UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

CONSOLIDATED CASES

No. 549
September Term 2016

EDWARD G. TINSLEY

v.

MEGAN STARR, et al.

No. 550
September Term 2016

EDWARD G. TINSLEY

v.

THE LAW FIRM OF GOOZMAN, BERNSTEIN & MARKUSKI, et al.

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

PER CURIAM

Filed:

*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.

For purposes of judicial economy, we have consolidated these two appeals into one because they involve the same appellant – Edward G. Tinsley – and the same or similar arguments as prior appeals he has brought. In both appeals, he contends that the Circuit Court for Prince George's County abused its discretion in denying his motions to alter or amend the judgments and in awarding attorneys' fees to the Law Office of Goozman, Bernstein & Markuski ("GBM"). Finding no error or abuse of discretion, we affirm.[1]

In appeal number 549, appellant had filed a complaint for false imprisonment against GBM, Prince George's County ("the County"), and Officer Megan Starr of the Prince George's County Police Department. At a hearing on November 25, 2015, the circuit court granted GBM's motion for summary judgment and, furthermore, concluded that appellant had filed the complaint in bad faith. At a hearing on February 16, 2016, the court granted summary judgment for the County and Officer Starr and also determined that GBM was entitled to an award of attorneys' fees pursuant to Rule 1-341. [2] Accordingly, on March 9, 2016, the court entered an order awarding attorneys' fees to

[1] The cases stem from appellant's divorce in 2005 and subsequent litigation concerning the sale of the marital home. For a summary of the underlying facts of this case, see *Tinsley v. Suntrust Bank*, No. 1887, Sept. Term 2014 (filed Feb. 18, 2016).

[2] Rule 1-341(a) provides that in a civil proceeding, "if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification, the court . . . may require the offending party . . . to pay to the adverse party the costs of the proceeding and the reasonable expenses," including attorneys' fees, of the opposing party.

GBM and closing the case statistically. On March 15th, appellant filed a motion to alter or amend the judgment, which the court denied on May 11th. Appellant noted an appeal.

In appeal number 550, five days after the court had granted GBM's motion for summary judgment in the false imprisonment case, appellant filed a complaint for wrongful attachment against GBM and V. Peter Markuski, Esq., the trustee appointed by the court in 2007 to sell appellant's marital home. On April 25, 2016, following a hearing, the court granted a motion to dismiss and determined that appellant had filed the complaint in bad faith. On May 3rd, appellant filed a motion to alter or amend the judgment, which the court denied on June 2nd. In the interim, on May 18th, the court granted GBM's request for attorneys' fees. Appellant noted an appeal, which he amended on June 8th.[3]

Appeal Number 549

Appellant contends that the circuit court abused its discretion in denying his motion to alter or amend and in awarding attorneys' fees to GBM on the basis of Rule 1-341. Specifically, appellant contends that the court never ruled on the underlying claim and never entered separate written judgments in compliance with Rule 2-601(a).[4]

[3] When a litigant files a notice of appeal while a ten-day postjudgment motion is pending, we will treat the notice of appeal as if it was filed on the day the court disposed of the postjudgment motion. *See* Rule 8-202(c); *Doe v. Sovereign Grace Ministries, Inc.*, 217 Md. App. 650, 668 (2014), *cert. denied*, 440 Md. 116 (2014) ("A notice of appeal filed while a ten-day postjudgment motion is pending shall be treated as having been filed on the day the postjudgment motion is withdrawn or disposed of by the court.").

[4] Rule 2-601(a) provides:

(continued)

Addressing the court's award of attorneys' fees, appellant argues that the court never made a finding that he acted in bad faith. [5]

Ordinarily, we review a decision to deny a motion to alter or amend for abuse of discretion. *See Harrison-Solomon v. State*, 216 Md. App. 138, 146 (2014), *aff'd*, 442 Md. 254 (2015). A court abuses its discretion where "'the decision under consideration [is] well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *Cabrera v. Mercado*, 230 Md. App. 37, 94 (2016) (quoting *Miller v. Matthias*, 428 Md. 419, 454 (2012)).

(continued)

> (1) Each judgment shall be set forth on a separate document and include a statement of an allowance of costs as determined in conformance with Rule 2-603.
>
> (2) Upon a verdict of a jury or a decision by the court allowing recovery only of costs or a specified amount of money or denying all relief, the clerk shall forthwith prepare, sign, and enter the judgment, unless the court orders otherwise.
>
> (3) Upon a verdict of a jury or a decision by the court granting other relief, the court shall promptly review the form of the judgment presented and, if approved, sign it, and the clerk shall forthwith enter the judgment as approved and signed.
>
> (4) A judgment is effective only when so set forth and when entered as provided in section (b) of this Rule.
>
> (5) Unless the court orders otherwise, entry of the judgment shall not be delayed pending determination of the amount of costs.

[5] In his briefs, appellant also urges us to review the issue of a *supersedeas* bond set by the circuit court. The order as to the bond was entered, however, after the notices of appeal were filed. This issue is, therefore, not properly before us.

Appellant's argument as to the motion to alter or amend has no merit. A final judgment for appeal purposes requires: 1) a judgment rendered by the court; 2) a separate document noting the judgment; 3) that separate document independent of the docket entry; 4) that separate document reflecting judicial action; 5) that separate document signed by the judge or clerk; and 6) a docket entry reflecting the judgment. *Hiob v. Progressive Am. Ins. Co.*, 440 Md. 466, 503 (2014). Our review of the record indicates that the court entered valid judgments in compliance with Rule 2-601(a), signed by the judge, granting the motions for summary judgment filed by GBM, the County, and Officer Starr. These judgments comply with Rule 2-601(a).

To the extent that appellant argues that the court failed to rule on his underlying claim, he rehashes the merits of the court's 2007 decision to appoint a trustee.[6] As we admonished appellant in a previous case, pursuant to *Reier v. State Dep't of Assessments & Taxation*, 397 Md. 2, 21 (2007), "litigants 'cannot prosecute successive appeals in a case that raises the same questions that have been previously decided by this Court in a former appeal of that same case.'" (Quoting *Fid-Balt. Nat'l Bank & Trust Co. v. John Hancock Mut. Life Ins. Co.*, 217 Md. 367, 372 (1958)). "'[F]urthermore, they cannot on the subsequent appeal of the same case raise any question that could have been presented in the previous appeal on the then state of the record[.]'" *Id.* (quoting *Fid-Balt. Nat'l*

[6] This Court has previously addressed appellant's arguments as to the divorce action and the marital home in the following appeals: No. 1789, Sept. Term 2007 (filed Oct. 14, 2008); Nos. 1483 & 2516, Sept. Term 2012 (filed April 15, 2014); No. 1887, Sept. Term 2014 (filed Feb. 18, 2016); and No. 1236, Sept. Term 2015 (filed June 20, 2016). We note that appellant has another pending appeal before this Court, No. 275, Sept. Term 2017.

Bank, 217 Md. at 372). Because appellant presents arguments previously litigated in prior litigation concerning the marital home, we perceive no abuse of discretion in the court's denial of the motion to alter or amend.

As to the award of attorneys' fees, this Court has explained that in considering Rule 1-341 sanctions, a circuit court "'must make an evidentiary finding of bad faith or lack of substantial justification.'" *Thomas v. Capital Med. Mgmt. Assocs., LLC*, 189 Md. App. 439, 473 (2009) (quoting *Legal Aid Bureau, Inc. v. Bishop's Garth Assocs. Ltd. P'ship*, 75 Md. App. 214, 220 (1988)). "'[B]ad faith exists when a party litigates with the purpose of intentional harassment or unreasonable delay.'" *Toliver v. Waicker*, 210 Md. App. 52, 71 (2013) (quoting *Barnes v. Rosenthal Toyota, Inc.*, 126 Md. App. 97, 105 (1999)). We review such a determination under the clearly erroneous standard. *Id.*

Appellant contends that the court did not make the requisite factual findings because the court said that it "does believe" appellant filed the complaint in bad faith. Appellant maintains that this is not an explicit factual finding necessary for an award of fees pursuant to Rule 1-341; rather, it was the court merely expressing a belief. We are not persuaded. The court's belief is its finding, based on its analysis of appellant's litigation conduct. We see no error in this finding.

Appeal Number 550

As to the wrongful attachment case, appellant argues that the court erred in dismissing his complaint because wrongful attachment is a recognized cause of action, and *res judicata* is not a bar to this suit. He maintains that the parties are not the same in

this action as in the divorce litigation or the false imprisonment action. As such, he argues, the court should not have dismissed his complaint.

The Court of Appeals has explained that the doctrine of *res judicata* serves as "'a final bar to any other suit upon the same cause of action, and is conclusive, not only as to all matters that have been decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit[.]'" *Davis v. Wicomico Cnty. Bureau*, 447 Md. 302, 306 (2016) (quoting *Prince George's Cnty. v. Brent*, 414 Md. 334, 342 (2010)). The doctrine applies when: 1) "'the parties in the present litigation are the same or in privity with the parties to the earlier dispute;'" 2) "'the claim presented in the current action is identical to the one determined in the prior adjudication;'" and 3) "'there was a final judgment on the merits.'" *Id.* (quoting *Colandrea v. Wilde Lake Cmty. Ass'n, Inc.*, 361 Md. 371, 392 (2000)).

As we explained to appellant in a prior appeal, for purposes of *res judicata*, sameness of parties is determined by analyzing who has a direct interest in the suit, including those who may assert defenses and appeal. *See Poteet v. Sauter*, 136 Md. App. 383, 411-12 (2001). Because appellant's wrongful attachment complaint was in reality another attempt to litigate the garnishment of the sale proceeds of the house, litigation that resulted in a final judgment involving the same parties or their privies, *res judicata* bars his complaint. We perceive no abuse of discretion in the court's denial of appellant's motion to alter or amend.

As to the award of Rule 1-341 sanctions, appellant argues that he had a colorable claim in filing the action, and Markuski did not have the right to file the garnishment

action in 2012. As we have explained in this opinion and prior appeals, however, appellant has either argued or attempted to argue the merits of the appointment of the trustee and subsequent actions involving the sale of the marital home before and lost every time. We agree with the circuit court's statements at the April 11, 2016 hearing concerning appellant's vexatious litigation: "[Y]ou've been told by the Court of Special Appeals . . . you don't have a legal basis for all the claims that you keep bringing forth against this law firm. You've got to stop and you keep doing it knowing that you have no basis in fact for it." Stated more succinctly, the court cautioned appellant, "If you keep filing frivolous lawsuits, if you keep coming back into this court it's going to cost you money and no one else."

We do not perceive any error in the court's determination that appellant had filed the wrongful attachment action in bad faith. Appellant's repeated attempts to re-litigate prior proceedings are a burden on GBM and all parties involved – including the court system – and are apt for Rule 1-341 sanctions.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.