

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
CONSOLIDATED CASES

Nos. 0924 & 2145

September Term, 2014

JOHN P. HALVONIK

v.

MARYLAND DEPARTMENT OF SAFETY
AND CORRECTIONAL SERVICES

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

JJ.

Opinion by Moylan, J.

Filed: November 17, 2015

*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.

The pro se appellant, John P. Halvonik, originally filed two separate appeals. The appellee in both cases was the Maryland Department of Public Safety. Both cases arose out of a common factual and procedural background. In what was Case No. 924 of September Term 2014, the appellant appealed, on July 9, 2014, the June 10, 2014 decision of Judge Joan E. Ryon in the Circuit Court for Montgomery County to deny his motion to be allowed to proceed anonymously using only the name "John Doe." On March 4, 2014, the appellant had also filed in the Circuit Court for Montgomery County what was styled as a "Civil Action Complaint Including Motion to Correct an Illegal Sentence." In what was (and remains) Case No. 2145 of September Term 2014, the appellant appealed, on December 15, 2014, the September 22, 2014 order of Judge Ronald B. Rubin, granting summary judgment in favor of the appellee on that latter complaint, dismissing the complaint with prejudice and without leave to amend. An order of this Court dated March 16, 2015, granted the appellee's motion to consolidate the two appeals as Case No. 2145 of September Term 2014.

The Background Case and Its Sequelae

On May 9, 2005, the appellant, wearing shorts and no shirt, approached a ten-year-old girl outside an elementary school in Montgomery County. He grabbed her legs and put his face in her crotch area, attempting to kiss her in her crotch area. Another girl, however, immediately intervened, striking the appellant in the back of his head with a lunch box in an effort to get the appellant off the ten-year-old. The appellant then attacked the Good Samaritan, pulling her hair and attempting to knock her to the ground. As the appellant was

pulled off the first intervener by other interveners, he then removed the rest of his clothes and ran around the elementary school playground completely naked.

The appellant was charged with five counts of various sexual offenses, including significantly a third-degree sexual offense with a minor under fourteen years of age pursuant to Criminal Law Article, §3-307. As to each of the counts, the appellant offered a plea of guilty but not criminally responsible. The trial judge accepted the pleas. The court declined to impose sentences, ordering that the appellant be conditionally released and placed on supervised probation for five years subject to various conditions set forth in the probation contract.

As a result of the guilty plea, Criminal Law Article, §3-307(a)(3), the appellant was required to register as a sex offender pursuant to Criminal Procedure Article, §11-707(a). By virtue of §11-707(a)(4)(ii)(2), the required registration was for life.

Anonymity Not Required

Under what had been the first appeal, the appellant challenges Judge Ryon's dismissal of his motion to be permitted to use a pseudonym in any caption connected with the case. In his sole contention on this issue, he narrows the question to one of whether an individual who has been found not criminally responsible (NCR) because of insanity can remove his name from the state sex offender registry and be listed there under a pseudonym. He claims that the use of his actual name would be "a source of embarrassment for him." He argues that

he should not be subjected to this embarrassment if the sexual offense that is the cause for the registration was committed "through no fault of his own," to wit, an act for which he was not responsible as shown by the verdict of NCR.

The appellant's legal argument consists exclusively of his attempt to analogize his situation to the right of privacy extended to a medical patient by this Court in Doe v. Shady Grove Adventist Hospital, 89 Md. App. 351, 598 A.2d 507 (1991). In Doe v. Shady Grove, the litigant who was permitted anonymity was an AIDS patient who was suing the hospital for having revealed his AIDS diagnosis to his friends and family. Among the many differences in the two situations is that naming offenders in a sex offense registry serves a governmental purpose whereas revealing a diagnosis of AIDS does not. Following a full hearing on the motion on June 10, 2014, Judge Ryon had no difficulty in rejecting the appellant's request for anonymity.

"I do find, from the argument and from the pleadings, that the plaintiff has failed to establish a compelling interest in maintaining the confidentiality of his identity during these proceedings, and in doing so negating the public's right to access the court proceedings, so I am going to deny the motion."

In that denial, we see no error.

A Scattershot Contention

In his second pro se appeal, the appellant raised, as we shall rephrase it, what amounts to a single contention. He manages to fragment it, however, into twelve sub-contentions, including issues involving the due process clause, the equal protection clause in several

manifestations, fundamental rights generally, the prohibition against cruel and unusual punishment, the Americans with Disabilities Act, the statutory imprecision of the National Sex Registry Act, common law libel, and various violations of Maryland law. All of them, however, are nothing more than bald assertions.

Weaving through that cosmic array, however, is one consistent and unifying theme. Whatever the more ponderous label, every argument returns to the appellant's chronic grievance that the verdict of NCR absolved him of any wrongdoing and that he should not have been required to register as a sex offender if the act that imposed that burden upon him was an act committed "through no fault of his own." His essential contention is that the verdict established that he was not guilty of any criminal conduct and that it was, therefore, illegal to require him to register as a sex offender.

The double-barreled answer to that contention is both a matter of logic and a matter of law. Logically, the appellant ignores the transcendent fact that his physical behavior may pose a risk to others, regardless of whether that physical behavior is within his control or not. The registration requirement is for the protection of society at large and is not a punishment of the sexual offender. The appellant's plea acknowledged that he actually committed the forbidden acts, even as he disclaimed moral responsibility for his actions. To answer the appellant bluntly in his own terms, the law does not care whether his sexually offensive behavior was "through [any] fault of his own" or not. Either way, he is a potential

risk to others. Indeed, the offender who is unable to control his actions may pose a greater risk.

For those for whom logic is not enough, the law is also firm in rejecting the appellant's core contention. Subtitle 7 of the Criminal Procedure Article deals with "Registration of Certain Offenders." Section 11-701(b)(2) covers the appellant's case, as it provides in pertinent part:

(b) Child sexual offender. – "Child sexual offender" means a person who:

...

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§3-303 through 3-307 of the Criminal Law Article for a crime involving a child under the age of 15 years[.]

(Emphasis supplied).

The appellant's hang-up is over the term "convicted." He claims his NCR verdict means he was not convicted of the underlying offense. He conveniently ignores §11-702, which squarely spells out in pertinent part:

§11-707. Elements of conviction.

For the purposes of this subtitle, a person is convicted when the person:

...

(4) is found not criminally responsible for a crime.

For sexual registration purposes, the Maryland General Assembly has stated that there is no critical distinction between one "found guilty of a crime" and one "found not criminally responsible for a crime." The Circuit Court for Montgomery County simply followed the

mandate of the General Assembly. Accordingly, Judge Rubin granted summary judgment in favor of the appellee and dismissed the action with prejudice.

**JUDGMENT AFFIRMED; COSTS
TO BE PAID BY APPELLANT.**