

Circuit Court for Baltimore City
Case No. 24-0-17-001263

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2138

September Term, 2017

EDWIN COLEMAN

v.

CARRIE M. WARD, *et al.*

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

JJ.

PER CURIAM

Filed: January 30, 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 July 3, 2017, appellees, acting as substitute trustees,¹ filed an Order to Docket in the Circuit Court for Baltimore City, seeking to foreclose on real property owned by Edwin Coleman, appellant. Appellees filed the final loss mitigation affidavit on August 29, 2017, and Mr. Coleman filed a timely request for postfile mediation. The parties participated in postfile mediation on October 18, 2017, but no agreement was reached. Thereafter, the court ordered that appellees could proceed with the foreclosure sale.

On November 9, 2017, Mr. Coleman filed a “Motion to Stay the Sale and Ratification of Sale of Property and in the Alternative/Motion to Dismiss the Foreclosure Action” (first motion to stay). In that motion he claimed that: (1) he was improperly denied loss mitigation; (2) his mortgage lender could not foreclose on his property because they were under a conservatorship and the order to docket did not contain a directive from the conservator; and (3) his mortgage lender could not foreclose on the property because it was comprised of a board of directors and “[n]o name or signature of any Member of the Board of Directors . . . appear[ed] in the record[.]” Mr. Coleman then filed an “Emergency Amendment Motion to Stay the Sale and Ratification of Sale of Property and in the Alternative/Motion to Dismiss the Foreclosure Action” (amended motion to stay) on November 13, 2017, wherein he raised essentially the same claims as his first motion to stay. The court denied the first motion to stay on November 14, 2017, and denied the amended motion to stay on November 20, 2017. Mr. Coleman then filed a motion to alter

¹ Appellees are Carrie M. Ward, Howard N. Bierman, Jacob Geesing, Pratima Lele, Joshua Coleman, Richard R. Goldsmith, Jr., Ludeen McCartney-Green, Jason Kutcher, Elizabeth C. Jones, and Nicholas Derdock.

or amend the judgment on November 28, 2017. The court denied that motion on December 5, 2017. Mr. Coleman filed a notice of appeal on January 2, 2018. On appeal, he raises nine issues that reduce to two: (1) whether the court abused its discretion in denying his amended motion to stay, and (2) whether the court abused its discretion in denying his motion to alter or amend the judgment. Because Mr. Coleman's amended motion to stay was untimely and did not set forth good cause for why it was not timely filed, we affirm.

As an initial matter, to the extent that Mr. Coleman is attempting to appeal from the denial of his first motion to stay, his appeal is untimely. Maryland Rule 8-202(a) provides that a party must file his or her notice of appeal "within 30 days after entry of the judgment or order from which the appeal is taken." That 30-day deadline can be tolled when a motion to alter or amend judgment under Md. Rule 2-534 is filed within ten days of the entry of judgment. *See* Md. Rule 8-202(c). Here, Mr. Coleman's motion to alter or amend the judgment was filed within ten days of the court's order denying his amended motion to stay. But it was filed more than ten days after the court's order denying his first motion to stay. Therefore, the motion to alter or amend the judgment only tolled the time for him to appeal from the order denying his amended motion to stay. Because Mr. Coleman did not file his notice of appeal within thirty days after the entry of the order denying his first motion to stay, and the time to appeal from that order was not tolled by his motion to alter or amend the judgment, his notice of appeal was timely only as to the denial of his amended motion to stay and motion to alter or amend the judgment.

As to the merits of Mr. Coleman's appeal, Maryland Rule 14-211(a)(2)(A) provides that where postfile mediation is requested and not stucken, a motion to stay or dismiss must

be filed no later than 15 days after the first to occur of: (a) the date the postfile mediation was held; (b) the date the Office of Administrative Hearings files with the court a report stating that no postfile mediation was held; or (c) sixty days after transmittal of the request for mediation. Because the parties engaged in postfile mediation on October 18, 2017, Mr. Coleman was required to file his motion to stay or dismiss the foreclosure action no later than November 2, 2017. However, he did not file the amended motion to stay until November 13, 2017. Therefore, it was untimely.² Moreover, neither the amended motion to stay nor the motion to alter or amend the judgment provided any explanation for why the amended motion to stay had not been timely filed. *See* Maryland Rule 14-211(a)(3)(F) (stating that an untimely motion to stay or dismiss must “state with particularity the reasons why [it] was not timely filed”). Consequently, the trial court did not abuse its discretion in denying the amended motion to stay or the motion to alter or amend the judgment. *See* Maryland Rule 14-211(b)(1)(A) (stating that the “court *shall* deny the motion [to stay or dismiss]” if the motion “was not timely filed and does not show good cause for excusing non-compliance” (emphasis added)).³

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

² We note that Mr. Coleman’s first motion to stay was also untimely.

³ Although the circuit court’s order did not state why it was denying the amended motion for stay, we “may affirm the court’s decision on any ground adequately shown by the record.” *Holden v. University System of Maryland*, 222 Md. App. 360, 366 (2015) (citation omitted).