

Circuit Court for Baltimore City
Case No. 24-C-17-002876

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1675

September Term, 2017

JOSHUA WHITAKER

v.

MAYOR & CITY COUNCIL OF
BALTIMORE

Leahy,
Friedman,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: March 26, 2019

*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.

On his own behalf and on behalf of a putative class, Joshua Whittaker challenges the City of Baltimore’s power to collect an administrative charge of \$2 per uncontested parking citation. The circuit court dismissed Whittaker’s lawsuit, finding that the administrative charge is authorized by state law. We affirm.

The circuit court granted the City’s motion to dismiss pursuant to Maryland Rule 2-322(b)(2) for the failure to state a claim upon which relief could be granted. Because there is no factual dispute—purely a legal dispute about whether the administrative charge is authorized—we review the decision below without deference to the lower court’s determination.¹

To understand the statutory scheme we begin in the Transportation Article (“TR”), which grants both state agencies and local governments, including Baltimore City, the power to adopt parking laws, TR § 26-301(b)(1), and to authorize police officers and others to issue parking citations for violations of those parking laws. TR § 26-301(b)(4). When an officer discovers a vehicle parked illegally, the officer prepares a citation in duplicate, gives the first copy to the driver (or as more frequently happens, places the citation in a conspicuous location on the car), TR § 26-302(a), and retains a copy. TR § 26-302(a)(2). State law then gives the driver two choices: “(i) [p]ay for the parking violation directly to

¹ Whitaker also argued, both here and below, that in its motion to dismiss the City made certain vital admissions of fact that converted the motion into one for summary judgment pursuant to Rule 2-322(c). That isn’t how this works. A motion to dismiss requires the movant to assume the truth of plaintiff’s well-pleaded factual allegations. Frequently, in setting the stage for such a motion, the movant must describe the other side’s factual allegations. It is not appropriate to try to wring concessions from these stage-setting statements.

the political subdivision or State agency serving the citation; or (ii) [e]lect to stand trial for the violation.” TR § 26-303(a)(1). For those electing to stand trial, there is an additional option of whether to compel the officer’s attendance at trial. TR § 26-303(b).

The story then picks up in the Courts & Judicial Proceedings Article (“CJ”). The relevant statute provides:

- (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21-202.1, § 21-809, § 21-810, § 21-1414, or § 24-111.3 of the Transportation Article in which costs are imposed, and cases under § 10-112 of the Criminal Law Article in which costs are imposed:
 - (i) Are \$ 22.50; and
 - (ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant’s right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.
- (2) In an uncontested case under § 21-202.1, § 21-809, § 21-810, § 21-1414, or § 24-111.3 of the Transportation Article, an uncontested case under § 10-112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are \$ 2.00, which costs shall be paid to and retained by the political subdivision or municipality.
- (3)
 - (i) In an uncontested case in which the fine is paid directly to an agency of State government authorized by law to regulate parking of motor vehicles, the court costs are \$ 2.00.
 - (ii) The fine and the costs under this paragraph shall be paid to the agency, which shall receive and account for these funds as in all other cases involving sums due the State through a State agency.

CJ §7-301(a). This section of the Courts Article thus tracks the previously-discussed section of the Transportation Article (although in a somewhat different order). As a whole, the statutory scheme provides that a driver who receives a citation may elect to stand trial in the district court under TR § 26-303(a)(1) and pay \$22.50 in court costs to the district court, irrespective of whether the driver has sought to compel the officer's presence at trial. CJ § 7-301(a). Alternatively, a driver may elect to just pay the citation plus a \$2 administrative fee to the ticketing governmental entity, either a local government under CJ § 7-301(a)(2) or a state agency under CJ § 7-301(a)(3). Thus, the administrative fee of \$2 is authorized by statute. As a result, the circuit court did not err in granting the City's motion to dismiss.

Although the preceding discussion is sufficient to resolve the case, we also wish to make three additional observations. *First*, we note that Whitaker's argument places great weight on the fact that CJ §7-301 is captioned "Court Costs." As a result of that caption, Whitaker argues that the entire section must only pertain to costs assessed by courts. We note, however, that these captions are not part of the law as adopted by the state legislature but are added by the publishers of compilations of the law as a finding aid. *See* General Provisions Article § 1-208 ("the caption or catchline of a section or subsection that is printed in bold type, italics, or otherwise ... is intended as a mere catchword to indicate the contents of the section or subsection"). Moreover, here, reliance on the caption (which suggests that the whole section concerns "court costs") masks the careful drafting of the statute itself, which deals with "court costs" in only subsection (a)(1) while it deals with administrative "costs" in subsections (a)(2) and (a)(3).

Second, Whitaker puts a great deal of reliance on the statute’s use of the word “uncontested.” Whitaker would apply the name “uncontested” to that category of cases for which a trial is sought but the officer’s presence is not requested (pursuant to TR § 26-303(b)) or that category of cases in which a defendant elects to go to court but waives a trial, perhaps including those who wish to plead “guilty with an explanation.” CJ § 7-301(a)(1)(ii). While those might also be colloquially known as uncontested cases, that is not the name given to those circumstances by the statute. Instead, the statute defines as “uncontested” those cases in which the driver pays the fine plus the \$2 administrative fee in lieu of addressing the citation in court.

Finally, Whitaker emphasizes the use of the word “case.” Under Whitaker’s theory, if it doesn’t go to court, it isn’t a case. That theory, however, misunderstands the statutory scheme. Under this statutory scheme, a case begins when an officer writes a citation. Thus, it is perfectly acceptable to have costs associated with a case that never goes to court.

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