

Circuit Court for Montgomery County  
Case No: 480486V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 100

September Term, 2021

---

KAREN MASON, *et al.*,

v.

MARC ELRICH

---

Reed,  
Beachley,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: February 16, 2022

\*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.

Karen and Horace Mason, appellants, appeal the dismissal of their complaint, as amended, by the Circuit Court for Montgomery County and the denial of their motion for mandamus relief. For the reasons that follow, we shall dismiss the Masons’ appeal as moot pursuant to Maryland Rule 8-602(c)(8).

### **BACKGROUND**

On November 10, 2018 and January 14, 2019, respectively, the Masons submitted two prohibited practice charges (“PPCs”) against their union, the Municipal and County Government Employees Organization Union Local 1994 (“the MCGEO”), pursuant to § 33.103.01.01 of the Code of Montgomery County Regulations. At the onset of the proceedings, Alexander Williams was the Labor Relations Administrator (“LRA”), appointed by the Montgomery County Executive, appellee, tasked with adjudicating the Masons’ PPCs in an administrative capacity. *See* Montgomery County Code 33-103(a).

On November 30, 2018 and January 29, 2019, respectively, the MCGEO filed its answers to the PPCs and requested that they be dismissed with prejudice. As grounds for dismissal, the MCGEO alleged, in pertinent part, that the PPCs were untimely filed because they were not filed “within 6 months of the incident giving rise to the charge” as required by Section 33.103.01.01(1)(a) of the Code of Montgomery County Regulations. The Masons opposed the MCGEO’s contention that their PPCs were time-barred.

Within 10 days of receiving the MCGEO’s answers, the LRA was required to either “[s]ummarily dismiss charges which [were] insufficiently supported in fact or in law to warrant a hearing” or “[i]ssue a notice of hearing.” COMCR 33.103.01.01(4). The record does not reflect that the LRA Williams summarily dismissed the charges at any point

during his tenure. However, in a May 2019 opinion/order, LRA Williams expressed concern that the PPCs, as submitted by the Masons, were “replete with many general and vague descriptions and allegations of charges,” rendering him “unable to adequately decipher and determine the essence and appropriateness of the charge[s].” Rather than summarily dismiss the charges for this reason, LRA Williams provided the Masons with an additional 30 days to submit a revised PPC. The record does not reflect that a revised PPC was filed by the Masons.

Additionally, while a notice of hearing is not contained in the record before this Court, the record does reflect that a hearing was scheduled for August 16, 2019 and, by request of Horace Mason, rescheduled for October 11, 2019. However, before the date of the hearing, LRA Williams recused himself from the proceedings after receiving an October 6, 2019 e-mail from the Masons suggesting that he “should be recused” for purported bias towards the county and the MCGEO. In his recusal order, LRA Williams specified that the parties should “request that the County designate another Labor Relations Administrator to preside over this matter.” The Masons’ PPC proceedings stalled pending the appointment of an LRA to replace Williams.

A replacement LRA not having been appointed, the Masons filed a complaint in the Circuit Court for Montgomery County, asserting that LRA Williams had “denied [them] equal and fair procedural due process” when he recused himself because the recusal deprived them of a formal hearing, to which they contend they were entitled. In their complaint, the Masons requested that the circuit court order LRA Williams “to hold a formal hearing in accordance to the Administrative Procedures Act (APA) under the close

supervision of [the court] overseeing that process.” The Masons ultimately moved to voluntarily dismiss their complaint on the county’s submission to the circuit court that Andrew Strongin had been appointed in June 2020 to preside over the Masons’ PPCs. However, Strongin’s time as LRA was short-lived as he, too, withdrew from the proceedings on the basis that Ms. Mason had “impugned [his] neutrality, integrity, and professional ethics and competence.” Though a dismissal was entered on August 17, 2020, the circuit court vacated the dismissal and set the matter for a hearing on the county’s motion to dismiss.

Prior to the hearing, the Masons filed a request for mandamus relief, requesting that the circuit court order the county executive to appoint an LRA “to expeditiously initiate a formal hearing.” The Masons also amended their complaint to assert that there was not an “LRA in position to afford [them] a formal hearing,” at that time. Again, the Masons requested that the court “mandate Montgomery County Executive Marc Elrich to expeditiously appoint an LRA specifically to afford Plaintiffs a hearing in accordance to the APA.” The county executive moved to dismiss the amended complaint, advising the court that a new LRA, David Clark, had been appointed and that the case was moot as the Masons had “all the relief to which they [were] entitled.” Following a February 23, 2021 hearing, the circuit court dismissed the amended complaint and denied, as moot, the Masons’ request for mandamus relief. The Masons noted a timely appeal from the court’s dismissal order.

## **DISCUSSION**

On appeal, the Masons raise nine claims of error with respect to the circuit court’s February 23, 2021 order. However, since the filing of the Masons’ notice of appeal, LRA Clark has issued a Final Decision and Order with respect to the PPCs at issue in this appeal. The Masons, further, filed a petition for judicial review, seeking review of LRA Clark’s decision. That matter is currently pending in the circuit court.

The issuance of LRA Clark’s decision has rendered this appeal moot. “A question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide.” *Maryland Comm’n on Hum. Rels. v. Downey Commc’ns, Inc.*, 110 Md. App. 493, 512 (1996) (internal citation and quotations omitted). Even were this Court to hold that the circuit court erred as alleged by the Masons, the Court cannot provide the Masons with the relief that they seek—the appointment of a new LRA and a “formal hearing” so that their PPCs may be heard. Such relief would require the Court to remand this matter to the circuit court with instructions that LRA Clark’s decision be set aside for another LRA to be appointed and for a formal hearing to take place. However, LRA Clark’s decision is subject to judicial review by the circuit court first and then, if desired, to the appellate courts of Maryland. *See* § 33.103.01.01(10) of the Code of Montgomery County Regulations. This appeal does not stem from the circuit court’s exercise of judicial review of LRA Clark’s decision. This Court, therefore, lacks authority to set the decision aside without review first being completed in the circuit court. Because any “decree the [C]ourt might enter would be without effect,” *Id.*, we dismiss this appeal as moot pursuant to Maryland Rule 8-602(b)(8).

**APPEAL DISMISSED AS MOOT.  
COSTS TO BE PAID BY  
APPELLANT.**