Circuit Court for Baltimore City
Case No. 24-C-16-5246

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1490

September Term, 2020

AMANDA BOSKENT

v.

THE BELVEDERE COUNCIL OF UNIT OWNERS, et al.

Zic,
Ripken,
Wright, Alexander, Jr.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Ripken, J.

Filed: March 7, 2022

Returning after remand, this case concerns claims by condominium owner Amanda Boskent ("Boskent"), appellant, against the Belvedere Council of Unit Owners ("Belvedere") and mortgage holder, Bank of America, N.A. (the "Bank"), appellees. Boskent, who was in default on her loan, brought suit in the Circuit Court for Baltimore City initially alleging that Belvedere's manager wrongfully helped a contractor, hired by the Bank, to enter her vacant unit on February 14, 2014 in order to winterize the property. Following the circuit court's granting of summary judgment in favor of the Bank and Belvedere, Boskent appealed to this Court.

In our prior per curiam decision, we held that the circuit court did not err in granting summary judgment in favor of the Bank and Belvedere. The summary judgment was granted based on the terms of Boskent's deed of trust, admissions that Boskent was deemed to have made after failing to respond to the Bank's discovery requests, and Boskent's lack of damages. *See Boskent v. The Belvedere Council of Unit Owners, et al.*, No. 3328, Sept. Term 2018, slip op. at 4–5 (filed May 1, 2020) ("*Boskent I*"). We remanded, however, for the circuit court to rule on Boskent's still-pending motion to vacate the judgment in favor of the Bank, and, if denied, to enter final judgment. *See id.*, slip op. at 4–5.

On remand, the circuit court denied the motion to vacate, and also denied several newly filed motions from Boskent. From the final judgment entered against her on all claims, Boskent noted this *pro se* appeal arguing that the court erred in denying her motions and abused its discretion by exhibiting bias throughout the earlier proceedings. Because we conclude that the circuit court did not err or abuse its discretion, we shall affirm the final judgments in favor of the Bank and Belvedere.

FACTUAL AND PROCEDURAL BACKGROUND

Our previous opinion in *Boskent I* summarized the events leading to that appeal, as follows:

> In June 1996, Ms. Boskent obtained from Bank of America, then known as NationsBank, a loan secured by a deed of trust on her residence, which was a condominium located in a building managed by Belvedere. In the deed, Ms. Boskent agreed to "promptly pay when due the principal of and interest on the debt." The deed further states: "If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property . . . , then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property," including "entering on the Property to make repairs." In March 2012, Bank of America sent to Ms. Boskent a notice of intent to foreclose upon the property on the ground that Ms. Boskent had "missed one or more payments on [the] mortgage loan, or [was] otherwise in default."
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> In September 2016, Ms. Boskent filed a complaint in which she contended that in February 2014, Belvedere's "building manager . . . used [a] spare key to allow representatives from Bank of America" to enter the property. Ms. Boskent contended that appellees' actions constituted a violation of her "[c]onstitutional right to privacy," a violation of her "security," and "trespassing."
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> On December 1, 2017, Bank of America served upon Ms. Boskent a "First Set of Requests for Admissions," in which Bank of America requested that Ms. Boskent admit, among other things:
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> - That Ms. Boskent has "defaulted on the Loan."
> - That Ms. Boskent has "not paid all the real property taxes owed on the Property and that [Bank of America] has advanced the amounts necessary to pay the Property's tax bills since the 2010 tax year."
> - That "the Property was vacant and unoccupied at the time of [Bank of America's] purported entry [onto] the Property."
> - That Bank of America's "purported entry [onto] the Property was authorized pursuant to the terms of the Deed of Trust."
> - That Ms. Boskent is "not entitled to any damages from [Bank of America] resulting from the actions alleged in [the] Complaint."

> • That Bank of America "took reasonable steps to protect and secure the condition of the Property as a result of [Ms. Boskent's] default under the terms of the Loan and the Property's status as vacant."
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> In September 2018, Bank of America filed a motion for summary judgment, in which it contended that Ms. Boskent had "failed to respond to" the requests for admission, and her "failure to issue a timely denial of these admissions means that these requests are deemed admitted." In October 2018, Ms. Boskent filed a "Response/Opposition" to Bank of America's motion, in which she acknowledged that she had received the requests for admission. In November 2018, Belvedere filed a motion for summary judgment.
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> On December 3, 2018, the court held a hearing on Bank of America's motion. Counsel for [Bank of America] appeared before the court, but Ms. Boskent did not. Following the hearing, the court, noting that Ms. Boskent had "failed to respond to . . . discovery requests, including the . . . request for [a]dmission," issued an order in which it granted [Bank of America's] motion and dismissed the case with prejudice.
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> On December 6, 2018, Ms. Boskent filed a notice of service in which she contended that on December 3, 2018, she served Bank of America with "Objections and Responses to . . . Bank of America's[] First Set of Admissions." On December 13, 2018, Ms. Boskent filed a "Motion to Vacate/Reconsider Order for Summary Judgment," in which she contended that she "had good cause for being late for the hearing on December 3," because "[t]here was a medical emergency," and she then "inadvertently went to the wrong [c]ourt house." Ms. Boskent further contended that she "had responded to [d]iscovery," and that the delay in her response did "not prejudice Bank of America because it was fully aware . . . that [she] did not admit to anything in its Requests for Admissions." Ms. Boskent asked the court to "allow [her] to withdraw or amend deemed admissions," and "[v]acate the Order dismissing this case with prejudice." On December 31, 2018, Bank of America filed an opposition to the motion.
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> On January 2, 2019, the court held a hearing on Belvedere's motion for summary judgment, which was attended by Ms. Boskent and counsel for [Belvedere]. Following the hearing, the court granted the motion on the grounds, among others, that "Bank of America had an independent legal right to enter the property," and Belvedere "simply assisted Bank of America in exercising that legal right."

Boskent I, slip op. at 1–3.

In the first appeal, Boskent argued that the circuit court erred in granting summary judgment in favor of the Bank and Belvedere because she had in fact responded to discovery, and there was no right of entry. She also contended that the court erred in failing to grant her motion to vacate and request to withdraw admissions because, again, she in fact responded to the discovery requests and *Gonzales v. Boas*, 162 Md. App. 344 (2005), which allowed a party to withdraw deemed admissions, was controlling.

This Court held that the circuit court did not err in granting summary judgment in favor of the Bank because (1) after Boskent failed to respond "for over a year," "[t]he court was required to deem the matters of which Bank of America requested admission admitted[;]" (2) the Bank was authorized to enter "onto the property pursuant to the terms of the deed of trust[;]" and (3) Boskent was not entitled "to damages . . . resulting from the entry[.]" *Id*., slip op. at 4. Regarding Boskent's contention that the circuit court "erred in failing to grant her motion to vacate the award of summary judgment to Bank of America and request to withdraw or amend her admissions," however, we noted that "there is no evidence in the record that the motion, which was received and entered into the record by the clerk's office, was submitted to the court for review and resolution." *Id*. Because there was "no final judgment as to the motion," we remanded "to enter such a judgment." *Id*. *See* Md. Rule 8-602(g)(1) (permitting an appellate court to remand a case to the lower court to decide whether to direct the entry of a final judgment).

Finally, with respect to Belvedere, this Court held that the circuit court did not err in granting summary judgment based on Boskent's admissions, during the circuit court proceedings, "that the property 'was vacant and unoccupied at the time'" and that the Bank

entered the property in the reasonable exercise of its right under the deed of trust to "'protect and secure the condition'" of the unit. *Boskent I*, slip op. at 5. Because Boskent cited no "authority that prohibited Belvedere from assisting Bank of America in invoking its right under the deed of trust to enter the property to make repairs and do whatever else necessary to protect the value of, and Bank of America's rights in, the property[,]" we held that "the court did not err in granting summary judgment to Belvedere." *Id*.

After our decision was filed on May 1, 2020, Boskent filed numerous additional motions in the circuit court.[1] While those motions were pending, Boskent also filed various amended versions of the motions.

On August 18, 2020, the circuit court denied Boskent's motion to vacate. It found that Boskent had "ample opportunity" both to respond to the Bank's requests and to participate in the hearing. It further found that Boskent's motion to withdraw or amend admissions was never accepted in filing but was sent to the Bank and Belvedere after the hearing on Bank of America's motion for summary judgment. The court found that allowing her to amend or withdraw the deemed admissions would cause prejudice to both Belvedere and the Bank.

The circuit court thereafter struck all of Boskent's post-remand motions on the ground that the "matter was remanded for the limited purpose of ruling on [Boskent's]

[1] These motions included: (i) "Renewing Motion to Reconsider/Vacate Order and Motion to Withdraw and [Amend] Deemed Admissions and Request for New Trial," (ii) "Motion to Withdraw or Amend Deemed Admissions," and (iii) "Amended Motion to Plaintiff Amanda Boskent's Amended Renewing Motion to Vacate/Reconsider Order for Summary Judgment[.]"

Motion to Vacate/Reconsider Order for Summary Judgment and Request for Hearing filed December 13, 2019," so as "to resolve any issue concerning finality[.]" On February 9, 2021, the court, finding that all claims and open motions had been decided, entered final judgment in favor of the Bank and Belvedere. Boskent noted this timely appeal.

ISSUES PRESENTED

Boskent presents two issues for our review:

I. Did the lower court err and abuse its discretion by not granting [Boskent's] motion to vacate, to withdraw, and amend [Boskent's] deemed admissions and to have a hearing?

II. Did the court err and abuse its discretion because of double standards?

As we shall explain, the circuit court did not err in denying Boskent's Motion to Vacate. We further hold that a number of the claims of error Boskent asserts on appeal are precluded by the law of the case doctrine, as those claims either were raised in or could have been raised in prior proceedings. Because we discern no error in the circuit court dismissing Boskent's motions, we shall affirm.

DISCUSSION

Pursuant to Maryland Rule 2-534,[2] when a party files a motion within ten days after the entry of judgment seeking to alter or amend a judgment, "the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or

[2] Because the court's granting of summary judgment in favor of the Bank was entered on December 3, 2019, and Boskent's Motion to Vacate was filed December 13, 2019, Maryland Rule 2-534 applies.

new reasons, may amend the judgment, or may enter a new judgment." We review a circuit court's denial of "a request to revise its final judgment under the abuse of discretion standard." *Pelletier v. Burson*, 213 Md. App. 284, 289 (2013). An abuse of discretion occurs "where no reasonable person would take the view adopted by the [trial] court." *Sibley v. Doe*, 227 Md. App. 645, 658 (2016) (alteration in original) (quoting *Bacon v. Arey*, 203 Md. App. 606, 667 (2012)). A denial of a motion to revise a judgment should be reversed "only if the decision 'was *so far wrong*—to wit, so *egregiously wrong*—as to constitute a clear abuse of discretion.'" *Est. of Vess*, 234 Md. App. 173, 205 (2017) (emphasis in original) (quoting *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 232 (1998)).

I. THE CIRCUIT COURT DID NOT ERR IN DENYING BOSKENT'S MOTION TO VACATE OR IN ENTERING FINAL JUDGMENT IN FAVOR OF THE BANK AND BELVEDERE.

Boskent contends that the circuit court "erred and abused its discretion by not granting [her] motion to vacate, to withdraw and amend [her] deemed admissions and to have a hearing." She argues that the court erred because she in fact responded to the discovery requests. Alternatively, Boskent maintains that the court should have allowed her to withdraw and amend the deemed admissions because (1) the Bank's requests were improperly directed to ultimate issues or facts in violation of the discovery rules; (2) she was not provided notice before the Bank's entry onto her property; and (3) she was unaware that failure to respond to requests results in summary disposition of the case. Boskent also argues that the Bank and Belvedere would not be prejudiced by allowing her to withdraw and amend deemed admissions.

The Bank and Belvedere jointly respond that "[t]he issues of whether matters were properly deemed admitted and whether summary judgment was properly entered in favor of [them] have already been resolved by this Court and, therefore, are not properly subjects of this appeal." According to the Bank and Belvedere, because this Court remanded the case "for a very limited purpose, namely, for a ruling on [Boskent's] December 13, 2018, Motion to Vacate[,]" the circuit court's post-remand order denying that motion "is the only ruling properly before this Court on this, the second, appeal."

On that limited question, the Bank and Belvedere contend that the court did not abuse its discretion, because a motion to alter or amend under Rule 2-534 is not an occasion for a party to make arguments that it neglected to make initially. *See Morton v. Scholtzhauer*, 449 Md. 217, 232 n.10 (2016) ("A [circuit court] does not abuse its discretion when it declines to entertain a legal argument made for the first time in a motion for reconsideration that could have, and should have, been made earlier, and consequently was waived."). In their view, Boskent could have opposed summary judgment on the same grounds she asserted in both her Motion to Vacate and in this appeal, "namely, that her failure to respond was inadvertent, and that she should be allowed to withdraw any deemed admissions . . . because the admissions would prevent trial on the merits."

In reply, Boskent reasserts that she was not in default under the note and deed of trust and argues that the Bank's entry of her unit was unlawful. She also addresses the Bank's failure to provide notice that her discovery responses were deficient, and argues that her emergency situation on the morning of the first summary judgment hearing prevented her appearance.

"The law of the case doctrine operates to bar litigants from raising arguments on questions that have been decided previously or could have been decided in that case." *Dabbs v. Anne Arundel Cnty.*, 458 Md. 331, 345 n.15 (2018). When applied to prior appellate decisions, as in *Boskent I,* the law of the case doctrine "'serves the dual function of enforcing the [appellate] mandate and precluding multiple appeals to review the same error.'" *Tu v. State*, 336 Md. 406, 416 (1994) (quoting 1B J.W. Moore, J.D. Lucas & T.S. Currier, *Moore's Federal Practice* ¶ 0.401, at I-2 to I-3 (2d ed. 1993) (footnotes omitted)). "[R]ooted in appellate framework, . . . its purpose is to prevent piecemeal litigation" by preventing a party who failed to raise an issue that could have been raised during a first appeal from litigating that issue in subsequent proceedings. *Dabbs*, 458 Md. at 345 n.15. *See, e.g., Holloway v. State*, 232 Md. App. 272, 284 (2017) (holding that law of the case precluded "an issue that could have been raised on Holloway's first appeal[,]" when "he tried to attack the validity of his plea on the basis that he was not advised of the nature of the charges. Now he is trying to attack the validity of his plea on the basis that he was not informed of the presumption of innocence."). "[W]ithout it 'any party to a suit could institute as many successive appeals as the fiction of his imagination could produce new reasons to assign as to why his side of the case should prevail, and the litigation would never terminate.'" *Dabbs*, 458 Md. at 345 n.15 (quoting *Fid.-Balt. Nat. Bank & Tr. Co. v. John Hancock Mut. Life Ins.*, 217 Md. 367, 372 (1958)).

Prior to entering summary judgment, the circuit court had considered the motions filed by all parties, which included Boskent's opposition to the motion for summary judgment. In that motion, Boskent argued, among other things, that she had no notice of

the Bank's entry into the property, and the Bank's entry was unlawful. She advanced those arguments on appeal before this Court in *Boskent I*, as well as her arguments that she in fact responded to discovery. We rejected her arguments and held that the circuit court was required to deem the matters of which the Bank requested admission admitted; therefore, we held that the Bank and Belvedere were entitled to summary judgment. On the limited remand, the circuit court, in accordance with this Court's mandate, struck Boskent's newly filed motions and denied her request to vacate judgment against the Bank, and it entered final judgment with prejudice on all claims as to all parties. In doing so, the circuit court acted in accordance with our mandate and it did not err when it declined to address Boskent's arguments on questions that were previously decided or could have been decided by this Court in *Boskent I*.

Encompassed in those precluded matters are the contentions that Boskent advances on appeal to this Court, including that she filed timely responses to the Bank's requests for admission, that she had excusable reasons for delayed responses, that her deemed admissions improperly encompassed ultimate rather than evidentiary facts, and that the Bank and Belvedere were not entitled to enter her unoccupied unit. As we detailed in our review of the record, none of Boskent's contentions in this second appeal present newly arisen grounds for appellate relief. Instead, the issues raised by Boskent either have been decided, correctly for the reasons we explained in *Boskent I*, or could have been decided in that appeal.

Boskent's argument that *Gonzales v. Boas*, 162 Md. App. 344 (2005), is controlling is unpersuasive. First, as we have explained, any claims by Boskent are barred by the law

of the case doctrine. Second, absent preclusion by the law of the case doctrine, *Gonzales* is distinguishable. There, this Court held that the circuit court abused its discretion in striking Gonzales's response and granting summary judgment based on her deemed admissions because Gonzales's responses were delivered only eight days after the deadline, once her counsel realized that he "accidentally filed [Gonzales's] response instead of mailing it[,]" with "all of this occur[ing] at the very beginning of the litigation process." *Gonzales*, 162 Md. App. at 362–63. Considering both the lack of prejudice to the defendant and the lack of egregiousness or culpability in Gonzales's own conduct, we concluded that "the punishment was extraordinarily severe, as all the requests were deemed admitted, and summary judgment was granted in [the defendant's] favor." *Id*. at 362.

In contrast, Boskent's responses to defense requests for admissions were filed one year late and more than two years after litigation began. In addition, her responses were filed two months after the Bank's motion for summary judgment was filed, which she responded to with an opposition motion and acknowledged that she received the requests for admission. Moreover, the extended timeline during which Boskent failed to respond supports the circuit court's determination that her conduct in disregarding discovery and motions was not inadvertent and was prejudicial in causing significant delays that impeded resolution of this dispute.

Boskent also argues that the decision and rationale in *Gonzales* demonstrates it was unreasonable for the court to grant summary judgment based on her deemed admissions. She reasons that the deficiency in that case "was brought to the Court's attention and to the appellant's attention early in the process" so that there was "a chance to cure the deficiency

early in the process." Given the lack of any scheduling order in this case, and the defendants' reciprocal failure to respond to discovery, Boskent maintains that her conduct was not so egregious that the court could equitably deny her request to withdraw or amend her deemed admissions. Again, we disagree.

To prevent any misunderstanding or further delay, we emphasize that, like the circuit court and the *Boskent I* panel, we discern no factual or legal grounds for allowing Boskent to withdraw her admissions or otherwise avoid final judgment in favor of the Bank and Belvedere. The motion for summary judgment based on Boskent's failure to respond to the requests for admission notified her that summary judgment could be granted in the absence of her response, and she responded in opposition to that motion, but still did not respond to those requests for admission. In contrast to the inadvertently late discovery responses at the outset of litigation that warranted withdrawal of admissions in *Gonzales*, the record here supports the circuit court's determination that Boskent delayed litigation during the two years that the Bank and Belvedere defended against her claims. In *Boskent I*, this Court held that she failed to establish grounds for excusing her delays in responding to discovery or for granting relief on her underlying claims. Nothing in Boskent's pre- or post-remand motions merits revisiting the decision to grant summary judgment to both the Bank and Belvedere. Because Boskent's arguments regarding the discovery violations are barred by the law of the case doctrine, we hold that the circuit court did not err in denying her motion to vacate or in entering final judgments in favor of the Bank and Belvedere.

II. BOSKENT'S COMPLAINT OF JUDICIAL BIAS IS WITHOUT MERIT.

Boskent next contends that the judges in both the December 3, 2018 hearing and the January 2019 hearing displayed bias against her, which she asserts raises a question as to whether summary judgment would have been granted absent any bias. Specifically, she argues that although she was not present at the December 2018 hearing, the CD of that hearing reflects that the circuit court judge treated Boskent with hostility and contempt in mispronouncing her name, admonishing her for being late in responding to the Bank's requests for admission, and excusing that there was no extension of time to file summary judgment motions. She also argues that the trial judge "coached the attorney for Bank of America" in suggesting that he submit on brief, and later telling him, "[w]henever a judge says, 'Do you want to submit on the brief?' that's usually a good sign." As to the January 2019 hearing on Belvedere's motion for summary judgment, Boskent contends that the judge exhibited bias in helping the attorneys for the Bank and Belvedere, which Boskent argues is a "double standard." Boskent further contends that the trial judge "seemed determined to award summary judgment."

Under rules governing civil litigation, plaintiffs—including *pro se* litigants—may not ignore discovery obligations and defense motions. As this Court has observed, courts are not obligated to give parties a proverbial "'second bite at the apple' simply because [they are] not represented by counsel[.]" *Dep't of Labor, Licensing & Regul. v. Woodie*, 128 Md. App. 398, 410–11 (1999). To the contrary,

> [i]t is a well-established principle of Maryland law that *pro se* parties must adhere to procedural rules in the same manner as those represented by counsel. Indeed, this Court has stated that "[t]he principle of applying the

> rules equally to *pro se* litigants is so accepted that it is almost self-evident." *Tretick v. Layman*, 95 Md. App. 62, 68 (1993); *see also Pickett v. Noba, Inc.*, 122 Md. App. 566, 568 (1998) ("While we recognize and sympathize with those whose economic means require self-representation, we also need to adhere to procedural rules in order to maintain consistency in the judicial system.").

Woodie, 128 Md. App. at 411.

We discern no bias undermining the challenged rulings. There are no grounds to complain about the impartiality of either judge who conducted the motions hearings, each of whom enforced discovery and pleading rules. Nor do judges act with bias when they decline to entertain claims that lack legal merit, even if the party asserting them is not represented. To the contrary, the court's duty is to expeditiously resolve claims according to the applicable law. *See Ross v. Chakrabarti*, 194 Md. App. 526, 537–38 (2010) (holding that because *pro se* plaintiff's "complaint, on its face, revealed no factual or legal justification for his claims, [] the circuit court was legally correct in ruling that it failed to state a claim upon which relief can be granted.").

Ultimately, we see no indication in the record that the summary judgments in favor of the Bank and Belvedere were affected by judicial bias. At both hearings, the motion judges correctly determined that Boskent's claims, motions, and arguments lacked merit because her rights were not violated, and she was not harmed by the entry and winterization of her vacant condo. We now affirm those final judgments, noting that our decision precludes Boskent from further litigating such claims in the circuit court or this Court. We hold that the circuit court did not err or abuse its discretion in denying the motion to vacate or in entering final judgments in favor of the Bank and Belvedere.

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