

Circuit Court for Harford County
Case No.: C-12-CV-22-000454

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1635

September Term, 2022

BABAK ERNEST ARFAA

v.

STATE OF MARYLAND, *et al.*

Friedman,
Shaw,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 6, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Babak Ernest Arfaa, appellant, sued the State of Maryland and the State’s Attorney for Harford County, appellees (collectively, “the State”), in the Circuit Court for Harford County. The complaint contained less than 40 words and alleged that the State had “maliciously [prosecuted] [Arfaa], ignoring exculpatory evidence, resulting in [imprisonment] and much hardship to [him].” The State moved to dismiss, arguing, primarily, prosecutorial and statutory immunity. Despite being served with the motion via first-class mail in September, Arfaa opened it “at his leisure” nearly a month later.

The circuit court granted the State’s motion and dismissed the case with prejudice in an order docketed on October 18, 2022. Later that same day, Arfaa filed a motion to extend the time to respond and submitted an amended complaint. His motion alleged he was “insufficiently served” because, despite receiving the State’s motion, he did not recognize the envelope and so assumed it was “junk mail.” In the amended complaint, Arfaa asserted that the State falsely represented to the court that he was not present at a bond hearing the day before, which led to the denial of bond and his incarceration. He also alleged that the State coerced him to accept an Alford plea. The circuit court denied Arfaa’s motion, and this appeal followed.

On appeal, Arfaa contends that his failure to respond timely to the State’s motion was the result of “excusable neglect.” Not so. “It is the responsibility of attorneys, and by extension *pro se* litigants, to monitor dockets for when pleadings and other documents are filed.” *Estime v. King*, 196 Md. App. 296, 304 (2010). Had he done so, Arfaa would have known the State filed a motion and expected to receive it in the mail. That he did not

recognize the envelope explains his error but does not excuse it. *See Hi Caliber Auto and Towing, Inc. v. Rockwood Cas. Ins. Co.*, 149 Md. App. 504, 508–09 (2003).

In any event, even had the circuit court considered the additional facts alleged in Arfaa’s amended complaint, it still would not have erred in dismissing the suit. In Maryland, prosecutors are granted “absolute immunity with respect to claims arising from their role in the judicial process.” *State v. Rovin*, 472 Md. 317, 346 (2021) (cleaned up). This shields them “from civil liability for the decisions made and actions taken in a criminal prosecution.” *Id.* at 327 (cleaned up). Immunity attaches to any judicial function—as opposed to investigatory ones—regardless of “the harm that the conduct may have caused or the question whether it was lawful.” *Buckley v. Fitzsimmons*, 509 U.S. 259, 269–71 (1993); *see also Rovin*, 472 Md. at 350 (stating that prosecutors enjoy immunity for judicial functions “regardless of their reasons for acting”). The acts alleged in the amended complaint—statements made during a bail review hearing and ones made during plea discussions—are judicial in nature. *See Rovin*, 472 Md. at 350–51. The State, therefore, was immune to any civil suit based on them. Thus, the circuit court did not err in dismissing Arfaa’s complaint.

**JUDGMENTS OF THE CIRCUIT
COURT FOR HARFORD COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**