

Circuit Court for Prince George's County
Case No: CAL20-00680

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 161

September Term, 2021

STACEY JONES

v.

ALANA P. GAYLE

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 2, 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.

In October 2018, Stacey Jones, appellant, filed a Maryland Public Information Act (“MPIA”) request with the State’s Attorney’s Office for Prince George’s County (“the Office”). In his request, Mr. Jones sought the disclosure of a criminal case file and other documents related to his conviction for a July 1993 murder. In response, the Office sent two letters to Mr. Jones. The first advised him that the Office would provide copies of any document responsive to his request, excluding information protected as “attorney work product” and information “withheld due to privacy concerns.” The Office further explained that it would need at least 60 business days to, if possible, “locate[] the requested files in [its] archives, which is off-site.” The second letter, sent approximately two months after the first, advised Mr. Jones that the Office was not able to locate the requested case file in its archives.

Mr. Jones filed a complaint in the Circuit Court for Prince George’s County, alleging that the Office had violated his “statutory right to the public records” by failing to produce them as requested. The Office filed an answer, reiterating that it was unable to locate Mr. Jones’ criminal file and asserting that it could not withhold records in violation of the MPIA, as alleged, that it did not have in its possession. Mr. Jones moved to “dismiss” the answer, asserting, in pertinent part, that the averments made therein were unsupported by affidavit. Following a March 2021 hearing, in which testimony was taken, the court denied the relief sought in Mr. Jones’ petition for judicial review. Additionally, Mr. Jones’ subsequent “Motion to Alter or Amend a Judgment and Motion for Jurisdictional Mistake” was denied by the court.

On appeal, Mr. Jones presents three questions for our review, which we rephrase for clarity as follows:

1. Did the circuit court lack jurisdiction to convict and sentence Mr. Jones for the July 1993 murder?
2. Did the circuit court abuse its discretion in failing to strike the Office’s answer to Mr. Jones’ complaint?
3. Did the circuit court err in denying Mr. Jones’ complaint by failing to make findings that an applicable MPIA exception barred disclosure of his criminal case file?

For the following reasons, we shall affirm the judgment of the circuit court.

DISCUSSION

In his first claim of error, Mr. Jones contends “that the State’s attorney made a jurisdictional mistake to try, convict and sentence him, and thus that his conviction and sentence are invalid.” Mr. Jones raised this contention in his motion to alter and amend, requesting that the court exercise its revisory power to correct this “mistake” pursuant to Maryland Rule 2-535(b). We hold that the circuit court properly denied this request. Firstly, the revisory power afforded to the courts by Maryland Rule 2-535 and § 6-408 of the Courts and Judicial Proceedings Article applies to civil cases rather than criminal cases. Secondly, Mr. Jones’ attempt to revise a judgment entered in a separate criminal case, in an MPIA action, constitutes an impermissible collateral attack on a judgment and is not the proper vehicle for challenging an almost thirty-year-old criminal conviction and sentence. *See Mosley v. State*, 378 Md. 548, 558 (2003) (specifying that an action filed pursuant to the Maryland Uniform Post Conviction Procedure Act permits a “convicted person to

attack the judgment collaterally by challenging the legality of the conviction and incarceration in a separate evidentiary proceeding.”).

In his second claim of error, Mr. Jones contends that the Office’s answer should have been stricken as it did not contain an affidavit to support the factual averments contained therein. Without making an assignment of error, we are satisfied that Mr. Jones was not unfairly prejudiced by the lack of an affidavit in support the Office’s answer. Indeed, the court did not rely on the unsworn averments contained within the Office’s answer in denying the relief sought in Mr. Jones’ complaint. Rather, after receiving testimony at the hearing, the court expressed that it was satisfied with and had “no reason to disbelieve the testimony” of the witnesses that the requested criminal case file could not be located. Accordingly, we “will not reverse a lower court judgment for harmless error [because] the complaining party must show *prejudice* as well as *error*.” *Sumpter v. Sumpter*, 436 Md. 74, 82 (2013).

Lastly, in his third claim of error, Mr. Jones contends that the court failed to make findings that an applicable MPIA exception barred disclosure of his criminal case file and, therefore, the court erred in denying the relief sought in his complaint. The Office, however, did not withhold the requested file based on any MPIA exception as alleged. As permitted under § 4-202(d) of the General Provisions Article, the Office notified Mr. Jones that they could not locate the criminal case file. Indeed, upon receiving Mr. Jones’ MPIA request, the Office was only required to “conduct a search in good faith that [was] reasonably designed to capture all responsive records.” *Glass v. Anne Arundel County Maryland, et. al.*, 453 Md. 201, 232 (2017). It was “not expected to divert its resources to

an exhaustive search in response to a broadly worded request...at an expense that will not be recovered.” *Id.* So, in determining the reasonableness of the search, the court was tasked with measuring “prospectively...how the [Office] designed the effort to find responsive records, not retrospectively by its success in locating every responsive record.” *Id.*

The record does not contain evidence that the Office failed to make a diligent effort to search for the records. On the contrary, the testimony from an assistant State’s Attorney, and a paralegal with the Office revealed the efforts that the Office undertook to locate the file in its archives. Moreover, Mr. Jones did not elicit any testimony or evidence suggesting that the Office could have redirected its search elsewhere or that the criminal file was being deliberately withheld. Because the record contains competent and material evidence that the Office made diligent efforts to search for the requested criminal case file, the circuit court’s conclusion that the Office had complied with Mr. Jones’ MPIA request did not constitute clear error.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**