

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 349

September Term, 2021

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JOSHUA WHITE

v.

AKIDA JONES

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Shaw Geter,  
Nazarian,  
Wright, Alexander, Jr.,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Shaw Geter, J.

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Filed: December 13, 2021

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This is an appeal from two orders of the Circuit Court for Baltimore City in which the court (1) denied appellant’s petition for an order of contempt and (2) granted appellee’s motion for sanctions against appellant for failing to comply with discovery. For the following reasons, we shall dismiss the appeal.

### **BACKGROUND**

Joshua White, appellant, and Akida Jones, appellee, are the parents of a minor child, who was born in 2015. On March 5, 2018, the court entered an order awarding sole legal and primary physical custody of the child to appellee. The custody order granted appellant access to the child pursuant to a visitation schedule.

In March 2020, the parties each filed petitions to modify the custody order. On April 6, 2020, appellant filed a petition seeking an order holding appellee in contempt of the custody order.

On June 2, 2020, in preparation for the contempt proceeding and the modification hearing, appellee sent appellant interrogatories and requests for production of documents. Appellant failed to respond, and appellee filed a motion to compel. The court granted the motion and ordered appellant to provide responses to discovery on or before October 19, 2020. On February 15, 2021, appellee filed a motion for sanctions, alleging that, although appellant had answered interrogatories, he had failed to respond to the request for production of documents.

The court held a virtual hearing on appellant’s petition for contempt and appellee’s motion for sanctions on March 30, 2021.<sup>1</sup> On April 5, 2021, the court entered two orders. The first order denied appellant’s petition for an order of contempt upon a finding that appellant failed to prove that appellee unreasonably or willfully violated the custody order. The second order granted appellee’s motion for sanctions and provided that appellant was precluded from using any documents that were requested by appellee but were not produced by October 19, 2020. Appellant noted this appeal from both orders on April 6, 2021.

On July 22, 2021, the court held a modification hearing and issued a modified custody and visitation order.

### DISCUSSION

“[U]nless constitutionally authorized, appellate jurisdiction ‘is determined entirely by statute,’ and therefore, a right of appeal only exists to the extent it has been ‘legislatively granted.’” *Mayor & City Council of Baltimore v. ProVen Mgmt., Inc.*, 472 Md. 642, 665 (2021) (citations omitted). The general right of appeal is set forth in § 12-301 of the Courts and Judicial Proceedings Article (“CJP”) of the Maryland Code, which provides: “a party may appeal from a final judgment entered in a civil or criminal case by a circuit court.”

A final judgment is a ruling that “has the effect of putting the parties out of court and denying them the means of further prosecuting the case or the defense.” *Ruiz v. Kinoshita*, 239 Md. App. 395, 416 (2018) (quoting Judge Kevin F. Arthur, *Finality of*

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<sup>1</sup> The hearing was held virtually via Zoom due to health restrictions related to the COVID-19 pandemic.

Judgments and Other Appellate Trigger Issues 5 (3d ed. 2018)). The purpose of the final judgment rule is to “‘promote judicial economy and efficiency’ by preventing piecemeal appeals after every order or decision by a trial court.” *In re C.E.*, 456 Md. 209, 221 (2017) (citation omitted).

An order that is not a final judgment is an interlocutory order. An interlocutory order is not appealable unless it (1) falls within one of the statutory exceptions set forth in CJP § 12–303, (2) is permitted under Maryland Rule 2-602, or (3) is allowed under the common law collateral order doctrine. *Id.* Discovery orders, including an order granting discovery sanctions, are ordinarily “not appealable prior to a final judgment terminating the case in the trial court.” *Maryland Board of Physicians v. Geier*, 451 Md. 526, 548-49 (2017). *Accord Montgomery County v. Stevens*, 337 Md. 471, 477 (1995) (noting the interlocutory nature of discovery orders).

In the context of this appeal, the order sanctioning appellant for his failure to respond to requests for documents is interlocutory and does not fall within any exception to the final judgment rule. Accordingly, that order is not appealable.

Similarly, the order denying appellant’s petition for an order of contempt is not appealable, but for a different reason. Appeals from a contempt case in the circuit court are governed exclusively by CJP § 12-304 which provides, in pertinent part, “[a]ny 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.” The Court of Appeals has held that the plain language of §12-304 “clearly and

unambiguously limits the right of appeal in contempt cases to persons adjudged in contempt.” *Pack Shack, Inc. v. Howard County*, 371 Md. 243, 254 (2002). Consequently, “a party that files a petition for constructive civil contempt does not have a right to appeal the trial court’s denial of that petition.” *Id.* at 246.

Appellant has no right to appeal either the interlocutory order for sanctions or the order denying his petition for contempt. Accordingly, dismissal is required.<sup>2</sup>

**APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.**

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<sup>2</sup> We note that appellant also filed an appeal from an order denying his motion to vacate an order of default. The appeal from that order seems to have been abandoned, as the order is not included in the record extract, as required by Maryland Rule 8-501(c), nor does appellant’s brief contain any discernable argument on the issue. In any event, we note that an order of default is interlocutory in nature. *Flynn v. May*, 157 Md. App. 389, 393 (2004). It follows, therefore, that an order denying a motion to vacate an order of default is also interlocutory and not subject to appeal. To the extent not abandoned, the appeal from that order is dismissed.