

Circuit Court for Baltimore County  
Case No. C-03-CV-22-001331

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 33

September Term, 2023

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IN THE MATTER OF MARK WELBORN

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Arthur,  
Leahy,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: January 5, 2024

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Mark Welborn, appellant, lived in a foster home in Baltimore County beginning in the late 1960's. As an adult, appellant began to seek records from his foster care placement. After he was unsuccessful in obtaining all the records that he desired through a Maryland Public Information Act (MPIA) request, appellant filed a complaint against the Baltimore County Department of Social Services, appellee, seeking to compel the production of those records. He also sought damages and attorney's fees. Following a review of the relevant records, counsel for the parties reached an agreement that appellee would produce 74 pages of its records. The court thereafter entered a protective order, permitting the disclosure of those records to appellant, subject to certain redactions.

After the parties reached their agreement regarding the records, appellee filed a motion for summary judgment, asserting that it had properly denied appellant's initial MPIA request, and therefore that his request for damages and attorney's fees should be denied. Appellant subsequently filed a motion for attorney's fees only under the MPIA. Following a hearing in October 2022, the court entered an order, granting the motion for summary judgment as to statutory damages, denying the request for attorney's fees and closing the case. That order was not entered on the docket until December 19, 2022.

On December 14, 15, and 19, 2022, appellant, now proceeding *pro se*, sent letters to the court asking it to reconsider its decision, claiming that appellee had not provided him all records under the protective order, that appellee did not have reasonable basis to deny his initial PIA request, and that he should have been entitled to damages and attorney's fees (the first revisory motion). The court collectively construed the letters as a motion to

alter or amend the judgment, and denied the motion in an order entered on January 30, 2023.

On February 14, 2023, appellant sent another letter to the court raising the same claims, and further asserting that appellee was failing to comply with subpoenas issued by the Baltimore County Police in a related police investigation (the second revisory motion). The court treated that motion as a second motion to alter or amend the judgment, and denied the motion on February 21, 2023, stating that “[a]s noted previously, the Court will not change its opinion in this case.” Appellant filed the instant appeal on March 7, 2023.

On appeal, appellant contends that the court erred in not requiring appellee to produce all the foster care records that he requested and in not awarding him statutory damages and attorney’s fees. Appellee contends that the court did not err and has also filed a motion to dismiss the appeal. For the reasons that follow, we shall grant the motion to dismiss.

Maryland Rule 8-202 provides that a party must file his or her notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” That 30-day deadline is tolled when a motion to alter or amend judgment under Md. Rule 2-534 is filed within ten days of the entry of judgment. *See* Md. Rule 8-202(c).

Here, the court entered its final judgment on December 19, 2022. Appellant’s first revisory motion was filed within ten days of that order and, therefore, his time to file a notice of appeal was tolled until the first revisory motion was resolved. The first revisory motion was denied in an order docketed on January 30, 2023. Appellant therefore had until

March 2, 2023, to file a notice of appeal from the final judgment, and from the denial of the first revisory motion.

But appellant did not note an appeal to this Court before that time. Instead, he filed the second revisory motion on February 14, 2023. That motion, however, did not toll the time for him to file the notice of appeal from either the final judgment or the order denying his first revisory motion. *See Leese v. Department of Labor, Licensing and Regulation*, 115 Md. App. 442, 445 (1997) (noting that a party cannot obtain additional extensions of the deadline to appeal by filing a series of successive motions to alter or amend the previous motion’s denial). Consequently, his March 7, 2023, notice of appeal was not timely as to those orders. And although the notice of appeal was timely as to the denial of the second revisory motion, “[t]he denial of [a] second motion to revise is not appealable because it is not a final judgment.” *Pickett v. Noba, Inc.*, 114 Md. App. 552, 560 (1997) (noting that a “second motion to revise filed more than thirty days after the entry of judgment, even though within thirty days after the denial of the first motion, cannot be granted”).<sup>1</sup>

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<sup>1</sup> Notably, appellant’s second revisory motion did not claim the existence of fraud, mistake, or irregularity in the judgment within the meaning of Maryland Rule 2-535(b). Thus, we decline to construe it as a motion filed pursuant to that Rule, the denial of which would be appealable. But even if the court’s order denying his second revisory motion was appealable, appellant does not raise any issues in his brief with respect to that order. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (quotation marks and citation omitted)).

Because appellant's appeal from the final judgment and order denying his first revisory motion is untimely, and the order denying his second revisory motion is not an appealable judgment, the appeal must be dismissed.<sup>2</sup>

**APPELLEE'S MOTION TO DISMISS  
GRANTED. COSTS TO BE PAID BY  
APPELLANT.**

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<sup>2</sup> Even if appellant were entitled to appeal, we review the denial of a motion to alter or amend the judgment for abuse of discretion, *see Bennett v. State Dep't of Assessments & Taxation*, 171 Md. App. 197, 203 (2006), and based on our review of the record we discern no abuse of discretion in the court's denial of appellant's second revisory motion.