Circuit Court for Charles County
Case No. C-08-FM-24-001038

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2282

September Term, 2024

MALIK D. BRANDON

v.

MEGHAN WELCH

Nazarian,
Arthur,
Leahy,

JJ.

Opinion by Arthur, J.

Filed: July 24, 2025

* This is an unreported opinion. It may not be cited as precedent within the rule of stare decisis. It may be cited as persuasive authority only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

The Circuit Court for Charles County appointed a family law magistrate to hear the parties' claims for child custody and child support. The father appealed from the magistrate's written report before the circuit court entered its order accepting and implementing the magistrate's recommendations. The father did not appeal from the order by which the circuit court actually accepted and implemented the recommendations.

We shall dismiss the appeal because it is not authorized by the Maryland Rules or other law and because the notice of appeal was not filed with the lower court within the thirty-day period prescribed by Maryland Rule 8-202. Md. Rule 8-602(b)(1)-(2).

BACKGROUND

Meghan Welch ("Mother") gave birth to a daughter in June 2024. On July 5, 2024, Malik Brandon ("Father") filed a complaint in the Circuit Court for Charles County, seeking joint custody and parenting time. Mother filed a counterclaim seeking primary physical custody, sole legal custody, and child support.

The circuit court appointed a family law magistrate to hear evidence and propose recommendations for resolving the parties' claims. The magistrate held a hearing on January 14, 2025. Father did not attend the hearing because, he tells us, he "was unable and unconformable [sic] to appear in person . . . due to continued threats and harassment from [Mother]." The magistrate "f[ound] it appropriate to proceed in his absence" and heard testimony from Mother alone.

The magistrate announced her findings and recommendations on the record. Among other things, the magistrate recommended that Mother should be awarded sole legal and primary physical custody; that Father should be granted reasonable rights of parenting time; and that Father should pay $488.00 per month in child support, in addition to $62.00 per month to satisfy his arrearages. The magistrate informed Mother that Father would receive a copy of her recommendations and that he would have ten days to file exceptions to those recommendations.

The magistrate's written report was entered onto the electronic case management system on January 16, 2025. Father filed a notice of appeal from the magistrate's report on January 27, 2025, but he did not file exceptions to the findings and recommendations. The circuit court, seeing that Father had filed no exceptions, and upon reviewing the magistrate's report, entered an order implementing the magistrate's recommendations on February 5, 2025.

Father did not appeal from the circuit court's order.

DISCUSSION

Generally, a party may appeal only "from a final judgment entered in a civil or criminal case by a circuit court." Maryland Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article ("CJP"). To qualify as a final judgment, the order "must be intended by the court as an unqualified, final disposition of the matter in controversy[.]" *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989); Maryland Rule 2-602(a). "[T]o be an unqualified, final disposition, an order of a circuit court must be 'so final as

either to determine *and conclude* the rights involved or to deny the appellant the means of further prosecuting or defending his or her rights and interests in the subject matter of the proceeding.'" *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. 289, 299 (2015) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. at 41) (emphasis in original). "[W]e can raise the issue of finality on our own motion." *Zilichikhis v. Montgomery County*, 223 Md. App. 158, 172 (2015); *accord In the Matter of Broadway Servs*., *Inc.*, 265 Md. App. 343, 359 (2025).

In this case, Father has appealed from the magistrate's written report containing her findings and recommendations, not from the circuit court's order implementing those recommendations. The magistrate's report is not a judgment, much less a final judgment.

A court may appoint a magistrate to conduct hearings in domestic relations matters and other matters or issues not triable of right before a jury. Md. Rule 2-541(b). Magistrates can hear testimony and recommend findings of fact and conclusions of law. Md. Rule 2-541(c); Md. Rule 9-208(b). Based on those recommended findings and conclusions, domestic relations magistrates must prepare written reports in which they make recommendations to the circuit court in the form of a proposed order. Md. Rule 9-208(e)(1).

A magistrate's report is a proposal or a recommendation; it is not an order or a judgment. "The [magistrate's] report is advisory only[.]" *O'Brien v. O'Brien*, 367 Md. 547, 554 (2002); *see also Grant v. Cnty. Council of Prince George's County*, 465 Md. 496, 542 (2019) (stating that a "magistrate's report is merely advisory"). Even if a party

files exceptions to a magistrate's report and the court sustains or overrules the exceptions, the court's ruling "does not end the case in the Circuit Court, and it therefore does not constitute a judgment." *O'Brien v. O'Brien*, 367 Md. at 555-56. The case is "not over until a judgment, entered in conformance with Rule 2-601, is signed and entered on the docket." *Id.* at 556.

Here, Father filed no exceptions. Instead, he noted an appeal from the magistrate's report. Because Father noted the appeal before the entry of the final judgment—the court's order approving the magistrate recommendations—his appeal was premature. As such, his appeal had no force or effect. *See, e.g.*, *Doe v. Sovereign Grace Ministries, Inc.*, 217 Md. App. 650, 662-63 (2014).[1]

Furthermore, when the court actually approved the recommendations and entered the final judgment, Father failed to file a notice of appeal. Consequently, it appears that this Court must dismiss the appeal. Md. Rule 8-602(b)(1)-(2).

There are only three exceptions to the general rule that a party may appeal only from a final judgment: "appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory rulings allowed under the common law collateral order doctrine." *Salvagno v. Frew*, 388

[1] Because the premature notice of appeal had no force or effect, it did "not divest the trial court of jurisdiction to enter final judgment in the case," *Makovi v. Sherwin-Williams Co.*, 311 Md. 278, 283 (1987), which it did when it approved the magistrate's report.

Md. 605, 615 (2005); *accord McLaughlin v. Ward*, 240 Md. App. 76, 85 (2019). None apply.

The statutory exceptions are contained in CJP § 12-303. The exceptions pertain to a specific set of "interlocutory orders entered by a circuit court in a civil case." *Id.* In this case, however, Father has not appealed from an "order," interlocutory or otherwise. He appealed only from an advisory report by a domestic magistrate. CJP § 12-303 does not permit his appeal.

Rule 2-602(b) permits a circuit court to direct the entry of a final judgment as to one or more but fewer than all of the claims or parties, provided that the court "expressly determines in a written order that there is no just reason for delay." Here, we have no such determination. Nor, in any event, could the court have made such a determination, not least because the magistrate's report is only an advisory recommendation. The report did not resolve any claims involving any of the parties.

The collateral order doctrine is a "very narrow exception" to the general rule that a party may appeal from a final judgment. *See, e.g.*, *Dawkins v. Baltimore City Police Dep't*, 376 Md. 53, 58 (2003). "To qualify as a collateral order, a ruling must satisfy four criteria: '(1) it must conclusively determine the disputed question; (2) it must resolve an important issue; (3) it must be completely separate from the merits of the action; and (4) it must be effectively unreviewable on appeal from a final judgment.'" *Maryland Bd. of Physicians v. Geier*, 225 Md. App. 114, 131 (2015) (quoting *Addison v. Lochearn*

Nursing Home, LLC, 411 Md. 251, 285 (2009)); *accord McLaughlin v. Ward*, 240 Md. App. at 88.

The magistrate's report fails to satisfy most, if not all, of these requirements. The report does not conclusively determine anything; it is a mere recommendation. The report is not completely separate from the merits; rather, it makes recommendations about how the court should decide the merits. Finally, the merits of the report would have been effectively reviewable on an appeal from a final judgment, if Father had noted exceptions and the court had overruled them. In short, neither this exception nor any of the others will apply to save Father's appeal.

We have also considered whether Father's premature appeal could be saved by Maryland Rule 8-602(f). That rule provides as follows: "A notice of appeal filed after the announcement or signing by the trial court of a ruling, decision, order, or judgment but before entry of the ruling, decision, order, or judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket."

Rule 8-602(f) cannot save the appeal. As previously stated, the magistrate's report is not "a ruling, decision, order, or judgment." The report is a mere advisory recommendation. Thus, when Father noted his appeal after the magistrate issued her advisory report but before the court had approved the report, he did not note an appeal "after the announcement or signing by the trial court of a ruling, decision, order, or judgment but before entry of the ruling, decision, order, or judgment on the docket." Md. Rule 8-602(f).

Finally, we have considered whether we may treat Father's notice of appeal as exceptions to the magistrate's report and remand the case to the circuit court so that it may consider them. Although Father noted the appeal in the circuit court on the same day on which his exceptions would have been due, we have determined that we cannot treat the notice of appeal as the equivalent of exceptions.

Father used a court-issued form as his notice of appeal. The notice of appeal need not, and does not, disclose the asserted error. Yet, under Maryland Rule 9-208(f), the party's exceptions to a magistrate's report must "set forth the asserted error with particularity." Moreover, "[a]ny matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise." *Id.*

"[E]xceptions serve a dual purpose—to inform the court, first, that the excepting party is not satisfied with the [magistrate's] recommendation, and, second, of the reason why the court should not accept that recommendation." *O'Brien v. O'Brien*, 367 Md. at 555. Father's notice of appeal served neither of those purposes. The circuit court had no reason to interpret the notice of appeal as though it were exceptions to the magistrate's report.

In summary, Father noted an appeal from something that is not appealable—a magistrate's report. Father failed to note an appeal from the ruling that actually was appealable—the court order adopting the magistrate's recommendations. Consequently, we must dismiss his appeal. Md. Rule 8-602(b)(1)-(2).

APPEAL DISMISSED.
APPELLANT TO PAY COSTS.