

Circuit Court for Baltimore City  
Case No.: 24-D-19-002758

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2071

September Term, 2022

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IMAD NASSER

v.

LUBNA NABULSI

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Reed,  
Albright,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Albright, J.

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Filed: February 13, 2024

\*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).

Following an order of default entered against Imad Nasser, Appellant, the Circuit Court for Baltimore City granted Appellee, Lubna Nabulsi, a judgment of absolute divorce.<sup>1</sup> Appearing *pro se*, Mr. Nasser appeals that judgment and, in substance, presents one issue for our review: Did the court err by granting Ms. Nabulsi a judgment of divorce? Because Mr. Nasser failed to file a motion to vacate the order of default, his appeal is not properly before us and shall be dismissed. We discuss.

### **BACKGROUND**

On August 7, 2019, Ms. Nabulsi filed a complaint for absolute divorce against Mr. Nasser, citing the parties’ twelve-month separation as grounds. Therein, Ms. Nabulsi requested joint legal and physical custody of the parties’ two children, who were almost 15 and 16 years old at that time, but she did not seek child support, alimony, or the division of marital property. On July 1, 2021, after Mr. Nasser failed to file a response, Ms. Nabulsi requested an order of default. On July 12, 2021, the court denied Ms. Nabulsi’s request for an order of default due to “deficiencies in her request[.]”

On December 10, 2021, Mr. Nasser filed a “[r]equest from the court [to] strike Ms Nabulsi (Plaintiff) motion for unattended hearing and order of Default against me” (referred to herein as the “Motion to Strike”). Therein, he challenged service and contested the divorce due to “unresolved” financial issues between the parties. On January 24, 2022, the court denied Mr. Nasser’s Motion to Strike without prejudice,

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<sup>1</sup> Ms. Nabulsi did not file a brief before this Court.

explaining that due to the noted deficiencies in Ms. Nabulsi’s request, “no Order of Default was ever issued by the Court.”

On April 13, 2022, Ms. Nabulsi filed a new motion for order of default. Mr. Nasser did not file a response. On May 27, 2022, the court entered an order of default against Mr. Nasser.

On December 2, 2022, the court held a hearing on Ms. Nabulsi’s request for divorce. Ms. Nabulsi appeared with counsel and Mr. Nasser failed to appear. After finding that Mr. Nasser had been mailed a notice of default and that he had been properly notified of the hearing, the court entered a judgment of absolute divorce. The court denied alimony and monetary awards to both parties “by reason of no evidence of marital property[,]” and made no child custody determination.<sup>2</sup>

Mr. Nasser timely filed this appeal.

### **DISCUSSION**

As recently stated by this Court, “[a] party must answer the original complaint within a specified period of time, *see* Md. Rule 2-321, and the failure to do so is a ‘failure to plead’ under [Md.] Rule 2-613.” *Pomroy v. Indian Acres Club of Chesapeake Bay, Inc.*, 254 Md. App. 109, 119 (2022) (quoting Md. Rule 2-613(e)). When “a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default.” Md. Rules 2-613(b). A defendant must be mailed notice of the default order “[p]romptly upon entry[.]” Md. Rule 2-613(c). A defendant “may

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<sup>2</sup> Both children were over the age of 18 at that time.

move to vacate the order of default within 30 days after its entry[,]” pursuant to Maryland Rule 2-613(d).

However, a defaulting party who does not file a motion to vacate the order of default “cannot appeal that judgment in order to contest liability.” *Franklin Credit Mgmt. Corp. v. Nefflen*, 436 Md. 300, 326 (2013); *see also Flynn v. May*, 157 Md. App. 389, 405 (2004) (“The issue of liability is foreclosed by reason of the order of default.” (quoting Paul Niemeyer and Linda Schuett, *Maryland Rules Commentary*, 472-73 (2d ed. 1992))). In the context of default judgments, the “issues of divorce and annulment fall on the ‘liability’ side and the issues that flow from divorce or annulment fall on the ‘damages,’ or in equitable terms, ‘remedy’ side.” *See Wells v. Wells*, 168 Md. App. 382, 396 (2006).

On appeal, Mr. Nasser does not dispute having received notice of the order of default. Instead, he asserts that the court “completely ignored” his Motion to Strike and asks us to reverse the divorce judgment “since [the parties] have financial issue[s] unresolved[.]”<sup>3</sup> However, the divorce judgment in the record before us decided liability— in this case, divorce—only. It is undisputed that no additional relief “that flow[s] from divorce” was awarded therefrom.<sup>4</sup> *Wells*, 168 Md. at 396. Because “the issue of liability

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<sup>3</sup> As noted, the court considered, and denied, Mr. Nasser’s Motion to Strike in January of 2022, and thus, the contention that the motion was “ignored” is unfounded.

<sup>4</sup> Even had Mr. Nasser asserted that his claims pertained to the issue of relief, *i.e.*, the failure to address “[u]nresolved financial issues[.]” our conclusion would remain the same. Despite the order of default, Mr. Nasser had the right to participate in the divorce hearing and present evidence pertaining to issues of relief, but he failed to do so. *Miller v.*  
(continued)

[was] foreclosed” when Mr. Nasser failed to file a motion to vacate the order of default, his appeal is not properly before us. *Flynn*, 157 Md. App. at 405.

**APPEAL DISMISSED; COSTS TO BE PAID  
BY APPELLANT.**

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*Miller*, 70 Md. App. 1, 22 n.11 (1987) (“[W]here the relief to which the party obtaining the [default] judgment is entitled remains to be determined, the defaulting party has the right to participate in any hearing for that purpose and to present evidence on the issue.”).