

Circuit Court for Anne Arundel County  
Case No. C-02-CV-17-003117

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 44

September Term, 2018

---

MARLENA JAREAUX

v.

WAYNE ROBNEY

---

Nazarian,  
Arthur,  
Thieme, Raymond G., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Arthur, J.

---

Filed: February 11, 2019

\*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 three prior occasions, appellant Marlena Jareaux has litigated and lost a challenge to the wording of court documents or records regarding a judgment against her. This case represents her fourth attempt: a petition for a writ of mandamus or prohibition to require a clerk of the court to change the way in which the judgment was described.

The Circuit Court for Anne Arundel County denied the petition, and Jareaux appealed. We affirm.

### **BACKGROUND<sup>1</sup>**

On March 2, 2011, Gail Proctor brought a derivative suit on behalf of Proceaux Properties, LLC, against Marlena Jareaux in the Circuit Court for Howard County. On August 27, 2012, the court signed an order by which it directed the entry of judgment “in favor of the Plaintiff Gail Proctor on behalf of Proceaux Properties, LLC,” and awarded \$49,942.00 in damages. *See Proctor v. Jareaux*, 2012 WL 6057376 (Cir. Ct. for Howard Cty. Aug. 27, 2012). A docket entry of the same date reflects the entry of judgment “in favor of plaintiff, Gail Proctor on behalf of Proceaux Properties LLC in the amount of \$49,942.00.” The following day, August 28, 2012, the clerk issued a notice of recorded judgment in favor of “Proctor, Gail R.” Jareaux’s subsequent appeal was dismissed, apparently because she failed to pursue it.

On February 6, 2013, more than four months after the judgment had become enrolled, Jareaux filed what she called a “Motion to Correct Clerical Error and in the

---

<sup>1</sup> This section of the opinion is derived largely from this Court’s opinion in *Jareaux v. Bentley*, No. 1829, Sept. Term 2017, 2019 WL 449854 (Md. Ct. Spec. App. Feb. 5, 2019) (“*Jareaux III*”).

Electronic Maryland Judiciary Case Record.” In that motion, Jareaux argued that the notice of recorded judgment incorrectly stated that the judgment was in favor of Gail Proctor individually. The court denied Jareaux’s motion on January 9, 2015, and in an unreported opinion we affirmed on two grounds. *Jareaux v. Proctor*, No. 322, Sept. Term 2015, 2016 WL 3919277 (Md. Ct. Spec. App. July 19, 2016), *cert denied*, 450 Md. 432 (2016) (“*Jareaux I*”). First, we reasoned that a notice of recorded judgment has no substantive effect on a judgment. Second, we reasoned that because the notice in question did not expressly state that the judgment was in favor of Proctor in her individual capacity, it was not inconsistent with the trial court’s August 27, 2012 order.

Meanwhile, on October 18, 2012, Proctor had recorded the Howard County judgment in the Circuit Court for Baltimore City. On April 23, 2013, the Baltimore City clerk issued a notice of recorded judgment, which, like its Howard County counterpart, stated: “Judgment in Favor of: Proctor, Gail R.” Later, on February 12, 2015, the Baltimore City court complied with Proctor’s request that it issue a writ of execution that listed “Gail R. Proctor” as the judgment creditor.

On April 27, 2015, Jareaux filed what she called a “Motion to Vacate Judgment Enrolled in Error By Clerk and to Stay a Requested Writ of Execution” in the Circuit Court for Baltimore City. Proctor responded by filing a motion to strike. The Baltimore City court ultimately denied Jareaux’s motion and granted Proctor’s. In an unreported opinion, we affirmed. *Jareaux v. Proctor*, No. 0772, Sept. Term 2015, 2016 WL 5885881 (Md. Ct. Spec. App. Oct. 4, 2016), *cert. denied*, 451 Md. 261 (2017) (“*Jareaux II*”). In reaching that decision, we reasoned that because Jareaux had failed to show any

error in the notice of recorded judgment from Howard County in *Jareaux I*, a notice that tracked the Howard County notice also tracks the Howard County judgment. We concluded: “[T]here was no clerical error to correct here, nor any element of the Baltimore City circuit court’s decisions to revise, nor any doubt that the circuit court had the authority to register and index the judgment.”

On September 12, 2017, Jareaux filed a petition for a writ of prohibition or mandamus against Marilyn Bentley, the Clerk of the Circuit Court for Baltimore City. In her petition, Jareaux sought to compel the clerk to “correct” the records of the Circuit Court for Baltimore City to reflect a judgment in favor of “Gail Proctor on behalf of Proceaux Properties, LLC.” Jareaux claimed that her action concerns the data entered by the clerk in the “civil money judgment and land records division databases.” The clerk successfully moved to dismiss Jareaux’s petition on numerous grounds, including defensive, non-mutual collateral estoppel. Jareaux appealed, and we affirmed. *Jareaux III*, No. 1829, Sept. Term 2017, 2019 WL 449854 (Md. Ct. Spec. App. Feb. 5, 2019).

Finally, shortly before Jareaux filed the unsuccessful petition for a writ of mandamus against the Clerk of the Circuit Court for Baltimore City, she filed a similar petition for a writ of mandamus against the Clerk of the Circuit Court for Howard County. The Circuit Court for Howard County transferred the case to the Circuit Court for Anne Arundel County, which denied the petition on grounds of collateral estoppel. Jareaux appealed.

### **QUESTIONS PRESENTED**

Jareaux presents two questions, which we have condensed and rephrased as

follows: Did the trial court properly deny Jareaux’s petition?<sup>2</sup>

For the reasons discussed below, we conclude that there was no error and thus shall affirm.

### ANALYSIS

In *Jareaux III* we concluded that defensive, non-mutual collateral estoppel barred Jareaux’s effort to obtain a petition for a writ of mandamus requiring the Clerk of the Circuit Court for Baltimore City to change that court’s records of the Howard County judgment against Jareaux. Our analysis, which we quote, is equally applicable here:

“The doctrine of collateral estoppel precludes a party from re-litigating a factual issue that was essential to a valid and final judgment against the same party in a prior action.” *Shader v. Hampton Improvement Ass’n, Inc.*, 217 Md. App. 581, 605 (2014), *aff’d*, 443 Md. 148 (2015). To establish the applicability of collateral estoppel in this case, the clerk was required to show: (1) that the issue decided in the prior adjudication is identical to the one presented in this action; (2) that there was a final judgment on the merits; (3) that the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication; and (4) that the party against whom collateral estoppel is asserted was given a fair opportunity to be heard on the issue. *Id.* Defensive, non-mutual collateral estoppel applies “when a defendant seeks to prevent a plaintiff

---

<sup>2</sup> Jareaux phrased her questions as follows:

1. Can a Circuit Court require or enable a nominal plaintiff in a derivative lawsuit to be a party to a money judgment derived from a derivative lawsuit?
2. Was “standing” improperly denied to Appellant when multiple examples were provided to the hearing judge based upon the U.S. Constitution Article III standard?

In announcing its ruling, the circuit court expressed doubt about whether Jareaux had standing to petition for mandamus, because the court could not see how she had suffered prejudice as a result of the allegedly erroneous records. The court, however, did not base its decision on the issue of standing. Consequently, we need not consider it.

from relitigating an issue the plaintiff has previously litigated unsuccessfully in another action against a different party.” *Id.* at 608. “[W]e examine *de novo* the court’s legal determination of whether collateral estoppel should apply[.]” *Id.* at 605.

*Jareaux III*, slip op. at 4, 2019 WL 449854, at \*2.

As in *Jareaux III*, “[t]he first element of collateral estoppel – that the issue decided in the prior adjudication is identical to the one presented in this action – is met.” *Id.*

The issue in this case – the correct way of identifying the judgment-creditor – is identical to the issue in *Jareaux I* and *Jareaux II*. In *Jareaux I* Jareaux moved to correct a “clerical error” because the court’s written order and the docket entry ordered judgment in favor of Proctor “on behalf of” Proceaux Properties, LLC, but the notice of recorded judgment reflected a judgment in favor of “Proctor, Gail R.” In *Jareaux II* Jareaux moved to vacate the notice of recorded judgment in Baltimore City because it too reflected a judgment in favor of “Proctor, Gail R.” In both cases, we rejected the premise that there was any error to correct.

*Id.*, slip op. at 4-5, 2019 WL 449854, at \*2.

As in *Jareaux III*, Jareaux attempts to disguise the issue by focusing on the data in the court’s “judgment module” rather than the contents of the notices of recorded judgment. We have no indication, however, that the language in the “judgment module” differs in any material respect from the language in the notices of recorded judgment. If there was no error to correct in the notices of recorded judgment, there could not possibly be any error to correct in the “judgment module.” It follows that “[t]his issue has been decided in both *Jareaux I* and *Jareaux II*.” *Id.*, slip op. at 5, 2019 WL 449854, at \*2.

As we explained in *Jareaux III*, the second element of collateral estoppel – that there was a final judgment on the merits – “is obviously met” as well. *Id.*, slip op. at 5, 2019 WL 449854, at \*3. In both cases, Jareaux obtained a final judgment, appealed and lost, and failed to persuade the Court of Appeals to issue a writ of certiorari. The judgments could not be more final.

*Id.*

As in *Jareaux III*, “[t]he third element – that the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication – is also met.” *Id.* “The clerk has asserted collateral estoppel against Jareaux, who was a party in both *Jareaux I* and *Jareaux II*, where the issue has been previously decided on the merits.” *Id.*

Finally, “[t]he fourth element – that the party against whom collateral estoppel is asserted was given a fair opportunity to be heard on the issue – is obviously met as well” (*id.*), as it was in *Jareaux III*. “In both *Jareaux I* and *Jareaux II*, the issues were fully briefed before the courts ruled.” *Id.* “In fact, in *Jareaux I*, the court denied the request for relief at a hearing in open court.” *Id.*, slip op. at 5-6, 2019 WL 449854, at \*3.

As we reasoned in *Jareaux III*, it is clear on this record that Jareaux had a fair opportunity to be heard on her contention that the court erred in recording the judgment. *See id.*, slip op. at 6, 2019 WL 449854, at \*3. “Collateral estoppel, therefore, barred Jareaux’s claim.” *Id.*<sup>3</sup>

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

---

<sup>3</sup> “Even if collateral estoppel did not apply, the circuit court could have correctly denied the petition for writ of mandamus, because Jareaux had no legal right, let alone a clear legal right, to the requested relief in view of this Court’s two prior decisions that there was no error to correct in the notices of recorded judgment.” *Id.*, slip op. at 6 n.3, 2019 WL 449854, at \*3 n.3 (citing *Wilson v. Simms*, 380 Md. 206, 229 (2004), for the proposition that a party had no right to a writ of mandamus when “she had no clear right to the remedies she sought”).