

Circuit Court for Dorchester County  
Case No. C-09-CV-18-000117

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0171

September Term, 2019

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CIRCLE 21 CATTLE COMPANY, LLC

v.

LAURANCE D. CASLER

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Kehoe,  
Shaw Geter,  
Robinson, Dennis Michael, Jr.  
(Specially Assigned)  
JJ.

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Opinion by Shaw Geter, J.

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Filed: May 19, 2020

\*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.

This appeal derives from an Order issued by the Circuit Court for Dorchester County that, *inter alia*, granted Summary Judgment to appellee, Laurance Casler. Following entry of the Order, appellant, Circle 21 Cattle Company, LLC, filed a Motion to Alter or Amend Judgment, which was denied. Appellant then filed a motion to reconsider, averring the court did not enter a final judgment. The motion for reconsideration was stricken by the court and appellant noted his first appeal, which was ultimately deemed untimely. On April 4, 2019, appellant filed this appeal and presents the following question for our review:

1. Whether the court committed error in striking appellant’s notice of appeal as untimely?<sup>1</sup>

For reasons discussed below, we conclude the court committed error, and thus, we remand this matter to the circuit court.

### **BACKGROUND**

While this appeal stems from procedural issues regarding the finality of the September 06, 2018, Order, for context, we briefly review the facts. The parties possess parcels of land adjacent to each other on Bailey Store Road in Federalsburg, Maryland. Sometime in March 2018, appellant erected a fence along an access road on his property in a manner that eliminated ingress and egress to portions of appellee’s property. On June 5, 2018, appellee filed a Complaint for Declaratory Judgment and Quiet Title, seeking to

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<sup>1</sup> Appellant’s original question on appeal is “Whether the court committed error in granting appellee’s motion to strike notice of appeal as untimely (i.e., late) when the time for noting an appeal had not yet started due to the lack of a final judgment?”

have the fence removed and a declaration that he had acquired a prescriptive easement across the property. Appellee also filed a Motion for Summary Judgment, Memorandum of Law in Support of Motion for Summary Judgment, and Affidavit in Support of Motion for Summary Judgment.

Appellant responded *pro se* with an Answer and a Request for Production of Documents. Appellee then filed a Motion to Strike and for Entry of Summary Judgment because appellant, as the owner of Circle 21 Cattle Company, a Limited Liability Company was prohibited by law from proceeding *pro se*. Shortly thereafter, appellant's counsel answered the complaint. On September 6, 2018, the court entered an Order that resolved the motions, granted appellee's Motion for Summary Judgment, ordered the removal of the fence, granted an easement by prescription, and awarded costs.

On September 17, 2018, appellant filed a Motion to Alter or Amend, averring the court improperly granted Summary Judgment. Appellee responded, and on October 25, 2018, the court issued an Opinion and Order denying appellant's Motion to Alter or Amend Judgment. Appellant then filed a motion to reconsider, arguing that a final judgment had not been entered. This motion was stricken by the court on January 10, 2019. On February 8, 2019, appellant noted his first appeal with a separate line requesting the issuance of a Final Judgment. Appellee filed motions to strike appellee's request and notice of appeal. On March 19, 2019, the court granted appellee's motions. Appellant then noted this appeal on April 4, 2019.

## **DISCUSSION**

Appellant argues the circuit court erred in striking his notice of appeal as untimely.

According to him, the order entered by the court on September 6, 2018, did not satisfy the requirements of Maryland Rule 2-601, that a separate document be entered, and thus, it did not constitute a final judgment. Appellee contends the notice of appeal was untimely, as it was filed more than 30 days after the court entered its order denying the Motion to Alter or Amend, which would have been no later than November 26, 2018.

“Whether a judgment is final, and thus[,] whether this Court has jurisdiction to review that judgment, is a question of law to be reviewed *de novo*.” *Baltimore Home All., LLC v. Geesing*, 218 Md. App. 375, 381 (2014). Appellate courts “review without deference a trial court’s ruling on legal issues.” *Bank of New York Mellon v. Georg*, 456 Md. 616, 652 (2017).

In Maryland, “[t]he right of appeal exists from a final judgment entered by a court in the exercise of original, special, limited, statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by law.” Md. Code Ann., Cts. & Jud. Proc. § 12-301. A party has “30 days after entry of the judgment or order” to file an appeal. Md. Rule 8-202(a). Entry occurs “when the clerk of the lower court enters a record on the docket of the electronic case management system used by that court.” Rule 8-202(f).

Maryland Rule 2-601 further, provides, in pertinent part:

(a) Separate Document—Prompt Entry.

(1) Each judgment shall be set forth on a separate document and should include a statement of an allowance of costs as determined in conformance with Rule 2-603.

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(b) Applicability—Method of Entry—Availability to the Public.

(2) Entry. The clerk shall enter a judgment by making an entry of it on the docket of the electronic case management system used by that court along with such description of the judgment as the clerk deems appropriate.

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(d) Date of Judgment On and after July 1, 2015, regardless of the date a judgment was signed, the date of the judgment is the date that the clerk enters the judgment on the electronic case management system docket in accordance with section (b) of this Rule. The date of a judgment entered prior to July 1, 2015 is computed in accordance with the Rules in effect when the judgment was entered.

Since October 1997, Rule 2-601(a) has expressly required that each judgment be “set forth on a separate document.” The goal of the separate document requirement is “to eliminate confusion about what is the ‘entry of the judgment’ from which the (30 day) deadline is computed. Clarity in this area is important, because uncertainty could result in an inadvertent loss of appeal rights.” *URS Corp. v. Fort Myer Constr. Corp.*, 452 Md. 48, 66 (2017) (internal citation omitted).<sup>2</sup> In *Hiob*, the Court of Appeals discussed the history of the separate document requirement and its counterpart in the Federal Rules of Procedure. *Hiob v. Progressive Am. Ins. Co.*, 440 Md. 466, 473–74 (2014). The Court noted that “in construing the separate document requirement of what is now Maryland Rule 2-601[(a)],” the Court “employ[s] the same principles as the federal court” namely, mechanical application “in determining whether an appeal is timely[,]” and interpreting the requirement “in favor of the preservation of appeal rights.” *Id.* at 480. The Court stated:

. . . the separate document itself must now set forth the judgment by indicating that the issues have been fully adjudicated and that the court has reached a final decision. An important aspect of this function is to clearly

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<sup>2</sup> See also THE HONORABLE KEVIN F. ARTHUR, FINALITY OF JUDGMENTS AND OTHER APPELLATE TRIGGER ISSUES (3rd ed. 2018).

indicate in the separate document which party has prevailed on which issues and what type of relief, if any, has been granted by the court. These features of [a] separate document ensure that the court issues ‘clear, precise, and complete judgments’ that provide the public and the litigants with clarity as to when a judgment is rendered, which party prevailed, when the judgment becomes effective and when an appeal must be filed.

*Id.* at 486. The Court also noted “that the requirement should be satisfied through the use of a document patterned after the forms devised for federal practice. *Id.*<sup>3</sup>

In the case at bar there are four docket entries for September 6, 2018, although two appear to be duplicates. The non-duplicate entries are titled: Order—Motion/Request Granted with the description *Motion for Summary Judgment* and Order with the description

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<sup>3</sup> The Court in *Hiob* noted in a footnote the following sample form, which was set out in a footnote in *Suburban Hospital, Inc. v. Kirson*, 362 Md. 140, 154 (2000):

Judgment on Jury Verdict

This action having come on for trial before the Court and a jury, the undersigned judge presiding, and the issues having been duly tried and the jury having duly rendered its special verdict,  
It is Ordered and Adjudged:

That the plaintiff, Phyllis R. Kirson, recover of the defendants, Suburban Hospital, Inc., Mary Beth Smith, Mary Anderson, and Aparangi Paul, jointly and severally, the sum of \$130,500, with interest and costs; and

That the plaintiff take nothing against the defendant, Carol Stephens, that the action be dismissed on the merits as to said defendant, and that the defendant, Carol Stephens, recover of the plaintiff, Phyllis R. Kirson, her costs.

/s/ \_\_\_\_\_

Judge

/s/ \_\_\_\_\_

(Date)

*Hiob*, at n. 19.

*Striking Answer and Entry of Summary Judgment.* The latter entry corresponds with the court’s document titled “Order,” which summarized the various pleadings and posture of the case and stated:

**ORDERED** that the Motion to Strike Answer and for Entry for Summary Judgment, and the Motion for Summary Judgment, which were filed by Plaintiff, Laurance D. Casler, be and the same is hereby **GRANTED**; and further

**ORDERED** that the original Answer to Complaint that was filed by the Defendant, Circle 21 Cattle Company, LLC, on July 25, 2018, be and the same is hereby **STRICKEN**; and further

**ORDERED** that the Response to Motion to Strike and Entry of Summary Judgment that was filed by the Defendant, Circle 21 Cattle Company, LLC, be and the same is hereby **STRICKEN**; and further

**ORDERED** that judgment as a matter of law be and the same is hereby entered in favor of the Plaintiff and against the Defendants; and further

**ORDERED** that, within thirty (30) days of this Order, the Defendant, Circle 21 Cattle Company, LLC, shall remove all parts of the fence that it caused to be constructed that in any way adversely affects the Plaintiff’s methods of ingress, egress, and regress to and from all and any portions of the premises that are commonly known as Countryside Trailer Park; and further

**ORDERED** that the Plaintiff, and those holding by, through, or under him, be and the same are hereby declared to hold a prescriptive easement over the aforementioned access road to and from the underlying trailers, to and from Baily Store Road, as depicted more fully on Exhibit I to the Complaint; and further

**ORDERED** that the Defendant, Circle 21 Cattle Company, LLC, and all other entities and persons claiming by, through, or under it, be and the same are hereby enjoined from interfering with the rights that are described herein; and further

**ORDERED** that the Defendant, Circle 21 Cattle Company, LLC, shall pay any open costs of these proceedings.

As we see it, while the Order did announce the court’s decision regarding summary judgment, it did not do so with the clarity required by the Rule and the attendant case law. As titled and issued, the Order addressed several different issues and motions filed prior to its summary judgment determination. It did not clearly indicate to the parties and the public that it was a Judgment and that the court had adjudicated the issues presented and rendered a final decision as to the claims. *See Won Bok Lee v. Won Sun Lee*, 466 Md. 601, 627–28 (2020). “Compliance with Rule 2-601 is ‘not just a matter of complying with a hyper-technical rule.’” *Hiob*, at 480 (quoting *Allstate Ins. Co. v. State Farm Mut Auto Ins. Co.*, 363 Md. 106,117 n. 1 (2001)). Instead as in the federal courts, the mechanical application of the rule is necessary to fulfill its purpose of providing clear and precise judgments and to eliminate uncertainty as to when an appeal must be filed. *Id.* at 480. Here, because the court’s Order did not satisfy that requirement, the judgment was not final. We will remand this case to the circuit court for it to enter a final judgment in compliance with Rule 2-601. Once entered, appellant’s time for filing a notice of appeal will begin to run.

**JUDGMENT OF THE CIRCUIT COURT  
FOR DORCHESTER COUNTY VACATED  
AND REMANDED FOR FURTHER  
PROCEEDINGS; COSTS TO BE PAID BY  
APPELLEE.**