

Circuit Court for Prince George's County
Case No. CAL-11-14656

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 401

September Term, 2021

STARSHA SEWELL

v.

PRINCE GEORGE'S COUNTY
DEPARTMENT OF SOCIAL SERVICES, *et al*

Kehoe,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 31, 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.

In 2011, Starsha Sewell, appellant, filed an administrative appeal in the Office of Administrative Hearings (OAH) after the Prince George’s County Department of Social Services, appellee, terminated her children’s safety plan. Following a hearing, an Administrative Law Judge issued a proposed opinion finding that the appeal should be dismissed because the OAH did not have jurisdiction to conduct a hearing or render a decision. The proposed opinion was subsequently affirmed by the Secretary of the Department of Human Services.

Ms. Sewell then filed a petition for judicial review in the Circuit Court for Prince George’s County. Appellee filed a response and a motion to dismiss the petition as having been untimely filed. Approximately two weeks later, Ms. Sewell filed a notice of removal in the United States District Court for the District of Maryland. On August 15, 2012, the District Court found that removal was improper and remanded the case to the circuit court. The remand order was docketed on August 20, 2012. The same day Ms. Sewell filed a motion to withdraw her petition for judicial review. The circuit court granted the motion on September 5, 2012 and closed the case statistically (the September 5 judgment). Thereafter, Ms. Sewell filed a motion to revise the Federal District Court’s remand order pursuant to Fed. Rule Civ. P. 60(b). After that motion was denied, Ms. Sewell appealed to United States Court of Appeals for the Fourth Circuit, which affirmed the District Court’s judgment in a per curiam opinion issued on March 10, 2014.

In March 2021, Ms. Sewell filed a motion entitled “MD Rule 2-535(b) Irregularity Emergency Motion to Re-Open Remanded Action on the Basis of Material Change in Circumstances,” wherein she sought to vacate the September 5 judgment. Ms. Sewell’s

sole claim was that there had been an irregularity of procedure because appellee’s counsel had failed to notify the circuit court after the Fourth Circuit issued its 2014 opinion. The motion did not explain how the Fourth Circuit’s opinion would have affected the validity of the September 5 judgment. Nor did it indicate why Ms. Sewell had not brought the opinion to the circuit court’s attention herself. In addition to her Rule 2-535(b) motion, Ms. Sewell also filed a motion to consolidate this case with her child custody case. The court denied both motions without a hearing. This appeal followed.

Ms. Sewell’s arguments on appeal are extremely difficult to follow. And as the appellant, Ms. Sewell is ultimately responsible for demonstrating error on appeal. Nevertheless, we have reviewed the record and find no abuse of discretion in the trial court’s decision to deny Ms. Sewell’s Rule 2-535(b) motion. Even if true, the claim that she raised in that motion does not establish the existence of fraud, mistake, or irregularity within the meaning of Rule 2-535(b). Therefore, the motion was properly denied for that reason alone. Moreover, as the party moving to set aside the judgment, Ms. Sewell was also required to show that she acted with ordinary diligence in filing the motion. *Tandra S. v. Tyrone W.*, 336 Md. 303, 314 (1994) (superseded by statute on other grounds). Yet Ms. Sewell did not bring her claim to the circuit court’s attention until 2021, almost seven years after the Fourth Circuit issued its opinion.

Finally, the circuit court did not abuse its discretion in denying Ms. Sewell’s motion to consolidate. This case was closed in 2012. And the circuit court entered a final judgment in Ms. Sewell’s custody case in 2014. Therefore, unless both judgments had been vacated there was nothing to consolidate. Moreover, even if the September 5 judgment had been

vacated, this case does not have a common question of law or fact with Ms. Sewell's custody case as it does not involve the resolution of child custody, child support, or visitation. *See generally* Maryland Rule 2-503(a). Rather the only issues to be addressed in that case would be whether Ms. Sewell had filed a timely petition for judicial review and, if so, whether the OAH erred in finding that it lacked jurisdiction to render a decision in her administrative appeal. Consequently, we shall affirm the judgments of the circuit court.

**JUDGMENTS OF THE CIRCUIT
COURT FOR PRINCE GEORGE'S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**