Circuit Court for Harford County
C-12-CR-20-000044

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 414

September Term, 2021

JOHN WILLIAM SAWYER

v.

STATE OF MARYLAND

Fader, C.J.,
Berger,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, C.J.

Filed: January 21, 2022

On June 29, 2019, in the District Court of Maryland for Harford County, the State charged John William Sawyer, the appellant, with six misdemeanor offenses arising from conduct that occurred on June 28, 2018. Mr. Sawyer filed a motion to dismiss the charges on the ground that the one-year limitations period for the commencement of prosecution had expired before the State filed charges. The District Court, purportedly applying the method for computing time in Rule 1-203, calculated the end date of the one-year limitations period as June 29, 2019, the day charges were filed. Accordingly, the court denied the motion to dismiss. After Mr. Sawyer prayed a jury trial and his case was transferred to the Circuit Court for Harford County, he renewed his motion to dismiss. The circuit court denied that motion on res judicata grounds. Mr. Sawyer was found guilty and sentenced to one year of incarceration, with all but four months suspended. The sentence was stayed pending the resolution of this appeal.

In this timely appeal, the parties agree that the decisions of both courts were wrong on the merits. With respect to the statute of limitations, although the parties disagree concerning the applicability of Rule 1-203, they agree that the statute of limitations had passed by the time the State filed charges, regardless of whether that Rule applies. The parties also agree that the District Court's decision had no res judicata effect and that the circuit court should have decided the statute of limitations issue on the merits. Notwithstanding those agreements, the State argues that the judgment of conviction should still be affirmed because Mr. Sawyer did not preserve the argument that the charges were filed outside the statute of limitations even if Rule 1-203 applies. As we will explain, we

agree with both parties on the merits[1] and disagree with the State's preservation argument. Accordingly, we will reverse.

1. Computing Time Periods

The core problem of this appeal is how to compute "1 year." The statute of limitations applicable to the misdemeanor offenses with which Mr. Sawyer was charged is contained in § 5-106(a) of the Courts and Judicial Proceedings Article (2020 Repl.), which provides that "a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed." On appeal, both parties agree that "1 year" includes the date on

[1] We agree with the parties that the circuit court erred in determining that res judicata principles precluded it from revisiting the District Court's decision to deny Mr. Sawyer's motion to dismiss. Res judicata precludes the re-litigation of a suit only where there is "a final judgment on the merits in the previous action." *Powell v. Breslin*, 430 Md. 52, 63-64 (2013). The District Court did not issue a final judgment on the merits and, therefore, the circuit court was not precluded from revisiting any decisions the District Court made before the case was transferred. Where a case is transferred from District Court to circuit court, rather than appealed after the rendering of a final judgment in the District Court, decisions made before transfer are not treated any differently than if they had been made by a different circuit court judge in the course of the same case. *See, e.g.*, Md. Code Ann., Cts. & Jud. Proc. § 6-404 (2020 Repl.) (providing that "a case transferred from the District Court to a circuit court for trial shall be deemed to have originated in the circuit court"); *cf. Monarch Acad. Balt. Campus, Inc. v. Baltimore City Bd. of Sch. Comm'rs*, 457 Md. 1, 57 (2017) ("A circuit court judge is not necessarily bound to respect an earlier legal ruling in a given case made by a fellow circuit court judge in the same way that a circuit court judge must respect a legal ruling in a given case by an appellate court under the doctrine of the law of the case."); *Elec. Gen. Corp. v. Labonte*, 454 Md. 113, 140 (2017) ("The doctrine of the law of the case typically does not apply to a decision of a trial court because, 'as a general principle, one judge of a trial court ruling on a matter is not bound by the prior ruling in the same case by another judge of the court.'" (quoting *Scott v. State*, 379 Md. 170, 184 (2004))). That said, we also agree with the parties that even if res judicata precluded the circuit court from revisiting the District Court's decision, it would not preclude this Court from reviewing the District Court's decision in this appeal. Accordingly, the applicability of res judicata is not dispositive and we will not address it further.

which counting begins up through and including the day before the anniversary of that date. Thus, taking the easiest possible example, if counting were to begin on January 1, the last day of the "1 year" period would be December 31 of the same year. If the period also were to include the anniversary date itself—January 1 of the following year, in our example—the period would be "1 year-and-a-day," not "1 year." January 1 to December 31 is "1 year"; January 1 to January 1, by contrast, is one day more than a year.

Stated in the context of this appeal, the parties disagree with respect to whether, for computation purposes, the first day that counted toward the "1 year" limitations period applicable to Mr. Sawyer's offenses was June 28, 2018, the day he committed those offenses, or June 29, 2018, the following day. But they agree, as do we, that if the first day counted was June 28, 2018, the "1 year" period in which charges had to be brought expired on June 27, 2019; and if the first day counted was June 29, 2018, that "1 year" period expired on June 28, 2019. Both potential expiration dates are, of course, before June 29, 2019, when the State brought its charges.

2. Applicability of Rule 1-203

In this appeal, the State contends that Mr. Sawyer preserved only his contention that the first day counted toward the "1 year" limitations period should have been June 28, 2018, and that he failed to preserve his argument that his motion should have been granted even if the first day counted should have been June 29, 2018. That is important, the State posits, because in both trial courts, all parties proceeded on the premise—entirely inaccurate though it was—that if the first day counted toward the "1 year" limitations

period was June 29, 2018, then the limitations period extended through June 29, 2019. To determine if we need to address the State's preservation argument, we must turn first to the parties' dispute concerning the point on which they primarily focused below: whether the first day to be counted toward the "1 year" limitations period was June 28 or 29, 2018.

Rule 1-203 provides, in relevant part: "In computing any period of time prescribed by these rules, by rule or order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not included." Accordingly, if Rule 1-203 applies here, then June 28, 2019, "the day of the act," is "not included" in computing the limitations period.

On its face, Rule 1-203 is plainly applicable to the statute of limitations provided in § 5-106(a) of the Courts and Judicial Proceedings Article, which provides a "period of time" in which something—the filing of charges—must be accomplished in court. And "[w]here a Rule's language is clear, a court 'neither add[s] nor delete[s] language so as to reflect an intent not evidenced in the plain and unambiguous language of the Rule.'" *Green v. State*, 456 Md. 97, 125 (2017) (alterations in original) (quoting *Williams v. State*, 435 Md. 474, 490 (2013)). "Unambiguous language will be given its usual, ordinary meaning unless doing so creates an absurd result." *Green*, 456 Md. at 125 (quoting *Hurst v. State*, 400 Md. 397, 417 (2007)).

In arguing to the contrary, Mr. Sawyer first contends that the "plain meaning" of § 5-106(a) requires that the limitations period begin to run on the day of the criminal acts at issue because "within 1 year after the offense was committed" necessarily includes the

day the offense was committed. Moreover, he argues: (1) the use of the phrase "applicable statute" demonstrates that the Rule is intended to apply to only some, and not all, statutes, and so we should interpret it to be applicable only to civil, and not criminal, statutes; (2) if applied to criminal statutes, Rule 1-203 would constitute an improper judicial expansion of the statute of limitations; and (3) the rule of lenity favors his interpretation.

Mr. Sawyer's arguments are not persuasive for several reasons. First, the purpose of Rule 1-203 is "to establish 'a uniform method of computing any period of time prescribed or allowed . . . by any applicable statute.'" *Equitable Life Assurance Soc'y of the United States v. Jalowsky*, 306 Md. 257, 262 (1986) (quoting 1941 Md. Laws, ch. 522) (discussing the predecessor to current Rule 1-203). Having such a uniform method is no less important in criminal cases than it is in civil cases. Second, and even more importantly, the Rule draws no distinction between civil and criminal periods of time; for us to do so would require that we add language to the Rule that the Court of Appeals did not include when adopting it.[2] Third, the use of the word "within" to set forth the limitations period does not command that counting of that time period begin on the day of the event any more than similar phrases, such as "not less than," which the Court of Appeals has construed as

[2] Mr. Sawyer's reliance on language from *Duncan v. State* that "[g]enerally speaking, a statute of limitations begins to run as soon as the offense is completed," 282 Md. 385, 388 (1978) (quoting 1 Ronald A. Anderson & Francis Wharton, Wharton's Criminal Law & Procedure § 181 (1957)) is misplaced. That case stands for the proposition that the statute of limitations does not begin to run with respect to crimes that are "continuing in character . . . until the last act is done which viewed by itself is a crime," *id.*, and does not purport to address how the limitations period is computed once it starts to run.

being subject to the operation of Rule 1-203 (and its predecessor). *See Mayor and Town Council of Oakland v. Mayor and Town Council of Mountain Lake Park*, 392 Md. 301, 317 (2006).

Fourth, in context, the modifier "applicable" before "statute" seems plainly to refer to statutes prescribing a period of time, which is something that not all statutes do. Fifth, Rule 1-203 is a rule of application, not an expansion, of the limitations period. And, notably, § 1-302 of the General Provisions Article is to the same effect as Rule 1-203 with respect to determining the date on which to start counting a statutory time period: "In computing a period of time described in a statute, the day of the act, event, or default after which the designated period of time begins to run may not be included."[3] Md. Code Ann., Gen'l Prov. § 1-302(a) (2019 Repl.). Finally, the rule of lenity has no application absent ambiguity, *see Jones v. State*, 336 Md. 255, 261 (1994) ("The rule of lenity [] is a maxim of statutory construction which serves only as an aid for resolving an ambiguity and it may not be used to create an ambiguity where none exists."), of which we find none here.

In sum, we agree with the State that Rule 1-203 applies to computing the limitations period with respect to § 5-106(a) of the Courts and Judicial Proceedings Article and, therefore, that June 28, 2018, the day of the alleged offenses, was properly excluded from

[3] Further to the fourth point in the paragraph, it is notable that during the code revision process in which § 1-302 of the General Provisions Article was adopted, the General Assembly removed a former reference to an "applicable" statute contained in a predecessor provision as "unnecessary." H.B. 270, 2014 Leg., 434th Sess. (Md. 2014) (Revisor's Note).

the calculation. The first day to be counted in making the computation was June 29, 2018. We must therefore turn to the State's preservation argument.

3. Preservation

The State contends that we must end our analysis at determining the proper start date for computing the limitations period, and cannot consider what the proper end date is, because Mr. Sawyer never argued below that he could prevail on his motion to dismiss if Rule 1-203 applied. We disagree. The Court of Appeals, "in several cases, has distinguished between the raising of a new *issue*, which *ordinarily* is not allowed, and the raising of an additional *argument*, even by the Court, in support or opposition to an issue that *was* raised, which is allowed." *Kopp v. Schrader*, 459 Md. 494, 512 n.12 (2018); *see also Crown Oil and Wax Co. of Delaware v. Glen Constr. Co. of Va., Inc.*, 320 Md. 546, 560-61 (1990) (explaining that a new theory introduced on appeal "does not present a new issue, but [] is an additional argument"). The issue Mr. Sawyer raised in the trial courts, and thus preserved for appeal, was whether the statute of limitations barred his prosecution. We need not venture beyond that issue to determine that the motions to dismiss should have been granted.

Moreover, regardless of the deficiencies in Mr. Sawyer's argument to the trial court, the issue he raises was actually "decided by the trial court." *See* Md. Rule 8-131(a) (stating that "the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in *or decided by* the trial court") (emphasis added). In ruling on

the motion to dismiss, the District Court determined that the State "met the requirements of Maryland Rule 1-203" by filing charges on June 29, 2019.[4]

Having determined that we are not precluded from considering the issue, for the reasons already discussed, we hold that § 5-106(a) of the Courts and Judicial Proceedings Article required that the misdemeanor charges against Mr. Sawyer for offenses he committed on June 28, 2018 had to be filed no later than June 28, 2019. Because they were not filed until June 29, 2019, the trial courts erred in denying Mr. Sawyer's motions to dismiss.

ORDER OF THE CIRCUIT COURT FOR HARFORD COUNTY REVERSED; COSTS TO BE PAID BY HARFORD COUNTY.

[4] Even if we were to have concluded that Mr. Sawyer had failed to preserve his argument for appellate review, under the circumstances of this case and to avoid an otherwise-inevitable post-conviction action, *see Moosavi v. State*, 355 Md. 651, 661-62 (1999), we would choose to exercise our discretion to decide the straightforward issue presented, *see* Md. Rule 8-131(a).