

Circuit Court for Prince George's County
Case No: CAD17-14272

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 613

September Term, 2019

EMMANUEL AGBARA

v.

EVELYN OKOJI

Nazarian,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 5, 2020

*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 June 2018, a judgment of absolute divorce was entered in the Circuit Court for Prince George’s County dissolving the marriage of Emmanuel Agbara, appellant, and Evelyn Okoji, appellee. In addition, the judgment adjudicated custody and visitation with respect to the parties’ minor child and directed Mr. Agbara to make monthly alimony and child support payments to Ms. Okoji. Following its entry, the parties filed several motions, many of which were addressed during a March 2019 motions hearing and resolved by order of the court entered on April 22, 2019.¹

Specifically, the court granted, in part, five motions to strike filed by Ms. Okoji sealing photographs which were appended by Mr. Agbara to multiple filings and restricting the photographs from public view. In doing so, the court determined that the photographs were “improper, immaterial, impertinent, or scandalous.” The photographs purportedly depicted dried blood stains found in the marital home after the judgment of absolute divorce was entered. Mr. Agbara alleged that these photographs evidenced an at-home abortion by Ms. Okoji and was, therefore, evidence of her adultery. He further alleged that a finding of adultery would pose “a live risk to the alimony awarded to [Ms. Okoji].”

¹ The April 22, 2019 order denied Ms. Okoji’s “Motion to Alter or Amend the June 15, 2018 Judgment of Absolute Divorce,” “Emergency Motion,” “Motion for Protective Order,” and “Amended Motion for Protective Order.” The order denied as moot Mr. Agbara’s “Motion for Defendant to Disclose the Residential Street Address Where the Divorced Couples’ Minor Child Shall Live and Continuously Dwell while in Custody of the Defendant” and “Motion for Continuance of Hearing.” Additionally, the order denied Mr. Agbara’s “Motion to Refer the Testimony of Defendant Evelyn Okoji to the State Attorney’s Office for Investigation for Perjury Upon the Discovery of New Evidence” and “Motion for Evidential Hearing in Light of Discovering of a Material New Evidence in Active Case.”

On appeal, Mr. Agbara raises three questions for our review,² which we consolidate and rephrase for clarity:

Did the circuit court abuse its discretion by striking photographs from the record which allegedly depicted evidence of adultery by Ms. Okoji?

For the following reasons, we shall affirm the judgment of the circuit court.

DISCUSSION

Pursuant to Maryland Rule 2-322(e), upon the motion by any party, the circuit court may order “any improper, immaterial, impertinent, or scandalous matter stricken from any pleading.” We review the denial of a motion to strike for an abuse of discretion. *First Wholesale Cleaners Inc. v. Donegal Mut. Ins. Co.*, 143 Md. App. 24, 41 (2002). An abuse of discretion occurs when a decision is “well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *King v. State*, 407 Md. 682, 711 (2009).

Mr. Agbara contends on appeal that several photographs, allegedly depicting blood stains found in the marital home, constituted evidence of Ms. Okoji’s adultery. He further contends that because “evidence of adultery would weigh against how much [alimony]”

² Mr. Agbara raises the following questions for the Court’s review on appeal:

1. Did the [c]ircuit [c]ourt err in saying that “issues” relating to adultery were moot at the motions hearing?
2. Did the [c]ourt’s comment that the photographs which appellant had appended to various motions were of “dubious relevance” prejudice the hearing for appellant?
3. Did the [c]ourt err in striking the photographs which appellant had appended to the various motions?

Ms. Okoji was entitled to, the newfound “blood evidence” was relevant as it posed a “live risk” to Ms. Okoji’s alimony award. The court, however, admonished Mr. Agbara, stating:

The issues with Ms. Okoji at this point and how the marriage ended, and whether there was adultery or not, those issues are moot at this point. You’re divorced. You’re divorced as of June 15th, 2018, the day that the order went into effect. It’s no longer relevant or pertinent to the Court how the marriage dissolved, and quite frankly it would be entirely inappropriate to share any of those communications with anybody in the community because it’s not important for them to know how the marriage dissolved.

Mr. Agbara contends that the court’s statement was inaccurate. We disagree. The record reveals that the court, in entering the judgment for absolute divorce, considered and rejected adultery as a basis for granting the divorce. The court instead granted the divorce on the grounds of separation. Though Mr. Agbara noted an appeal of the court’s judgment, he only challenged the court’s findings as to custody and child support and did not challenge the court’s findings as to adultery. *See E.A. v. E.O.*, No. 947, Sept. Term 2018 (Filed: July 29, 2019). Moreover, this Court affirmed and upheld the judgment of absolute divorce. *Id.* Additionally, Mr. Agbara did not, pursuant to Maryland Rule 2-534, file a timely post-judgment motion challenging the court’s findings as to adultery. Therefore, at the time of the March 2019 motions hearing, the June 2018 judgment of absolute divorce, and the grounds upon which it was entered, was final and enrolled. *See Ventresca v. Weaver Bros.*, 266 Md. 398, 403 (1972) (“[A] judgment becomes enrolled by the expiration of 30 days following its entry.”).

“A question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide.” *Simms v. State*, 232 Md. App. 62, 68 (2017). Because the judgment

of absolute divorce was enrolled, the question of whether adultery was a proper ground for the parties' divorce was, indeed, moot.

Moreover, at the time of the March 2019 motions hearing, there was no pending motion for modification of alimony before the court, nor were there any other pending motions related to alimony. It was reasonable, therefore, for the court to conclude that the photographs were of “dubious relevance” to the matters which were then before the court. Because the photographs lacked relevance and purported to show the bloody scene of an abortion, it was reasonable for the court to find that they were “improper, immaterial, impertinent, [and] scandalous.” For the foregoing reasons, we find that the court did not abuse its discretion in striking the photographs.

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