

Circuit Court for Montgomery County
Case No. 427431

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 427

September Term, 2017

CHARLES S. RAND

v.

WARREN WEITZMAN, ET AL.

Kehoe,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 11, 2018

*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.

On November 30, 2016, Charles Rand, appellant, filed a complaint in the Circuit Court for Montgomery County against Warren Weitzman and other entities,¹ appellees, alleging that Weitzman failed to pay Rand for the provision of legal services.² Rand failed to appear in court for a required scheduling conference, and the court dismissed his complaint without prejudice. Rand then filed a motion to alter, amend, and reinstate the complaint, which Weitzman opposed. The circuit court denied Rand’s motion. He noted this appeal, contending that the court erred in denying his motion. For the reasons stated below, we affirm.

Rand had represented Weitzman in a domestic matter in Montgomery County. Following the representation, Rand alleged that Weitzman had failed to pay for at least some of Rand’s legal services.³ Accordingly, he filed a complaint in the circuit court seeking his unpaid legal fees. The court’s scheduling order set March 3, 2017, for a scheduling hearing. The order explicitly noted “attendance required” in its heading. (Emphasis omitted). Additionally, paragraph six of the order provided, in part: “[A]ll counsel and any unrepresented parties shall appear before the assigned judge at an initial Scheduling Hearing to discuss the possibilities of settlement, ADR, and to establish a schedule for the completion of all proceedings.” The paragraph continued: “Failure to

¹ The other defendants are: Caramba, LLC (a business owned by Weitzman); Lewis Weitzman (Weitzman’s son); Lew.com, LLC (a business owned by Lewis Weitzman); and Patricio Castro (Weitzman’s neighbor). Weitzman is the only appellee to file a brief.

² We note that Rand has been indefinitely suspended from the practice of law in Maryland. *See Attorney Grievance Comm’n v. Rand*, 446 Md. 252 (2016).

³ In the complaint, Rand sought \$150,000 in damages.

appear may result in sanctions. Where the Plaintiff does not appear, failure to appear may result in dismissal of the complaint[.]” (Emphasis omitted).

On March 3, 2017, Rand failed to appear for the hearing, and the court dismissed his complaint without prejudice. On March 6, 2017, Rand filed a motion to alter, amend and reinstate suit, stating that he had forgotten about the hearing and blamed the effects of anesthesia used for a medical procedure in December 2016. He also indicated that he was caring for his young grandchildren at the time of the hearing. Weitzman opposed the motion, and the court denied it.

Rand contends that this Court ought to apply Rule 2-613 and review *de novo* the circuit court’s denial of his motion. Rule 2-613, however, is inapplicable because that rule applies to the entry of default judgments where a *defendant* fails to plead. Rather, we review the court’s decision to deny Rand’s motion to alter for an abuse of discretion. *See Estime v. King*, 196 Md. App. 296, 302 (2010). This Court has observed that we will not reverse a ruling under this standard “‘simply because the appellate court would not have made the same ruling.’” *Smith v. State*, 232 Md. App. 583, 599 (2017) (quoting *Norwood v. State*, 222 Md. App. 620, 643 (2015)). “‘Rather, a trial court’s ‘decision is an abuse of discretion when it is well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.’” *Id.* (quoting *Norwood*, 222 Md. App. at 643). Stated another way, a court abuses its discretion “‘where 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.’” *Dabbs v. Anne Arundel Cnty.*,

232 Md. App. 314, 331 (2017) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)), *aff'd*, ___ Md. ___, No. 23, Sept. Term 2017 (filed Apr. 10, 2018).

In this case, we do not perceive an abuse of discretion in the court’s denial of Rand’s motion. The scheduling order clearly warned Rand that dismissal of his complaint was a possible sanction for his failure to appear. Accordingly, Rand was aware of that possibility.

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