Circuit Court for Baltimore City
Case No. 24C95005049

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0287

September Term, 2021

CHRISTIAN HEALTHCARE MINISTRIES, INC.

v.

MARYLAND INSURANCE COMMISSIONER

Reed,
Ripken,
Battaglia, Lynne A.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: February 11, 2022

Christian Healthcare Ministries, Inc. ("CHM"), a healthcare sharing ministry, appeals from orders of the Circuit Court for Baltimore City denying its Motion for Show Cause Order, Motion for a Temporary Restraining Order and Preliminary Injunction, and Motion to Alter or Amend Judgment, all of which sought to hold the Maryland Insurance Commissioner ("Commissioner") in constructive civil contempt for issuing a cease and desist order against CHM. CHM filed its motions in 2020 in a 1995 proceeding for judicial review of a cease and desist order that the Commissioner issued against Christian Brotherhood Newsletter ("CBN"). CHM stated that it is a successor in interest to CBN, that in June 1995 the circuit court stayed the proceeding involving CBN, that the stay is still in effect, and that no final judgment was ever entered in that proceeding. CHM argued that the Commissioner's 2020 cease and desist order violated the 1995 stay order. The circuit court dismissed CHM's petition for civil contempt without a hearing and entered a final judgment in the underlying 1995 proceeding.

On appeal, CHM argues that the circuit court erred in dismissing its petition for civil contempt without a hearing and in prematurely entering a final judgment in the underlying proceeding. Because a ruling on a contempt petition is not appealable by anyone other than a contemnor, we shall dismiss the appeal as it pertains to CHM's petition for contempt. In so far as CHM appeals from the entry of final judgment in the 1995 proceeding for judicial review, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 1993, the Commissioner issued an order directing CBN to cease and desist from soliciting residents of Maryland for participation in its healthcare sharing ministry. The

Commissioner asserted that CBN was operating as an insurance provider without a certificate of authority.[1] In 1994, the Commissioner reissued the cease and desist order. After a multiday hearing, an Administrative Law Judge ("ALJ") with the Office of Administrative Hearings entered a final order concluding that CBN was operating as an insurer and upheld the cease and desist order.[2] CBN petitioned for judicial review in the circuit court.

While CBN's petition was pending, the General Assembly passed a law providing that voluntary, noncontractual religious publication arrangements would not be subject to regulation under the Insurance Article. CBN and the Commissioner filed a joint motion to stay the judicial review proceedings. On June 6, 1995, the circuit court entered an order

[1] Following a two-day hearing, the Associate Deputy Commissioner upheld the cease and desist order. CBN sought judicial review in the Circuit Court for Baltimore County. The court concluded that the Associate Deputy Commissioner should have recused himself and ordered a de novo hearing.

[2] At the hearing, the ALJ admitted into evidence CBN newsletters from 1992 and 1994, a "subscription and commitment form," which included CBN's guidelines, and heard witness testimony. The ALJ found that CBN was a wholly owned subsidiary of Barberton Rescue Mission with roughly 12,000 subscribers in 1992, and that CBN's program worked as follows. Subscribers applied for membership by filling out an application form. Subscribers paid a monthly fee, set by CBN, dependent upon the number of people to be covered in the subscriber's family. Subscribers also paid an annual fee. CBN retained one month's payment as an administrative cost. Subscribers could then submit medical bills to CBN. To be eligible to submit a medical bill, subscribers were required to be Christian by biblical principles and current in monthly payments. CBN determined whether the submitted expense met CBN's guidelines, determined the total amount to be paid, and directed other subscribers to send their monthly payment to the requester. Intended recipients could notify CBN if they did not receive directed payment, and CBN would send follow up notices. Subscribers who did not send payment as directed would be dropped from the subscription after a second notice.

staying the proceedings "until such time that the legislative exemption applicable to the Christian Brotherhood Newsletter . . . is removed by legislative action or is, by any court of law, rendered inoperative, null and void or ineffective." The order also noted that CBN's "appeal rights shall remain in full force and effect" and "[s]hould such a change in the law . . . occur, [CBN] shall have sixty (60) days . . . within which to note an appeal."

In 1998, the circuit court issued a notice pursuant to Maryland Rule 2-507 that the action was subject to dismissal for want of prosecution. CBN repeatedly moved to defer dismissal. The court dismissed the petition for review on June 1, 1999. The court later rescinded the dismissal and reinstated the action. The court further deferred dismissal until October 1, 1999. No separate written order of dismissal was entered on the docket.

In November 1999, CBN filed a notice of appeal to this Court. In December 2001, prior to briefing and argument, this Court remanded the matter to the circuit court, without affirmance or reversal for entry on the docket of a final judgment in conformance with Rule 2-601.[3] The remand order stated that it appeared from CBN's notice of appeal that the matter was dismissed by the circuit court on October 1 but no final judgment had been entered. The order noted that the briefing and argument schedule would not be affected by the remand. The circuit court never entered an order of dismissal on the docket, and the docket does not reflect any attempt by the parties to secure the entry of such an order. In

[3] Rule 2-601(a)(1) requires that "[e]ach judgment shall be set forth on a separate document[.]" The judgment is only effective when entered on the docket. Rule 2-601(a)(4), (b). Although Rule 2-601 has been amended since 2001, these requirements have not changed.

April 2002, this Court dismissed the appeal after CBN failed to file an appellant brief or record extract.

Nearly twenty years later, the Commission began an investigation of CHM and sent a formal inquiry to CHM. CHM responded, providing information about its operations. On February 20, 2020, the Commissioner issued a cease and desist order against CHM, directing CHM to stop operating without a certificate of authority and subjecting it to a civil penalty of $200,000.[4] CHM requested a hearing. CHM then sent a letter to the Commissioner requesting that the order be withdrawn. CHM explained that its counsel had recently learned about the 1995 stay order and that in 2006 CBN had changed its name to CHM. CHM then filed a Motion for Show Cause Order in the 1995 case in the Circuit Court for Baltimore City. The motion asked the circuit court to order the Commissioner to show cause why "she should not be found in constructive civil contempt of the Circuit Court's June 6, 1995, Order." CHM argued that the June 1995 order reflected an agreement between CBN and the Commissioner and a "determination" by the circuit court that the exemption for religious publication arrangements in Insurance Article ("IA") § 1-202(a)(4)

[4] The Commissioner's 2020 order included factual findings based on the investigation as well as CHM's 2018 guidelines and newsletter. The Commissioner description of CHM's healthcare sharing ministry is similar to CBN's program, but the Commissioner additionally found that applicants are required to sign an agreement, in the form of an attestation, prior to participating. The Commissioner also found that members make payment based on "Bronze, Silver, or Gold" membership levels and that 1,608 Maryland residents were part of the program. In response to the Commissioner's formal inquiries, CHM answered that it uses a "centralized collection and dispersion system for all member gifts," to satisfy accounting standards in the Affordable Care Act. CHM also answered that approximately one percent of the funds paid by subscribers goes to administrative costs and operational expenses.

(2017 Repl. Vol.) applied to CBN. According to CHM, the order finding the exemption applicable to CHM remained a "valid and binding order." The motion continued:

> The [Commissioner] has no authority, power or jurisdiction to initiate a new proceeding to challenge the Circuit Court's determination in the pending action that the legislative exemption applies to [CHM], as successor to CBN. The [Commissioner] must follow the process established in the existing Circuit Court order.

It noted that as of 2020, the exemption had not been legislatively curtailed or judicially stricken. Among other attachments, CHM filed an affidavit from CHM's Vice President and General Counsel explaining that, in 2006, CBN changed its name to CHM, as well as a certificate of amendment from the Ohio Secretary of State noting the name change.[5] CHM also filed a Motion for Temporary Restraining Order and Preliminary Injunction seeking to prevent any further action relating to the February 20, 2020, cease and desist order until the motion to show cause was resolved. The Commissioner filed an opposition to CHM's motions.

On November 5, 2020, the circuit court denied CHM's motions without a hearing. In addition to the denial, the November 5 order stated that it "finally dispos[ed] of all pending claims and requests for relief" in the underlying action and that action remained "closed." CHM moved to alter or amend the judgment the next day, which the Commissioner opposed. Meanwhile, the Commissioner issued an amended cease and desist order against CHM, and CHM supplemented its motion to alter or amend in the

[5] In subsequent motions, CHM attached an affidavit from the former operating receiver of CBN's parent organization explaining that, in 2001, CBN was separated from the parent organization in a settlement with the IRS and incorporated as an independent concern.

circuit court. On February 8, 2021, the circuit court denied the motion to alter or amend. CHM timely appealed.

ISSUES PRESENTED FOR REVIEW

CHM presents three issues for our review.[6] We identify an additional jurisdictional issue, rephrase CHM's first question presented, and refocus the second and third questions into a single issue:

I. Whether a party that petitions for civil contempt may appeal from the denial of its petition.

II. Whether the circuit court erred in denying CHM's petition for civil contempt without a hearing.

III. Whether the circuit court erred in entering a final judgment in the 1995 proceeding.

[6] CHM presented the following questions:

I. Whether the Circuit Court erred by denying CHM's petition for constructive civil contempt seeking to enforce a Court Order, agreed to by and entered at the request of the Commissioner, without holding a prehearing conference or hearing in violation of Rule 15-206 when the Circuit Court failed to find the petition was "frivolous on its face"?

II. Whether the Circuit Court violated Rule 2-501 by granting a summary judgment in favor of the Commissioner, when no party moved for summary judgment, the Commissioner agreed administrative appeal rights were preserved, and no valid legal grounds were articulated in support of the Circuit Court's decision?

III. Whether the Circuit Court's entry of a final judgment violated CHM's statutory, procedural and constitutional due process rights by depriving CHM of its right to petition for judicial review and appeal, in violation of Insurance Article Section 2-215, and which were explicitly preserved and protected by the Stay Order agreed to by the Commissioner?

DISCUSSION

I. THERE IS NO RIGHT OF APPEAL FROM AN ORDER DENYING A PETITION FOR CONTEMPT.

Neither party addressed in briefing whether this Court has jurisdiction to hear appeals from a trial court's denial of a petition for contempt. When asked at oral argument, CHM argued that the circuit court's orders were appealable as final judgments. The Commissioner responded that the orders were not appealable because there was no underlying final judgment in the matter in which CHM filed its motions. However, the relevant question is not whether the circuit court's orders constitute final judgments; it is whether CHM has a statutory basis to invoke this Court's jurisdiction. For the reasons explained below, this Court does not have jurisdiction to hear CHM's appeal from the rulings denying its petition for contempt.

Although neither party raised the issue, this Court is required to determine its jurisdiction sua sponte. *Johnson v. Johnson*, 423 Md. 602, 605–06 (2011). If this Court lacks jurisdiction, the appeal must be dismissed. *Id.* at 606. "In Maryland, appellate jurisdiction, except as constitutionally created, is statutorily granted." *Rosales v. State*, 463 Md. 552, 563 (2019) (quoting *Schuele v. Case Handyman & Remodeling Servs., LLC*, 412 Md. 555, 565 (2010)). Section 12-301 of the Courts and Judicial Proceedings Article ("CJP") (2020 Repl. Vol.) creates a general right of appeal to this Court from final judgments entered in the circuit court. That general right is subject to express exceptions, one of which states that it "does not apply to appeals in contempt cases[.]" CJP § 12-302(b). Appeals in contempt cases are instead controlled by § 12-304: "Any person may appeal

from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action."

As the Court of Appeals held in *Pack Shack, Inc. v. Howard County*:

> [CJP] § 12-304 clearly and unambiguously limits the right to appeal in contempt cases to persons adjudged in contempt. Its plain language says as much; to be appealable, § 12-304 requires the order or judgment to be passed to preserve the power and dignity of the court and to have adjudged the person appealing in contempt of court. . . . [T]he general right of appeal contained in § 12-301 does not extend to contempt cases and, consequently, it cannot provide the statutory basis for an appeal from a trial court's denial of a petition for constructive civil contempt.

371 Md. 243, 254 (2002). There, Howard County appealed from the circuit court's refusal to enforce, through an action for constructive civil contempt, a permanent injunction preventing Pack-Shack from operating an adult entertainment business. *Pack-Shack*, 371 Md. at 246–47. Before the Court of Appeals, Howard County argued that it had a general right to appeal the denial of its contempt petition under CJP § 12-301 and that § 12-304 should be construed to apply only to criminal contempt cases and other limited circumstances. *Id.* at 251–52. The Court of Appeals rejected those arguments and announced the holding (quoted above) that the Courts and Judicial Proceedings Article does not authorize appeals from a trial court's denial of a petition for contempt.[7] *Id.* at 245–

[7] Howard County also argued that, even if its appeal of the contempt order was not permitted by § 12-301, the appeal was "closely intertwined" with Pack-Shack's appeal of the permanent injunction and was reviewable in connection with that order. *Pack-Shack*, 371 Md. at 258–59. The Court of Appeals found that basis for jurisdiction "highly doubtful." Although the Court had discussed such a circumstance in prior dicta, none of the cases cited in that discussion involved an appeal by a non-contemnor. *Pack-Shack*, 371

46; *see also Becker v. Becker*, 29 Md. App. 339, 345 (1975) ("[O]nly those adjudged in contempt have the right to appellate review. The right of appeal in contempt cases is not available to the party who unsuccessfully sought to have another's conduct adjudged to be contemptuous.").

Here, CHM appeals the denial of its motions seeking to hold the Commissioner in constructive civil contempt for initiating the 2020 administrative action. The portion of CHM's appeal pertaining to its petition for contempt is not authorized by law. That portion of the appeal must be dismissed. Nonetheless, we briefly explain why, even if the circuit court's orders were reviewable, CHM's reliance on the more than two-decade old action would not entitle CHM to a hearing on its contempt petition.

II. CHM'S PETITION FOR CIVIL CONTEMPT WAS FRIVOLOUS ON ITS FACE.

CHM contends that, in the absence of a finding that the petition was frivolous on its face, the circuit court was required to hold a hearing on CHM's petition for civil contempt and that it erred by not doing so. After reviewing the circuit court's ruling, we consider the standard for finding a petition is "frivolous on its face," examining the definition of "frivolous" pleadings in other contexts. We next explain that the petition was frivolous

Md. at 260; *see Tyler v. Baltimore County*, 256 Md. 64, 71 (1969). In any event, the Court held that the contempt ruling and the underlying order were not intertwined. *Pack-Shack*, 371 Md. at 259.

because the 1995 stay order was implicitly rescinded and, additionally, would have been inapplicable to the 2020 administrative action.[8]

A. The Circuit Court's Ruling

The circuit court's November 5, 2020 memorandum opinion denying CHM's Motion for Show Cause Order and Motion for Temporary Restraining Order found that CHM "has not shown any basis to proceed in this action with contempt proceedings against the Insurance Commissioner." The court concluded that CHM's reliance on the 1995 order was misplaced. It noted that the order "illustrates the procedural problems with indefinite stays" and concluded that, even if the proceeding remained stayed,

> that procedural posture could not possibly support a claim of contempt by CHM . . . CHM seeks to punish and enjoin the Insurance Commissioner from proceeding against it in new and active administrative proceedings. [The] 1995 stay of this judicial action cannot possibly be characterized as an affirmative injunction protecting [CBN] and its successor for all time from any enforcement action in Maryland of any kind.
>
> Moreover, as the Insurance Commissioner has argued persuasively, enjoining the administrative proceedings now pending before the Commissioner clearly would violate exhaustion of administrative remedies principles. The administrative forum affords CHM a full opportunity to advance all its arguments, including any claim that it is the beneficiary of some ongoing exemption from regulation . . . .

The circuit court denied CHM's Motion to Alter or Amend, noting that it found no basis to reconsider the earlier ruling.

[8] The circuit court also ruled that CHM did not present adequate evidence for it to find that it was a successor in interest to CBN. For purposes of this appeal, we presume CHM is a successor in interest.

B. A Circuit Court Need Not Hold a Contempt Hearing When a Petition for Contempt is Frivolous on Its Face.

"A civil contempt proceeding is intended to preserve and enforce the rights of private parties to a suit and to compel obedience to orders and decrees primarily made to benefit such parties." *Station Maint. Sols., Inc. v. Two Farms, Inc.*, 209 Md. App. 464, 481 (2013) (quoting *Hermina v. Baltimore Life Ins. Co.*, 128 Md App. 568, 580 (1999); *see Betz v. State*, 99 Md. App. 60, 66 (1994) ("The failure of a person to obey an order of court may constitute contempt if the person has notice of the order and the failure to obey is deliberate. It is not the mere failure itself that is the contempt . . . but rather the intent behind and effect of that failure."). The determination that a particular action is or is not contemptuous is within the discretion of the circuit court. *Royal Investment Group, LLC v. Wang*, 183 Md. App. 406, 448 (2008).

Pursuant to Maryland Rule 15-206:

> A party, the Attorney General,[] or the court may institute a constructive civil contempt proceeding when (1) the movant intends to file or filed the proceeding as a continuation of the original action, as opposed to a separate and independent action; (2) the movant seeks relief to benefit themselves or a party instead of punishing the alleged contemnor; (3) the acts complained of do not of themselves constitute crimes or conduct by the defendant so willful or contumacious that the court is impelled to act on its own motion; and (4) the contempt is not a direct contempt.

Fisher v. McCrary Crescent City, LLC, 186 Md. App. 86, 117 (2009) (internal quotation marks omitted). A petition for contempt must, among other things, contain "such statements of fact as may be necessary to show the pleader's entitlement to relief," Md. Rule 2-303(b), and must be construed "to do substantial justice," Rule 2-303(e). Once the court receives a petition for constructive civil contempt, the court must enter a show cause

order "as long as the petition for contempt is not 'frivolous on its face . . . .'" *Fisher*, 186 Md. App. at 118 (quoting Md. Rule 15-206(c)).

The Maryland Rules are construed, consistent with principles of statutory interpretation, according to the "normal, plain meaning of the language" as well as "the context in which the . . . rule appears, including related statues or rules, and relevant legislative history." *Lisy Corp. v. McCormick & Co., Inc.*, 445 Md. 213, 221 (2015) (quoting *Duckett v. Riley*, 428 Md. 471l, 476–77 (2012)). "Frivolous" means "having no sound basis." "Frivolous," Merriam-Webster's Collegiate Dictionary (11th ed. 2020). In the context of motions for attorneys' fees under Rule 1-341, the Court of Appeals has referred to "frivolous claims" as claims that "indisputably have no merit." *Christian v. Maternal-Fetal Med. Assocs. of Md., LLC*, 459 Md. 1, 23 (2018). A claim does not indisputably lack merit simply because the court eventually rejects the position advanced by counsel or because the action fails on a motion to dismiss. *Id.* at 25. The action is frivolous "if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law." *Id.* at 23–24.[9] Interpreting the attorneys' fee provision applicable to child custody proceedings, the Court of Appeals explained that an

[9] We note that there are other considerations at play in a Rule 1-341 motion that would seem to tend in favor of heightening the standard of frivolousness in the context of a sanctions motion. *See Needle v. White, Mindel, Clarke & Hill*, 81 Md. App. 463, 481 (1990) ("[Sanctions] can be economically punishing as well as professionally harmful. . . . [U]njustified sanction orders chill legitimate advocacy and erode the confidence of otherwise competent and ethical counsel."). The same effects do not follow where a petition for contempt is deemed frivolous on its face and denied without a hearing.

action lacks "substantial justification" when it lacks "[a] reasonable basis both in law and in fact" for bringing the action. *Davis v. Petito*, 425 Md. 191, 204 n.8 (2012); *see* Family Law Article § 12-103 (2019 Repl. Vol.). In other words, the determination of whether an action is frivolous "relates solely to the merits of the case against which the judge must assess whether each party's position was reasonable." *Id.* at 204.

Accordingly, in assessing whether a petition for civil contempt is frivolous on its face, the circuit court must consider the merits of the contempt action. *See Christian*, 459 Md. at 23. A petition is frivolous if it lacks a reasonable basis for the circuit court to conclude that a contempt has occurred or that the requested relief is necessary to remedy the contempt.[10]

C. CHM's Claim of Contempt Based on the 1995 Order Was Frivolous.

We find no error in the circuit court's determination that the petition for contempt was frivolous.[11] The 1995 stay order could not serve as a reasonable basis for holding the Commissioner in contempt because the stay was implicitly lifted, and the terms of that

[10] CHM relies on *Hermina v. Baltimore Life Ins. Co.*, as authority for the proposition that the circuit court was required to hold a hearing on its petition for contempt. 128 Md. App. at 585–89 (reversing finding of civil contempt because contemnor attorney had no warning that the court would conduct a summary contempt proceeding at an unrelated hearing). That case did not involve the denial of a contempt petition found to be frivolous on its face.

[11] CHM argues that the circuit court never made an explicit finding that its petition for civil contempt was frivolous on its face. The Commissioner argues that the circuit court's detailed explanation combined with its finding in the order and memorandum opinions that "a hearing was unnecessary" constitute a finding that CHM's petition was frivolous on its face. We agree with the Commissioner. *See In re Adoption/Guardianship of Darjal C.*, 191 Md. App. 505, 532 (2010) ("The [circuit] court . . . is not required to recite the magic words of a legal test.").

order did not prohibit the Commissioner from initiating an administrative action on a new set of facts.

1. The 1995 stay order was implicitly lifted.

A stay is the "postponement or halting of a proceeding, judgment, or the like." "Stay," Black's Law Dictionary (11th ed. 2019). "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). "[S]uch power should be exercised with extreme caution[.]" *Waters v. Smith*, 27 Md. App. 642, 651 (1975) (quoting 1 C.J.S., Actions (1936)). An order staying proceedings is not a decision on the merits and, in most instances, is not an appealable final order. *Monarch Academy Baltimore Campus, Inc. v. Baltimore City Bd. of School Comm'rs*, 457 Md. 1, 48–49 (2017).

After CBN petitioned for judicial review of the ALJ's decision upholding the 1994 cease and desist order, the General Assembly created an exemption under which voluntary, noncontractual religious publication arrangements would not be regulated as insurance providers. CBN and the Commissioner apparently assumed the exemption would be applicable or could be applicable. Nonetheless, according to CHM, the Commissioner declined to agree that the ALJ's underlying order was moot. Rather than pursue a challenge to the ALJ's order—such as by seeking a remand for the ALJ to consider whether CBN

qualified for the exemption[12]—CBN agreed to a stay of proceedings. The stay order postponed the judicial review proceeding until the exemption was "rendered inoperative, null and void or ineffective." After three years, despite the exemption's continued validity, the circuit court issued a notice of contemplated dismissal for lack of prosecution.[13] The circuit court granted CBN repeated deferrals, the last of which deferred dismissal until October 1, 1999. CBN noted an appeal, apparently from an October 1 dismissal. This Court ordered the circuit court to enter its final judgment on the docket pursuant to Rule 2-601 but, for reasons unclear, the circuit court did not respond to that order. CBN's appeal was

[12] The sole issue decided by the ALJ was whether CBN was engaged in the business of insurance without a certificate of authority. The ALJ did not have an opportunity to consider whether CBN fell within the subsequently created exemption for religious publication arrangements. A court exercising judicial review is "restricted to the record made before the administrative agency [and] may not pass upon issues presented to it for the first time on judicial review[.]" *Dept. of Health v. Campbell*, 364 Md. 108, 123 (2001) (internal citations omitted).

[13] Rule 2-507(c) notes that an "action is subject to dismissal for lack of prosecution at the expiration of one year from the last docket entry[.]" Rule 2-507(d) requires the clerk to serve notice on the parties that an order of dismissal for lack of prosecution will be entered after 30 days unless a motion is filed showing good cause why dismissal should be deferred. The rule exists to "prune the docket of dead cases" and "recognizes that the [trial] court's business as well as the general public's interest in the proper administration of justice can best be served when litigation is not allowed to stagnate unless the court is satisfied the ends of justice so require." *Union Memorial Hosp. v. Dorsey*, 125 Md. App. 275, 293 (1999) (internal quotation marks omitted). In response to a notice of contemplated dismissal, the party that brought the action must show that it has "an ability to proceed with prosecution" and that further deferral will not seriously prejudice the opposing party. *Younker v. Schmid Products Co.*, 310 Md. 493, 495 (1987). If a party does not respond, "the case should be automatically dismissed and removed from the active docket." *Powell v. Gutierrez*, 310 Md. 302, 308 (1987).

dismissed from this Court after it did not file a brief or record extract. Nothing was filed in the case for nearly twenty years.

Based on this record, we conclude that the 1995 stay order was implicitly lifted. *See Rollins v. Southern Mortg. Co.*, 207 Ga. App. 215, 216 (1993) (recognizing an implicit lifting of stay order where action was tried on the merits despite the stay having not been formally lifted). The repeated notices of contemplated dismissal for lack of prosecution signaled that the time had come for CBN to prosecute its petition and seek reversal or vacatur of the ALJ's decision. *See Powell v. Gutierrez*, 310 Md. 302, 308 (1987) (explaining that Rule 2-507 exists to clear the court's docket of cases in which the parties' reasons for litigating have dissipated and that if a party does not respond to a notice of dismissal by showing a willingness to prosecute their claims, the case is "deadwood" that is ripe for dismissal). CBN did not prosecute its petition. It also did not move to suspend the application of Rule 2-507, move for entry of a final judgment allowing it to pursue its noted appeal, or move to reinstate its petition. It also did not object when the status of the case when the docket was updated to indicate that the case was closed. *See Maryland Metals, Inc. v. Harbaugh*, 33 Md. App. 570, 575–77 (1976) ("[A] lawyer is charged with the responsibility of knowing what is entered upon the dockets, from time to time, in the case in which he is counsel. It is his duty to follow the dockets so as to keep himself abreast of the happenings his case[.]"). Final status of the underlying petition aside, we conclude that the proceedings were no longer postponed once the circuit court began issuing notices of contemplated dismissal and granting temporary deferrals of dismissal.

CHM argues that the stay order remained active in 2020 and the lack of any activity until then shows that the parties "respect[ed] the Circuit Court's stay order."[14] To the contrary, there were no filings because, by all indication, CBN entirely abandoned its petition for judicial review. Despite the absence of a final judgment, the litigation was effectively disposed of. Because the stay was implicitly lifted, the order implementing that stay could not offer any reasonable basis for CHM's later contempt petition.

2. The 1995 order has no application to new proceedings.

Even if the stay order was not lifted, the Commissioner would not be prohibited from initiating an action premised upon later facts. CHM's reliance on such an order as a basis for contempt was frivolous. CHM's primary argument is that the "express terms" of the 1995 stay order "determined the legislative exemption was applicable to [CBN]" and, accordingly, to CHM as CBN's successor. As the circuit court did, we read the order more narrowly.

Judicial decrees are construed according to their ordinary, objective meaning. *Monticello v. Monticello*, 271 Md. 168, 173 (1974). The stay order applied to proceedings "pertaining to the above-captioned matter," *i.e.*, the court's review of the ALJ's decision to uphold the cease and desist order. In crafting the stay order, the circuit court accepted the parties' presumption that the legislative exemption was "applicable" to CBN. But nothing in the stay order suggested that the Commissioner could not initiate a separate

[14] CHM states that it discovered the docket's status only after the Commissioner issued the new order.

action if the Commissioner determined that CBN exceeded the defined boundaries for voluntary, noncontractual religious publication arrangements. In other words, as the circuit court concluded below, "[the 1995 order] cannot possibly be characterized as an affirmative injunction protecting [CBN] . . . for all time from any enforcement action in Maryland."[15]

The exemption for religious publications is fact-dependent. IA § 1-202(4). It contains twelve criteria, including that the organization or "arrangement" "does not use funds paid by subscribers for medical costs to cover administrative costs." IA § 1-202(4)(x). The Commissioner's findings in the 2020 cease and desist order were predicated on CHM's 2018 guidelines and its responses to the Commissioner's inquiries. One of CHM's responses affirmatively indicated that CHM uses funds, though only 1 percent, paid to cover medical costs for its administrative expenses. CHM's responses also indicated that its operations may have changed in other respects, including the centralization of collections and disbursements. The Commissioner was entitled to investigate CHM's activities and determine whether or not CHM was subject to regulation under the Insurance Article. IA § 2-108.

[15] The circuit court also determined that CHM would be required to exhaust its administrative remedies before pursuing constructive civil contempt. The Commissioner argues on appeal that the failure to exhaust administrative remedies supports the denial of CHM's petition for contempt without a hearing. Because we think the reasons in II.C.1 & 2 are sufficient to conclude the petition was frivolous on its face, we do not consider this additional argument.

III. THE CIRCUIT COURT DID NOT ERR IN ENTERING A FINAL JUDGMENT IN THE 1995 PROCEEDING.

CHM also challenges the portion of the circuit court's November 5 order stating that the order "finally disposes of all pending claims and requests for relief in this action" and "this action remains closed, subject only to [CHM's] right to appeal this decision." CHM argues that the circuit court's order "nullif[ied]" CHM's right to challenge the 1995 petition for judicial review on the merits and "depriv[ed] CHM of its right to appeal . . . to the Court of Special Appeals," rights which were "expressly preserved" in the 1995 stay order. It also argues that the circuit court erred by effectively granting summary judgment without considering the merits of the petition for judicial review filed by CBN. CHM requests that "[t]he case . . . be remanded for judicial review of the second petition for judicial review filed by [CBN]."

We decline to order a remand. CHM does not offer an adequate explanation for why it should be allowed to prosecute the merits of a case that was ripe for dismissal in 1999. Twenty years ago, after CBN noted an appeal, this Court ordered the circuit court to enter a final judgment pursuant to Rule 2-601. The final lines of the circuit court's November 5 order effectively accomplish that task.[16]

[16] CHM's characterization of the November 5 order as an entry of summary judgment and its assignment of error for failure to follow the procedures for summary judgment motions are misplaced. As far as can be discerned, no memorandum of law or request for relief relating to CBN's petition was submitted for adjudication. Dismissal for lack of prosecution is not summary judgment. *See* Rules 2-507, 7-207(d).

Undoubtedly, there were a number of procedural oddities in this case. For CHM to carry on with CBN's 1995 petition, CHM could have offered some evidence in its Motion to

CHM's arguments depend upon its mistaken assertion that the stay order preserved its opportunity for a merits challenge. It explains that "no action by CHM was either necessary or appropriate to protect its rights."[17] As described above, the circuit court repeatedly granted temporary deferrals of dismissal under Rule 2-507, which implicitly lifted the stay order, but it granted no deferral beyond October 1, 1999. CBN did not avail itself of the opportunity to challenge the ALJ's findings of fact or conclusions of law before that date. As is evident from the docket, CBN abandoned its petition for judicial review. CHM's principal brief to this Court and an August 4, 2020, letter attached to its Motion to

Alter or Amend that the circuit court actually deferred dismissal of CBN's petition beyond October 1, 1999, and explained why there is no indication of any such deferral on the docket. *See* Rules 2-534. CHM might also have attempted—in the words of the circuit court—to "pursue a clear appellate reversal of the purported [October 1, 1999] dismissal" after securing a written judgment. Indeed, dismissal for lack of prosecution is reviewable for an abuse of discretion. *See Younker*, 310 Md. at 496 (reversing dismissal for lack of prosecution where plaintiffs clearly showed good cause for deferral and absence of prejudice to the defendant). CHM did not attempt either approach.

[17] We also note that paragraph four of the 1995 Stay Order states:

> All appeal rights shall remain in full force and effect until such time as there is a change in the law, whether by legislative or judicial action, which would remove the exemption from the Insurance Code applicable to [CBN]. Should such a change in the law as outlined in the prior sentence occur, [CBN] shall have sixty (60) days after any such changes become legally effective within which to note an appeal.

The intended effect of this paragraph is not clear, as it does not specify which order of the circuit court CBN had sixty days to appeal. Furthermore, neither the circuit court nor this Court could have ruled on the legislative exemption's applicability in the absence of any initial administrative determination on that issue. *Dept. of Health v. Campbell*, 364 Md. 108, 123 (2001) ("[T]he reviewing court [is] restricted to the record made before the administrative agency [and] may not pass upon issues presented to it for the first time on judicial review[.]"). In any event, the outlined change in the law did not occur, and this paragraph was rendered inoperative when the stay was lifted.

Show Cause suggest that the 1995 proceedings were also forgotten to CHM. See Ex. 9 to Mot. for Show Cause Order; Appellant Br. 34. We see no reason why the circuit court should not have entered final judgment as earlier directed.

APPEAL FROM THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY DISMISSED IN PART. JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED AS PERTAINS TO THE 1995 PETITION FOR JUDICIAL REVIEW. COSTS TO BE PAID BY APPELLANT.