Circuit Court for Frederick County
Circuit Court No. 10C17000056

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 308

September Term, 2017

JOSHUA S. RUBY

v.

SHAWNA L. RUBY

Eyler, Deborah S.
Berger,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: August 27, 2018

This appeal arises from appellant Joshua Ruby's ("J. Ruby") motion to vacate a domestic violence protection order filed against him by his then-wife, appellee Shawna Ruby ("S. Ruby"). On March 31, 2017, the Circuit Court for Frederick County denied J. Ruby's "Motion to Vacate Protective Order Based Upon Mistake," and this appeal followed. On appeal, J. Ruby frames the issue in the following way:

> Did the [c]ircuit [c]ourt err in not vacating the Protective Order and setting in a new hearing given that [J. Ruby] was not given appropriate notice.

For the reasons we explain below, we affirm the decision of the circuit court to deny J. Ruby's motion to vacate the protective order.

BACKGROUND & PROCEDURAL HISTORY

On January 9, 2017, S. Ruby filed a Petition for Protection from Domestic Violence against J. Ruby, with whom she had three small children. S. Ruby claimed that, since J. Ruby left the family home in March of 2016, he had repeatedly harassed her by calling and texting, driving past the family home throughout the night, and breaking into the home by climbing onto the roof and entering through a window. Further, she alleged that he had threatened to harm her, withdrawn all funds from shared bank accounts, and withheld support from her and the parties' children. S. Ruby averred in the petition that she had filed for divorce but that the case was delayed because of her lack of financial resources.

According to S. Ruby, on January 8, 2017, J. Ruby forced his way into S. Ruby's home, pushing her back from the door. She claimed that after J. Ruby saw that S. Ruby's friend was present in the home, he "backed off" and left, but continued to threaten her by

calling and texting. S. Ruby called the police and filed a petition for protection on January 9, 2017. After a January 9, 2017 hearing, the circuit court granted a Temporary Protection Order ("TPO") to S. Ruby against J. Ruby, which indicated that a Final Protection Order ("FPO") hearing would be held on January 17, 2017 at 11:00 AM.

On January 17, 2017, however, J. Ruby had not been served with the petition or the TPO. On that day, S. Ruby's counsel entered his appearance on her behalf and requested a waiver of S. Ruby's appearance at the proceedings until J. Ruby could be served with the Temporary Protective Order. The circuit court granted S. Ruby's request and extended the TPO until July 17, 2017, and thus, the hearing date, so that J. Ruby could be served with the TPO. The next day, January 18, 2017, J. Ruby was served with the petition and a copy of the January 17, 2017 TPO. The return of service indicates that J. Ruby was personally served with the papers by a law enforcement officer at approximately 4:19 PM at 14544 Old Frederick Road, which was the address that S. Ruby had provided as J. Ruby's residence in her January 9, 2017 petition.

The TPO served on J. Ruby indicated at the top of each page the name of the circuit court, its address at 100 West Patrick Street, Frederick, MD 21701, and the circuit court case number. The text of the TPO provided, in pertinent part, the following information:

> A FINAL PROTECTIVE ORDER HEARING SHALL BE HELD ON **July 17, 2017, AT 02:00 at 100 West Patrick Street Courthouse Frederick MD 21701**.
>
> * * *
>
> NOTICE TO RESPONDENT

> A Petition for Protection alleges that you have committed abuse. Based on the Petition and on any testimony provided at the initial hearing the Court has issued this Temporary Protection Order.
>
> * * *
>
> In order to respond to the allegation that abuse occurred, you must appear in court at the Final Protective Order hearing provided for in this Order. If at the hearing the court finds by a preponderance of the evidence that you committed the alleged abuse, the Court will issue a Final Protective Order against you even if you fail to appear.
>
> * * *
>
> If you fail to appear in court and a Final Protective Order is issued against you, **you may be served by first-class mail at your last known address with the Final Protective Order and all other notices concerning the Final Protective Order**. The Final Protective Order will be valid and enforceable upon mailing. **You must notify the court in writing of any change of address**.
>
> * * *
>
> NOTICE TO ALL PARTIES
>
> **Hearing dates and places are subject to change, and you should call the Court Clerk's Office at: Phone:** to be sure you know when your hearing(s) will occur. **You are responsible for knowing when and where hearing(s) will occur**.

(Emphasis added). In addition, the TPO included the attestation of the Clerk of the Circuit Court for Frederick County, which included the Clerk's name and address.

Once J. Ruby was served with notice of the TPO, however, the circuit court, during open court proceedings on January 23, 2017, moved up the FPO hearing date to February 2, 2017. That day, the record indicates that the court issued and mailed a notice of the FPO hearing date to J. Ruby at 14544 Old Frederick Rd, where he was previously served with

the TPO. The notice stated the following: "You are hereby notified that this case is scheduled in the: CIRCUIT COURT FOR FREDERICK COUNTY 100 West Patrick Street Frederick, MD 21701." The date of the FPO hearing included on the notice was February 2, 2017 at 2:00 PM.[1]

J. Ruby did not appear at the February 2, 2017 hearing. As indicated in the FPO, however, the court found that it had jurisdiction over the parties, and that J. Ruby "was given reasonable notice and an opportunity to be heard at [the] Protective Order Hearing." Accordingly, the court ordered J. Ruby not to abuse, harass, or contact S. Ruby, not to enter S. Ruby's residence, and to immediately surrender his firearms to law enforcement for the duration of the FPO. The "Record of Service of Protective Order" indicates that service of the FPO was made on J. Ruby by mail.

On March 10, 2017, through his attorney, J. Ruby filed a "Motion to Vacate Protective Order Based Upon Mistake." He argued in the motion that he "was not present at the February 2, 2017 [hearing] because he failed to receive notice of said hearing." He noted that the TPO he received via personal service on January 18, 2017 stated that "the hearing was to take place July 17, 2017," and he argued that "[h]e expected that the hearing would be on that day." Finally, he added that, because he "was not given proper notice of the February hearing date due to the mistake of [the circuit court], his due process right to defend himself has been violated and justice demands that the final Protective Order be

[1] Unlike the TPO that was personally served on J. Ruby, the notice of the February 2, 2017 hearing included the Court's phone number.

vacated . . . ." J. Ruby attached an affidavit in which he asserted that he "never received notice of any change in date" and had "never been served with a Final Order."

J. Ruby did not indicate what authority permitted the circuit court to vacate the order under the facts he alleged. Further, he did not include any facts to explain why he did not receive the court's mailings at 14544 Old Frederick Road.[2] In response to J. Ruby's motion, S. Ruby noted that the record did not indicate that either mailing was returned as undeliverable, and that J. Ruby had filed a complaint for absolute divorce against her on the same day, in which he listed his address as 14544 Old Frederick Road. On March 30, 2017, the circuit court denied J. Ruby's motion to vacate the FPO. J. Ruby noted a timely appeal from that decision.

DISCUSSION

I. Standard of Review

As we have explained, whether the facts alleged by a movant constitute sufficient grounds for the circuit court to exercise its revisory powers under Rule 2-535(b) "is a question of law." *See Wells v. Wells*, 168 Md. App. 382, 394 (2006) (Citation omitted). "We review the court's decision to deny a request to revise its final judgment," however, "under the abuse of discretion standard." *Pelletier v. Burson*, 213 Md. App. 284, 289 (2013).

II. The Circuit Court Did Not Err by Denying Mr. Ruby's Motion to Vacate.

[2] *See* Md. Rule 2-311(c), requiring that "[a] written motion . . . shall state with particularity the grounds and the authorities in support of each ground."

At first glance, this case raises concerns that the primary issue is moot, because the FPO expired on February 2, 2018. In *Coburn v. Coburn*, the Court of Appeals addressed the issue of mootness in the context of an expired protection order:

> [T]he instant case is moot because the final protective order at issue expired on September 26, 1995. A case is moot when there is no longer an existing controversy between the parties at the time it is before the court so that the court cannot provide an effective remedy. *Robinson v. Lee*, 317 Md. 371, 375, 564 A.2d 395, 397 (1989). Generally, a moot case is dismissed without our deciding the merits of the controversy. *State v. Peterson*, 315 Md. 73, 82, 553 A.2d 672, 677 (1989).

342 Md. 244, 250 (1996); *see also La Valle v. La Valle*, 432 Md. 343, 352 (2013) (concluding that a challenge to an expired temporary protective order was moot, but addressing the merits based on an exception).

J. Ruby's counsel averred during oral argument before this Court that the stigma caused from having a FPO entered against J. Ruby continues to have consequences for him, and our decision to reverse the denial of his motion to vacate would provide a remedy for that consequence. We explained the following in *Piper v. Layman*:

> In light of the stigma that is likely to attach to a person judicially determined to have committed abuse subject to protection under the Domestic Violence Act, we think that the expiration of the protective order does not automatically render the matter moot. The review of such finding on appeal, and the potential for vacation of the order, thereby removing the stigma, gives "substance to [the] appeal." [*Williams v. Williams*, 63 Md. App. 220, 226 (1985)]. Thus, we do not consider [the appellant's] appeal to be moot.

125 Md. App. 745, 753 (1999). Therefore, the potential stigma that may result from an invalid final order of protection gives "substance to [the] appeal" in this case, as well. *Id.* We therefore address the merits of J. Ruby's arguments on appeal.

At the core of J. Ruby's appeal is his contention that the circuit court erred by denying his motion to vacate because, although he was personally served with the TPO, he did "not receive appropriate notice of the [February 2, 2017] hearing and the Protective Order was never served upon" him. J. Ruby stated in his affidavit before the circuit court, and argues before this Court, that he never received the court's subsequent notice of the February 2, 2017 hearing. He did not provide any explanation of what efforts he took to contact the Clerk's Office or to find out when the hearing would occur. Instead, "he expected that the hearing would be on" the date given in the TPO, in spite of the caution included in the TPO that "[h]earing dates and places are subject to change" and that the respondent "is responsible for knowing when and where hearing(s) will occur."

J. Ruby argues on appeal, for the first time, that a primary error in the FPO proceeding was the court's failure to include the phone number within the admonition to the respondent to contact the Court Clerk's office.[3] Because the court apparently left the placeholder "Phone" in the document, rather than replacing it with the Court Clerk's phone number, J. Ruby asserts that he was left without "a functional method of finding out the

[3] J. Ruby continues to assert that he never received the court's notice of the February 2, 2017 hearing. He implies in his appellate brief that the court did not send the hearing notice to him.

date of the hearing" or "*any mechanism whatsoever* as to how to obtain that knowledge." (Emphasis added).

Despite failing to raise certain issues before the circuit court, J. Ruby did argue below that the TPO did not provide him adequate notice of the hearing on the FPO, because the date it provided was not the date on which the hearing was held, and that he did not receive notice of the February 2, 2017 hearing or the FPO following its issuance. We address the effect, if any, of the circuit court's omission of its phone number in the TPO in the context of J. Ruby's burden to show that he exercised diligence and acted in good faith, as required. *See Pickett v. Noba, Inc.*, 114 Md. App. 552, 558 (1997) (Citation omitted). Ultimately, we conclude that J. Ruby did not demonstrate that an "irregularity" in the proceedings under Rule 2-535(b) warranted the circuit court's use of its revisory power to vacate the FPO, and even if he had, he did not demonstrate that he acted with ordinary diligence.

A. "Mistake" vs. "Irregularity"

Rather than arguing that the circuit court should have vacated the FPO based on "mistake" as he did before the circuit court, he now argues on appeal, for the first time, that the alleged errors of the circuit court amount to an "irregularity" in the proceedings, which warranted vacating the FPO. In his motion to vacate, however, which was filed more than thirty days after the entry of the FPO, J. Ruby did not include "the grounds and the authorities in support of each ground" for the court to vacate the judgment as required by Md. Rule 2-311(c). Rule 2-311(c) requires that "[a] written motion . . . shall state with

particularity the grounds and the authorities in support of each ground." Even on appeal, J. Ruby fails to assert what rule or authority would have given the power to vacate the FPO. The first and only instance in which J. Ruby alluded to any authority for the court's exercise of its revisory power is in noting, in his appellant's brief, that the concept of "'[i]rregularity' has a narrow judicial definition in Rule 2-535(b) jurisprudence." He failed to aver, however, that Rule 2-535(b) governed the circuit court's authority on the motion to vacate in this case.

Rule 2-535(b) provides, "On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity."[4] Rule 2-535(b) "embraces all the power the courts of this State have to revise and control enrolled judgments and decrees." *Thacker v. Hale*, 146 Md. App. 203, 231 (2002) (citing *Eliason v. Comm'r of Pers.*, 230 Md. 56, 59 (1962)). We explained in *J.T. Masonry Co. v. Oxford Const. Servs., Inc.* that "[u]nless the court finds an irregularity, there being no claim of fraud or mistake, it has no discretion, using equitable

[4] Similarly, § 6-408 of the Courts and Judicial Proceedings Article ("CJP") of the Maryland Code (2006, 2013 Repl. Vol.) states the following, in pertinent part:

> After the expiration of that period [30 days] the court has revisory power and control over the judgment only in case of fraud, mistake, irregularity, or failure of an employee of the court or of the clerk's office to perform a duty *required by statute or rule*.

CJP § 6-408 (Emphasis added).

principles or otherwise, to strike an enrolled judgment." 74 Md. App. 598, 610 (1988), *aff'd*, 314 Md. 498 (1989).

The Domestic Violence statute includes a specific provision governing the modification or rescission of protective orders. *See* Md. Code (1984, 2012 Repl. Vol.), Family Law Art. ("FL"), § 4-507. Specifically, FL § 4-507(a)(1) provides that "[a] protective order may be modified or rescinded during the term of the protective order after: (i) giving notice to all affected persons eligible for relief and the respondent; and (ii) a hearing." *Id.* The Court of Appeals has explained that "§ 4-507(a)(1) prescribes the method by which a protective order may be modified or rescinded, [and] by whom and when . . . ." *Torboli v. Torboli*, 365 Md. 52, 64 (2001).

S. Ruby's counsel raised this method of modifying or rescinding a protective order before the circuit court in her opposition to J. Ruby's motion to vacate, arguing that J. Ruby should have requested that the court modify or rescind the FPO under FL § 4-507, rather than asking the court to vacate the order in its entirety as being void due to a "mistake." FL § 4-507, however, does not state on what grounds a FPO may be rescinded or indicate that the circuit court's narrow revisory power under Rule 2-535 does not apply. Although J. Ruby did not state the grounds and authorities under each ground for the court to vacate the FPO, we surmise that J. Ruby now argues that his motion to vacate was based on the court's Rule 2-535(b) revisory power.[5]

[5] See *Pickett*, noting, "[a] motion may be treated as a motion to revise under Md. Rule 2-535 even if it is not labeled as such." 122 Md. App. at 571 (Citation omitted).

We said recently, in *Peay v. Barnett*, that "[a] 'mistake' under the Rule refers only to a 'jurisdictional mistake.'" 236 Md. App. 306, 322 (2018) (Citation omitted); *see also Pelletier*, 213 Md. App. at 291 (quoting *Green v. Ford Motor Credit Co.*, 152 Md. App. 32, 51 (2003) ("Mistake is limited . . . to jurisdictional error, such as where the court lacks the power to enter judgment."). In *Peay*, we reiterated that "[t]he typical kind of mistake occurs when a judgment has been entered in the absence of valid service of process; hence the court never obtains personal jurisdiction over a party." 236 Md. App. at 322 (quoting *Chapman v. Kamara*, 356 Md. 426, 436 (1999).

An "irregularity," on the other hand, is quite different and does not necessarily render an enrolled judgment void. "Irregularity" under 2-535(b) refers to an "irregularity of process or procedure . . . ." *Manigan v. Burson*, 160 Md. App. 114, 121 (2004) (quoting *Billingsley v. Lawson*, 43 Md. App. 713, 720 (1979)). Put differently, an irregularity is "the doing or not doing of that, in the conduct of a suit at law, which, conformable to the practice of the court, ought or ought not to be done." *Weitz v. MacKenzie*, 273 Md. 628, 630-31 (1975). However, "if the judgment under attack was entered in conformity with the practice and procedures commonly used by the court that entered it, there is no irregularity justifying the exercise of revisory powers under Rule 2-535(b)." *Pelletier*, 213 Md. App. at 290 (quoting *De Arriz v. Klingler-De Arriz*, 179 Md. App. 458, 469 (2008)). Further, as we observed in *J.T. Masonry Co.*, "proof of a custom, standing alone, is an insufficient basis upon which to establish irregularity." 74 Md. App. at 610-11 (citing *Md. Metals, Inc. v. Harbaugh*, 33 Md. App. 570, 574 (1976)). We explained in *Thacker*:

> Irregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court, including, for example, failures to send notice of a default judgment, to send notice of an order dismissing an action, [and] to mail a notice *to the proper address* . . . .

146 Md. App. at 219-20 (Emphasis added).

Here, J. Ruby does not argue that he was not served with the TPO, and therefore, he made no allegation that the court did not obtain personal jurisdiction over him. The only ground for the court to use its Rule 2-535(b) revisory powers relevant to the facts alleged by J. Ruby in his motion to vacate, therefore, is that of "irregularity." To the extent that J. Ruby contends that he properly asserted a jurisdictional mistake under Rule 2-535(b) in his motion to vacate, we disagree. The circuit court could have properly denied J. Ruby's motion for that reason alone.

B. J. Ruby Failed to Demonstrate That an "Irregularity" Permitted the Circuit Court to Exercise Its Revisory Power Under Rule 2-535(b).

Even assuming J. Ruby had stated Rule 2-535(b) in his motion as the legal basis for the court to exercise its authority to revise the previous order, he failed to include a factual basis sufficient for a finding of "mistake." He appears to have recognized this on appeal, and therefore, he now asserts that the circuit court should have granted his motion to vacate because the facts he asserted constituted an "irregularity" sufficient to justify the court in vacating the FPO. Putting aside J. Ruby's failure to raise this specific legal ground before the circuit court, we conclude that J. Ruby did not demonstrate to the circuit court that an "irregularity" justified the court's use of its revisory power under Rule 2-535(b).

On appeal, J. Ruby cites to a hand full of cases in which this Court or the Court of Appeals discussed the meaning of an "irregularity" sufficient to permit the circuit court to revise an enrolled judgment, including: *Early v. Early*, 338 Md. 639 (1995); *Weitz*, 273 Md. 628; *Thacker*, 146 Md. App. 203; and *Gruss v. Gruss*, 123 Md. App. 311, 320 (1998). In only two of these cases, however, the Court concluded that there was an irregularity as contemplated by Rule 2-535(b). In *Early*, the Court of Appeals held that "the clerk['s] fail[ure] to send a copy of the order to all parties" was a "failure to follow required procedure," and therefore, constituted "an 'irregularity' within the meaning of Rule 2-535(b)." 338 Md. at 653. Similarly, in *Gruss*, we reached the following conclusion:

> According to [former] Rule 1-321, the order of dismissal was to be mailed to Ms. Gruss at the address "most recently stated in a pleading or paper." Thus, as Ms. Gruss in her most recent pleading listed her address as 2907 Fallstaff Road, that is the address to which the clerk should have mailed a copy of the dismissal. Because the clerk failed to do so, Rule 1-321 was not properly complied with, and an irregularity existed within the confines of Rule 2-535(b).

123 Md. App. at 320.

Unlike in *Early*, the record here indicates that both the hearing notice and the FPO were mailed to J. Ruby. Further, this case is distinguishable from *Gruss*, because there is no indication in the record that the circuit court sent either the notice of the February 2, 2017 hearing or the copy of the FPO to an incorrect address. In fact, the address on file with the circuit court was the same address where J. Ruby was personally served on January 18, 2017 and where he claimed as his residence when he filed a complaint for absolute divorce on March 10, 2017. Consistent with FL § 4-506(b)(2)(iv), the TPO stated expressly

that J. Ruby was to notify the court of any change in address. J. Ruby did not allege that he had submitted a change of address with the court. Thus, the circuit court could reasonably have found that the court properly mailed notice of the hearing to J. Ruby's "last known address." His assertion in his motion to vacate that he never received the notice of the February 2, 2017 hearing was not enough to establish an irregularity under Rule 2-535(b).

Moreover, J. Ruby's assertion that he was "never served" with the FPO is unavailing. FL § 4-506, governing the issuance of FPOs, states the following:

> (1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief . . . , in open court or, *if the person is not present at the final protective order hearing, by first-class mail to the person's last known address*.
>
> (2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection *constitutes actual notice* to the respondent of the contents of the final protective order. *Service is complete upon mailing*.

FL § 4-506(i) (Emphasis added). Therefore, service of the FPO was complete upon mailing to J. Ruby's last known address. Similarly, the TPO served on J. Ruby followed the requirements of FL § 4-506(b)(2)(i) and informed him that "if the respondent fails to appear at the final protective order hearing, the respondent may be served by first-class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order."

The "Record of Service of Protective Order" indicates that S. Ruby signed the document and received the FPO in person on the day of the February 2, 2017 hearing, and

that service was made on J. Ruby by mail. Like the court's notice of the February 2, 2017 hearing date, there is no indication in the record that the court's mailing of the FPO was returned as undeliverable. J. Ruby made no factual allegation related to service of the FPO other than his assertion that he was "never served" with a copy. When an FPO is served by first-class mail, however, "[s]ervice is complete upon mailing." FL § 4-506(i)(2). We hold, therefore, that the circuit court would have correctly denied J. Ruby's "Motion To Vacate Protective Order Based Upon Mistake," even if he had alleged in the motion that an "irregularity" in the FPO proceedings under Rule 2-535(b) justified the court in vacating the FPO.

C. J. Ruby Failed to Demonstrate That He Acted With "Ordinary Diligence."

Although we hold that no irregularity in the proceedings required the circuit court to exercise its revisory power under Rule 2-535(b), we hold, alternatively, that J. Ruby failed to demonstrate that he acted with the requisite "ordinary diligence."[6] *See Platt v. Platt*, 302 Md. 9, 15 (1984) ("Even if the circuit court had revisory power over the enrolled decree in this case, a precondition to its exercise in any event is that the moving party act with ordinary diligence."). In addition to demonstrating that an irregularity occurred, J. Ruby needed to show that he "acted with ordinary diligence, in good faith, and ha[d] a

[6] The circuit court did not make any findings of fact regarding whether J. Ruby exercised ordinary diligence. Because we hold that the circuit court did not err in denying the motion to vacate based on either "mistake" or "irregularity" under Rule 2-535(b), it was not necessary for the court to make any particular findings with regard to whether J. Ruby acted with sufficient diligence.

meritorious defense." *See Pickett*, 114 Md. App. at 558 (citing *Tandra S. v. Tyrone W.*, 336 Md. 303, 314 (1994)); *see also Weitz*, 273 Md. at 628 (citing *Murray v. Fishman Constr. Co.*, 241 Md. 538, 547-58 (1966)) ("[T]he party who seeks to invoke the court's revisory power must show by satisfactory proof that he [or she] is acting in good faith [and] with ordinary diligence, and . . . has a meritorious defense.").[7]

On appeal, J. Ruby emphasized the fact that the phone number for the Court Clerk's office was not included in the TPO as a primary basis for the existence of an irregularity in the FPO proceedings.[8] On the contrary, we think that J. Ruby's factual allegations pertinent to his efforts to determine the hearing date merely suggest that he did not act with the "ordinary diligence" necessary for the court to vacate the FPO.

The TPO stated expressly that J. Ruby was responsible for confirming the hearing date.[9] Thus, although the TPO did not include the Court Clerk's phone number, it clearly

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[7] Additionally, J. Ruby made no assertion in his motion that he had a meritorious defense to the allegations of abuse included in the TPO. "Defendants who move to open judgments against them are required to show a meritorious defense because, in the ordinary scenario where there is a genuine case or controversy, reopening is sought for the purpose of litigating the underlying merits of the case." *Chapman*, 356 Md. at 448. S. Ruby did not raise this issue, however, and we need not address it given our holding that other grounds justified the circuit court in denying the motion to vacate.

[8] We note that no rule required the circuit court to include its phone number in the TPO, and therefore, even if J. Ruby had argued this point before the circuit court, the allegation was not sufficient to constitute an "irregularity" under Rule 2-535(b). *See Early*, 338 Md. at 652 (Citation omitted).

[9] In protective order proceedings, the actual hearing date for the FPO is contingent upon the date the TPO is served upon the respondent. FL § 4-506(b)(1)(ii) provides, in pertinent part, that "unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the

instructed J. Ruby to contact the Court Clerk to confirm the FPO hearing date and location. The TPO provided the name of the court that issued the TPO, the name of the Court Clerk, and the physical address for both. Therefore, if a quick online search for the court's phone number was not a viable solution for J. Ruby, he could have gone to the Clerk's Office in person. Instead, as J. Ruby stated in his motion to vacate, he "expected that the hearing would be on" July 17, 2017, and he apparently made no effort to confirm the hearing date or contact the Court Clerk.

We conclude, therefore, that the circuit court did not abuse its discretion in denying J. Ruby's motion to vacate the FPO. J. Ruby failed to demonstrate that the court had the authority, under Rule 2-535(b), to vacate the order. Accordingly, we affirm the judgment of the circuit court.

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

respondent." Therefore, the small duration of time within which to hold the hearing, along with the uncertainty of the date upon which the respondent will be served, can lead to changes to the date of the FPO proceeding.