

Circuit Court for Montgomery County
Case No. 486430V

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1605

September Term, 2024

JACQUELINE MCBRIDE

v.

ISRAEL ANTONIO HERNANDEZ, ET AL.

Arthur,
Beachley,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: November 26, 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).

The Circuit Court for Montgomery County dismissed appellant Jacqueline McBride’s complaint because of her repeated failure to comply with court orders and the rules of court. McBride appealed. She presents a single question for review, which we have rephrased as follows: Did the circuit court err in dismissing McBride’s complaint with prejudice?¹

For the reasons that follow, we affirm the judgment of the circuit court.

BACKGROUND

Pleadings & Scheduling

On July 13, 2021, McBride filed a complaint against Israel Antonio Hernandez and D&A Dunlevy Landscaping Inc. (“D&A”). She alleged that on July 19, 2018, she was injured in a motor vehicle collision that she attributed to Hernandez’s negligence. She also alleged that, at the time of the collision, Hernandez was acting within the scope of his employment with D&A.

On July 14, 2021, the court issued a scheduling order that required McBride to identify her experts by October 12, 2021, required Hernandez and D&A to identify their experts by December 8, 2021, and imposed a discovery deadline of March 23, 2022.

McBride designated her expert witnesses on October 18, 2021—six days after the deadline. Although she identified 16 potential expert witnesses, McBride did not comply with her obligation to disclose “the substance of the findings and the opinions to which

¹ Ms. McBride framed the issue as follows: “Whether the circuit court abused its discretion and erred as a matter of law in dismissing plaintiff’s case with prejudice based upon the totality of the record.”

the expert is expected to testify and a summary of the grounds for each opinion[.]” Md. Rule 2-402(g)(1)(A).

Discovery Extensions

On October 21, 2021, Hernandez and D&A filed a consent motion to modify the scheduling order. While that motion was pending, Hernandez and D&A moved to compel discovery, asserting that McBride had not filed a timely response to their discovery requests.

Rather than rule on the motion to compel, the circuit court modified the scheduling order on November 6, 2021. The modified order extended the discovery deadline to May 26, 2022, and set a pretrial hearing for June 30, 2022. Shortly thereafter, Hernandez and D&A withdrew their motion to compel.

On January 14, 2022, the parties filed a “Joint Motion to Modify Scheduling Order.” In that motion, they advised the circuit court that the COVID-19 pandemic had hindered McBride’s ability to produce “a full set of [her] medical records and bills.” Accordingly, they requested that the court extend the deadline for Hernandez and D&A to designate expert witnesses until April 11, 2022. The court granted the motion in an order entered on January 26, 2022.

On June 27, 2022, the parties filed a “Second Joint Motion to Modify the Scheduling Order,” seeking to extend the discovery deadline from May 26, 2022, to August 31, 2022. They asserted that a postponement was necessary to permit the parties to obtain McBride’s outstanding medical records and to allow McBride to undergo an

independent medical examination (“IME”) with Robert Riederman, M.D. According to the motion, an IME had been scheduled for May 9, 2022, but McBride cancelled it within a few hours of her appointment because of “an unexpected medical issue[.]”

At the pretrial hearing on June 30, 2022, the court set a trial date of April 11, 2023. One week later, the court granted the joint motion to modify the scheduling order and extended the discovery deadline until August 31, 2022.

Motion to Postpone

On March 15, 2023, less than a month before trial was set to begin, McBride moved to postpone the trial so that she could vacate her New York City apartment and make the necessary arrangements to return to her home in Maryland. McBride characterized the move as an “unexpected development” arising from sudden changes in her financial circumstances, which, she said, “ma[de] it financially impossible . . . to continue renting the New York City [a]partment.”

In opposition to McBride’s motion, Hernandez and D&A argued, among other things, that they would be “severely prejudiced” by a postponement, citing the *de bene esse* deposition of Dr. Riederman—whose fee they had already paid—which was scheduled for April 7, 2023. They asserted that McBride had “a documented history of last-minute cancellations[.]” including the IME with Dr. Riederman and a mediation session that she declined to attend “moments prior to” its commencement.

In an order entered on March 20, 2023, the circuit court denied McBride’s motion to postpone the trial.

Counsel’s Withdrawal

On March 22, 2023, two days after the court denied her motion to postpone the trial, McBride filed a *pro se* motion to strike the appearance of her attorneys, Matthew W. Fogleman and the Law Offices of Ronald S. Canter, LLC. Fogleman, in turn, moved to withdraw his appearance later that same day.

On March 23, 2023, McBride filed four *pro se* motions, each seeking a continuance of the trial date to afford her time to retain new counsel. In two of those motions, McBride alleged, among other things, that her former counsel did not inform her of the trial date until February 2023 and did not promptly comply with her request that they seek a postponement.

On March 24, 2023, Hernandez and D&A opposed Fogleman’s motion, asserting that allowing him to withdraw would “cause undue delay, prejudice, and injustice[.]” In support of that assertion, Hernandez and D&A again noted that Dr. Riederman’s *de bene esse* deposition was scheduled for April 7, 2023. They added: “This date and time is locked in and cannot be moved at this late date to accommodate any potential request from [McBride] in order to secure counsel.” Hernandez and D&A charged that Fogleman’s termination was “another stall tactic” on McBride’s part. They expressed skepticism regarding the claim that McBride did not learn of the trial date until February 2023.

On March 30, 2023, the circuit court held a hearing on Fogleman’s request to withdraw and McBride’s *pro se* motions. At the conclusion of that hearing, the court granted Fogleman’s request and set a new trial date of November 6, 2023.

On March 31, 2023, the court entered a written order striking Fogleman’s appearance and issued a notice to employ new counsel. In the notice, the court cautioned that if new counsel did not enter an appearance within 15 days, McBride’s lack of representation would “not be grounds for postponing any further proceedings concerning the case.”

Motion to Stay

On October 2, 2023, a little more than a month before the new trial date, McBride, representing herself, filed a motion to stay the proceedings. Invoking the Americans with Disabilities Act (“ADA”), she asserted that she was “not in a position to continue litigating the case[.]” McBride’s motion was accompanied by a letter from her treating clinician, who stated that McBride was “experiencing an exacerbation of her pre-existing neurologic disease” and that “[f]urther communication at this time would significantly worsen her symptoms.”

Hernandez and D&A responded by moving to dismiss McBride’s complaint. Hernandez and D&A characterized McBride’s most recent motion as a request for “another delay of an indeterminate time.” Quoting *Zdravkovich v. Siegert*, 151 Md. App. 295, 307-08 (2003), they asked the court to dismiss the case in the exercise of its “inherent discretion . . . and ‘obligation to manage [its] docket and prevent cases from

remaining unresolved indefinitely.”” Alternatively, they sought dismissal as a sanction for McBride’s alleged discovery violations. Specifically, they claimed that McBride: (1) had not specified which of her medical providers she intended to call as experts at trial; (2) failed to provide Hernandez and D&A with “any updated medical records or reports”; and (3) refused to respond to their efforts to reschedule Dr. Riederman’s *de bene esse* deposition, which had originally been scheduled for April 2023 but was later cancelled.

The circuit court considered McBride’s motion to stay at a status hearing on October 16, 2023. At the conclusion of that hearing, the court postponed the trial without setting a new trial date and set another status hearing for December 11, 2023. The court anticipated that it would rule on McBride’s motion for an indeterminate stay at the status hearing.

On November 16, 2023, the court denied the motion to dismiss, but ordered McBride to identify her expert witnesses within seven days and to confirm her availability to attend Dr. Riederman’s deposition. The order envisioned that the deposition would occur before the status hearing on December 11, 2023.

McBride did not attend the status hearing on December 11, 2023. Instead, an attorney, Sharon Krevor-Weisbaum, appeared on her behalf for the limited purpose of addressing McBride’s request for ADA accommodations and her motion to stay the litigation. Krevor-Weisbaum requested that the court “grant the stay for some designated period of time so [McBride] can get counsel.”

Counsel for Hernandez and D&A responded that McBride already “had many, many months” to seek substitute counsel and that a stay was therefore unwarranted. Counsel noted that McBride had failed to comply with the order of November 16, 2023, which required her to provide Hernandez and D&A with both the names of the expert witnesses whom she intended to call at trial and a proffer of their anticipated testimony. In light of that discovery violation and McBride’s failure to appear at the status hearing, Hernandez and D&A again moved to dismiss.

Rather than rule immediately, the circuit court directed McBride to submit a report from her treating physician, identifying her diagnosis and addressing the extent to which that condition impeded her ability to meet court deadlines. The court entered an order to that effect on December 14, 2023. The order required McBride to submit the report by February 16, 2024.

McBride complied with the court’s order on February 15, 2024, by filing a report prepared by her endocrinologist. In that report, the physician attested that McBride had been diagnosed with neurosarcoidosis approximately 11 years earlier.² The physician opined that “[t]he stress from [McBride’s] medical issues and her problem finding counsel have resulted in worsening cognitive dysfunction[,] altering her ability to make decisions about complex issues including her legal case.” “However,” the physician added, “these periods of severe brain fog usually clear and she should be able to proceed

² Neurosarcoidosis is “[a] granulomatous disease of unknown etiology involving the central nervous system, usually with concomitant systemic involvement.” *Stedman’s Medical Dictionary* 1314 (28th ed. 2006).

with her legal case.” The physician concluded that McBride “needs ADA accommodation[s] on account of her cognitive state and stress level that has exacerbated her neurosarcoidosis.”

In an accompanying memorandum, Krevor-Weisbaum sought a nine-month stay for McBride “to pursue further medical treatment” so that she “will . . . be in a position to engage new counsel for the litigation[.]”

Substitute Counsel and His Withdrawal

Less than two weeks later, on February 28, 2024, McBride sought to withdraw her motion to stay the litigation because she had retained new counsel, John Leppler. The court granted her motion on March 12, 2024.

On that same day, Hernandez and D&A filed a supplement to their motion to dismiss. In the supplement, they argued that McBride’s withdrawal of her motion to stay showed that the motion to stay itself had been “a tactic . . . to buy more time to find another attorney to take her case.”

On April 4, 2024, barely a month after entering his appearance, Leppler moved to withdraw. In that motion, he cited “issues raised in the . . . pending motion to dismiss” as well as complaints that McBride had filed with the Attorney Grievance Commission against Fogleman and counsel for Hernandez and D&A.

On May 20, 2024, the circuit court held a hearing on Leppler’s motion to withdraw and the motion to dismiss by Hernandez and D&A. After hearing argument, the court granted Leppler’s motion, finding that, despite his reasonable efforts to place

the matter in “the best possible posture to proceed[,]” McBride’s actions compelled his resignation. The court then denied the motion to dismiss and set a two-day trial that was to begin on October 28, 2024.

On the following day, May 29, 2024, Hernandez and D&A moved for reconsideration of the denial of their motion to dismiss. In that motion, Hernandez and D&A recounted the pertinent procedural history and incorporated the arguments made in their October 5, 2023, motion to dismiss. Hernandez and D&A represented that they had incurred more than \$44,000 in legal fees since March 2023 in an effort to address what they called McBride’s “relentless efforts to postpone resolution of this claim.” Again quoting *Zdravkovich v. Siegert*, 151 Md. App. at 307-08, Hernandez and D&A reiterated their request that the court dismiss the case in accordance with its “‘obligation to manage [its] docket and prevent cases from remaining unresolved indefinitely.’”

Deposition Scheduling Disputes

The circuit court held a motions hearing on July 30, 2024. Although it again declined to dismiss the case, the court prohibited McBride from calling any experts whose opinions she had not disclosed to Hernandez and D&A. [The court added that it would permit Hernandez and D&A to present Dr. Riederman’s testimony by way of a *de bene esse* deposition. Finally, the court attempted to schedule a hearing for the following day, Wednesday, July 31, 2024, to confirm the dates for that deposition, which had yet to occur. McBride responded that she would be unavailable for the rest of the week because of medical appointments. When the court asked whether she would be available at 3:30

p.m. on August 5, 2024, McBride replied: “So far. It depends on what happens at tomorrow’s appointment.” The court responded: “Well, this will be your only notice.”

In an email sent at 2:48 p.m. on August 4, 2024, McBride advised the circuit court that she could not attend the remote status hearing scheduled for the following day. McBride attributed her impending absence to an “unrelenting migraine,” which, she said, “prevent[ed] her from being [able to] see[] [and] tolerate light[] and noise.” She requested that the court postpone the hearing until “her treating physicians are able to determine [the] cause of [her] . . . migraine[.]”

The status hearing proceeded as scheduled on August 5, 2024. At the outset, the circuit court noted McBride’s absence and summarized her email. Counsel for Hernandez and D&A advised the court that Dr. Riederman would be available to be deposed at 3:30 p.m. on September 23, 2024, or at 2:30 p.m. on September 24, 2024. The court replied: “Well, that’s six weeks out. So, I think that’s certainly reasonable.” The court asked counsel to ensure that the court file included a notice of the deposition. Counsel agreed, and the court set another status hearing for September 4, 2024.

Renewed Motion to Dismiss

On August 13, 2024, Hernandez and D&A filed a renewed motion to dismiss. In their motion, Hernandez and D&A asserted that, immediately after the status hearing, they sent McBride a letter via email with the two proposed dates for Dr. Riederman’s deposition. In that letter, which they attached as an exhibit to their motion, Hernandez and D&A requested a response from McBride “by the close of business on . . . August

8[,] [2024]” because they “need[ed] to confirm [the date with Dr. Riederman’s] office by that day.” According to Hernandez and D&A, McBride “failed to respond[,]” which, they said, made “[i]t . . . clear that [she] ha[d] no intention of cooperating.” Hernandez and D&A reminded the court that McBride had similarly disregarded their attempts to schedule Dr. Riederman’s deposition in September 2023, at a time when the trial had been scheduled for the following November. Finally, Hernandez and D&A asserted that McBride had retained “numerous attorneys” against whom she had made “unfounded accusations[,]” sought repeated postponements, and “ha[d] made every effort to prevent this lawsuit . . . from proceeding to trial.”

McBride did not respond to the renewed motion to dismiss.

Although the circuit court sent McBride an email notifying her of the September 4, 2024, status hearing, she failed to appear once again. At the hearing, counsel for Hernandez and D&A advised the court that McBride had not responded to their attempt to schedule Dr. Riederman’s deposition and that the doctor was no longer available on September 23 or September 24, 2024.

Noting that McBride’s response was seven days overdue, the court nevertheless afforded her “one more chance” and continued the hearing until September 11, 2024.

Dismissal with Prejudice

On September 11, 2024, McBride appeared *pro se* at the hearing. She conceded that she had failed to participate in scheduling Dr. Riederman’s deposition but claimed

that she had been unable to do so as the result of a migraine that had persisted since July 28, 2024.

After hearing oral argument, the court announced its ruling from the bench. It began by recounting the pertinent procedural history. The court found that McBride had “repeatedly delayed matters,” had “fail[ed] to cooperate . . . with scheduling the depositions[,]” had “caus[ed]” Hernandez and D&A to incur “undue expense,” had “refus[ed] to follow [the] court’s orders” on “numerous” occasions, and “continue[d] to blame others for her failure to comply with the [c]ourt’s orders and the rules of court.” The court concluded that “it would be unfair to [Hernandez and D&A] to allow this matter to proceed.” Accordingly, the court granted the renewed motion and dismissed McBride’s complaint with prejudice.

On September 12, 2024, the circuit court memorialized its oral ruling in a written order, which provided, in pertinent part:

The record of this matter shows that [McBride’s] actions have repeatedly caused the postponement of [IMEs], depositions, and trial dates. These postponements, often coming shortly before the event was scheduled to occur, have caused substantial expense to [Hernandez and D&A]. [McBride] has consistently claimed that these postponements and delays were caused by her attorneys and others. [She] has now failed to cooperate with [Hernandez and D&A] with scheduling the *de bene esse* depositions. It would be prejudicial and unfair to [Hernandez and D&A] to allow this matter to proceed.

This timely appeal followed.

DISCUSSION

Trial judges have an “obligation to manage [their] docket[s] and prevent cases from remaining unresolved indefinitely.” *Zdravkovich v. Siegert*, 151 Md. App. 295, 307-08 (2003). Consistent with that obligation, courts possess “inherent authority to manage [their] affairs and achieve an orderly and expeditious disposition of cases[.]” *Id.* at 308 (quoting *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 728 (2002)).

In exercising that inherent authority, courts may impose sanctions—including the ultimate sanction of dismissal—when warranted by a party’s misconduct. *See, e.g., Weaver v. ZeniMax Media, Inc.*, 175 Md. App. 16, 46 (2007); *Wilson v. N.B.S., Inc.*, 130 Md. App. 430, 447-48 (2000). This Court has affirmed dismissals pursuant to that power for violations of scheduling orders, *Hossainkhail v. Gebrehiwot*, 143 Md. App. at 728-29, for failing to appear for trial, *Zdravkovich v. Siegert*, 151 Md. App. at 308-09, for noncompliance with a court-ordered psychological examination, *Wilson v. N.B.S., Inc.*, 130 Md. App. at 451, and for the destruction of documents subject to a request for their production, *Klupt v. Krongard*, 126 Md. App. 179, 197 (1999).

We review a trial court’s decision to impose sanctions for abuse of discretion. *See, e.g., Zdravkovich v. Siegert*, 151 Md. App. at 310. The court’s discretion, however, is not boundless:

The dismissal of a claim . . . is among the gravest of sanctions, . . . and as such, is warranted only in cases of egregious misconduct such as “wil[l]ful or contemptuous” behavior, “a deliberate attempt to hinder or prevent effective presentation of defenses or counterclaims,” or “stalling in revealing one’s own weak claim or defense.”

Manzano v. Southern Maryland Hosp., Inc., 347 Md. 17, 29 (1997) (quoting *Rubin v. Gray*, 35 Md. App. 399, 400-01 (1977)) (internal citation omitted).

In this case, the record clearly establishes McBride’s sustained failure to cooperate with her adversaries’ repeated efforts to schedule Dr. Riederman’s *de bene esse* deposition, as well as failure to appear at hearings and violation of court orders. After coordinating with Fogleman—then McBride’s attorney—Hernandez and D&A initially scheduled Dr. Riederman’s deposition for 3:00 p.m. on April 7, 2023. That deposition was cancelled after the court struck Fogleman’s appearance and granted McBride’s request to postpone the impending trial. In a motion to dismiss filed on October 5, 2023, barely a month before the rescheduled trial date, Hernandez and D&A asserted that McBride had “refused to respond” to their efforts to reschedule Dr. Riederman’s deposition. Although the court declined to dismiss the case at that time, it directed McBride to “confirm her availability to attend the *de bene esse* deposition of Dr. Riederman, . . . to be scheduled before the December 11, 2023[,] status hearing” and to provide a “brief proffer of [her medical experts’] anticipated testimony[] within seven . . . days[.]” McBride did not comply with either directive.

Hernandez and D&A raised McBride’s continued noncooperation with their ongoing efforts to reschedule Dr. Riederman’s deposition at the motions hearing on July 30, 2024. At the conclusion of that hearing, the court scheduled another hearing for August 5, 2024, to confirm the date for Dr. Riederman’s deposition. McBride, however, neither appeared at the hearing nor responded to a letter identifying two prospective

deposition dates. McBride also failed to appear at another status hearing on September 4, 2024, and conceded at another hearing on September 11, 2024, that she had not participated in scheduling the *de bene esse* deposition.

On this record, the circuit court could have reasonably construed McBride's persistent failure to cooperate in scheduling Dr. Riederman's deposition as an effort to prevent Hernandez and D&A from presenting his testimony at trial or as an effort to secure yet another postponement in litigation that had already been pending for more than three years. McBride's failure to cooperate was not an isolated lapse. Rather, it was the latest dereliction in a persistent pattern of noncompliant and dilatory behavior, which included: (1) her last-minute cancellations of an IME and a mediation session; (2) her omission of the information specified in Rule 2-402(g)(1) from her expert witness disclosures; (3) her decision to fire her lawyer just before the trial date in an apparent effort to obtain a postponement; (4) her invocation of the ADA to obtain yet another postponement until she had secured substitute counsel; and (5) her repeated failure to attend hearings.

Rather than proceed directly to dismissal, the court initially responded to this emerging pattern with lesser, incremental measures. It repeatedly extended discovery deadlines, twice postponed the trial, denied several requests for dismissal, and expressly ordered McBride to confirm her availability for Dr. Riederman's deposition. Yet, notwithstanding these measures, McBride remained unresponsive to her adversaries' scheduling efforts, noncompliant with the court's directives, and derelict in her

“affirmative duty to move her case toward trial[.]” *Valentine-Bowers v. Retina Group of Washington, P.C.*, 217 Md. App. 366, 380 (2014).

The court was not required to continue to indulge McBride’s recalcitrance. ““Cases cannot be permitted to linger at the will of the litigants or their attorneys.”” *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 728 (2002) (quoting *Tavakoli-Nouri v. Mitchell*, 104 Md. App. 704, 708 (1995)). Accordingly, on this record, we are not persuaded that the court’s dismissal of McBride’s complaint amounted to an abuse of discretion.

Although McBride tacitly acknowledges the improprieties that delayed the trial, she attempts to place the blame on Fogleman, asserting that his failure to properly “identify and procure expert[] [witnesses]” prevented the case from proceeding to trial in April 2023. That assertion does not alter our conclusion.

As a threshold matter, our primary concern is not whether a party or her lawyer is responsible for the delays, but what sanction was “necessary to remedy prejudice to the other side or to safeguard the court’s ability to properly adjudicate the case.” *Weaver v. ZeniMax Media, Inc.*, 175 Md. App. at 46. In any event, the circuit court did not base the dismissal of McBride’s complaint on this earlier discovery violation—for which she had already been sanctioned.³ Rather, in its order, the court referred to McBride’s actions

³ As noted above, at the close of a hearing on July 30, 2024, the circuit court prohibited Ms. McBride from calling any expert witnesses at trial whose opinions she had not disclosed to Hernandez and D&A.

that resulted in the “postponement of [IMEs], depositions, and trial dates,” as well as her failure to cooperate in scheduling Dr. Riederman’s *de bene esse* deposition. Notably, most of these breaches occurred well after the court struck Fogleman’s appearance, when McBride was representing herself and was therefore individually responsible for responding to correspondence, appearing at hearings, and complying with court orders. For example, McBride was self-represented when she failed to comply with the court’s order of November 16, 2023, failed to appear at the hearings on August 5, 2024, and September 4, 2024, and failed to cooperate in scheduling Dr. Riederman’s deposition. Accordingly, on this record, the court could have reasonably determined that the pattern of delay was primarily attributable to McBride rather than her former counsel.

Finally, McBride asserts that “any prejudice to [Hernandez and D&A] in this case is minimal.” The court did not abuse its discretion in concluding otherwise. The prejudice to Hernandez and D&A is evident from the accrual of tens of thousands of dollars in fees, the repeated rescheduling of Dr. Riederman’s deposition, and the delay in proceeding to trial. “[T]here is prejudice inherent in delaying a trial, because the memories and even the location of witnesses can become problematic when[] . . . the years go by.” *Warehime v. Dell*, 124 Md. App. 31, 49 (1998).

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**