Circuit Court for Baltimore City
Case No. 24-D-19-003791

CHILD ACCESS

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1153

September Term, 2025

JEFFREY SCHATZ

v.

SARAH ROBLES, ET AL.,

Nazarian,
Beachley,
Albright,

JJ.

Opinion by Albright, J.

Filed: January 21, 2026

*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).

Appellant Jeffrey Schatz and Appellee Sarah Robles are the parents of a six-year-old child. In this interlocutory appeal from the Circuit Court for Baltimore City, Mr. Schatz argues that the collateral order doctrine permits this appeal, during ongoing custody litigation that he initiated, of the circuit court's allegedly erroneous decision to consider Ms. Robles's late-filed answer ("Opposition")[1] to one of Mr. Schatz's motions. Because Mr. Schatz's appeal is not allowed by the collateral order doctrine,[2] we dismiss the appeal and do not reach the merits of Mr. Schatz's four appellate questions.[3]

[1] We refer to Ms. Robles's late-filed paper as her Opposition in order to distinguish it from the Answer, i.e., the pleading, she had already filed in the litigation.

[2] Ms. Robles has not moved to dismiss this appeal. Nonetheless, we take up the issue of appealability *sua sponte*, as appealability is required to confer appellate jurisdiction. *See Johnson v. Johnson*, 423 Md. 602, 605–06 (2011) ("Neither the parties nor the courts below have raised any issue concerning the appealability of the Circuit Court's order. Nevertheless, an order of a circuit court must be appealable in order to confer jurisdiction upon an appellate court, and this jurisdictional issue, if noticed by an appellate court, will be addressed *sua sponte*."). Mr. Schatz anticipated the appealability issue in his appellate brief and in the Application for Leave to Appeal that he filed below. This Application was not ruled on below nor should it have been. *See* Md. Rule 8-201 (describing how to secure appellate review); Md. Rule 8-204 (pertaining to applications for leave to appeal and not listing this kind of appeal as one that must be accompanied by an Application for Leave to Appeal). We treated Mr. Schatz's Application for Leave to Appeal as a Notice of Appeal.

[3] Mr. Schatz presents the following questions for our review:

1. Did the circuit court commit reversible error and abuse its discretion by considering an untimely and substantively deficient responsive pleading as the basis for denying Appellant's substantive Motion to Prevent Removal of a Minor Child, while Appellant's timely Motion to Strike that very pleading was pending and undecided?
2. Did the circuit court commit reversible error by subsequently declaring the Motion to Strike moot, thereby creating an unreviewable procedural

The late-filed Opposition about which Mr. Schatz complains was filed by Ms. Robles not long after Mr. Schatz initiated a second round of custody litigation. The first round, also initiated by Mr. Schatz, ended in June 2021, when the circuit court issued an initial custody order granting sole legal and sole physical custody of the minor to Ms. Robles, and supervised parenting time with the minor to Mr. Schatz every other Sunday from 1:15 p.m. to 2:35 p.m., with additional parenting time for Mr. Schatz to be "left to Ms. Robles's discretion[.]"

Mr. Schatz initiated this, the second round of custody litigation, on February 21, 2025, when he filed a Motion to Modify Custody ("Modification Petition"). In his Modification Petition, Mr. Schatz alleged that since the initial custody order, there had been a material change of circumstances such that a change of legal custody and visitation was appropriate. Mr. Schatz also alleged that Ms. Robles wrongfully removed their minor child from the state of Maryland and "relocated [their minor child] to West Virginia in secret without notice to the court or Plaintiff, despite the existence of [t]his

loop where its initial error became the justification for precluding a ruling on the procedural defects?

3. Is the circuit court's post-hoc factual finding that a litigant's initial motion "lacked any specificity" clearly erroneous when the finding is directly contradicted by the detailed, multi-ground motion in the record, and was that erroneous finding an improper justification for the court's prior procedural errors?
4. Did the circuit court err as a matter of law by invoking the "best interest of the child" standard to justify its departure from the mandatory procedural requirements of the Maryland Rules, thereby misapplying a substantive legal standard to excuse prejudicial procedural errors.

Court's Maryland custody Order, creating an obstacle to Plaintiff's ability to remain close to [the minor's] life and muddying future jurisdictional waters." Mr. Schatz's Modification Petition is now pending before the circuit court and is scheduled to be heard by that court on February 12, 2026.

On April 2, 2025, while his Modification Petition was pending, Mr. Schatz filed a Motion to Prevent Removal of a Minor Child from Maryland and West Virginia ("Removal Motion"). This is the motion that Ms. Robles responded to late. Mr. Schatz moved to strike the Opposition; the circuit court considered it anyway and then denied the Removal Motion. Thereafter, Mr. Schatz sought reconsideration of that denial. By date, this was what happened:

April 2, 2025	Removal Motion is filed
May 1, 2025	Ms. Robles's Opposition is filed late[4]
May 2, 2025	Mr. Schatz files Motion to Strike Opposition because it is late
May 12, 2025	Circuit court considers Ms. Robles's late-filed Opposition in denying Removal Motion
May 16, 2025	Circuit Court denies Mr. Schatz's Motion to Strike as moot
May 20, 2025	Mr. Schatz files Motion for Reconsideration of the denial of his Removal Motion
June 13, 2025	Reconsideration is denied

[4] Maryland Rule 2-311(b) requires that parties file any response they may have to a motion "within 15 days after being served with the motion, or within the time allowed for a party's original pleading pursuant to Rule 2-321(a), whichever is later." Here, there is no dispute that Ms. Robles filed her Opposition two weeks late.

Here, Mr. Schatz does not deny that this is an interlocutory appeal, nor does he rely on the statutory bases for an interlocutory appeal to suggest that he can pursue this interlocutory appeal. Instead, he points to the common law collateral order doctrine and argues that it supports his appeal.

In Maryland, the final judgment rule restricts the availability of appeals to final judgments. Md. Code Ann., Courts & Judicial Proceedings Article ("CJP") § 12-301; *see also In re Samone H.*, 385 Md. 282, 297 (2005). A final judgment is "a judgment . . . or other action by a court . . . , from which an appeal, application for leave to appeal, or petition for certiorari may be taken." CJP § 12-101. Practically speaking, a final judgment "must either determine and conclude the rights of the parties involved or deny a party the means to prosecute or defend his or her rights and interests in the subject matter of the proceeding." *In re Samone H.*, 385 Md. at 298 (cleaned up). If an order is not a final judgment, it is interlocutory—and generally not appealable. *Id.*

The collateral order doctrine is a very narrow exception[5] to the final judgment rule. Premised "upon a judicially created fiction, the collateral order doctrine permits

[5] In his appellate brief, Mr. Schatz argues that the Orders are appealable through the collateral order doctrine exception. He does not argue that either of the other two exceptions to the final judgment rule apply. *See Johnson*, 423 Md. at 607 ("[T]here are only three exceptions to that final judgment requirement: appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory rulings allowed under the common law collateral order doctrine.").

We agree that there is no statutory basis for Mr. Schatz's appeal. Interlocutory appeals from the denial of an injunction are permitted, but only in very limited circumstances. *See, e.g.*, CJP § 12-303(3)(iii) (permitting an interlocutory appeal from the

immediate appellate review of an order that shares sufficient attributes of a final judgment." *In re Katerine L.*, 220 Md. App. 426, 441–42 (2014). The order must meet the doctrine's four "very strictly applied" requirements, "and appeals under the doctrine may be entertained only in extraordinary circumstances." *In re Foley*, 373 Md. 627, 634 (2003). A reviewable interlocutory order "(1) conclusively determines the disputed question, (2) resolves an important issue, (3) resolves an issue that is completely separate from the merits of the action, and (4) would be effectively unreviewable if the appeal had to await the entry of a final judgment." *Id.* at 633 (cleaned up). "The four elements of the test are conjunctive in nature, and in order for a prejudgment order to be appealable, each of the four elements must be met*." In re Katerine L.*, 220 Md. App. at 442 (quoting *In re Franklin P.*, 366 Md. 306, 327 (2001)). Because of this, an appellate court need not address all prongs of the doctrine in its analysis. *See, e.g.*, *Harris v. State*, 420 Md. 300, 318 (2011) (assuming *arguendo* that that the third and fourth requirements were satisfied before analyzing the first two requirements in full).

circuit court's refusal to grant an injunction if "the right of appeal is not prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on behalf of any opposing party, nor by the taking of depositions in reference to the allegations of the bill of complaint to be read on the hearing of the application for an injunction[.]" Here, Mr. Schatz makes no such contention.

Nor is an immediate appeal permitted under Maryland Rule 2-602. This rule permits immediate appeal from an order that adjudicates "fewer than all of the claims in an action," or "less than an entire claim," or "the rights and liabilities of fewer than all of the involved parties," provided that the circuit court directs the entry of a final order as to the portion that was adjudicated and concludes that "there is no just reason for delay." Md. Rule 602(b). Here, Mr. Schatz requested no such ruling from the circuit court and it did not enter one.

Mr. Schatz argues that the orders entered on May 10, 2025 (denying his Removal Motion) and June 13, 2025 (denying his Motion for Reconsideration) meet the "stringent four-part test" of the collateral order doctrine. Specifically, Mr. Schatz contends (1) that with its May 10, 2025 and June 13, 2025 orders (collectively, "Orders"), the circuit court "conclusively determined" that it would consider a procedurally defective pleading (Ms. Robles's Opposition), meaning that Mr. Schatz's Motion to Strike would not be heard on the merits; (2) that "the issue is too important to be denied review[;]" (3) that the Orders "resolved an important issue completely separate from the merits" of the underlying custody litigation, namely "whether a litigant has a right to have motions decided according to the Maryland Rules on a procedurally proper record[;]" and (4) that the Orders "are effectively unreviewable" because on an appeal from a final custody order, the alleged error would likely be deemed harmless. Mr. Schatz argues that reliance on a challenged pleading to moot the challenge to that pleading undermines public confidence, particularly for pro se litigants who must rely on the Maryland Rules' plain language. We disagree.

The collateral order doctrine's second element, "that the interlocutory order resolves an important issue," typically means a jurisdictional or other fundamental issue such as a child's safety or whether a jury trial will occur at all. *See, e.g., In re M. P.*, 487 Md. 53, 73 (2024) (denial of a motion to dismiss based on lack of jurisdiction satisfies second element); *In re O.P.*, 470 Md. 225, 251 (2020) (denial of temporary shelter care satisfies second element); *Schuele v. Case Handyman & Remodeling Services, LLC*, 412

Md. 555, 573 (2010) (a denial of motion to compel arbitration satisfies second element); *Rios v. State*, 186 Md. App. 354, 365 (2009) (denial of a motion to enforce a plea agreement satisfies second element).

We do not doubt that Mr. Schatz (and Ms. Robles) were personally interested in the outcome of the Removal Motion. But the circuit court's denial of it did not "resolve an important issue" as the law defines this standard. *See In re Foley*, 373 Md. at 633 (cleaned up). In the Removal Motion, Mr. Schatz did not allege an issue of the minor's safety as a result of the relocation he asserted. Nor did he claim that he was being denied his court-ordered supervised parenting time rights. The circuit court recognized as much, when, in denying Mr. Schatz's Motion for Reconsideration, it said, "The late-filed [O]pposition did not change the fact that [Mr. Schatz's Removal Motion] lacked any specificity about any issue with relocation of the minor child."

Nor did the circuit court's denial of the Removal Motion "resolve an important issue" regarding the circuit court's jurisdiction. In the Removal Motion, Mr. Schatz asked that the circuit court establish "clear geographical boundaries" on Ms. Robles in order to "prevent potential jurisdictional complications[,]" and "allow both parents and the child to participate fully in the litigation process within [Maryland and West Virginia]. At the time that Mr. Robles made these requests, however, the circuit court apparently had "exclusive, continuing jurisdiction" over the matter by virtue of having issued the June

2021 custody order. *See* Md. Code Ann., Fam. Law Article ("FL") § 9.5-202(a).[6] Ms. Robles has not disputed this, instead answering Mr. Schatz's Modification Petition with admissions and denials but no suggestion that the circuit court is without jurisdiction to hear the matter. Against this background, we cannot agree that Mr. Schatz's wish to "prevent potential jurisdictional complications[,]" and the circuit court's denial of that wish, equates to an "important issue" that satisfies the collateral order doctrine.

Nor is the second element satisfied by Mr. Schatz's "procedural fairness" contention. Mr. Schatz argues that the Orders resolve an important issue because they deny him his right to procedural fairness and adherence to Maryland Rule 2-311(b), which requires that responses to motions be filed "within 15 days of being served with the motion[.]" *See* Md. Rule 2-311(b). Mr. Schatz contends that by considering Ms. Robles's late-filed Opposition in ruling on (and denying) his Removal Motion, rather

[6] This section states:

> (a) Except as otherwise provided in § 9.5-204 of this subtitle, a court of this State that has made a child custody determination consistent with § 9.5-201 or § 9.5-203 of this subtitle has exclusive, continuing jurisdiction over the determination until:
>
> > (1) a court of this State determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships; or
> >
> > (2) a court of this State or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this State.

FL § 9.5-202(a).

than taking up his Motion to Strike first and then ruling on and presumably granting his unopposed Removal Motion, the court denied him denied procedural fairness. This denial, argues Mr. Schatz, is the kind of "important issue" that satisfies element two of the collateral order doctrine.

Again, we disagree. In *In Re: O.P.*, our Supreme Court looked at the gravity of the underlying issue in determining that an Order denying temporary shelter care satisfied the second element. 470 Md. at 251. Because that decision, i.e., temporary shelter care or not, "hinge[d] on whether there was an emergency situation that require[d] temporary placement outside the home for the safety and welfare of the child[,]" the Supreme Court determined that the denial Order "easily satisfied" the second element. *Id.*

Here, the underlying issue in the Removal Motion was not whether Ms. Robles's Opposition was timely filed. As Mr. Schatz himself acknowledged in his Removal Motion, the motion implicated the minor's best interest. As a consequence, the circuit court was required to consider Ms. Robles's views, not merely (and exclusively) to assess whether those views were timely expressed. *See Flynn v. May*, 157 Md. App. 389, 407–10 (2004) (reversing child custody determination made after the entry of a default against Mother after she filed an answer without the proper certificate of service). The circuit court recognized as much, when, in denying Mr. Schatz's Motion for Reconsideration, it said, "The Court routinely considers late-filed papers when the issues involve the welfare and best interest of children."

Because the circuit court's denial of the Removal Motion did not hinge on the lateness of Ms. Robles's Opposition, but rather on the minor's best interest, the circuit court's decision to overlook the lateness of the Opposition is not the kind of "important decision" that satisfies the second element of collateral order appellate review.[7] Accordingly, we dismiss this appeal.[8] Mr. Schatz will have the opportunity to challenge the circuit court's decision to overlook the lateness of Ms. Robles's Opposition if, after the circuit court issues a final judgment on his Modification Petition, he elects to note an appeal or a cross-appeal.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

[7] This is not to say that the failure to follow Maryland's procedural rules should always be overlooked. We only conclude that, on the facts of this case, the circuit court's having overlooked the lateness of Mr. Robles's Opposition (two weeks) does not satisfy the collateral order doctrine's second element.

[8] Because we dismiss this appeal for lack of jurisdiction, we decline to address Ms. Robles's request for fees pursuant to Md. Rule 1-341.