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C. D. *v.* C. D.*
(AC 44784)

Bright, C. J., and Moll and Cradle, Js.

Syllabus

The defendant appealed to this court from the judgment of the trial court dissolving his marriage to the plaintiff and entering certain orders regarding child support, alimony and custody of the parties' minor children. *Held*:

1. The defendant's claim that the trial court's judgment dissolving the parties' marriage was inconsistent with the court's subsequent articulations of that decision was unavailing: in articulating that it had relied in part on its pretrial observations of the parties in rendering judgment, the court did not deprive the defendant of notice and a meaningful opportunity to be heard regarding those observations, as it was self-evident that the court would observe the parties during pretrial proceedings and carry those observations over into the trial, and the court was not required to alert the defendant that it would take its prior observations of the parties into account in rendering judgment; moreover, the court's articulation that the plaintiff's receipt of certain pretrial payments from the defendant contributed to the court's decision not to award periodic alimony was not inconsistent with the lack of mention of those payments in the court's judgment, the articulation having operated to clarify the basis of the court's alimony orders; furthermore, contrary to the defendant's assertion that the court incorrectly relied on the plaintiff's receipt of those pretrial payments in entering its alimony orders, both payments constituted advance property distributions that the court was required to consider, pursuant to statute (§ 46b-82), in making its alimony determination.
2. The trial court's factual findings concerning an incident between the parties at the marital residence that resulted in the defendant's arrest were not clearly erroneous, as the defendant claimed: the court's findings were supported by the plaintiff's testimony, which the court credited, that she feared for the parties' lives and those of their minor children during the incident, and, on the basis of the record, this court was not left with a definite and firm conviction that a mistake had been committed; moreover, even if there was no independent evidence corroborating the plaintiff's testimony, as the defendant contended, the lack of corroborating evidence did not impugn the court's credibility determinations, which this court declined to reweigh on appeal.
3. The defendant could not prevail on his claim that the trial court committed error in entering custody orders that improperly limited his visitation with the parties' minor children: the court's visitation orders were adequately supported by testimony from the parties and the children's guardian ad litem, who had significant concerns about the defendant's ability to care for the children because of his unrelenting desire to see the plaintiff punished for purportedly falsifying details of the incident that led to his arrest and his unsubstantiated belief that the plaintiff wanted to cause him serious harm; moreover, the court's finding that the defendant did not have the ability to take care of the children and to act in their best interests was not clearly erroneous, as he contended, but was buttressed by his own testimony as well as that of the guardian ad litem.
4. The trial court improperly delegated its judicial authority to nonjudicial entities when it authorized the children's therapeutic counselors to determine whether to afford the defendant access to the children's private therapy records: pursuant to statute (§ 46b-56 (g)), the defendant, as the noncustodial parent, was entitled to access those records subject only to the court's denying him the right to access those records for good cause shown.
5. The trial court abused its discretion in ordering the defendant to pay child support to the plaintiff without first determining the presumptive support amount, as required by the regulations (§ 46b-215a-1 et seq.) governing child support: despite having had the parties' financial affida-

vits before it, the court did not determine, on the record, the presumptive support amount before it decided that application of the child support guidelines would be inequitable or inappropriate and that a deviation from the guidelines was warranted in light of the existence of one of the deviation criteria, namely, the defendant's earning capacity; moreover, because the child support award was severable from the court's other financial orders, this court ordered the trial court on remand to reconsider all of its child support orders to ensure that the total award will be proper in all respects.

Argued January 10—officially released April 18, 2023

Procedural History

Action for the dissolution of a marriage, and for other relief, brought to the Superior Court in the judicial district of New Britain and transferred to the judicial district of Hartford, where the defendant filed a cross complaint; thereafter, the case was tried to the court, *M. Murphy*, *J.*; judgment dissolving the marriage and granting certain other relief, from which the defendant appealed to this court; thereafter, the court, *M. Murphy*, *J.*, issued articulations of its decision. *Reversed in part*; *further proceedings*.

Steven R. Dembo, with whom, on the brief, were *Caitlin E. Kozloski*, *Seth J. Conant* and *P. Jo Anne Burgh*, for the appellant (defendant).

John F. Morris, for the appellee (plaintiff).

Opinion

MOLL, J. The defendant, C. D., appeals from the judgment of the trial court dissolving his marriage to the plaintiff, C. D. On appeal, the defendant claims that the court erred in (1) issuing an articulation that is inconsistent with the dissolution judgment and/or a prior articulation, (2) depriving him of notice and a meaningful opportunity to be heard with respect to the court's consideration of its pretrial observations of the parties, (3) making clearly erroneous factual findings regarding an incident between the parties, (4) entering custody orders limiting his visitation with the parties' minor children without an evidentiary basis, (5) delegating its judicial authority to nonjudicial entities by authorizing the children's therapeutic counselors to determine whether to provide him with access to the children's private therapy records, and (6) entering a child support award that deviated from the child support guidelines, as set forth in § 46b-215a-1 et seq. of the Regulations of Connecticut State Agencies (guidelines), without first determining the presumptive support amount pursuant to the guidelines.[1] We conclude that the court committed error only in delegating its judicial authority to nonjudicial entities regarding the children's private therapy records and in entering the child support award. We further conclude that the child support award is severable from the court's other financial orders, although our reversal of the child support award will require the court on remand to reconsider all of the child support orders. Accordingly, we reverse the judgment of the trial court only as to (1) the order delegating the court's judicial authority to nonjudicial entities regarding the children's private therapy records and (2) the child support orders, and we affirm the judgment in all other respects.

The following facts, which are not in dispute, and procedural history are relevant to our resolution of this appeal. The parties were married in 2005. Two children were born of the marriage, one in 2008 and the other in 2013. In the months leading up to April 24, 2018, the parties' marriage had been breaking down. On April 24, 2018, an incident occurred in the parties' marital home (April 24, 2018 incident) that resulted in emergency services, including the Hartford Police Department, responding and transporting the defendant to a local hospital. After leaving the hospital, the defendant was arrested and charged with, inter alia, kidnapping in the first degree in violation of General Statutes § 53a-92 and assault in the third degree in violation of General Statutes § 53a-61.[2]

On May 8, 2018, the plaintiff commenced the present dissolution action against the defendant on the ground that the parties' marriage had broken down irretrievably. On June 1, 2018, the defendant filed an answer to the plaintiff's complaint, as well as a cross complaint

alleging that (1) the parties' marriage had broken down irretrievably and (2) the plaintiff had committed adultery. The matter was tried to the court, *M. Murphy, J.*, over the course of four total days in February and October, 2020. On October 30, 2020, after the close of evidence, the parties' trial counsel presented closing arguments. On December 15, 2020, the defendant filed a motion to open the evidence to offer two additional exhibits. On February 5, 2021, without objection, the court granted the defendant's motion to open and admitted the two additional exhibits in full into the record. Thereafter, the parties filed their operative proposed orders.

On June 1, 2021, the court issued a memorandum of decision dissolving the parties' marriage on the ground that the marriage had broken down irretrievably, with the court finding both parties equally responsible for the breakdown of the marriage.[3] The court, inter alia, (1) awarded the plaintiff sole legal and physical custody of the children and adopted a parenting plan, (2) awarded the plaintiff $300 per week in child support, (3) ordered that, in the event that the children received therapeutic counseling, "the [children's] counselor(s) shall decide based on their professional requirements whether either parent shall have access to the children's private therapy records," (4) awarded no alimony to either party, except insofar as to protect the integrity of its order designating the plaintiff as the surviving spouse on the defendant's retirement plans,[4] and (5) entered property distribution orders that included awarding the plaintiff 15 percent of the gross amount, reduced by taxes, of any monetary award received by the defendant as a result of a separate arbitration proceeding and/or an attendant lawsuit concerning the termination of his employment with the state of Connecticut. This appeal followed. Additional facts and procedural history will be set forth as necessary.

We begin by setting forth the well settled standard of review in family cases. "An appellate court will not disturb a trial court's orders in domestic relations cases unless the court has abused its discretion or it is found that it could not reasonably conclude as it did, based on the facts presented. . . . In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action. . . . Appellate review of a trial court's findings of fact is governed by the clearly erroneous standard of review. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. . . . Our deferential standard of review, however, does not extend to the court's interpretation of and application of the law to the facts. It is axiomatic that a matter

of law is entitled to plenary review on appeal." (Internal quotation marks omitted.) *L. L.* v. *M. B.*, 216 Conn. App. 731, 739, 286 A.3d 489 (2022).

I

We first address the defendant's claims concerning an articulation that the trial court issued on March 8, 2023 (March 8, 2023 articulation). The defendant contends that the March 8, 2023 articulation (1) is inconsistent with the dissolution judgment and/or a prior articulation issued by the court on February 16, 2023 (February 16, 2023 articulation), and (2) establishes that the court deprived him of notice and a meaningful opportunity to be heard regarding the court's reliance on its pretrial observations of the parties in rendering the dissolution judgment. These claims are unavailing.

The following additional facts and procedural history are relevant to our resolution of the defendant's claims. On June 20, 2018, the parties executed a stipulation providing in relevant part that "[t]he [defendant] shall pay to the [plaintiff] the amount of $8000 to be used toward her attorney's fees and/or relocation costs. This money shall be an advanced distribution of the final property settlement to the [plaintiff] at the time of final judgment and shall be the law of the case." The court, *Olear*, *J.*, approved the stipulation on the same day. On January 29, 2019, in adjudicating several motions filed by the parties, the court, *M. Murphy*, *J.*, ordered in relevant part that "[the] defendant's [trial] counsel shall release $10,000 of [certain escrowed funds] to [the] plaintiff's [trial] counsel as trustee. An accounting of this transaction shall be kept so it can be considered when the matter goes to judgment. [The] defendant reserves the right to argue that this amount be applied to any potential distribution at the time of final judgment." The dissolution judgment does not expressly mention the $8000 payment or the $10,000 payment.

In his briefs to this court, the defendant contended that the trial court committed error in failing to account for the $8000 payment and the $10,000 payment in rendering the dissolution judgment. On February 9, 2023, we ordered, sua sponte, the court to articulate whether, in rendering the dissolution judgment, it had considered (1) the June 20, 2018 order insofar as the order provided that the $8000 payment constituted an advanced distribution to the plaintiff of the final property settlement, and (2) the January 29, 2019 order insofar as the order provided that the defendant reserved the right to argue that the $10,000 payment should be applied to any potential distribution at the time of final judgment. Thereafter, the court issued the February 16, 2023 articulation, which stated in relevant part that, "[i]n reaching its decision, the trial court considered all the evidence and legal arguments presented at trial. The trial court also considered the relevant prior court orders . . . in reaching its decision." On February 16, 2023, we

ordered, sua sponte, the court to articulate further its consideration of both payments in rendering the dissolution judgment.[5]

Thereafter, the court issued the March 8, 2023 articulation, which provided that, in rendering the dissolution judgment, it had accounted for the $8000 payment and the $10,000 payment. As to the $8000 payment, the court stated that it had "observed the parties at multiple pendente lite hearings and at the dissolution trial. The trial court fashioned a division of marital assets that was equitable, looking at the entire mosaic of marital assets available to be divided. For example, the court did not order alimony to the plaintiff, in part, because the court was aware that the plaintiff had received other assets, including pendente lite distributions from the marital estate in the amount of $8000 and $10,000. The plaintiff requested alimony in her proposed orders . . . which the court denied because the court considered that the plaintiff had received up-front pendente lite distributions. The court was also aware that the defendant was spending marital assets for his divorce case and his criminal legal expenses, which were appropriate and necessary expenses, but required some equalization for the plaintiff. The pendente lite distributions to the plaintiff allowed some equalization before judgment. . . .

"[I]n light of the court's other orders, including the pendente lite distributions, the court minimized the plaintiff's share of any settlement from the defendant's lawsuit against his employer. Although the court found that the lawsuit settlement was part of the marital estate, and the defendant had prevailed at arbitration, the court awarded the plaintiff only a 15 percent share of any proceeds after taxes. This decision was based on the distribution of other amounts to the plaintiff, including the pendente lite distributions, rather than giving her a larger share of any lawsuit proceeds." (Citation omitted; footnote omitted.) As to the $10,000 payment, the court stated that, "for the reasons mentioned [by the court in addressing the $8000 payment], the court considered the pendente [lite] distribution of $10,000 to the plaintiff in its judgment. Regardless, the defendant failed to exercise his reserved right to argue that the $10,000 pendente lite amount should be applied to any potential distribution at the time of judgment." On March 9, 2023, we issued an order, sua sponte, permitting the parties to file simultaneous supplemental briefs responding to the March 8, 2023 articulation. The defendant filed a supplemental brief, but the plaintiff did not.

On the basis of his supplemental brief, the defendant has abandoned his claim that the court failed to consider the $8000 payment and the $10,000 payment; indeed, any such claim is belied by the March 8, 2023 articulation. Instead, the defendant contends that the March 8, 2023 articulation is inconsistent with the disso-

lution judgment and/or the February 16, 2023 articulation because the March 8, 2023 articulation indicates that, in rendering the dissolution judgment, the court (1) "relied on its subjective observations or impressions formed before trial"; (emphasis omitted); and (2) considered the $8000 payment and $10,000 payment in declining to award alimony to the plaintiff. In the alternative, the defendant asserts that, on the basis of the March 8, 2023 articulation, the court deprived him of notice and an opportunity to be heard vis-à-vis its reliance on its observations of the parties during pretrial proceedings in rendering the dissolution judgment.[6] We are not persuaded.

It is well settled that "[a]n articulation is not an opportunity for a trial court to substitute a new decision nor to change the reasoning or basis of a prior decision." *Koper* v. *Koper*, 17 Conn. App. 480, 484, 553 A.2d 1162 (1989). Insofar as we must construe the dissolution judgment and the court's articulations, our review is plenary. See *Anketell* v. *Kulldorff*, 207 Conn. App. 807, 821, 263 A.3d 972 ("[b]ecause [t]he construction of a judgment is a question of law for the court . . . our review . . . is plenary" (internal quotation marks omitted)), cert. denied, 340 Conn. 905, 263 A.3d 821 (2021).

The defendant maintains that the dissolution judgment and the February 16, 2023 articulation reflect that, in rendering the dissolution judgment, the court relied solely on the court's prior orders, as well as the evidence and arguments presented at trial,[7] creating a conflict with the court's statement at the outset of the March 8, 2023 articulation that it had "*observed the parties at multiple pendente lite hearings* and at the dissolution trial." (Emphasis added.) The defendant reads too much into this statement. It is self-evident that the court observed the parties during pretrial proceedings and carried over its observations of them into the trial. We do not construe the court's omission of that obvious statement from the dissolution judgment or from the February 16, 2023 articulation, or the court's inclusion thereof in the March 8, 2023 articulation, to result in inconsistent decisions. Likewise, we also reject the defendant's alternative contention that the court deprived him of notice and a meaningful opportunity to be heard regarding its consideration of its pretrial observations of the parties. Simply put, the court was not required to alert the defendant that it would take into account its prior observations of the parties when rendering the dissolution judgment.[8]

The defendant also posits that there are inconsistencies between the dissolution judgment and the March 8, 2023 articulation with respect to the issue of alimony.[9] The defendant maintains that the dissolution judgment makes no mention of the $8000 payment and the $10,000 payment vis-à-vis the alimony orders, whereas the March 8, 2023 articulation reflects that the plaintiff's

receipt of those payments contributed to the court's decision not to award periodic alimony to her. We do not view these differences as creating an inconsistency between the dissolution judgment and the March 8, 2023 articulation; rather, we conclude that the March 8, 2023 articulation operates to clarify further the basis of the court's alimony orders. See *Sabrina C.* v. *Fortin*, 176 Conn. App. 730, 750, 170 A.3d 100 (2017) ("[t]he purpose of an articulation is to dispel any . . . ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal" (internal quotation marks omitted)).

The defendant further appears to assert that the court could not have relied on the plaintiff's receipt of the $8000 payment and the $10,000 payment in entering its alimony orders because both payments constituted advanced property distributions. We disagree. In determining alimony in the dissolution judgment, the court cited General Statutes § 46b-82, which provides in relevant part that, "[i]n determining whether alimony shall be awarded, and the duration and amount of the award, the court shall consider . . . the award, if any, which the court may make pursuant to [General Statutes §] 46b-81," which concerns the division of marital property. General Statutes § 46b-82 (a); see *McRae* v. *McRae*, 129 Conn. App. 171, 187, 20 A.3d 1255 (2011) (stating that § 46b-82 (a)[10] "expressly provides" that, in determining alimony, trial court shall consider award, if any, court may make pursuant to § 46b-81). Thus, when resolving the issue of alimony, the court did not err in taking into account that the plaintiff had received the $8000 payment and the $10,000 payment.[11] See, e.g., *Cunningham* v. *Cunningham*, 140 Conn. App. 676, 689, 59 A.3d 874 (2013) (trial court did not abuse its discretion in awarding periodic alimony to plaintiff, which was crafted, inter alia, in light of court's award of income-producing property to plaintiff).

In sum, we reject the defendant's claims of error stemming from the March 8, 2023 articulation.

II

We next address the defendant's claim that the trial court made clearly erroneous factual findings regarding the April 24, 2018 incident. This claim fails.

In the dissolution judgment, the court found in relevant part as follows. "[T]here was an incident between the [defendant] and [the plaintiff] that occurred on April 24, 2018, at their home. . . . On the afternoon of April 24, 2018, their daughter injured her knee, and the [plaintiff] took the daughter to the emergency department to be evaluated. The daughter returned to the home on crutches. The parties agree that they ended up that evening in the basement of their home after their children were asleep. Their respective accounts diverge

from here, however.

"The defendant testified that he called the plaintiff to the basement by using a ruse involving a concocted story about ants in the pantry near the basement stairs. He testified that he wanted to discuss their marriage in the basement because he was concerned the plaintiff would argue loudly and wake the children. The plaintiff testified that she was working on the couch, preparing for a meeting the next day at work, when the defendant asked her to inspect a recurrence of an ant infestation in the pantry near the basement. The plaintiff testified that, when she reached him, the defendant forced her against her will down the basement stairs. She testified that she was alarmed to see duct tape hanging from pipes in the basement.[12] She feared that the defendant intended to hurt her. The defendant admits there were no ants, but he denies he was violent toward the plaintiff. The court did not find the defendant's explanation of the events in the basement that evening credible.

"Eventually the parties left the basement and returned to the first floor and sat at the kitchen table. The defendant claims that the plaintiff was in contact with her paramour during the evening's events, and, therefore, she was not in distress. The court does not find that the defendant met his burden of proof that the plaintiff was in contact with her friend throughout the evening's events.

"The plaintiff testified that the defendant was drinking alcohol and talking to his mother about what was occurring at the house while his gun sat on the kitchen table. Both parties testified later in the trial that they own guns, which were stored in the house. The plaintiff testified that she feared the defendant was suicidal based on his conversation with his mother and because of the breakdown of the marriage and his accusations about the plaintiff's infidelity. The court finds that the plaintiff was credible when she testified that she feared for the lives of herself, her children, and the defendant. The court finds credible the plaintiff's testimony that she looked for an opportunity to escape from the house and the defendant. The plaintiff eventually ran from the house and called 911. At this point in their narratives, the parties' testimony again became consistent. They agree that the emergency services responded, including the Hartford Police Department, and, after negotiating with him, the defendant came out of the house and left in an ambulance. The children remained asleep until [the plaintiff] entered the house accompanied by the police and woke the children.

"After the events on April 24, 2018, the defendant was arrested, but the charges against him were eventually dismissed. The defendant views the dismissal of the charges as complete vindication that the events described by the plaintiff did not occur. Criminal charges must be proved beyond a reasonable doubt;

the state prosecutor declined to prosecute the case. Civil cases, as in family court, are subject to a standard of proof that is based on a preponderance of the evidence. This court finds that, based on the evidence before it, the plaintiff's version of the events of April 24, 2018, have been proven by a fair preponderance of the evidence. The defendant testified that he suspected the plaintiff was committing adultery, which upset him. He testified that he was not impaired by alcohol and simply wanted to talk to [the plaintiff] and that, if she truly thought that he was a danger to their children, she would not have fled the house and left the children with him. The court finds [that] the defendant's testimony about the events of that evening is convoluted, self-serving, and not credible. The court finds that the plaintiff genuinely feared the defendant that night and her decisions to flee the house and seek help were reasonable."[13] (Footnote added.)

Later in the dissolution judgment, in denying a request by the defendant for an order requiring the plaintiff to reimburse him for an early distribution from his retirement account, plus tax penalties and lost interest, the court found "that the defendant was responsible for the incident on April 24, 2018, and he is responsible for the ensuing legal fees he incurred in his defense." Additionally, in awarding the plaintiff a portion of any monetary award received by the defendant from his employment related arbitration and/or attendant lawsuit, the court found "that the plaintiff is not at fault for the defendant's legal or employment issues."

The defendant asserts that the court improperly credited the plaintiff's testimony regarding the April 24, 2018 incident because (1) there was "objective evidence"[14] that refuted the plaintiff's testimony, and (2) there was no independent evidence corroborating the plaintiff's testimony. The defendant contends that, in light of the entire record, we should be left with the definite and firm conviction that the court committed error. We are not persuaded.

"[T]he sifting and weighing of evidence is peculiarly the function of the trier [of fact]. [N]othing in our law is more elementary than that the trier [of fact] is the final judge of the credibility of witnesses and of the weight to be accorded to their testimony. . . . The trier has the witnesses before it and is in the position to analyze all the evidence. The trier is free to accept or reject, in whole or in part, the testimony offered by either party." (Internal quotation marks omitted.) *Anketell* v. *Kulldorff*, supra, 207 Conn. App. 828. We decline the defendant's invitation to usurp the trial court's fact-finding function by reevaluating the court's credibility determinations and by reweighing the evidence in the defendant's favor on appeal. See *Pennymac Corp.* v. *Tarzia*, 215 Conn. App. 190, 206, 281 A.3d 469 (2022) ("[t]he court was free to discredit or find unpersuasive

the defendant's evidence, and we decline the defendant's invitation to reweigh the evidence in his favor on appeal"); *Wheeler* v. *Foster*, 44 Conn. App. 331, 335, 689 A.2d 523 (1997) (rejecting plaintiff's challenge to trial court's factual findings when "[t]he thrust of the plaintiff's argument is no more than an assertion that the trial court should have credited the plaintiff's evidence and found in his favor"). Moreover, assuming arguendo that the plaintiff's testimony was not corroborated,[15] the lack of corroborating evidence does not impugn the court's credibility determinations. See *Slack* v. *Greene*, 294 Conn. 418, 430, 984 A.2d 734 (2009) ("[t]he credibility of a witness is a matter for the [trier of fact] and, except in rare instances, there is no requirement that a [witness'] testimony be corroborated by other evidence" (internal quotation marks omitted)).

In sum, we conclude that the court's findings regarding the April 24, 2018 incident are not clearly erroneous because they are supported by the plaintiff's testimony as credited by the court, and, on the basis of the record, we are not left with a definite and firm conviction that a mistake has been committed.

III

We now turn to the defendant's two claims concerning the nonfinancial orders entered in the dissolution judgment. The defendant asserts that the trial court committed error in (1) entering custody orders that limited his visitation with the children without an evidentiary basis and (2) delegating its judicial authority to nonjudicial entities by authorizing the children's therapeutic counselors to determine whether to afford him access to the children's private therapy records. We address each claim in turn.

A

The defendant contends that there is no evidence in the record supporting the "draconian limitations" imposed by the court vis-à-vis his visitation with the children. We are not persuaded.

"[General Statutes §] 46b-56 provides the legal standard for determining child custody issues. The statute requires that the court's decision serve the child's best interests. . . . The controlling principle in a determination respecting custody is that the court shall be guided by the best interests of the child. . . . Our Supreme Court has consistently held in matters involving child custody . . . that while the rights, wishes and desires of the parents must be considered it is nevertheless the ultimate welfare of the child [that] must control the decision of the court. . . . In making this determination, the trial court is vested with broad discretion which can . . . be interfered with [only] upon a clear showing that that discretion was abused. . . . Thus, a trial court's decision regarding child custody must be allowed to stand if it is reasonably supported by the

relevant subordinate facts found and does not violate law, logic or reason. . . . Under [General Statutes (Rev. to 2019)] § 46b-56 (c),[16] the court, in determining custody, must consider the best interests of the child and, in doing so, may consider, among other factors, one or more of the sixteen factors enumerated in the provision.

"[T]he authority to exercise the judicial discretion [authorized by § 46b-56] . . . is not conferred [on] this court, but [on] the trial court, and . . . we are not privileged to usurp that authority or to substitute ourselves for the trial court. . . . A mere difference of opinion or judgment cannot justify our intervention. Nothing short of a conviction that the action of the trial court is one [that] discloses a clear abuse of discretion can warrant our interference." (Citations omitted; footnote in original; internal quotation marks omitted.) *Coleman* v. *Bembridge*, 207 Conn. App. 28, 47–49, 263 A.3d 403 (2021).

The following additional facts are relevant to our resolution of this claim. At trial, the court heard testimony from the plaintiff, the defendant, and the guardian ad litem for the children, Attorney Rhonda Morra. The plaintiff testified in relevant part as follows. The plaintiff believed that the children love the defendant and that, prior to the April 24, 2018 incident, the defendant "was the best dad he knew how to be at that time" and was a "better father [than] he was a husband." As a result of the April 24, 2018 incident, however, the plaintiff (1) believed that the defendant resented her, (2) was concerned for the safety of herself and the children, and (3) could not "say with any certainty that [the defendant] wouldn't harm any of us." To the plaintiff's knowledge, the defendant took no accountability for the April 24, 2018 incident. The plaintiff did not want to keep the children separated from the defendant; however, she did not believe that the defendant was capable of fostering a relationship between herself and the children, and "as long as [the defendant] . . . maintain[ed] [that he had] done nothing wrong, it [was] going to hurt the kids even more [than] they [were] hurt now." In her operative proposed orders, the plaintiff requested sole legal and physical custody of the children.

The defendant testified in relevant part as follows. The defendant believed that the plaintiff had attempted to foster a relationship between himself and the children, he was capable of positively supporting the plaintiff's role as a mother, and he disagreed with the notion that the parties could not communicate to reach mutually agreeable decisions regarding the children. The defendant maintained, however, that he and the children were "victimized" on the night of April 24, 2018, and that the plaintiff must be held accountable for falsifying the details of the April 24, 2018 incident. The defendant took no responsibility for the April 24, 2018

incident because it did not occur as described by the plaintiff; rather, he believed that the plaintiff, motivated by a desire to (1) conceal her alleged affair, (2) obtain sole ownership of the parties' assets, and (3) receive a larger share of an inheritance from her mother, concocted her version of the April 24, 2018 incident as a pretext to summon the police in the hope that the police would kill him[17] and the children. In addition, in 2020, the defendant fell ill after eating a birthday cake baked for him by his daughter, leading him to believe that the plaintiff had attempted to poison him. When asked by the plaintiff's trial counsel whether he could "get over this [conflict]," the defendant responded: "Can I get over [a murder attempt], can I get over that [the plaintiff] ha[d] [been] given a free pass for trying to kill me and the children by using a SWAT team? It's very hard to get over, I've managed my emotions very well . . . . I still go to therapy, I still do everything I can to get past this . . . ."

In the summer of 2020, the defendant publicly shared his views on the April 24, 2018 incident, maligning the plaintiff, while participating in an interview for a radio talk show, which was recorded in two separate parts, and by posting comments on Facebook. During the first part of the interview, some listeners posted online comments, including comments stating that "[h]e gotta put [some] money on [the plaintiff's] head" and "[the plaintiff] dead wrong why you ain't beat her ass." The defendant did not recognize the commenters and could not control their ability to comment; however, once aware of the offensive comments, he asked the radio host to delete them. Furthermore, although any potential threat to the plaintiff or to the children would have been concerning to him, he did not solicit or encourage any threats in partaking in the interview.

In addition, the defendant posted comments on Facebook that, among other things, he was "falsely accused of horrific crimes," as "the mountain of evidence support[ed] that [the] phony complainant was involved in a secret extramarital affair with a criminal . . . [and] [the defendant's] disclosure of the affair to a family member prompted [the complainant] to lash out by making a fake 911 call . . . in an attempt to have a SWAT team kill [him] to stop more disclosures of her affair."[18] When asked by the plaintiff's trial counsel whether he thought that the children would be adversely affected by the Facebook post, the defendant, in addition to questioning whether the children would ever be exposed to the post, responded that, "[i]f [his] children were aware of the truth, [he did] not believe it would have an adverse [effect]." In addition, the defendant believed that the plaintiff had published "far more devastating information online [than] [he] ever did about her, [a]nd everything [he] said was the truth." In his operative proposed orders, the defendant requested sole legal and physical custody of the chil-

dren.

The guardian ad litem testified in relevant part as follows. She recommended that the court award the plaintiff sole legal and physical custody of the children because she believed that (1) the plaintiff had met the children's needs as their primary caregiver since the beginning of the dissolution matter, and (2) the parties were incapable of communicating effectively to ensure that the children's needs were being met. She also recommended a parenting plan providing that (1) the defendant would have visitation two days per week for two hours per day, unsupervised for the first one and one-half hours and supervised for the remaining one-half hour, (2) the defendant was required to engage in reunification therapy with the children, (3) following the completion of the first reunification therapy session, the defendant would have increased unsupervised visitation, and (4) after eight weeks, the parties would be required to work with the reunification therapist to determine an appropriate expansion of the defendant's visitation rights. In light of the defendant's testimony at trial, however, she did not oppose initially limiting the defendant to supervised visitation only. In addition, she was concerned that the defendant, without a reunification therapist, would make harmful statements to the children when he was unsupervised.

In fashioning her custody recommendations, the guardian ad litem took into account a myriad of factors, including the children's relationship with the parties, the ability of the parties to meet the children's physical and developmental needs, the ability and the willingness of each party to facilitate and to encourage a continuing relationship with the other party, and any manipulative or coercive behavior by either party to involve the children in the parties' dispute. She believed that the children were bonded with the plaintiff and the defendant; however, during two supervised visits between the defendant and the children that she had attended, the defendant made certain comments that gave her "pause . . . ."[19]

The guardian ad litem believed that the children were unaware of the April 24, 2018 incident. She further believed that it was possible to keep the April 24, 2018 incident hidden from the children, explaining: "It's not inevitable [for the children to learn about the April 24, 2018 incident], [the parties] can stop what they're doing about putting it up publicly so [the children] and their friends will [never] have access [to] or learn about it. That's up to the [parties], it is not inevitable, there are parents that shield their children from things like that all of the time, and that's what they do for the sake of their kids." According to the guardian ad litem, the plaintiff was capable of and had succeeded in shielding the children from learning of the April 24, 2018 incident, whereas the defendant, despite having the ability to do

so, had no desire to protect the children from that information. The guardian ad litem further believed that the defendant's "desire to be vindicated and . . . [to] have [the plaintiff] punished for his perceived injustices overshadow[ed] what historically ha[d] been great or phenomenal parenting skills," and the guardian ad litem was concerned by the defendant's repeated statements that the plaintiff had to be "held accountable" and "punished."

In addition, the guardian ad litem expressed concern regarding the defendant's "outrageous" statements that the plaintiff wanted the children to be killed for financial gain and that the plaintiff had attempted to poison the defendant. In light of those statements, the guardian ad litem had reservations about the defendant's "mental status . . . as it relate[d] to the ability to isolate [the] children from the parental conflict." With regard to the defendant's radio interview in the summer of 2020, the guardian ad litem expressed concern over the defendant's "publicly maligning the [plaintiff] to the point where it generate[d] threats from the outside public," which, according to the guardian ad litem, did not appear to alarm the defendant as evinced by his participation in the second part of the interview, notwithstanding his awareness of the threatening comments.

In the dissolution judgment, the court awarded the plaintiff sole legal and physical custody of the children. The court also entered a parenting plan providing that (1) the defendant shall have supervised parenting time two days per week for two hours per day, (2) within sixty days of the court's decision, the defendant shall engage in reunification therapy with the children provided by a therapist selected by the plaintiff with input from the children's therapist(s), (3) following the third reunification session with each child, or earlier if recommended by the reunification therapist, the defendant shall have unsupervised parenting time every Monday and Wednesday for two hours per day and every other Friday for approximately four hours, and (4) after eight weeks of the "postreunification therapy schedule," the parties shall work with the reunification therapist to expand the defendant's parenting time, with the terms of the unsupervised visitation order remaining in effect until the parties executed a written agreement providing otherwise or the court modified its orders. The court also afforded the defendant the ability, with limitations, to contact the children by phone, text, email, and video.

In support of its custody orders, the court found that "[t]he plaintiff has consistently cared for the children appropriately and provided them with a stable environment. The plaintiff is more capable than the defendant of nurturing the children's relationship with their noncustodial parent. . . . [T]he plaintiff is more likely to keep the defendant informed of important occurrences in the children's lives. . . . [I]t is in the children's best

interests for the plaintiff to have sole legal custody and for the children to continue residing with her." The court further found that "[b]ased on the testimony during the trial . . . the parties are unable to coparent at this time. During the trial, the defendant made unsubstantiated accusations against the plaintiff, including that she attempted to poison him and that she wanted the defendant to die at the hands of the police. The defendant provided no evidence convincing to the court that the plaintiff wished him harm. . . . [A]t this point, the defendant does not have the ability to take care of his children and to act in his children's best interest[s] by putting their welfare first and foremost."

The defendant maintains that the record lacks evidence supporting the court's visitation orders. In particular, the defendant asserts that the court's finding that he "does not have the ability to take care of his children and to act in his children's best interest[s] by putting their welfare first and foremost" is clearly erroneous. We disagree. The visitation orders largely tracked the guardian ad litem's recommendations, the basis of which was explained in her testimony. As the guardian ad litem testified, she had significant concerns about the defendant's ability to care for the children because of his unrelenting desire to be vindicated and to see the plaintiff punished for purportedly falsifying the details of the April 24, 2018 incident,[20] his unwillingness to shield the children from the April 24, 2018 incident, and his belief, which the court found to be unsubstantiated, that the plaintiff had sought to cause him serious harm. The guardian ad litem's testimony, in addition to the defendant's own testimony buttressing the guardian ad litem's concerns, adequately support the challenged finding, upon which the court properly relied in entering its visitation orders.[21] Accordingly, the defendant's claim fails.

B

The defendant also claims that the court improperly delegated its judicial authority to nonjudicial entities by authorizing counselors providing therapeutic treatment to the children to determine whether to afford him access to the children's private therapy records. The defendant contends that, pursuant to § 46b-56 (g), only the trial court is authorized to limit a noncustodial parent's access to his or her child's health records. We agree.

The following additional facts are relevant to our resolution of this claim. The court ordered in relevant part that "[b]ecause [the plaintiff] has sole legal custody, she shall make decisions on issues concerning the children, including, but not limited to, counseling for the children, schooling, when and where the children shall attend church services, if any, and extracurricular activities. The [defendant] may have access to the children's records with the [children's] pediatrician,

dentists, and schools. He may obtain information directly from the provider or the school. *If the children receive therapeutic counseling, the* [*children's*] *counselor(s) shall decide based on their professional requirements whether either parent shall have access to the children's private therapy records.*" (Emphasis added.)

"Although we typically review a trial court's custody and visitation orders for an abuse of discretion, the question of whether the court improperly delegated its judicial authority presents a legal question over which we exercise plenary review. . . . It is well settled . . . that [n]o court in this state can delegate its judicial authority to any person serving the court in a nonjudicial function. The court may seek the advice and heed the recommendation contained in the reports of persons engaged by the court to assist it, but in no event may such a nonjudicial entity bind the judicial authority to enter any order or judgment so advised or recommended. . . . A court improperly delegates its judicial authority to [a nonjudicial entity] when that person is given authority to issue orders that affect the parties or the children. Such orders are part of a judicial function that can be done only by one clothed with judicial authority." (Citation omitted; internal quotation marks omitted.) *Lehane* v. *Murray*, 215 Conn. App. 305, 311, 283 A.3d 62 (2022).

Moreover, insofar as we are required to construe § 46b-56 (g), "[i]ssues of statutory interpretation constitute questions of law over which the court's review is plenary. The process of statutory interpretation involves the determination of the meaning of the statutory language as applied to the facts of the case, including the question of whether the language does so apply. . . . When construing a statute, [the court's] fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." (Internal quotation marks omitted.) *Keller* v. *Beckenstein*, 305 Conn. 523, 532, 46 A.3d 102 (2012).

Section 46b-56 (g) provides: "A parent not granted custody of a minor child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor child, *unless otherwise ordered by the court for good cause shown.*" (Emphasis

added.)

On the basis of the plain and unambiguous language of § 46b-56 (g), the defendant, as the noncustodial parent, was statutorily entitled to have access to the children's private therapy records, subject only to the court's denying him the right of access to the records for good cause shown. By conferring on the children's therapeutic counselors the authority to determine whether the defendant was allowed to have access to the children's private therapy records, the court improperly delegated its judicial authority set forth in § 46b-56 (g). Accordingly, we conclude that the court's order was improper.[22]

IV

Last, we address the defendant's claim that the trial court improperly ordered him to pay the plaintiff $300 per week in child support without making the initial finding of the presumptive support amount pursuant to the guidelines. We agree.[23]

"To ensure the appropriateness of child support awards, General Statutes § 46b-215a provides for a commission to oversee the establishment of child support guidelines." *Kiniry* v. *Kiniry*, 299 Conn. 308, 319, 9 A.3d 708 (2010). Pursuant to General Statutes § 46b-215b (a),[24] the guidelines "shall be considered in all determinations of child support award amounts . . . . In all such determinations, there shall be a rebuttable presumption that the amount of such awards which resulted from the application of such guidelines is the amount to be ordered. A specific finding on the record at a hearing, or in a written judgment, order or memorandum of decision of the court, that the application of the guidelines would be inequitable or inappropriate in a particular case, as determined under the deviation criteria established by the Commission for Child Support Guidelines under section 46b-215a, shall be required in order to rebut the presumption in such case."

"The guidelines incorporate these statutory rules and contain a schedule for calculating the basic child support obligation, which is based on the number of children in the family and the combined net weekly income of the parents. . . . Consistent with . . . § 46b-215b (a), the guidelines provide that the support amounts calculated thereunder are the correct amounts to be ordered by the court unless rebutted by a specific finding on the record that the presumptive support amount would be inequitable or inappropriate. . . . The finding *must* include a statement of the presumptive support amount and explain how application of the deviation criteria justifies the variance.[25]. . . [Our Supreme Court] has stated that the reason why a trial court must make an on-the-record finding of the presumptive support amount before applying the deviation criteria is to

facilitate appellate review in those cases in which the trial court finds that a deviation is justified. . . . In other words, the finding will enable an appellate court to compare the ultimate order with the guideline amount and make a more informed decision on a claim that the amount of the deviation, rather than the fact of a deviation, constituted an abuse of discretion." (Citations omitted; emphasis in original; footnote added; internal quotation marks omitted.) *Kiniry* v. *Kiniry*, supra, 299 Conn. 319–20; see also *Righi* v. *Righi*, 172 Conn. App. 427, 436–37, 160 A.3d 1094 (2017) ("three distinct findings [are required] in order for a court to properly deviate from the child support guidelines in fashioning a child support order: (1) a finding of the presumptive child support amount pursuant to the guidelines; (2) a specific finding that application of such guidelines would be inequitable and inappropriate; and (3) an explanation as to which deviation criteria the court is relying on to justify the deviation").

In awarding the plaintiff $300 per week in child support, the court stated: "The plaintiff's gross weekly income is $1153 based on [a] financial affidavit [that the plaintiff filed] dated February 18, 2021 . . . . Her net income is $997. The actual gross and net weekly income for the defendant is zero based on [a] financial affidavit [that the defendant filed] dated March 1, 2021 . . . . The court finds that the defendant's prior annual salary was $112,892 based on [a prior] financial affidavit [that he filed] dated June 20, 2018 . . . . The court finds that, after the defendant's arrest in 2018, he was on paid leave until he eventually lost his job and his income. The defendant has been supporting himself and his children with savings and, in part, with gifts from his family and members of his church. He has been paying child support in the amount of $300 per week. The defendant began the process of arbitration to get his job back, but he testified that he has not taken other measures to find employment. The defendant testified that he won an arbitration award that reinstated his employment, which is on appeal. The defendant testified he is confident that he will be reinstated eventually. The court finds that the defendant was successful throughout his adult life in the academic field and he can work in that field despite his legal setback. The court finds that the defendant has an earning capacity of $112,892 based on his employment history.

"The court finds that, while the defendant has no actual income currently, he could have been looking for work to mitigate his lack of income. The court finds that not requiring the defendant to pay any child support while he is unemployed would be inequitable and inappropriate, and the court will deviate and order the defendant to pay child support. The court finds that, based on the defendant's earning capacity, he should continue to pay child support of $300 per week consistent with [a child support guidelines worksheet created

by the Connecticut Judicial Service Center, dated June 20, 2018]. The court notes that the defendant has been able to maintain this level of child support throughout the divorce proceedings." (Citations omitted; footnotes omitted.)

As reflected in the dissolution judgment, the court determined that the application of the guidelines in the present case would be inequitable or inappropriate and that a deviation from the guidelines was warranted in light of the existence of one of the deviation criteria, namely, the defendant's earning capacity. See Regs., Conn. State Agencies § 46b-215a-5c (b) (1) (B). Despite having all of the necessary information, however, the court did not take the mandatory initial step of determining, on the record, the presumptive support amount pursuant to the guidelines,[26] which constituted an abuse of discretion.[27] See *Kiniry* v. *Kiniry*, supra, 299 Conn. 321 (court abused its discretion in failing to establish presumptive support amount before deviating from guidelines notwithstanding that court "possessed all of the information necessary to calculate the presumptive child support obligation under the guidelines' schedule, namely, the parties' combined net weekly income and the number and ages of the minor children"); *Favrow* v. *Vargas*, 231 Conn. 1, 25, 647 A.2d 731 (1994) (concluding that "trial court, in deciding that the application of the guidelines would be inequitable or inappropriate in a particular case because of the existence of one of the deviation criteria, must first determine on the record the amount of support indicated by the guidelines schedule"); see also *Battistotti* v. *Suzanne A.*, 182 Conn. App. 40, 52 n.8, 188 A.3d 798 (observing that "a court errs in calculating child support on the basis of a parent's earning capacity without first stating the presumptive support amount at which it arrived by applying the guidelines and using the parent's actual income and second finding application of the guidelines to be inequitable or inappropriate" (emphasis omitted)), cert. denied, 330 Conn. 904, 191 A.3d 1000 (2018). Accordingly, the court's child support award cannot stand.

We now turn to resolving the issue of the appropriate relief in light of our conclusion that the court committed error in entering its child support award. "Individual financial orders in a dissolution action are part of the carefully crafted mosaic that comprises the entire asset reallocation plan. . . . Under the mosaic doctrine, financial orders should not be viewed as a collection of single disconnected occurrences, but rather as a seamless collection of interdependent elements. Consistent with that approach, our courts have utilized the mosaic doctrine as a remedial device that allows reviewing courts to remand cases for reconsideration of all financial orders even though the review process might reveal a flaw only in the alimony, property distribution or child support awards. . . . Every improper

order, however, does not necessarily merit a reconsideration of all of the trial court's financial orders. A financial order is severable when it is not in any way interdependent with other orders and is not improperly based on a factor that is linked to other factors. . . . In other words, an order is severable if its impropriety does not place the correctness of the other orders in question. . . . Determining whether an order is severable from the other financial orders in a dissolution case is a highly fact bound inquiry." (Citation omitted; internal quotation marks omitted.) *Renstrup* v. *Renstrup*, 217 Conn. App. 252, 284, 287 A.3d 1095, cert. denied, 346 Conn. 915, A.3d (2023).

The court's error as to the child support award does not cause us to question the propriety of the court's other financial orders, which principally concern the division of the parties' property. We perceive no interdependence or connection between the child support award and the property distribution orders. Accordingly, we conclude that the child support award is severable from the court's other financial orders. See *Kiniry* v. *Kiniry*, supra, 299 Conn. 345–46 (improper child support orders, reversed on grounds that included trial court's failure to make presumptive support finding pursuant to guidelines, were severable from unrelated financial orders); see also *Renstrup* v. *Renstrup*, supra, 217 Conn. App. 285 (listing cases supporting proposition that "this court and our Supreme Court have held that, under some circumstances, a child support award may be severable from the other financial orders"). Although the defendant does not challenge on appeal the court's remaining child support orders, such as the payment of unreimbursed medical and dental expenses,[28] we further conclude that the court will be required on remand to reconsider "all of the child support orders to ensure that the total award will be proper in all respects." *Misthopoulos* v. *Misthopoulos*, 297 Conn. 358, 390, 999 A.2d 721 (2010); see also *Kiniry* v. *Kiniry*, supra, 345–46 (same).

The judgment is reversed only with respect to the child support orders and the order authorizing the minor children's therapeutic counselors to decide whether either party shall have access to the children's private therapy records and the case is remanded for further proceedings on those issues consistent with this opinion; the judgment is affirmed in all other respects.

In this opinion the other judges concurred.

* In accordance with federal law; see 18 U.S.C. § 2265 (d) (3) (2018), as amended by the Violence Against Women Act Reauthorization Act of 2022, Pub. L. No. 117-103, § 106, 136 Stat. 49, 851; we decline to identify any person protected or sought to be protected under a protection order, protective order, or a restraining order that was issued or applied for, or others through whom that party's identity may be ascertained.

Furthermore, in accordance with our policy of protecting the privacy interests of the victims of family violence, we decline to use the parties' full names or to identify the victims or others through whom the victims' identities may be ascertained. See General Statutes § 54-86e.

[1] For ease of discussion, we address the defendant's claims in a different order than they are set forth in his principal appellate brief and in the supplemental brief that he filed in this appeal.

[2] In November, 2019, the state nolled the criminal charges and, thereafter, the trial court, *Baldini*, *J.*, dismissed them.

[3] The court determined that the defendant had failed to meet his burden of proof to establish that the plaintiff had committed adultery.

[4] In the dissolution judgment, taking into account the factors set forth in General Statutes § 46b-82, the court "[made] no order of alimony payable to either party by the other" except as provided in a subsequent section of the decision concerning retirement/pension assets. As the court explained in that subsequent section, "[t]he court has considered the possibility that, if the defendant has remarried at the time of his retirement, his spouse could object to the designation of the plaintiff as a coparticipant and an alternate payee, and, under the provisions of the plan, such objection would prevent the plan from permitting the plaintiff's designation as a coparticipant/alternate payee. Therefore, the court orders $1 per year of alimony to the plaintiff, modifiable only to enforce the rights of this provision."

[5] The February 16, 2023 order directed the court to articulate the following:

"(1) Whether, in rendering the judgment of dissolution, the court credited the defendant for the $8000 payment designated in the June 20, 2018 order as 'an advanced distribution of the final property settlement to the [plaintiff] at the time of final judgment' and, if so, where that credit is reflected in the judgment. If the court did not credit the defendant for the $8000 payment, then the court is ordered to articulate its basis for not crediting the defendant for the payment.

"(2) Whether, in rendering the judgment of dissolution, the court credited the defendant for the $10,000 payment identified in the January 29, 2019 order and, if so, where that credit is reflected in the judgment. If the court did not credit the defendant for the $10,000 payment, then the court is ordered to articulate its basis for not crediting the defendant for the payment, including whether the court's decision was based on a determination that the defendant had failed to exercise his reserved right to argue 'that this amount be applied to any potential distribution at the time of final judgment.' "

[6] The defendant also claims that the court's finding in the March 8, 2023 articulation that he "failed to exercise his reserved right to argue that the $10,000 pendente lite amount should be applied to any potential distribution at the time of judgment" is clearly erroneous. Assuming arguendo that this finding is clearly erroneous, the error is harmless. "[W]here . . . some of the facts found [by the trial court] are clearly erroneous and others are supported by the evidence, we must examine the clearly erroneous findings to see whether they were harmless, not only in isolation, but also taken as a whole. . . . If, when taken as a whole, they undermine appellate confidence in the court's [fact-finding] process, a new hearing is required." (Internal quotation marks omitted.) *Autry* v. *Hosey*, 200 Conn. App. 795, 801, 239 A.3d 381 (2020). As the court articulated, it considered the $10,000 payment in rendering the dissolution judgment. Thus, whether the defendant exercised his reserved right to argue vis-à-vis the $10,000 payment is of no moment.

[7] At the beginning of the dissolution judgment, the court identified the four trial dates, along with a hearing held on February 5, 2021, on the defendant's motion to open the evidence and stated that it had "considered all the evidence presented, the provisions of [several statutes], and the provisions of the [guidelines]." In the February 16, 2023 articulation, the court stated that, in rendering the dissolution judgment, it had "considered all the evidence and legal arguments presented at trial . . . [and] the relevant prior court orders . . . ."

[8] Moreover, nothing in the March 8, 2023 articulation suggests that the court's pretrial observations of the parties were detrimental to the defendant.

[9] The February 16, 2023 articulation is silent as to alimony.

[10] Section 46b-82 (a) was amended by No. 13-213, § 3, of the 2013 Public Acts, which made changes to the statute that are not relevant here. Accordingly, our reference here is to the current revision of the statute.

[11] Notably, the defendant does not explain how he was harmed by the court's alimony orders, which awarded no alimony to the plaintiff beyond the nominal sum of $1 annually awarded to protect the integrity of the court's order designating the plaintiff as the surviving spouse on the defendant's retirement plans. See footnote 4 of this opinion.

[12] The plaintiff further testified that the defendant bound her with the

duct tape while they were in the basement. The defendant testified that he never bound the plaintiff with the duct tape, which, according to the defendant, the plaintiff had planted in the basement to incriminate him.

[13] Notwithstanding its findings regarding the April 24, 2018 incident, the court determined that the plaintiff had not demonstrated that there had been "long-standing domestic violence" before and during the parties' marriage.

[14] The defendant cites three portions of the plaintiff's testimony that, as he posits, were contradicted by "objective evidence" in the form of exhibits that the court had admitted in full into the record. First, the defendant argues that the plaintiff's testimony that the defendant was drunk during the April 24, 2018 incident was refuted by a hospital record reflecting that the defendant had no alcohol in his system on the basis of an alcohol breath test administered to him several hours following the April 24, 2018 incident. Second, the defendant argues that the plaintiff's testimony that he had bound her with duct tape while the parties were in the basement during the April 24, 2018 incident was undermined by reports created by the division of scientific services of the Department of Emergency Services and Public Protection indicating that the defendant's DNA was not found on the duct tape samples submitted for testing. Third, the defendant argues that the plaintiff's testimony that she was unable to send text messages during the April 24, 2018 incident because she was bound by duct tape was contradicted by telephone records reflecting that text messages were sent to and from the plaintiff's cell phone during that time.

[15] The record contains evidence corroborating some of the plaintiff's testimony regarding the April 24, 2018 incident. For instance, the plaintiff testified that, during the April 24, 2018 incident, the defendant physically assaulted her, inter alia, by grabbing her by the throat and strangling her. According to a police report generated in connection with the April 24, 2018 incident, which was admitted in full into the record, a police officer with whom the plaintiff spoke after she had exited the parties' home "observe[d] several scratches on the right side of [the plaintiff's] face, and visible red marks on her neck that were consistent with [the] statements [that the plaintiff] made."

[16] "General Statutes [Rev. to 2019] § 46b-56 (c) provides: 'In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors: (1) The temperament and developmental needs of the child; (2) the capacity and the disposition of the parents to understand and meet the needs of the child; (3) any relevant and material information obtained from the child, including the informed preferences of the child; (4) the wishes of the child's parents as to custody; (5) the past and current interaction and relationship of the child with each parent, the child's siblings and any other person who may significantly affect the best interests of the child; (6) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (7) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute; (8) the ability of each parent to be actively involved in the life of the child; (9) the child's adjustment to his or her home, school and community environments; (10) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child's family home pendente lite in order to alleviate stress in the household; (11) the stability of the child's existing or proposed residences, or both; (12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (13) the child's cultural background; (14) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child; (15) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (16) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision.' " *Coleman* v. *Bembridge*, 207 Conn. App. 28, 48–49 n.10, 263 A.3d 403 (2021).

[17] The defendant, who is Black, testified that he and the plaintiff had spoken in the past about racial profiling and fears of the defendant being

killed by the police.

[18] The Facebook post was admitted in full into the record.

[19] As the guardian ad litem testified, during one of the supervised visits, the defendant discussed the Ten Commandments with the children, including the commandment that proscribes the coveting of a neighbor's spouse. The guardian ad litem stated that, "knowing what the allegations were in this case . . . that [discussion] was probably inappropriate." In addition, during the same visit, the parties' daughter told the defendant that a peer of hers had placed stolen money in her backpack, which she returned after discovering it. The defendant responded by conveying that the daughter "now . . . know[s] what it feels like to be accused of something you didn't do." The guardian ad litem believed that the defendant's response appeared to "shut [the daughter] down" and that the defendant had missed an opportunity "to show his support of [the daughter] and [of] her wise decision in returning the money and things like that."

[20] As we concluded in part II of this opinion, the court's factual findings regarding the April 24, 2018 incident, which align with the plaintiff's version of events, are not clearly erroneous.

[21] The defendant also claims that the court "made no finding that it [was] in the children's best interests to continue to have such extremely limited contact with their loving father." In the dissolution judgment, however, the court expressly stated that "[t]he court has reviewed the evidence to ascertain the best interests of the minor children," and it expressly found that the defendant was unable to act in the children's best interests. Thus, we reject this claim.

In addition, the defendant claims that there is no evidence that he disparaged the plaintiff or acted inappropriately in front of the children. Assuming arguendo that the record is devoid of such evidence, the record nevertheless contains sufficient evidence buttressing the court's findings underlying its visitation orders.

[22] In her appellate brief, the plaintiff argues that (1) the court's custody orders "granted [her] the sole parental discretion to consent to the release of [the children's] private therapy records," and (2) in accordance with General Statutes § 52-146c, without her consent, any counselor providing therapeutic counseling to the children would not be authorized to disclose the records. Insofar as the plaintiff contends that the court's custody orders empowered her to decide whether to provide the defendant with access to the records, that position is belied by the express language of the court's order transferring that authority to the children's counselors. Moreover, § 52-146c, which concerns the psychologist-patient privilege, is not germane to the issue of whether the court improperly delegated its judicial authority as set forth in § 46b-56 (g).

In addition, as the defendant acknowledges in his principal appellate brief, the order at issue applies to "either parent . . . ." The plaintiff has not filed a cross appeal. Nevertheless, we conclude that the order fails in its entirety and cannot be salvaged insofar as it applies to the plaintiff.

[23] The defendant also claims that, in entering the child support award, the court (1) improperly relied on outdated financial information and (2) made a clearly erroneous finding as to his earning capacity. Our conclusion that the court erred in failing to determine the presumptive support amount under the guidelines is dispositive with respect to the defendant's challenge to the child support award and, therefore, we need not resolve these additional issues.

[24] Section 46b-215b (a) was amended by No. 21-104, § 36, of the 2021 Public Acts, which made changes to the statute that are not relevant to this appeal. Accordingly, we refer to the current revision of the statute.

[25] Section 46b-215a-5c (a) of the Regulations of Connecticut State Agencies provides in relevant part: "The current support . . . contribution amounts calculated under [the guidelines] . . . are presumed to be the correct amounts to be ordered. The presumption regarding each such amount may be rebutted by a specific finding on the record that such amount would be inequitable or inappropriate in a particular case. . . . Any such finding shall state the amount that would have been required under such sections and include a factual finding to justify the variance. . . ."

[26] The dissolution judgment suggests that, but for the court's determinations that applying the guidelines was inequitable or inappropriate and that a deviation from the guidelines was justified, the court would not have ordered the defendant to pay child support; however, nothing in the judgment reflects that the court utilized the guidelines to make a finding on the record that the presumptive support amount was $0.

[27] In her appellate brief, the plaintiff agrees with the defendant that the court did not establish the presumptive support amount under the guidelines, but she argues that the defendant "contributed to the court's [failure to make the] finding by his failure to provide child support information, even to the point of failing to provide his own [child support guidelines] [w]orksheet . . . ." As we explain in this opinion, the court had the necessary information to make the mandatory initial determination of the presumptive support amount under the guidelines. Moreover, the record reveals that the defendant relied on the child support guidelines worksheet referenced by the court. In any event, a party's failure to submit a child support guidelines worksheet does not bar the party from claiming that a trial court erred in failing to comply with the guidelines. In *Bee* v. *Bee*, 79 Conn. App. 783, 831 A.2d 833 (overruled in part by *Tuckman* v. *Tuckman*, 308 Conn. 194, 61 A.3d 449 (2013)), cert. denied, 266 Conn. 932, 837 A.2d 805 (2003), this court declined to review the defendant's claim that the trial court failed to follow the guidelines because the defendant had not filed a child support guidelines worksheet in accordance with Practice Book § 25-30 (e), holding that "a party who has failed to submit a child support guidelines worksheet as required by . . . § 25-30 (e) cannot complain of the court's alleged failure to comply with the guidelines." Id., 788. Our Supreme Court expressly overruled *Bee* in 2013. See *Tuckman* v. *Tuckman*, 308 Conn. 194, 202 n.6, 61 A.3d 449 (2013).

[28] The court ordered that the defendant would pay 46 percent of the unreimbursed medical and dental expenses, with the plaintiff responsible to pay the remaining 54 percent of the expenses.