent with the longstanding principle that alimony is an economic concept and awards are based upon the need of the recipient spouse balanced against the ability of the payor spouse to provide support.” *Blaine*, 336 Md. at 65-66. A court may not, however, in considering these factors, “relitigate matters that were or should have been considered at the time of the initial award.” *Lott v. Lott*, 17 Md. App. 440, 444 (1973).

This Court has considered appeals from multiple cases in which a former spouse sought to modify or terminate an alimony award as a result of the obligor spouse’s retirement. *See, e.g., Ridgeway*, 171 Md. App. at 377; *Bauer v. Votta*, 104 Md. App. 565 (1995); *Riley v. Riley*, 82 Md. App. 400 (1990). In *Ridgeway*, as here, the payor spouse, upon his retirement, petitioned for a modification or termination of his alimony obligation. 171 Md. at 377. When he retired, he received a retirement incentive from his employer and compensation for his accumulated annual leave that totaled \$25,000, but his income decreased from \$84,000 to about \$20,000 annually plus whatever he was able to earn working part-time in a seasonal position at a local golf course for between \$8.00 and \$9.00 an hour. *Id.* at 379-80, 385. His expenses included a \$200 monthly contribution to his girlfriend’s mortgage and a \$662 monthly car payment. *Id.* at 385. The wife testified that she had an annual income of \$17,000, about \$30,000 in savings, and a monthly mortgage payment of \$1,285 plus a car payment of \$403. *Id.* at 380. Additionally, she received \$1,239 per month from the husband’s retirement fund. *Id.* This brought her total annual

income to approximately \$30,000.⁵ The trial court reduced the husband’s alimony obligation from \$1,750 to \$500, and the husband appealed. *Id.* at 381-82.

The husband contended, on appeal, that, because his ex-wife’s monthly income exceeded his, it was necessary to terminate his alimony obligation. *Id.* at 383. We explained that there was no dispute that retirement was a material change in circumstance that might warrant modification. *Id.* at 384. Then, after detailing the parties’ financial circumstances, we stated that the husband had “not persuaded [this Court] that the [circuit] court’s decision to reduce but not terminate alimony was an arbitrary exercise of discretion.” *Id.* at 385.

In *Riley v. Riley*, the circuit court denied an ex-husband’s petition to terminate or modify alimony and directed him to pay \$5,000 toward his wife’s attorneys’ fees. 82 Md. App. at 402. The ex-husband appealed, arguing principally that the court erred in failing to reduce or terminate his alimony obligation because (1) as a retiree he was in “substantially reduced circumstances[,]” whereas his ex-wife’s income had increased and (2) his veterans’ disability benefits and pension could not properly be considered as sources of income for the purposes of determining his ability to pay alimony because his ex-wife had already received part of his pension as a monetary award. *Id.* at 405. The disability benefits, he claimed, were exempt under federal law. *Id.* We quickly disposed of the first contention, explaining that there was substantial evidence in the record to show that the ex-

⁵ The payout from the retirement fund would amount to \$14,868 annually (\$1,239 x 12). $\$14,868 + \$17,000 = \$31,868$.

husband's income had increased by \$1,000/month and that he could easily afford the alimony payments. *Id.* Despite the ex-wife's increase in income, we noted that her expenses had increased, and, therefore, she still needed the amount initially awarded. *Id.*

In disposing of the second contention, we parsed the difference between alimony and monetary awards based on marital property. *Id.* at 405-06. "Whether limited and rehabilitative in nature or indefinite in terms of duration, alimony is intended to provide periodic support to a financially dependent spouse following the divorce." *Id.* at 406. Although a circuit court must consider past and present circumstances, the principal focus of an alimony award is on the future. *Id.* "A monetary award, on the other hand, is not intended as support, and it focuses not on the future but on the present and past." *Id.* "Although the court can direct that the award be paid over a period of time, its function is to provide a *present* compensation for an *existing* inequity in the *current* ownership of property." *Id.* (emphasis in original).

Thus, if the court removes an asset or source of income from the payor spouse through a monetary award (or otherwise), it cannot premise an alimony award on the assumption that that asset or source of income is still available to the payor. But we see no reason why it cannot base such an award on assets or sources of income that have *not* been taken from the payor and that do remain available.

Id. at 406-07. Accordingly, a circuit court should consider the remainder of the pension when calculating ability to pay. This Court, therefore, affirmed the circuit court's decision not to terminate or reduce alimony. *Id.* at 410.

The Schaffer Family Trust

With regard to Margaret's creation of a trust for her daughter, Gregory has not cited, and we have not found, any cases that hold that, because an ex-spouse may possibly petition for modification or termination of alimony, the spouse who is the recipient of indefinite alimony may not put funds into a trust.

Courts in our sister state of Florida, however, have consistently held that a former spouse is not required to deplete capital assets in order to [continue collecting alimony to] maintain in a certain standard of living. *Kaufman v. Kaufman*, 541 So. 2d 743, 744 (Fla. Dist. Ct. App. 1989); *Blakistone v. Blakistone*, 462 So.2d 883 (Fla. 2d DCA 1985); *De Cenzo v. De Cenzo*, 433 So.2d 1316 (Fla. 3d DCA 1983); *Holley v. Holley*, 380 So.2d 1098 (Fla. 2d DCA 1980); *Gordon v. Gordon*, 204 So.2d 734 (Fla. 3d DCA 1967). Although we can imagine a scenario in which an alimony payor or recipient completely exhausts his or her assets in order to obtain a modification, that is not the scenario here, and we decline to speculate whether that would necessitate a different outcome.

We note that the Schaffer Family Trust was created well before Gregory's motion to terminate alimony was filed. Moreover, that amount of money placed in the trust represented only approximately 30 percent of Margaret's assets at the time, so it clearly was not designed to deplete her assets as Gregory alleges. If we were to hold that the circuit court in this case should have imputed the assets placed in the trust against Margaret in calculating need, then by parity of reasoning, we would similarly be obligated to hold that the court should have imputed any significant expenditures made by Gregory since the

divorce in calculating his ability to pay alimony. In this case, Gregory made significant expenditures between the time of the initial alimony agreement and the modification. Accordingly, we find that it did not constitute an abuse of discretion for the court to disregard both the trust that Margaret set up and the significant amounts of money that Gregory had spent on gifts and renovations in the preceding years.

Analysis of the Modification Factors

Returning to the factors a court must consider in addressing a motion for modification, the record establishes that the trial judge took account of the applicable principles of law and the relevant facts of the case in reaching his decision. Although the court did not make explicit reference to the FL § 11-106(b) factors, the judge explained that his determination was governed by the statute, even though he did not connect each determination to the statute. The court noted facts that confirm that Margaret is unlikely to become wholly self-supporting or gain education and training due to her residence in an assisted living facility, her advanced age, and her multiple diagnoses, including dementia. *See* FL § 11-106(b)(1)-(2). The court also detailed both parties' ages and failing health. *See* FL § 11-106(b)(7)-(8). The court further included that the parties were married for 22 years. *See* FL § 11-106(b)(4).

The court also relied on this Court's decision in *Lott v. Lott*, 17 Md. App. 440 (1973), in which we stated that a circuit court must consider the obligor's overall ability to pay alimony and not just taxable income. The court then appropriately considered both parties' financial positions, as well as future needs and resources. *See* FL § 11-106(b)(9)-

(11). Contrary to Gregory’s position, the statute explicitly provides that a court may consider “all income and assets, including property that does not produce income” in evaluating the parties’ financial positions. FL § 11-106(b)(11)(i).

In reaching his decision to modify alimony, the court considered Margaret’s need, as well as Gregory’s ability to pay, and considered the total income and assets of both parties. The court noted that Gregory and his current wife enjoy an annual retirement income of \$232,000.00 and have a collective net worth of \$1,386,307.00. Margaret, on the other hand, has an annual income of approximately \$57,000.⁶ Her monthly expenses, which the court found reasonable, amount to \$7,272.10 after deducting the \$2050.10 attributable to maintaining her home that is currently for sale. This amounts to \$87,256.20 annual expenses, including her room and board at the assisted living facility where she resides. Though a \$2,500.00 monthly alimony payment does not cover Margaret’s living expenses in their entirety, the court noted that she has access to a minimum of \$249,947 in assets which she can use to make up the deficit. The court noted that Gregory can easily afford to pay this amount.

The foregoing shows that the circuit court engaged in a reasoned analysis when it considered the parties’ financial positions and resources. Though the court may not have explicitly called out each and every factor relied upon in its analysis, or its reason for deciding not to impute the trust funds to Margaret, this does not amount to an abuse of discretion. *See Flanagan*, 181 Md. App. at 533; *Zorich v. Zorich*, 63 Md. App. 710, 717

⁶ \$4,777 x 12 = \$57,324.

(1985) (“Because trial judges are presumed to know the law . . . not every step in their thought process needs to be explicitly spelled out.”). The court engaged in an almost purely mathematical analysis, but with reference to the governing statutes and case law. We cannot say, on the record before this Court, that no reasonable person would have made the alimony determination that the circuit court did in this case. We perceive no clear error in the judge’s findings and no abuse of discretion in his ultimate decision. Accordingly, we affirm the court’s judgment as to the modification of alimony payments.

II.

Attorneys’ Fees

Gregory argues that the award of attorneys’ fees to Margaret amounted to an improper sanction imposed because he filed his petition to terminate alimony in the Circuit Court for Caroline County. He contends that Caroline County is the only venue wherein he could have filed his petition because Margaret had relocated to Connecticut. He states that the circuit court’s finding, that the Caroline County filing “enjoyed no serious legal support and required appreciable legal work on the part of Margaret’s counsel[,]” is clearly erroneous.

Margaret responds that Caroline County was an improper venue for the petition to terminate alimony. She notes that the judge in that court stated on the record that Caroline County was an improper venue, but the judge improperly considered whether Caroline County was a more convenient venue. She further notes that her attorney was forced to

defend against and respond to Gregory’s motion to dismiss the petition for contempt. She contends that Baltimore County retained continuing jurisdiction over the case.

In his reply, Gregory states that venue was arguably appropriate in Caroline County because his petition to terminate alimony was filed in an underlying divorce action and that the rules on venue governing where to file a divorce action also govern where a petition to terminate or modify may be filed. He contends that the petition was a “new action” and did not need to be filed in the same place as the underlying divorce.

Attorneys’ fees and expenses, related to alimony proceedings, are governed by FL § 11-110. The statute directs a court to consider “the financial resources and financial needs of both parties” and “whether there was substantial justification for prosecuting or defending the proceeding.” FL § 11-110(c). “In awarding attorney[s]’ fees, the court should consider and articulate the parties’ resources and needs.” *Ridgeway*, 171 Md. App. at 386. “The trial court does not have to recite any ‘magical’ words so long as its opinion, however phrased, does that which the statute requires.” *Huntley v. Huntley*, 229 Md. App. 484, 497 (2016) (quoting *Collins*, 144 Md. App. at 447). “Although [a circuit] court’s decision to award attorney[s]’ fees is subject to appellate review, this Court ‘will not disturb the award unless that discretion was exercised arbitrarily or the judgment was clearly wrong.’” *Ridgeway*, 171 Md. App. at 386 (citation omitted).

In the case before us, the circuit court heard testimony and received evidence regarding the financial resources and needs of both parties. The court also took evidence that detailed the amount of money that Margaret had spent both defending against

Gregory's petition to terminate and prosecuting her own petition for contempt. The evidence shows that Margaret spent \$50,233.34 on this modification litigation alone.

In the opinion accompanying the order for attorneys' fees, citing to FL § 11-110, the judge stated that his award was based primarily on his consideration of the parties' financial resources and needs, which had been detailed earlier in the opinion. There can be no dispute that Margaret had substantial justification for filing her petition for contempt, as Gregory admits that he summarily ceased paying alimony upon his retirement, or that Margaret had no choice but to defend against the petition in Caroline County, once it was filed.

The judge also determined that Gregory's prior counsel had acted improperly in filing his petition in Caroline County. Margaret is correct in her assertion that, when the Circuit Court for Baltimore County granted the judgement for absolute divorce, it specifically reserved jurisdiction over the case. Gregory's assertion that Caroline County was the only place he could have filed his petition is, therefore, without support. *See Stansbury v. Stansbury*, 223 Md. 475, 477 (1960); *see also Meyer v. Meyer*, 41 Md. App. 13, 18 (1978). Upon the record before us, we discern no abuse of discretion in the circuit court's award of \$20,000 in attorneys' fees to Margaret.

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