

Circuit Court for Baltimore County  
Case No. 03-C-17-009326

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0254

September Term, 2021

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GOKUL CHETTY

v.

ANNA SPITZER

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Fader, C.J.,  
Arthur,  
Battaglia, Lynne A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Arthur, J.

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Filed: February 9, 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.

After this Court dismissed Gokul Chetty’s appeal because of his failure to file a timely brief, the appellee moved, under Md. Rule 1-341, for an award of the attorneys’ fees associated with the appeal. The Circuit Court for Baltimore County found that Chetty had pursued the appeal in bad faith and without substantial justification, and awarded over \$13,000 in attorneys’ fees.

Chetty appealed the award of sanctions. We affirm.

#### BACKGROUND

On April 13, 2017, Chetty entered an *Alford* plea<sup>1</sup> to charges of misuse of electronic mail, with the intent to harass appellee Anna Spitzer; alteration or destruction of a public record; and assuming the identity of another.

In brief, the State proffered that Chetty (using an alias) had had a consensual sexual relationship with appellee. When appellee attempted to terminate the relationship, Chetty embarked on an extensive campaign of harassment. As one part of the campaign, Chetty sent her a falsified document that purported to be police report about her, and told her that his “firm” would assist her, but only if she continued the relationship. When she insisted on terminating the relationship, Chetty impersonated an Assistant State’s Attorney and hired a private investigator to serve forged subpoenas on her. The subpoenas were intended to obtain her personal belongings, such as her cell phone, wallet, and handbag. Chetty’s scheme came to light when the private investigator

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<sup>1</sup> An *Alford* plea is a “guilty plea containing a protestation of innocence.” *Bishop v. State*, 417 Md. 1, 19 (2010) (cleaned up). It is “the functional equivalent of a guilty plea.” *Id.* at 20. The term derives from *North Carolina v. Alford*, 400 U.S. 25 (1970).

became suspicious of him and called the Assistant State’s Attorney whom Chetty was impersonating. Chetty, a Canadian citizen, was apprehended by United States Border Patrol agents on an arrest warrant at the international border at Champlain, New York, as he was attempting to re-enter the United States.

Although Chetty did not admit his guilt, he “acknowledge[d]” that his actions were “severely out of character” and that they did in a “negative way impact other people.”

The circuit court sentenced Chetty to four and half years of imprisonment, all suspended, except for the approximately six months that he had served in the Baltimore County Detention Center after his arrest. In addition, the court ordered Chetty not to have any direct or indirect contact with appellee. His iPad or computer was to be wiped clean after he had the opportunity to download certain personal information.

On September 21, 2017, five months after he had pleaded guilty, Chetty filed a complaint against appellee, in the Circuit Court for Baltimore County. In his complaint, Chetty alleged that his conviction was based on what he called her defamatory statements and false allegations. With his complaint, Chetty served a set of intrusive interrogatories that pried into appellee’s personal matters and private life.

On May 17, 2018, the circuit court granted summary judgment in favor of appellee on the ground that she had an absolute privilege from claims of defamation based on statements made in connection with a judicial proceeding. *See generally Offen v. Brenner*, 402 Md. 191, 199-205 (2007).

After the entry of summary judgment, appellee’s attorneys moved for sanctions under Rule 1-341(a). They asserted that Chetty had pursued his complaint in bad faith and without substantial justification. The circuit court agreed: it ordered Chetty and his attorney to pay a total of more than \$28,000 in fees to appellee’s attorneys.

At the hearing on the motion for sanctions on October 15, 2018, Chetty’s attorney had brandished intimate photographs (or digital images) of appellee. In response, appellee promptly moved for an order requiring Chetty and his lawyer to destroy those images. She argued that Chetty’s use and possession of the images was part of a campaign of harassment and abuse, which had begun with the crimes that he committed against her and continued through the frivolous lawsuit that he had pursued. She posited that he had managed to retain the digital images even though the court had ordered his computer or iPad to be wiped clean.

On January 15, 2019, the court granted the motion and ordered Chetty and his lawyer to destroy the images.<sup>2</sup>

On March 11, 2019, Chetty, representing himself, moved to “vacate” the order. The court treated the motion as a revisory motion under Rule 2-535(a), which must be filed within 30 days of a judgment. Consequently, in an order that was docketed on April 16, 2019, the court denied the motion on the ground that it was untimely.

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<sup>2</sup> In a subsequent order, the court stated that the order requiring Chetty and his lawyer to destroy the images was entered on the docket on January 31, 2019. To date, however, the order is unavailable on MDEC or on Maryland Judiciary Case Search.

On April 26, 2019, Chetty filed what he termed a motion to alter or amend the order that denied his motion to vacate. He did not wait, however, for the court to rule on that motion. Instead, on May 16, 2019, he noted an appeal from the order denying his motion to vacate.<sup>3</sup>

While Chetty's appeal was pending, he requested five extensions of time to file his brief. On July 20, 2020, the extended deadline for filing the brief, Chetty requested a sixth extension. This Court denied the request and dismissed the appeal.

After this Court dismissed Chetty's appeal, appellee filed a second motion for sanctions, to recover the attorneys' fees associated with the appeal.

On November 5, 2020, the circuit court convened a remote hearing on the motion, but Chetty did not participate. Based on the presentation by appellee's attorneys at the hearing, the court granted the motion. The court specifically found that Chetty had proceeded in bad faith and without substantial justification. The court observed that Chetty had continued to engage in the course of conduct that began before his guilty plea,

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<sup>3</sup> Ordinarily, if a party files a timely motion to alter or amend a judgment under Rule 2-534 (within 10 days of the judgment), the motion stays the time for noting an appeal until the withdrawal or disposition of the motion. *See* Md. Rule 8-202(c); *see also* *Martino v. Arfaa*, 169 Md. App. 692, 702 (2006); *Pickett v. Noba, Inc.*, 114 Md. App. 552, 556 (1997). If, however, a party files a "motion to alter or amend" to challenge the denial of a motion to revise a judgment, the "motion to alter or amend" is treated as a second revisory motion under Rule 2-535(a). *See* *Leese v. Department of Labor, Licensing & Regulation*, 115 Md. App. 442, 444-46 (1997). A motion to revise a judgment under Rule 2-535(a) does not stay the time for noting an appeal from the judgment itself. *See, e.g., Pickett v. Noba, Inc.*, 114 Md. App. at 556. Consequently, if Chetty wanted to obtain appellate review of the denial of his first revisory motion, he was required to note an appeal within 30 days after that order was entered on the docket, which he did.

that Chetty’s conduct amounted to “judicial stalking,” that Chetty had not advanced a position that was even fairly debatable on appeal, and that Chetty had not identified any reason to use the digital images except to “embarrass, humiliate, and torment [appellee].”

After the hearing on November 5, 2020, Chetty asserted that he had not received proper notice. Because the court found no proof of notice in the court file, it struck the order granting sanctions, scheduled a new hearing for March 26, 2021, and obtained current contact information from Chetty himself.

Chetty filed a written opposition to the second motion for sanctions on February 19, 2021. In his opposition, Chetty began by asserting that he had difficulties in formulating his response because, he said, his internet service provider had been experiencing widespread outages. He represented that he would supplement his response in three to four days. He never filed any supplementation.

On the merits, Chetty disagreed that his plea agreement required him to destroy all “multimedia content” pertaining to appellee. He claimed that he was obligated to retain the information in order to protect himself from what he characterized as false accusations by appellee<sup>4</sup> and to pursue other courses of action. Those courses of action appear to include a challenge to his plea agreement, an allegation of prosecutorial misconduct in the criminal case against him, “administrative hearings relative to his

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<sup>4</sup> Chetty appears to have had access to a transcript of the hearing of November 5, 2020, as he disputed an allegation by appellee’s counsel that he (Chetty) had done something to cause appellee to be arrested in Texas, where she had moved in an effort to avoid harassment by Chetty.

professional license,”<sup>5</sup> and other, unspecified “civil and criminal action[s] in competent jurisdictions.” He denied that he had proceeded in bad faith or without substantial justification, and he argued that appellee’s attorneys were not entitled to an award of fees because they had represented her without charge.

At 3:31 a.m. on the day of the hearing, Chetty sent an email to the court, in which he requested a continuance on the ground that he was undergoing an unidentified medical procedure that day. The court denied the request for a continuance, and appellee’s attorneys proceeded to adopt the arguments that they had made at the previous hearing, in November 2020.

In a written order docketed on March 26, 2021, the date of the hearing, the court granted the motion for sanctions and ordered Chetty to pay a total of more than \$13,000 to appellee’s attorneys. In the order, the court made the following findings:

- Chetty had pursued the appeal “in bad faith, vexatiously, and for the purpose of harassing [appellee].”
- Chetty had pursued the appeal “without substantial justification,” because the digital images do not “carry any evidentiary value whatsoever,” and Chetty’s position to the contrary was neither a “fairly debatable position” nor “within the realm of legitimate advocacy.”

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<sup>5</sup> Chetty is either a current or former medical student, a medical school graduate, or a physician in the Canadian Province of Québec.

- Chetty’s “intentional course of misconduct, particularly his pattern of engaging in unnecessary and abusive litigation for the purpose of harassing [appellee], continues to this day and warrants the assessment of sanctions.”

Chetty, representing himself, noted a timely appeal.

### **QUESTIONS PRESENTED**

Chetty raises three questions, which we quote:

1. Was the trial Court legally incorrect in granting the Second Amended Motion for Sanctions when it had full knowledge that the Appellant had a duty to preserve material evidence for other ongoing legal proceedings?
2. Was the trial Court legally incorrect in granting the Second Amended Motion for Sanctions even when the Appellant had a Constitutional Right to preserve material evidence for his defense?
3. Was the trial Court legally incorrect in granting the Second Amended Motion for Sanctions even when the statutory law did not permit Attorney’s fees?

We answer each question in the negative. For the reasons stated below, we affirm.

### **DISCUSSION**

Md. Rule 1-341(a) permits a court, on motion, to order a party, a party’s attorney, or both to pay “the costs of [a] proceeding and the reasonable expenses, including reasonable attorneys’ fees, incurred by the adverse party” if the proceeding was maintained or defended in “bad faith or without substantial justification.” Thus, before imposing sanctions under the rule, the trial court must make two distinct findings. *Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. 254, 267 (1991). First, the court must find



that the party maintained or defended the proceeding in bad faith, or without substantial justification, or both. *Id.* Second, the court must find that the bad faith or lack of substantial justification merits the assessment of costs or attorneys' fees. *Id.* at 267-68.

Chetty does not dispute that the circuit court made the requisite findings in this case. *Compare Barnes v. Rosenthal Toyota, Inc.*, 126 Md. App. 99, 106-07 (1999). Instead, he disputes the validity of the findings themselves, as well as the award of fees to lawyers who, he says, were representing appellee on a pro bono basis.

When a circuit court finds that a party maintained or defended a proceeding in bad faith or without substantial justification, a Maryland appellate court must defer to the finding unless it is clearly erroneous or involves an erroneous application of the law. *Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. at 267-68. When a circuit court finds that the bad faith or lack of substantial justification merits the assessment of costs or attorneys' fees, a Maryland appellate court will affirm the finding unless it was an abuse of discretion. *Id.* at 268.

On the merits, Chetty's first and second questions overlap with one another. In the first, he asserts that he had a duty to preserve the intimate images of appellee for his use in some unspecified "ongoing legal proceedings." In the second, he asserts that he has a constitutional right to preserve the intimate images for use in "his defense" in some unspecified proceeding or proceedings.

We see no clear error or abuse of discretion in the circuit court's rejection of those assertions. It is difficult to conceive of how an intimate photograph of appellee would

have any possible relevance in any of the specific proceedings to which Chetty referred in his opposition to the motion for sanctions (*i.e.*, a challenge to his criminal conviction or an administrative proceeding concerning a professional license). It is far more likely, as the circuit court perceived, that Chetty wants to retain the photographs so that he can continue to use them as part of the ongoing campaign of harassment that began even before his criminal conviction (and that led to his conviction).

Nor did the circuit court err in requiring Chetty to pay fees to appellee’s attorneys even though they were or may have been working on a pro bono basis. In *Henriquez v. Henriquez*, 413 Md. 287, 291 (2010), the Court of Appeals upheld an award of fees under a fee-shifting provision in the Family Law Article even though the prevailing party received pro bono legal representation from a non-profit legal services organization and the award went directly to the legal services organization. Citing *Henriquez*, the Court of Appeals has held that “a party compelled to defend him[-] or herself against abusive litigation may recover the costs associated with that litigation under Rule 1-341, regardless of whether those costs were paid by that party or by an insurance company or by another third person on the party’s behalf.” *Worsham v. Greenfield*, 435 Md. 349, 370 (2013). In light of those authorities, which Chetty himself cited in opposition to the motion for sanctions, we have no difficulty concluding that the court was empowered to award attorneys’ fees to attorneys who were or may have been representing appellee on a pro bono basis.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED;  
APPELLANT TO PAY COSTS.**