Circuit Court for Prince George's County
Case No. C-16-CV-23-005681

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1066

September Term, 2024

OTABEK ELMURODOV

v.

UNIVERSITY OF MARYLAND CAPITAL REGION HEALTH FAMILY MEDICINE PROGRAM, ET AL.

Berger,
Tang,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: July 23, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from an action brought in the Circuit Court for Prince George's County by a former medical resident, Otabek Elmurodov ("Mr. Elmurodov") against the University of Maryland Capital Region Health Family Medicine Residency Program d/b/a/ University of Maryland Capital Region Health ("UM Capital Region") and associated parties following his termination from the Family Medicine Residency Program. In pursuit of his claims, Mr. Elmurodov, proceeding pro se, served subpoenas styled as requests for "written depositions" on non-parties Dr. Bai Lin Luo and Dr. Christopher McLeod ("Appellees"). Appellees sought to quash the subpoenas, which the circuit court granted, ordering Mr. Elmurodov to pay applicable attorney's fees. This appeal followed.

QUESTIONS PRESENTED

Mr. Elmurodov presents one question for our review which we repeat verbatim:

> Did the Trial Court err by awarding attorney fees to non-parties contrary to the Maryland Rules of Civil Procedure and established Maryland precedents?

For the following reasons, we shall dismiss the appeal for lack of a final judgment.

BACKGROUND

Mr. Elmurodov was a resident in the UM Capital Region Health Family Medicine Residency Program (the "Program"). Mr. Elmurodov joined the program in November 2021 as a second-year resident after completing his first year of residency elsewhere. In April 2022, following what it deemed as deficient performances, the Program issued an individualized learning plan for Mr. Elmurodov which included an action plan and a monitoring plan to improve his performance. Following the implementation of several additional remediation plans and further deficient performances, Mr. Elmurodov was

terminated from the Program on July 24, 2023. Mr. Elmurodov followed internal appeal procedures, and his dismissal was upheld by an independent, three-physician panel.

On December 14, 2023, Mr. Elmurodov filed suit against UM Capital Region and five doctors associated with the Program, alleging, among other things, breach of contract and discrimination. Mr. Elmurodov then proceeded to file a number of discovery requests on the defendants. On January 26 and 27, 2024, Mr. Elmurodov served interrogatories and requests for admission to the non-party Appellees. On January 29, 2024, counsel for the defendants informed Mr. Elmurodov that the Maryland Rules did not permit these discovery requests against non-parties, and requested that Mr. Elmurodov withdraw the requests immediately. Counsel for defendants also requested that Mr. Elmurodov refrain from communicating with Appellees, as he had been emailing the non-parties to request their completion of the interrogatories. Counsel also informed Mr. Elmurodov that if he did not withdraw the requests and continued communicating with Appellees, counsel would "seek a protective order against you and again seek[] costs and fees to reimburse my clients for having to respond to and oppose your inappropriate filings and discovery requests."

Instead of withdrawing the requests, on January 31, 2024, Mr. Elmurodov requested that the court issue a subpoena to each Appellee "compelling [each Appellee] to respond to the written deposition[.]" The court issued the subpoenas on February 1, 2024. Counsel for the defendants again informed Mr. Elmurodov that these subpoenas were inappropriate and that counsel would pursue fees and sanctions if he continued with these actions. Nonetheless, Mr. Elmurodov again contacted Appellees, encouraging them to respond to

his requests. Mr. Elmurodov acknowledged that the original interrogatories were improper, insisted that the "written depositions" were valid and enforceable.

Counsel for defendants entered limited appearance for Appellees, and filed motions for protective orders and objections to the subpoenas, and requested attorney's fees pursuant to Maryland Rule 1-341, alleging that Mr. Elmurodov's discovery requests were in bad faith and without substantial justification. On February 12, 2024, the court ordered that Appellees were not required to comply with Mr. Elmurodov's requests, and imposed sanctions on Mr. Elmurodov pursuant to Maryland Rule 1-341.

Simultaneously, on February 8, 2024, defendants filed a notice of removal, intending to pursue the action in the United States District Court for the District of Maryland. Defendants claimed there was federal jurisdiction because Mr. Elmurodov had recently filed a "Motion for Leave to Conduct Early Discovery" which for the first time alleged "unlawful discrimination pursuant to 29 U.S.C. § 2615" and "unlawful employment practices violating Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e et seq.)." Following the removal, on February 13, 2024, the orders pertaining to the attorney's fees awards were stamped "MOOT" because the case was transferred. On April 25, 2024, the District Court granted Mr. Elmurodov leave to amend his complaint, in which he eliminated the federal claims, leaving only state law claims and necessitating remand to the Circuit Court for Prince George's County. In its memorandum opinion remanding the case to state court, the District Court noted in a footnote that "pending motions remaining for resolution in state court [include]: a motion to enforce the state court's orders for attorney['s] fees filed by [Appellees]."

On May 16, 2024, Appellees filed a motion requesting that the circuit court enforce the order awarding attorney's fees. On July 29, 2024, the court granted the motion, entering an order requiring Mr. Elmurodov to pay attorney's fees in the amount of $7,893.50. Mr. Elmurodov filed this appeal the following day. At the time this appeal was filed, Mr. Elmurodov's suit against the defendants was still pending.

Mr. Elmurodov alleges that the court erred in awarding attorney's fees to the non-party Appellees because the attorneys should have been disqualified because they also represented several defendants in the case which created a conflict of interest, and that the request for attorney's fees was made in bad faith. Mr. Elmurodov further argues that the order granting attorney's fees had previously been mooted due to the transfer to federal court and the court failed to explain its rationale in deciding to re-grant the attorney's fees. In response, Appellees argue that the court properly determined that Mr. Elmurodov's subpoenas to Appellees were issued in bad faith or without substantial justification, and it properly exercised its discretion in granting Appellees attorney's fees. Appellees also argue that the order awarding attorney's fees to Appellees was not a final judgment and therefore not appealable. We agree, and, therefore, dismiss.

DISCUSSION

In order for this Court to exercise jurisdiction, an appeal must be taken from a final judgment, or fit into an otherwise prescribed exception to the final judgment requirement. *Bartenfelder v. Bartenfelder*, 248 Md. App. 213, 229-30 (2020); Md. Code (1973, 2020 Repl. Vol.) § 12-301 of the Courts and Judicial Proceedings Article ("CJP"). The requirement that a judgment be final "before permitting appeal reflects Maryland's long-

established policy against piecemeal appeals." *Waterkeeper Alliance, Inc. v. Md. Dep't of Agric.*, 439 Md. 262, 278 (2014) (citations omitted).

Maryland Rule 2-602 addresses judgments that do not dispose of the entire action. Rule 2-602(a) provides:

> (a) Generally. Except as provided in section (b) of this Rule, an order or other form of decision, however designated, that adjudicates fewer than all of the claims in an action (whether raised by original claim, counterclaim, cross-claim, or third-party claim), or that adjudicates less than an entire claim, or that adjudicates the rights and liabilities of fewer than all the parties to the action:
>
> (1) is not a final judgment;
>
> (2) does not terminate the action as to any of the claims or any of the parties; and
>
> (3) is subject to revision at any time before the entry of a judgment that adjudicates all of the claims by and against all of the parties.

"[F]or a judgment to be considered final, it must be intended by the court as an unqualified, final disposition of the matter in controversy and dispose of all claims against all parties and conclude the case." *Bartenfelder*, 248 Md. App. at 229-30 (cleaned up). A court's "order will constitute a final judgment if the following conditions are satisfied: (1) it must be intended by the court as an unqualified, final disposition of the matter in controversy; (2) it must adjudicate or complete the adjudication of all claims against all parties; and (3) the clerk must make a proper record of it on the docket. In other words, for an order to qualify as a final judgment, it must adjudicate each and every claim and be reflected in a docket entry." *Waterkeeper*, 439 Md. at 278 (cleaned up).

"An order that is not a final judgment is an interlocutory order and ordinarily is not appealable[.]" *Nnoli v. Nnoli*, 389 Md. 315, 324 (2005). "An interlocutory order may be appealed, however, if an immediate appeal is authorized by a statute, if it falls within the collateral order doctrine,[] or if the circuit court directs the entry of a final judgment pursuant to Maryland Rule 2-602." *Bartenfelder*, 248 Md. App. at 230. "To qualify as a collateral order, a ruling must satisfy four criteria: '(1) it must conclusively determine the disputed question; (2) it must resolve an important issue; (3) it must be completely separate from the merits of the action; and (4) it must be effectively unreviewable on appeal from a final judgment.'" *McLaughlin v. Ward*, 240 Md. App. 76, 88 (2019) (quotations omitted). "The collateral order doctrine is a very narrow exception to the final judgment rule, and each of its four requirements is very strictly applied in Maryland." *Nnoli*, 389 Md. at 329.

As noted previously, for a judgment to be final, "(1) it must be intended by the court as an unqualified, final disposition of the matter in controversy; (2) it must adjudicate or complete the adjudication of all claims against all parties; and (3) the clerk must make a proper record of it on the docket." *Waterkeeper*, 439 Md. at 278 (cleaned up). Appellees maintain that the July 29, 2024 order enforcing the prior order awarding attorney's fees is not a final judgment, particularly because it did not adjudicate Mr. Elmurodov's claims against the defendants. Notably, Appellees are not parties to the case. Rather, Mr. Elmurodov's actions during discovery led to their involvement, and Mr. Elmurodov's actions in the present appeal have resulted in their continuing involvement. Our research has uncovered only instances where the non-party was denied some protection in the underlying case, and the non-party was the aggrieved party seeking an appeal. In *St. Joseph*

Med. Ctr., Inc. v. Cardiac Surgery Assocs., P.A., 392 Md. 75 (2006), we considered that precise question.

> In *St. Joseph*, a non-party to the underlying suit filed an interlocutory appeal from the trial court's refusal to grant a protective order from discovery in favor of the non-party. We held that the order was appealable, not under any of the exceptions to the final judgment rule, but because the order was a final judgment as to the non-party. 392 Md. at 88-89. We reasoned that because the third person was not a party to the case, it would not have standing "to challenge the discovery order by appealing from a final judgment in that case." *Id*. at 88. Thus, "analytically, it is a final judgment with respect to that appellant." *Id*. at 90.

Falik v. Hornage, 413 Md. 163, 176 (2010) (summarizing *St. Joseph*).

Critically, in *St. Joseph*, the non-party was the appellant. The judgment was final as to that non-party appellant; had the non-party not been able to appeal at that time, it would have lacked standing to challenge by the conclusion of the case, and would have been needlessly involved in litigation from which it otherwise could have been excluded. *St. Jospeh*, 392 Md. at 88-89. Thus, "[i]n situations where the aggrieved appellant, challenging a trial court discovery or similar order, is not a party to the underlying litigation in the trial court, . . . Maryland law permits the aggrieved appellant to appeal the order because, analytically, it is a final judgment with respect to that appellant." *Id*. at 90.

Mr. Elmurodov's case is distinguishable because the aggrieved party is Mr. Elmurodov, while the non-parties are Appellees. Mr. Elmurodov will still have standing to appeal the order awarding attorney's fees when a final judgment is entered following the court's adjudication of all of his claims against the defendants. Permitting Mr. Elmurodov's appeal as a final judgment would run counter to the precise reasoning for

requiring a final judgment -- prohibiting "piecemeal appeals." *Waterkeeper*, 439 Md. at 278. As such, because the order awarding attorney's fees to Appellees does not adjudicate all of Mr. Elmurodov's claims against all of the parties, it is not a final judgment.

Mr. Elmurodov's appeal also does not fall within any of the exceptions to the final judgment requirement: it is not permitted by statute, the court did not direct entry of a final judgment, and it does not fall within the collateral order doctrine. *Bartenfelder*, 248 Md. App. at 230. For the "narrow" collateral order doctrine to apply, the following requirements must be met: "(1) the order must conclusively determine the disputed question; (2) the order must resolve an important issue; (3) the order must resolve an issue that is completely separate from the merits of the action; and (4) the issue would be effectively unreviewable if the appeal had to await the entry of a final judgment." *Md. Bd. of Physicians v. Geier*, 451 Md. 526, 546 (2017). As the Court discussed in *St. Joseph*,

> It is firmly settled in Maryland that, except in one very unusual situation, interlocutory discovery orders do not meet the requirements of the collateral order doctrine and are not appealable under that doctrine. Most discovery orders do not comply with the third requirement of the collateral order doctrine, as they generally are not completely separate from the merits of the lawsuit. Instead, a typical discovery order is aimed at ascertaining critical facts upon which the outcome of the controversy might depend. In addition, discovery orders fail to meet the collateral order doctrine's fourth element, as they are effectively reviewable on appeal from a final judgment. A party aggrieved by a discovery order and aggrieved by the final judgment may challenge the discovery ruling on appeal from the final judgment. Furthermore,

> discovery orders rarely involve an "extraordinary situation" which is part of the collateral order doctrine's fourth element.

St. Joseph, 392 Md. at 87 (cleaned up, internal citations omitted).

Similarly here, the order awarding attorney's fees to Appellees fails to satisfy the third element of the collateral order doctrine. The issue at bar in the order involved Mr. Elmurodov undertaking inappropriate discovery, which was "aimed at ascertaining critical facts upon which the outcome of the controversy might depend." Mr. Elmurodov sought answers to "written depositions" from non-parties who he believed would provide factual information to bolster his claims against the defendants. *St. Joseph*, 392 Md. at 87. The order further fails to satisfy the fourth requirement, that it be "effectively unreviewable," because if Mr. Elmurodov was aggrieved by the order awarding attorney's fees, he could appeal any and all issues following the entry of final judgment in this case. *Md. Bd. of Physicians*, 451 Md. at 546. Mr. Elmurodov's appeal, therefore, clearly does not fit within the collateral order doctrine exception.

The order granting attorney's fees to Appellees was not a final judgment, and does not fall into any of the exceptions such that this Court could exercise appellate jurisdiction. We, therefore, dismiss the appeal. Consequently, we do not reach the merits of the circuit court's imposition of sanctions on Mr. Elmurodov.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.