

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 546

September Term, 2016

ABRAS S.Q. MORRISON a/k/a SANDY
QUENTIN MORRISON

v.

STATE OF MARYLAND, *et al.*

Berger,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 2017

*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 1992, Abras S.Q. Morrison, appellant, was convicted of first-degree murder, conspiracy to commit murder, kidnapping, and robbery, following a jury trial in the Circuit Court for Carroll County. The Honorable Francis M. Arnold, who is now deceased, presided over the trial and sentenced Morrison to life imprisonment.

In 2016, Morrison filed a complaint, in the Circuit Court for Baltimore City, seeking a declaratory judgment that Judge Arnold had not been qualified to preside over his trial and to impose his life sentence. Specifically, Morrison claimed that, because Judge Arnold was sixty-one years-old at the time of his appointment to the bench, and would not have been able to complete his fifteen-year term before reaching the mandatory retirement age of seventy-years-old, his appointment violated Article IV, Section 5 of the Maryland Constitution.¹ The trial court dismissed Morrison’s complaint without a hearing, finding that he had failed to raise a justiciable controversy that could be resolved by a declaratory judgment. On appeal, Morrison raises a single issue: whether the circuit court erred in dismissing his complaint. For the reasons that follow, we affirm.

In order to maintain an action for a declaratory judgment, a complaint must present a justiciable issue. *See* Md. Code (1957, 2013 Repl. Vol., 2015 Supp.) § 3-409(a)(1) of the Courts and Judicial Proceedings Article (authorizing declaratory judgments only when the complaint establishes that “[a]n actual controversy exists

¹ Morrison’s claim is based on the following provision of Article IV, Section 5: “Except in the case of reappointment of a judge . . . no person shall be appointed who will become disqualified by reason of age and thereby unable to continue to hold office until the prescribed time when his successor would have been elected.”

between contending parties”). A controversy is justiciable when “there are interested parties asserting adverse claims upon a state of facts which must have accrued wherein a legal decision is sought or demanded.” *State Ctr., LLC v. Lexington Charles Ltd. P’ship*, 438 Md. 451, 591 (2014) (internal quotation marks and citation omitted). Moreover, the controversy must be “of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.” *Green v. Nassif*, 426 Md. 258, 292-93 (2012) (citation omitted). If the issue raised in a declaratory judgment action is not justiciable because it has become moot, is purely abstract, or will not serve a useful purpose or terminate a controversy if resolved, the complaint should be dismissed. *See Post v. Bregman*, 349 Md. 142, 159 (1998).

We are persuaded that no justiciable controversy exists between the parties. Morrison acknowledges that he was not attempting to set aside his underlying criminal conviction and sentence. And, even if he was, such a challenge could not be raised in a declaratory judgment action. *See Sinclair v. State*, 199 Md. App. 130, 139 (2011) (noting that “a petition for declaratory judgment may not be filed in a criminal cause”). Morrison’s complaint did not assert that he had any other legal right or privilege that was being affected as a result of Judge Arnold’s allegedly unconstitutional appointment. Nor could he as Judge Arnold is deceased. Instead, he asked the trial court to essentially issue an advisory opinion regarding Judge Arnold’s qualifications to be a circuit court judge at the time of his trial. In short, there is “no present controversy, no present claim of right involving antagonistic parties and adversary positions indicating imminent or inevitable litigation, nor is there any challenged or denied legal status, the uncertainty of which a

declaratory decree would terminate.” *Hamilton v. McAuliffe*, 277 Md. 336, 342 (1976).

Consequently, the circuit court did not err in dismissing appellant’s complaint.

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