

Circuit Court for Baltimore County  
Case No. C-03-CV-20-003425

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 200

September Term, 2023

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KAMAU STOKES

v.

THE SPORTS & ENTERTAINMENT  
GROUP, PLLC

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Berger,  
Leahy,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Berger, J.

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Filed: February 13, 2024

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms with Rule 1-104(a)(2)(B). Md. Rule 1-104.

This case is before us on appeal from an order of the Circuit Court for Baltimore County enforcing an arbitrator’s award against Kamau Stokes, appellant (“Stokes”). Appellee, The Sports & Entertainment Group, PLLC (“TSEG”), filed suit against Stokes alleging breach of contract and unjust enrichment. The circuit court granted Stokes’s motion to compel arbitration. Thereafter, the arbitrator concluded that the matter was not arbitrable, remanded the matter to the Circuit Court for Baltimore County, and awarded arbitration costs in favor of TSEG. The circuit court denied Stokes’s motion to vacate the arbitration award and dismiss TSEG’s complaint and granted TSEG’s motion to enforce the arbitrator’s award.

On appeal, Stokes presents three questions for our review, which we rephrase and consolidate as follows:<sup>1</sup>

Whether the circuit court erred in enforcing the arbitrator’s award for arbitration costs against Stokes.

For the reasons explained herein, we shall affirm.

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<sup>1</sup> Stokes’s original questions presented read as follows:

1. Did Judge Levie exceed his powers as an arbitrator by asserting jurisdiction despite not meeting the requirements of JAMS Rule 5?
2. Did Judge Levie refuse to hear evidence material to the controversy by not holding a hearing or allowing testimony, and therefore violate Section 3-213(a)(1) of the Courts and Judicial Proceedings Article?
3. Is *ex parte* contact between Judge Levie and TSEG evidence of bias that unfairly prejudiced Mr. Stokes?

## FACTS AND PROCEDURAL HISTORY

### *The Contracts*

The dispute between the parties in this case arises from a contractual relationship between Stokes and TSEG through which TSEG represented Stokes in his efforts to become a professional basketball player with the National Basketball Association (NBA). On or around April 7, 2019, Stokes entered two contracts with the chief executive officer of TSEG, Adisa P. Bakari (“Bakari”): a National Basketball Players Association (NBPA) Standard Player Agent Contract (SPAC) and an “Engagement Letter.”

Under the SPAC, TSEG agreed to render services to Stokes during the 2019 NBA Draft “in conducting individual compensation negotiations or in assisting, advising or counseling [Stokes] in connection with individual compensation negotiations” between Stokes and any NBA teams. Paragraph 5 of the SPAC addresses reimbursement for expenses incurred by TSEG in its performance of the services covered by the SPAC. This provision provides:

All expenses incurred by the Player Agent in the performance of the services hereunder shall be solely the Player Agent's responsibility and shall not be reimbursable by the Player, except that *with respect to each player contract negotiated under this Agreement* (irrespective of the number of playing seasons covered) the Player shall (i) reimburse the Player Agent for reasonable travel, living and communication expenses (e.g. telephone, postage) actually incurred by the Player Agent up to Two Thousand Dollars (\$2,000); provided, however, if the expenses exceed Two Thousand Dollars (\$2,000), the Player shall be obligated to reimburse the Player Agent for the amount of the excess only if he gave express prior consent to the Player Agent to incur those expenses . . . . The Player shall promptly pay all expenses, fees and costs for

which he is obligated under this Paragraph 5 upon receipt of an itemized statement thereof.

The SPAC also includes an arbitration clause requiring that “[a]ny and all disputes between [Stokes and TSEG] . . . involving the meaning, interpretation, application, or enforcement” of the SPAC shall be resolved through arbitration. The NBPA Regulations set forth the procedures for such arbitration. Section 5.A of the NBPA Regulations provides:

Any [arbitration] grievance must be filed within thirty (30) days from the date of the occurrence of the event upon which the grievance is based or within thirty (30) days from the date on which the facts of the matter become known or reasonably should have become known to the grievant or within thirty (30) days from the effective date of these Regulations, whichever is later. A Player need not be under contract to an NBA Team at the time a grievance relating to him hereunder arises or at the time such grievance is initiated or processed.

Stokes and Bakari also signed an “Engagement Letter” contract, under which TSEG agreed to pay select “pre-approved expenses” incurred by Stokes and his immediate family “in connection with [his] preparation for the 2019 NBA Draft.” These “Pre-Draft Expenses” include training costs, training equipment, travel and transportation, meals and nutritional supplements, and “other related Pre-Draft Expenses.” The Engagement Letter also includes terms dictating reimbursement of Pre-Draft Expenses upon termination of the contract:

[I]n the event [Stokes] decide[s] to terminate Adisa P. Bakari as [his] NBA Agent, whether directly or indirectly, prior to the negotiation of [his] rookie NBA player contract, [Stokes] hereby agree[s] to . . . (ii) reimburse TSEG for any and all pre-

Draft Expenses incurred by TSEG through the date of such termination.

The Engagement Letter does not include an arbitration clause.

*Proceedings in the Circuit Court for Baltimore County*

TSEG alleges that, on or around June 29, 2019, Stokes terminated his relationship with TSEG and Bakari. Stokes was never drafted by, and never commenced contract negotiations with, an NBA team. TSEG also alleges that Stokes incurred \$14,483.90 in Pre-Draft Expenses of which Stokes was required, under the terms of the Engagement Letter, to reimburse TSEG. On October 5, 2020, TSEG filed suit against Stokes in the Circuit Court for Baltimore County seeking reimbursement of the Pre-Draft Expenses, plus interest and attorneys' fees.<sup>2</sup> The complaint includes one count of breach of contract and one count of unjust enrichment.<sup>3</sup>

On August 13, 2021, Stokes filed a motion to compel arbitration and dismiss TSEG's complaint with prejudice. Stokes argued that TSEG's claim is governed by the terms of the SPAC and its arbitration clause. Stokes also argued that an order compelling arbitration would necessarily dismiss the case with prejudice because TSEG failed to bring an appropriate arbitration claim within the 30 days required under the NBPA Regulations.

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<sup>2</sup> TSEG originally filed its complaint on September 17, 2020, but the filing was deficient under Maryland Rule 20-107(a)(2). TSEG failed to correct the deficiency within the 14 days provided by the circuit court.

<sup>3</sup> On January 25, 2021, the circuit court entered an order of default against Stokes. Stokes moved to vacate the default order on February 15, 2021, arguing that he never filed a response to TSEG's complaint because he was not properly served. On April 19, 2021, TSEG filed a consent motion to vacate the order of default, which the circuit court granted.

In opposition to Stokes’s motion, TSEG argued that its complaint for breach of contract and unjust enrichment only alleges breach of the provisions of the Engagement Letter. Furthermore, TSEG emphasized that TSEG and Bakari never rendered services under the SPAC because Stokes never entered contract negotiations with an NBA team. For these reasons, TSEG asserted that the dispute is not covered by the SPAC or its arbitration clause.

The circuit court held a hearing regarding Stokes’s motion to compel arbitration on October 6, 2021 and entered an order granting Stokes’s motion on October 8, 2021. The court’s order did not dismiss TSEG’s complaint but stayed the matter in the circuit court pending resolution of the arbitration.

***NBPA Arbitration and Remand to the Circuit Court for Baltimore County***

The matter was submitted to Judge Richard A. Levie for an NBPA arbitration. Judge Levie, a retired judge of the Superior Court for the District of Columbia, is an arbitrator for JAMS Arbitration (“JAMS”) and acts as the sole arbitrator for NBPA disputes. TSEG filed its arbitration grievance with Judge Levie on November 4, 2021, requesting that Judge Levie make a preliminary determination as to the arbitrability of the matter before considering the merits. On June 17, 2022, Stokes moved to dismiss the arbitration, arguing that TSEG’s grievance was barred by the 30-day statute of limitations under the NBPA Regulations. Stokes contended that the circuit court’s order granting the motion to compel arbitration had the effect of dismissing TSEG’s complaint and challenged Judge Levie’s jurisdiction to conduct the arbitration under JAMS regulations.

On August 25, 2022, Judge Levie issued a Final Arbitration Award addressing the arbitrability of the dispute and awarding arbitration costs. Judge Levie first addressed Stokes’s argument that Judge Levie lacked jurisdiction to conduct the arbitration. Judge Levie emphasized that, although he “works with JAMS and uses JAMS personnel to administratively support his work for the NBPA,” NBPA arbitrations are not conducted pursuant to JAMS rules and regulations. Accordingly, the jurisdictional provisions included in JAMS regulations had no bearing on Judge Levie’s authority to conduct arbitration proceedings of the NBPA.<sup>4</sup> Judge Levie, therefore, rejected Stokes’s preliminary jurisdictional argument.

On the issue of arbitrability, Judge Levie concluded that TSEG’s complaint is based on allegations of breach of the Engagement Letter, not the SPAC. He reasoned that TSEG seeks reimbursement for Pre-Draft Expenses – not expenses incurred while rendering services under the SPAC involving contract negotiations with an NBA team. Judge Levie concluded:

Because the matter presented by TSEG does not involve a SPAC-dependent issue but, rather, a contractual one resting on the Engagement Letter, the dispute here is not arbitrable. Thus, the proper procedural result is to remand the matter to the Circuit Court for Baltimore County for disposition on the merits.

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<sup>4</sup> The Final Arbitration Award also clarifies that Judge Levie pays JAMS “a portion of all monies billed to the parties for his services” in order to cover the cost of JAMS administrative support, which includes “obtaining engagement letters, receiving retainer payments, scheduling, billing, [and] receipt of payment for the Arbitrator’s services.” The NBPA does not pay for any of the administrative support services that JAMS provides to Judge Levie.

Judge Levie also considered TSEG’s request that it be awarded arbitration costs. Under NBPA Regulation 5.E, parties ordinarily split arbitration costs. An NBPA arbitrator, however, “may assess some or all of the party’s costs to an opposing party if he deems a party’s conduct to be frivolous.” Judge Levie concluded that Stokes’s conduct rose to the level of frivolous conduct, noting:

To argue to the Court that the NBPA Regulation’s time limit for commencing arbitrations was not met here and that the NBPA Arbitrator had exclusive jurisdiction, succeed in Court on that argument and then come here before the Arbitrator to say that the Arbitrator has no jurisdiction, to put it mildly, is troublesome. Moreover, the fact that Stokes appears to have believed and then argued that the expiration of the NBPA 30-day provision for commencement of arbitrations automatically entitled Stokes to seek dismissal on the very arbitration he sought demonstrated a serious disregard of long-standing NBPA precedent on the interpretation of and application of that 30-day provision . . . . Moreover, Stokes’ 180° reversal of position when before the Arbitrator to assert, notwithstanding his Court claim that the matter was arbitrable, that JAMS (through the Arbitrator) lacks “jurisdiction to conduct arbitration” and to not pay his share of the arbitration costs in an arbitration he sought, also constitute frivolous conduct.

Judge Levie, therefore, awarded \$10,476.28 in arbitration costs in favor of TSEG.

***Stokes’s Motion to Vacate and TSEG’s Motion to Enforce the Arbitrator’s Award***

On October 24, 2022, Stokes filed a motion to vacate the arbitrator’s award and dismiss TSEG’s complaint. Stokes once again argued that Judge Levie lacked jurisdiction as a JAMS arbitrator to preside over the arbitration. He also asserted that Judge Levie erred in failing to hold a substantive evidentiary hearing and in awarding arbitration costs against him. Finally, Stokes argued that Judge Levie lacked impartiality due to alleged *ex parte*

contact between the judge and TSEG. This allegation refers to an email sent from TSEG’s counsel to Judge Levie on November 4, 2021, on which Stokes’s counsel was not copied and to which Judge Levie did not respond.

The circuit court held a hearing on January 18, 2023 considering Stokes’s motion. On January 20, 2023, the court issued an order denying Stokes’s motion to vacate the arbitrator’s award and dismiss TSEG’s complaint. The court’s order noted that the issue of arbitrability “is precisely the issue that the Court expected the arbitrator to address as a threshold matter” and declined to challenge the arbitrator’s finding. The court also concluded that none of the grounds for vacating an arbitrator’s award under Section 3-224 of the Courts and Judicial Proceeding Article of the Maryland Code applied.<sup>5</sup> Finally, the

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<sup>5</sup> Under Md. Code (1974, 2020 Repl. Vol) § 3-244(b) of the Courts & Judicial Proceedings Article, a circuit court shall vacate an arbitrator’s award if:

- (1) An award was procured by corruption, fraud, or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral, corruption in any arbitrator, or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown for the postponement, refused to hear evidence material to the controversy, or otherwise so conducted the hearing, contrary to the provisions of § 3-213, as to prejudice substantially the rights of a party; or

court held that Stokes failed to raise a “sufficient legal or factual basis to dismiss TSEG’s complaint.” The circuit court, therefore, denied Stokes’s motion and lifted the stay of the case in the circuit court.

Following this court order, Stokes continued to refuse to pay the \$10,476.28 owed to TSEG under the arbitrator’s award. On March 2, 2023, TSEG filed a motion to enforce the arbitrator’s award pursuant to Section 3-227 of the Courts and Judicial Proceedings Article of the Maryland Code. TSEG requested that the court issue an order demanding that Stokes pay the entire sum within 10 days of the order’s issuance. Stokes did not file an opposition to TSEG’s motion. On March 23, 2023, the circuit court granted TSEG’s motion and issued an order enforcing the arbitrator’s award, requiring Stokes to make the full payment within 10 days. Stokes noted this interlocutory appeal, and the case remains pending in the Circuit Court for Baltimore County.

### **DISCUSSION**

On appeal, Stokes raises three arguments challenging the arbitrator’s award against him. First, Stokes argues that Judge Levie lacked jurisdiction to conduct the arbitration and that the award should be vacated. Stokes contends that the arbitration was governed

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(5) There was no arbitration agreement as described in § 3-206, the issue was not adversely determined in proceedings under § 3-208, and the party did not participate in the arbitration hearing without raising the objection.

Md. Code (1974, 2020 Repl. Vol) § 3-244(b) of the Courts & Judicial Proceedings Article (“CJP”).

by JAMS regulations because Judge Levie is a JAMS arbitrator. Rule 5 of the JAMS regulations provides the jurisdictional limits on JAMS arbitrations:

- (a) The Arbitration is deemed commenced when JAMS issues a Commencement Letter based upon the existence of one of the following:
  - (i) A post-dispute Arbitration Agreement fully executed by all Parties specifying JAMS administration or use of any JAMS rules; or
  - (ii) A pre-dispute written contractual provision requiring the Parties to arbitrate the dispute or claim and specifying JAMS administration or use of any JAMS Rules or that the Parties agree shall be administered by JAMS; or
  - (iii) A written confirmation of an oral agreement of all Parties to participate in an Arbitration administered by JAMS or conducted pursuant to any JAMS Rules; or
  - (iv) The Respondent's failure to timely object to JAMS administration, where the Parties' Arbitration Agreement does not specify JAMS administration or JAMS Rules; or
  - (v) A copy of a court order compelling Arbitration at JAMS.

Stokes argues that none of these jurisdictional requirements were met and that Judge Levie, therefore, lacked jurisdiction to conduct the arbitration.

Second, Stokes asserts that the arbitrator's award should be vacated because Judge Levie never conducted an arbitration hearing "to hear evidence material to the controversy." Md. Code (1974, 2020 Repl. Vol) § 3-244(b)(4) of the Courts & Judicial Proceedings Article ("CJP"). Finally, Stokes contends that the alleged *ex parte* communication between TSEG and Judge Levie indicates that Judge Levie lacked

impartiality. As noted *supra*, this refers to an email that TSEG’s counsel sent to Judge Levie on November 4, 2021 on which Stokes’s counsel was not copied and to which Judge Levie never responded.

TSEG argues that Stokes’s appeal is untimely. Under Maryland Rule 8-202(a), a “notice of appeal shall be filed within 30 days after entry of the judgment or order *from which the appeal is taken.*” Md. Rule 8-202(a) (emphasis added). The circuit court entered its order denying Stokes’s motion to vacate on January 20, 2023 and entered its order enforcing the arbitrator’s award on March 23, 2023. Stokes filed his notice of appeal on April 3, 2023 – 73 days after the court denied his motion to vacate and 11 days after the court entered its order enforcing the award. TSEG contends that Stokes’s appeal is effectively an appeal of the circuit court’s denial of his motion to vacate -- not an appeal of the circuit court’s order enforcing the arbitrator’s award -- and is untimely.

Stokes’s April 3, 2023 notice of appeal is an appeal from the circuit court’s March 23, 2023 order enforcing the arbitrator’s award. We, therefore, conclude that Stokes filed a timely notice of appeal as to the circuit court’s order enforcing the arbitration award. Nevertheless, the issues raised by Stokes on appeal do not involve the “order from which the appeal is taken.” Md. Rule 8-202(a). Stokes simply reiterates the arguments he made in support of his motion to vacate the arbitrator’s award. Stokes’s arguments regarding Judge Levie’s jurisdiction as a JAMS arbitrator, the lack of a substantive arbitration hearing, and Judge Levie’s alleged impartiality were all raised by Stokes in his motion to vacate.

The circuit court considered these arguments at a hearing regarding Stokes’s motion to vacate the arbitrator’s award. At the conclusion of the hearing, the court announced that it would hold the matter *sub curia* and issue a decision within thirty days. The circuit court ultimately rejected Stokes’s arguments and issued an order denying Stokes’s motion to vacate on January 20, 2023. The court concluded that Stokes failed to provide a “sufficient legal or factual basis” to vacate the arbitrator’s award or dismiss TSEG’s complaint.

The proper timeline by which to appeal the court’s judgment on the issues resolved in its January 20, 2023 order denying Stokes’s motion to vacate was within 30 days of that order. Stokes failed to file a notice of appeal regarding the circuit court’s January 20, 2023 order. As such, Stokes’s has waived for our consideration on appeal any arguments that the circuit court erred in denying his motion to vacate the arbitrator’s award.

The substantive arguments that Stokes raises in this appeal all address his motion to vacate the arbitrator’s award and the court’s denial of that motion. By contrast, Stokes fails to raise any substantive arguments about or procedural challenges to the “order from which this appeal is taken” -- the circuit court’s order granting TSEG’s motion to enforce the arbitrator’s award. TSEG’s motion simply requested that the court grant its motion and require Stokes to pay the \$10,476.28 within 10 days of the court’s order. Similarly, the circuit court’s March 23, 2023 simply granted TSEG’s motion and ordered Stokes to pay the award within ten days. Neither TSEG’s motion nor the court’s order granting the motion raise or resolve any factual or legal arguments -- including those addressed in Stokes’s motion to vacate the arbitrator’s award. As such, Stokes failed to identify

a legal basis by which this Court should vacate the judgment of the circuit court enforcing the arbitrator’s award. We, therefore, affirm the judgment of the circuit court.

Even if Stokes’s arguments were not waived by his failure to appeal the circuit court’s denial of his motion to vacate, we would still affirm the decision of the circuit court and conclude that Stokes’s arguments are without merit. First, Stokes incorrectly suggests that Judge Levie lacked jurisdiction to conduct the arbitration. It is well-established from the record that the NBPA Regulations govern any and all NBPA arbitrations conducted by Judge Levie. Therefore, Judge Levie’s jurisdiction to conduct the arbitration was not limited by the jurisdictional provisions of the JAMS regulations.

Second, no hearing was required prior to Judge Levie’s issuance of the Final Award because Judge Levie never reached the merits of the dispute warranting a substantive evidentiary hearing. The Final Award merely concluded that the matter was not arbitrable and awarded arbitration costs.<sup>6</sup>

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<sup>6</sup> At oral argument, Stokes also raised -- for the first time -- the relevance of the Supreme Court of Maryland’s decision in *Access Funding, LLC v. Linton*, 482 Md. 602 (2022). Stokes argued that, under *Linton*, an arbitrator is not authorized to weigh in on the issue of arbitrability after a circuit court has ruled that a dispute is arbitrable. We disagree. The Supreme Court in *Linton* recognized that a court’s consideration of an arbitration matter “may involve two separate, and distinct, issues: (1) whether an agreement to arbitrate exists; and (2) whether a particular dispute falls within the scope of the arbitration agreement.” *Linton, supra*, 482 Md. at 642. The Court further noted that the first issue is “always a matter to be decided by the court, and not the arbitrator,” while the second issue “may be decided by the court *or* the arbitrator, depending on the relevant circumstances.” *Id.* (emphasis added). There is no dispute that Stokes signed the SPAC, which includes a binding arbitration clause. The issue before us is whether the dispute is subject to the SPAC and its arbitration clause. As such, under *Linton*, it was entirely appropriate for Judge Levie to determine whether this dispute falls within the scope of the SPAC’s arbitration agreement. Indeed, as discussed *infra*, the circuit court noted in its January 20, 2023 order that the issue of arbitrability “is precisely the issue that the Court expected the arbitrator to address as a threshold matter.”

Finally, we reject Stokes’s bald allegation that any prejudicial *ex parte* communication occurred. Although TSEG’s counsel failed to copy Stokes’s counsel on an email to Judge Levie on November 4, 2021, Judge Levie never responded to this email. Furthermore, the email was thereafter forwarded to Stokes’s counsel. Additionally, JAMS General Manager Stacey L. Harrison emailed both parties’ counsel and instructed: “Please note that any correspondence sent in this matter must be copied to the opposing counsel. In addition, Judge Levie will not respond to any outreach that is not copied to both parties, and he did not respond to the letter reference below sent to us on November 4, 2021.” In our view, this does not constitute *ex parte* communications discrediting the impartiality of the arbitrator.

For the reasons explained herein, we affirm the circuit court’s order enforcing the arbitration award.

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