

Circuit Court for Prince George's County
Case No. CAL20-12476

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1082

September Term, 2021

TIFFANY MADERA MONROE

v.

PRINCE GEORGE'S COUNTY, MARYLAND

Arthur,
Tang,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Arthur, J.

Filed: May 24, 2022

*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.

A self-represented litigant requested a default judgment and petitioned to have her adversary held in contempt because it had allegedly failed to respond to her complaint. The circuit court denied her contempt petition and dismissed her complaint. She appealed. We affirm.

BACKGROUND

On June 15, 2020, appellant Tiffany Madera Monroe, representing herself, filed suit in the Circuit Court for Prince George’s County. Construed liberally, her complaint attempted to set forth constitutional and common-law claims in connection with what appears to have been an involuntary admission for an emergency psychiatric evaluation in 2017. She named Prince George’s County and the Prince George’s County Police Department as defendants.

According to a return of service, an officer of the Prince George’s County Sheriff’s Department served a summons on the County Attorney on July 9, 2020. The return of service does not indicate that the officer served a copy of the complaint.

In December 2020 and January 2021, Ms. Monroe moved for the entry of an order of default. In an order entered on February 24, 2021, the circuit court denied Ms. Monroe’s motion. The court asserted that Ms. Monroe had not complied with the Maryland Rules pertaining to motions and documents.

When Ms. Monroe persisted with additional motions on the subject of default, the court denied them as well by orders entered on April 5, 2021, and May 6, 2021.

On May 9, 2021, the County filed an answer. Among other things, the County asserted that Ms. Monroe’s complaint failed to state a claim upon which relief may be granted and that the County had governmental immunity from her claims.

A few days later, on May 14, 2021, the County moved to dismiss Ms. Monroe’s complaint. In support of its motion, the County argued that Ms. Monroe had failed to comply with the notice requirements of the Local Government Tort Claims Act (Md. Code (1974, 2020 Repl. Vol.), § 5-304 of the Courts and Judicial Proceedings Article (“CJP”)) and that her complaint failed to state a claim upon which relief could be granted.

On July 26, 2021, Ms. Monroe filed a petition for contempt. She alleged that the County had failed to respond to the complaint, placing it in default, and that it had failed to move to vacate an order of default. She cited Md. Rule 3-307, which concerns notices of intention to defend in the district court.

On August 6, 2021, the County opposed the motion. It argued that Ms. Monroe had failed to allege facts that prove any contempt, that the County did respond to the complaint, and that Ms. Monroe was relying on inapplicable rules governing district court proceedings.

On August 11, 2021, Ms. Monroe filed another petition for contempt, again citing Rule 3-307 and again asserting the County failed to file a timely response to her complaint. On August 17, 2021, she moved to withdraw her first contempt petition on the ground that she had submitted another petition predicated on the circuit court rules. She asserted that the County had defaulted by failing to file a response by September 8, 2020. At the same time, she moved for judgment (apparently a default judgment) on the

ground that the County failed to respond to her complaint or to file a timely motion to vacate an order of default.

The court scheduled a motions hearing for August 26, 2021. Ms. Monroe, who had moved to continue the hearing, did not attend.

At the hearing, the court first tried to communicate with Ms. Monroe by phone and email, but was unsuccessful. Only then did the court hear from the County.

The County denied wrongdoing, asserted that it and its agents would have various forms of immunity against some of Ms. Monroe's claims, and argued that the remaining allegations failed to state a claim upon which relief can be granted. The County denied that it was in contempt as a result of the alleged failure to respond to Ms. Monroe's complaint.

In an order dated August 26, 2021, and docketed on September 2, 2021, the court denied Ms. Monroe's motion to postpone the hearing, granted the County's motion to dismiss, and ordered that the case be closed. In granting the County's motion and closing the case, the court effectively denied Ms. Monroe's petition for contempt and her attempts to obtain a default judgment.

On September 13, 2021, Ms. Monroe noted this timely appeal.

QUESTIONS PRESENTED

Both parties have submitted informal briefs pursuant to Md. Rule 8-502(a)(9). As restated for clarity, the issue is whether the circuit court erred in dismissing Ms. Monroe's complaint, refusing to enter a default judgment, and denying her contempt petition.

The denial of the contempt petition is not properly before this Court. Although CJP § 12-301 creates a general right to appeal from a final judgment, that right “does not apply to appeals in contempt cases.” CJP § 12-302(b). Instead, appeals in contempt cases are governed by CJP § 12-304. CJP § 12-302(b).

CJP § 12-304(a) provides: “Any person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.” This statute “clearly and unambiguously limits the right to appeal in contempt cases to persons adjudged in contempt.” *Pack Shack, Inc. v. Howard County*, 371 Md. 243, 254 (2002). An appellant “has no standing to appeal” if she “is not the party who has been adjudged in contempt[.]” *Becker v. Becker*, 29 Md. App. 339, 346 (1975).

““The right of appeal in contempt cases is not available to the party who unsuccessfully sought to have another’s conduct adjudged to be contemptuous.”” *Pack Shack, Inc. v. Howard County*, 371 Md. at 258 (quoting *Becker v. Becker*, 29 Md. App. at 345). Ms. Monroe, therefore, has no right to appellate review of the decision denying her petition for contempt. The only issues properly before us concern the dismissal of her complaint and the denial of her request for a default judgment.

DISCUSSION

Ms. Monroe identifies three “issues” predicated on her claim that the County failed to file a timely response to her complaint. First, she contends that she “is entitled to a judgment by default” because she served the County Attorney with process on July 9, 2020, but the County failed to respond within 60 days. Second, Ms. Monroe contends that she spoke with the County Attorney on September 24, 2020, regarding her “intention to request an order of default[,]” and that the County Attorney “agreed” (it is unclear to what) and “did not object” or otherwise “respond.” Third, Ms. Monroe complains of unidentified violations of the rules pertaining to default judgments, to which she attributes the dismissal of her case.

The County points out that it did respond to Ms. Monroe’s claim by filing its answer on May 9, 2021.

Neither party supports their argument with factual details or citations to the record. Nevertheless, after reviewing the full record, we are satisfied that the circuit court did not err.

Although Ms. Monroe mentions the dismissal of her complaint, she did not file a written opposition to the County’s motion to dismiss or appear to present argument at the hearing on that motion. Nor does she now challenge the court’s dismissal of her complaint based on the immunity and pleading deficiency arguments successfully made by the County. Consequently, she has waived any claim of error with respect to the dismissal of her complaint on those grounds. *See, e.g., Baliff v. Woolman*, 169 Md. App.

646, 653-54 (2006) (adopting the majority position that an appellant who fails to challenge a particular ground for a decision waives any claim of error on that issue).

We reject Ms. Monroe’s contention that the court erred or abused its discretion in refusing to enter a default judgment. Under Md. Rule 2-613, an order of default is a prerequisite for a default judgment. “[A] court cannot issue a default judgment . . . without first issuing an order of default and giving the defaulting party an opportunity to vacate that order[.]” *Pomroy v. Indian Acres Club of Chesapeake Bay, Inc.*, 254 Md. App. 109, 121 (2022).

Ms. Monroe contends, incorrectly, that an “order of default was entered on January 13, 2021.” To the contrary, she filed a motion seeking an order of default on that date, but the court denied that motion by order dated February 17, 2021. Although Ms. Monroe continued to seek default orders, the circuit court denied each of her requests. Because the court had issued no order of default before the County answered her complaint on May 9, 2021, Ms. Monroe was not entitled to a default judgment under Md. Rule 2-613. *See id.*

Based on this record, we hold that the circuit court did not err in dismissing Ms. Monroe’s complaint, denying her request for a default judgment, and entering judgment in favor of the County.

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