

Circuit Court for Baltimore City
Case Nos. 24-C-23-002024,
24-C-23-001888, 24-C-23-003330,
& 24-C-23-002019

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

Nos. 0957, 1042, 1043, & 1044

September Term, 2024

MAKELE K. HARRISON

v.

THE JOHNS HOPKINS HOSPITAL, *et al.*

Shaw,
Ripken,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 3, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Makele K. Harrison, appellant, appeals from an order issued by the Circuit Court for Baltimore City dismissing with prejudice her consolidated cases against the Johns Hopkins Hospital (the “Hospital”), the Johns Hopkins Health System Corporation (“JHHS”), Tanesha Stokes, Lewis Givens, and Herbert Royster (three employees of the Hospital at the time of the appellant’s alleged injury), collectively appellees, as sanctions for discovery violations. She raises thirteen issues, which reduce to two: (1) whether the trial court erred in holding the hearing on the motion for sanctions remotely, and (2) whether the trial court abused its discretion in dismissing her consolidated cases. For the reasons that follow, we shall affirm.

Prior to trial, the appellees filed a motion to compel discovery, which the court granted on March 28, 2024, directing the appellant to contact opposing counsel to schedule her deposition within five days – and appear at that deposition – and to “produce full and complete responses to [the appellees’] discovery requests within ten (10) days” and warning that any “failure to comply with this Order may result in the imposition of sanctions.” While the motion to compel was pending, the appellant failed to appear at a second deposition and the appellees filed a motion for sanctions on March 27, 2024, later amended on April 25, 2024, to request the ultimate sanction of dismissal for the appellant’s failure to comply with the order compelling discovery.

At the June 21, 2024, remote hearing on that motion, the appellant objected to proceeding remotely, arguing that she had a right to an attorney and had been unable to find one. The court overruled her objection and proceeded with the hearing. The appellant stated on the record that she did not provide the discovery she had been compelled to

produce, choosing instead to “fil[e] something stating that [she] could not do that without legal counsel.” The court then determined that the appellant had failed to comply with the order compelling discovery, with no legal excuse. Therefore, the court dismissed the case with prejudice. This appeal followed.

On appeal, the appellant essentially contends that the court erred in conducting the sanctions hearing remotely and that it abused its discretion in granting the motion for sanctions and dismissing her consolidated cases as a sanction for her discovery violations. We disagree on both counts.

As to the first issue, the appellant cites Maryland Rule 21-201 for the proposition that the trial court must make findings regarding “whether remote electronic participation would be likely to cause substantial prejudice to a party or adversely affect the fairness of the proceeding” when a party objects to proceeding remotely. However, the appellant’s objection at the hearing was because she did not have a lawyer, which was due to her own failure to engage one. She did not object to the fact that the hearing was being conducted remotely. Consequently, the trial court did not err in failing to make the findings required by Rule 21-201.

As to the second issue, Maryland Rule 2-433 describes the broad discretion of the trial court to impose sanctions for a “failure of discovery” or a failure “to obey an order compelling discovery.” Md. Rule 2-433(a) & (c); *see Rodriguez v. Clarke*, 400 Md. 39, 56 (2007) (“Trial judges are vested with great discretion in applying sanctions for discovery failures.”). “The available sanctions [for a discovery violation] range from striking out pleadings to dismissal, . . . and the decision whether to invoke the ‘ultimate sanction’ is left

to the discretion of the trial court.” *Valentine-Bowers v. Retina Grp. of Wash., P.C.*, 217 Md. App. 366, 378 (2014) (citing Md. Rule 2-433).

The ultimate sanction, dismissal of a case, is reserved for “cases of egregious misconduct such as willful or contemptuous behavior,” *Manzano v. S. Md. Hosp.*, 347 Md. 17, 29 (1997) (cleaned up), but “[e]ven when the ultimate penalty of dismissing the case . . . is invoked, it cannot be disturbed on appeal without a clear showing that [the court’s] discretion was abused.” *Mason v. Wolfing*, 265 Md. 234, 235 (1972). In considering whether, and to what extent, sanctions are appropriate, a trial court should consider: “(1) whether the disclosure violation was technical or substantial; (2) the timing of the ultimate disclosure; (3) the reason, if any, for the violation; (4) the degree of prejudice to the parties . . . ; and (5) whether any resulting prejudice might be cured by a postponement[.]” *Valentine-Boers*, 217 Md. App. at 378-79. “An abuse of discretion occurs where no reasonable person would take the view adopted by the [trial] court, when the court acts without reference to any guiding rules or principles, or when the court’s ruling is clearly against the logic and effect of facts and inferences before the court.” *State v. Alexander*, 467 Md. 600, 620 (2020) (internal quotation marks and citation omitted).

Here, the appellant was ordered to produce discovery, did not do so, and admitted to the failure to provide discovery as ordered on the record. The appellant’s case had been pending for over a year by the time the hearing was held in June of 2024, with a trial date that had been set for August. Referencing the appropriate factors, the trial judge found that “the disclosure violation is substantial[.]” that “there has been no ultimate disclosure,” that the appellant’s failure to hire an attorney did not excuse her failure to provide the ordered

discovery, and that the prejudice to the defense was “great” and “cannot even be cured by a postponement.” Consequently, given the trial court’s reasoned and logical ruling which referenced the guiding standard for the imposition of sanctions, the court did not abuse its discretion in finding that the ultimate sanction was warranted.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**