

Circuit Court for Montgomery County
Case No. 415167V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2252

September Term, 2018

NENAD MARKOVIC

v.

MOHAMED Z. RAHAMAN

Beachley,
Wells,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 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.

This appeal arises from an order issued by the Circuit Court for Montgomery County prohibiting Nenad Markovic, appellant, from filing as a self-represented litigant, any new pleadings in a closed civil action that he had filed against Mohamed Z. Rahaman, appellee, without first obtaining written leave of the Administrative Judge (pre-filing order). Mr. Markovic raises seven issues on appeal which reduce to one: whether the trial court erred in issuing the pre-filing order.¹ Finding no error, we shall affirm.

In February 2016, substitute trustees acting on behalf of United Bank filed an Order to Docket seeking to foreclose on real property owned by Mr. Markovic and his wife Olivera Markovic.² Mr. Markovic's home was ultimately sold at a foreclosure auction and the sale was ratified on December 9, 2016. While the foreclosure action was pending, Mr. Markovic filed a separate civil action against Mr. Rahaman, who was an employee of United Bank. The complaint raised claims of malicious prosecution, malicious use of process, professional malpractice, and nuisance based on Mr. Rahaman having signed the Affidavit of Debt that was filed in the Order to Docket. The court ultimately dismissed the complaint with prejudice on March 20, 2017, for failure to state a claim upon which relief could be granted. Mr. Markovic filed a timely motion for reconsideration, which was denied.

¹ Mr. Markovic's brief mostly addresses the merits of the underlying civil action. However, he did not appeal from the order dismissing that action. Consequently, those issues are not properly before this Court.

² Ms. Markovic is a not a party to this appeal.

Mr. Markovic did not appeal the final judgment dismissing his complaint or the order denying his motion for reconsideration. Rather, over the next year he filed seven additional motions seeking reconsideration or similar relief, all of which raised issues that had been previously rejected by the court. Those motions were denied.

On June 26, 2018, the court issued an order directing Mr. Markovic to show cause why he should not be found a vexatious litigant and subject to a pre-filing order based on the number of “largely incomprehensible and procedurally improper” motions that he had filed following the entry of the order dismissing his complaint.³ On August 7, 2018, the court held a hearing and discussed on the record its concerns regarding the volume and repetitiveness of Mr. Markovic’s filings. The court specifically noted that Mr. Markovic had not appealed any of the prior orders and that the time for “reconsideration was long past and that [it couldn’t] continually have [its] staff filing and docketing [the same motions] that are going to be denied into the future.”

Mr. Markovic was then provided an opportunity to discuss why he believed he should be permitted to file additional motions without court approval. However, he did not directly address the question and instead reiterated his belief that he was a “victim” and that somebody was “trying to prevent [him from] presenting the evidence.” Moreover, he did not provide any assurances to the court that any motions he might file in the future would be substantively different from the motions that he had previously filed. The court

³ The order also directed Mr. Markovic to show cause why he should not be subject to a pre-filing order in the foreclosure action and in another civil case. The court ultimately entered a pre-filing order in all three cases. Mr. Markovic filed a separate notice of appeal from the pre-filing order that was issued in the foreclosure case.

ultimately determined that the claims Mr. Markovic continued to raise in his motions to reconsider the dismissal of his complaint were “frivolous” and that, because he refused to stop filing those motions, he was a vexatious litigant. The court specifically noted that Mr. Markovic had provided “[n]o explanation . . . as to why no appeal was taken from the decisions adverse to him.” It therefore entered a pre-filing order that prohibited Mr. Markovic from filing *pro se* motions in this case without first obtaining permission from the administrative judge.

The authority to grant an injunction under Maryland Rule 15-502(b) includes the power to issue pre-filing orders “to control the actions of a vexatious or frivolous litigant.” *Riffin v. Circuit Court for Baltimore City*, 190 Md. App. 11, 28-29 (2010). In order to impose a pre-filing order, the circuit court “must document a record that justifies a pre-filing order.” *Id.* at 33. Then, the court “should make substantive findings as to the frivolous or harassing nature of the litigant’s actions.” *Id.* at 34. Finally, “the court must narrowly tailor a pre-filing order.” *Id.*

Here, Mr. Markovic did not appeal from the final judgment dismissing his complaint or from the order denying his first motion for reconsideration, which was filed within 30 days of the entry of the final judgment. Having failed to appeal from those orders, Mr. Markovic was precluded from re-litigating the dismissal of his complaint unless he could establish that the final judgment was the result of fraud, mistake or an irregularity within the meaning of Maryland Rule 2-535(b). *See Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008). However, Mr. Markovic’s subsequent motions for reconsideration did not demonstrate the existence of fraud, mistake or irregularity. And even if they had, he did

not appeal the denial of those motions but instead continued to file additional motions raising substantially similar claims. Moreover, during the hearing on the show cause order, Mr. Markovic did not acknowledge that the motions were procedurally improper in light of a final judgment having been entered or indicate that he would not file similar motions in the future. Consequently, we are persuaded that the circuit court did not err in determining that Mr. Markovic's repetitive motions were frivolous and therefore, that he was a vexatious litigant. Finally, we note that because Mr. Markovic was not prohibited from filing pleadings in unrelated matters, the pre-filing order is not overly broad. Therefore, the circuit court did not err in entering the pre-filing order in this case.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**