Circuit Court for Baltimore County
Case No. 03-C-18-011409

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 673

September Term, 2021

FELICIA LOCKETT

v.

JUSTIN DECLEENE

Berger,
Arthur,
Adkins, Sally D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 24, 2022

At a pretrial status conference, a self-represented plaintiff seemed to indicate that she might settle her personal injury case. A bit later, she noted an appeal, claiming the circuit court had coerced her into agreeing to a settlement.

We shall dismiss the appeal. Because the circuit court has not entered a final judgment, we have no power to consider the case. Maryland Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article.

I.

On November 14, 2018, appellant Felicia Lockett, representing herself, filed a complaint in the Circuit Court for Baltimore County. She requested a jury trial. The court eventually set a trial date of June 15, 2021.

On May 21, 2021, the defendant, Justin DeCleene, moved *in limine* to bar Ms. Lockett from presenting expert testimony or evidence about her future damages. Mr. DeCleene based his motion on Ms. Lockett's failure to respond to his discovery requests and her failure to comply with the court's disclosure deadlines. Ms. Lockett opposed the motion.

On June 11, 2021, a judge conducted a pretrial status conference. During the conference, the judge learned that Mr. DeCleene had offered to settle the case for $40,000.00, but that Ms. Lockett had rejected the offer. The judge, who had reviewed the entire record, informed Ms. Lockett that she intended to grant the motion *in limine* and that the ruling would limit the amount of damages that Ms. Lockett could recover. The judge asked Ms. Lockett whether she would reconsider her rejection of the offer.

Ms. Lockett made a number of statements that could be construed as an acceptance of the offer. At one point, she said that it was "probably in her best interest" to "accept" the offer. Moments later, when the judge asked whether she felt comfortable with her decision, Ms. Lockett responded: "I have no choice actually but to feel comfortable because, you know, once you make a decision, it's, it's, it is what it is."

After Ms. Lockett made those statements, Mr. DeCleene's attorney mentioned that Ms. Lockett's healthcare providers had liens in her recovery. The attorney stated that the liens would have to be paid out of the recovery. Ms. Lockett expressed some uncertainty about the liens, although she was aware of at least one lien and had attempted to negotiate a reduction of it. The judge suggested that she talk to a lawyer.

At the judge's direction, the defense attorney agreed to draft a stipulation of dismissal with prejudice. The judge informed the parties that she was taking the case off the trial docket. A hearing sheet states that the case was "settled" and that a stipulation of dismissal was "to be filed."

The parties did not file a stipulation of dismissal. Instead, on July 13, 2021, Ms. Lockett filed a document titled "Request to Reverse Settlement Decision Due to Violation of Judicial Laws by the Presiding Judge, with P[er]mission to Use Electronic Device." At about the same time, she filed a notice of appeal. Her personal injury case remains pending, and unadjudicated, in the circuit court.

II.

Mr. DeCleene has moved to dismiss the appeal. We shall grant his motion.

Our appellate jurisdiction derives from statute – principally, Maryland Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article. Section 12-301 states that "[t]he right of appeal exists from a *final judgment* entered by a court in the exercise of original, special, limited, statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by law." (Emphasis added.)

"Whether a judgment is final, and thus whether this Court has jurisdiction to review that judgment, is a question of law." *Baltimore Home Alliance, LLC v. Geesing*, 218 Md. App. 375, 381 (2014). If we lack appellate jurisdiction, we must dismiss an appeal. *McLaughlin v. Ward*, 240 Md. App. 76, 83 (2019); *see* Md. Rule 8-602(b).

To qualify as a final judgment, an order "must be 'so final as either to determine *and conclude* the rights involved or to deny the appellant the means of further prosecuting or defending his or her rights and interests in the subject matter of the proceeding.'" *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. 289, 299 (2015) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)) (emphasis in original); *accord Huertas v. Ward*, 248 Md. App. 187, 200 (2020). In other words, the order "must be a complete adjudication of the matter in controversy, except as to collateral matters, meaning that there is nothing more to be done to effectuate the court's disposition." *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. at 299. An order is a final judgment if it "has the effect of 'put[ting] the [party] out of court.'" *Id.* (quoting *McCormick v. St.*

Francis de Sales Church, 219 Md. 422, 426-27 (1959)); *accord Huertas v. Ward*, 248 Md. App. at 201 (2020).

In this case, the circuit court did not determine or conclude any of Ms. Lockett's rights or deny her the means of further prosecuting her rights and interests. Nor did the circuit court put Ms. Lockett out of court. Her case remains pending in the circuit court. Every issue in her case, including the issue of whether she entered into a binding agreement to settle her claims, remains open. There is no final judgment.

In her appeal, Ms. Lockett does not complain about anything resembling a judgment, much less a final judgment. She does not even complain about a ruling, order, or decision by the circuit court. Rather, she complains about a circuit court judge's alleged conduct at a pretrial conference at which the parties may or may not have agreed to settle the case. This is not the forum for complaints of that nature.

In her reply brief, Ms. Lockett tacitly concedes that the circuit court did not enter a final judgment. She cites Md. Rule 8-602(g)(1), which states:

> If the appellate court determines that the order from which the appeal is taken was not a final judgment when the notice of appeal was filed but that the lower court had discretion to direct the entry of a final judgment pursuant to Rule 2-602(b), the appellate court, as it finds appropriate, may (A) dismiss the appeal, (B) remand the case for the lower court to decide whether to direct the entry of a final judgment, (C) enter a final judgment on its own initiative or (D) if a final judgment was entered by the lower court after the notice of appeal was filed, treat the notice of appeal as if filed on the same day as, but after, the entry of the judgment.

Rule 8-602(g)(1) is inapplicable for any number of reasons, the most obvious of which is that Ms. Lockett has not appealed from an order of the circuit court. Again, her appeal does not concern an order, final or otherwise; it concerns the judge's alleged

conduct. Rule 8-602(g)(1) does not authorize us to review that conduct, separate and apart from an order that meets the specific criteria of the rule.

In some instances, a settlement conference may lead to a final judgment. For example, "[w]hen parties agree to settlement terms in the presence of the court and ask the court to render a judgment based on that settlement agreement and the court renders a judgment on the settlement, the agreement becomes a final judgment." *Jones v. Hubbard*, 356 Md. 513, 525 (1999). Here, however, even if the parties agreed to a settlement agreement (which we do not decide), they did not ask the court to render a judgment based on that settlement agreement. Nor did the court render a judgment. Therefore, we have no power to decide this case.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.