

Circuit Court for Wicomico County
Case No: C-22-CV-21-000111

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1169

September Term, 2021

RICHARD D. MOISE

v.

S. FIDLER, et al.

Arthur,
Shaw,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 27, 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.

In November 2020, Richard D. Moise, appellant, submitted a Public Information Act Request (“PIA Request”) to the City of Salisbury Police Department (“the Department”), appellee, seeking the Department’s “evidence collection manual” and “Sirchie crime scene investigation training manual.” In response, the Department provided Mr. Moise with a link to its online evidence collection manual. With respect to the manual produced by Sirchie, a private company, the Department provided Mr. Moise with a link to its website that included the company’s “product manuals and technical information.”

After receiving a follow-up letter from Mr. Moise, in which he indicated that he was unsure whether his PIA Request had been denied, the Department provided Mr. Moise with a printout of its “Property and Evidence Control Policy” and notified him that the Sirchie manual was not maintained by the Department. Despite not being in possession of the Sirchie manual, the Department indicated that it would “try and obtain access to the training manual” and would “review any copyright infringements before producing [the] manual.” After a series of communications with Sirchie directly, the Department was advised that the company “would not produce the requested materials unless there is a specific request through a subpoena.” Therefore, in June 2021, the Department formally denied Mr. Moise’s MPIA request pursuant to §§ 4-202 and 4-335 of the General Provisions Article, notifying Mr. Moise that it was not in possession of the Sirchie Manual and that Sirchie would not produce the requested manual to the Department.

In April 2021, prior to the Department’s formal denial of Mr. Moise’s PIA Request, Mr. Moise filed a petition for judicial review in the Circuit Court for Wicomico County.

In his petition, Mr. Moise alleged that it was improper for the Department to deny him access to the Sirchie manual and requested injunctive relief. The Department, in response, filed a motion to dismiss, or in the alternative, for summary judgment, asserting that the Sirchie manual was “confidential commercial information specifically exempt under § 4-335 of the MPIA.” In addition to his written opposition to the Department’s motion, Mr. Moise filed a “Request for Order of Default,” asserting that the Department had failed to file a response to his petition for judicial review. Mr. Moise additionally filed a “Motion to Leave to Amend” asserting that the Department, in its motion to dismiss, had consented to the relief requested in his petition. With the motion to amend, Mr. Moise submitted a proposed order to the circuit court which, if granted, would provide the relief sought in his petition.

On September 22, 2021, the circuit court denied Mr. Moise’s request for order of default and denied the relief sought in his motion for leave to amend and proposed order. On October 1, 2021, Mr. Moise noted an appeal to this Court. On October 18, 2021, the circuit court granted the Department’s motion to dismiss.

For the following reasons, we shall dismiss Mr. Moise’s appeal.

DISCUSSION

The right to seek appellate review in this Court, “ordinarily must await the entry of a final judgment that disposes of all claims against all parties.” *Silbersack v. ACandS, Inc.*, 402 Md. 673, 678 (2008). Pursuant to Maryland Rule 2-602(a)(1), “an order ... that adjudicates fewer than all of the claims in an action ... or that adjudicates less than an entire

claim ... is not a final judgment.” Upon review of the record, it appears that Mr. Moise’s notice of appeal, filed on October 1, 2021, was not taken from a final judgment. Pursuant to Maryland Rule 8-202(a), a notice of appeal must be filed “within 30 days after entry of the judgment or order from which the appeal is taken.” The only orders entered by the circuit court in the thirty days preceding Mr. Moise’s notice of appeal were the orders entered on September 22, 2021, denying his request for the entry of an order of default and denying the relief sought in his motion to amend. These orders did not constitute final judgments as they did not resolve Mr. Moise’s petition for judicial review, which was still pending at the time he filed his notice of appeal. Mr. Moise’s notice of appeal, therefore, was premature. To the extent that Mr. Moise wanted to challenge the dismissal of his petition for judicial review, he was required, pursuant to Maryland Rule 8-202(a), to note an appeal in the thirty days following the court’s October 18, 2021 order. Moreover, Mr. Moise has not advanced any argument that this appeal from two interlocutory orders is permitted by any statute or rule. Accordingly, the above-captioned appeal is dismissed as not allowed by law pursuant to Maryland Rule 8-602(b)(1) as an impermissible interlocutory appeal from a non-final judgment.

Even were the Court to exercise review in this matter, we do not discern that the circuit court erred as alleged by Mr. Moise. Though he asserts that it was error for the court to dismiss his petition because the Department consented to his requested relief, the record does not reflect that the Department ever consented to this relief as alleged. Moreover, with respect to the basis of the dismissal of his petition, Mr. Moise raises no

argument on appeal that the Sirchie manual was not subject to the “confidential commercial information” exemption set forth under § 4-335 of the General Provisions Article.

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANT.**