

Circuit Court for Prince George's County  
Case No. CAD18-33733

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2326

September Term, 2019

---

MARIA FULGENCIA COREA

V.

INGRID SUYAPA HUMBERT COREA, ET  
AL.

---

Arthur,  
Friedman,  
Sharer, J., Frederick  
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Friedman, J.

---

Filed: September 10, 2020

\*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.

Maria Fulgencia Corea filed a petition for sole custody and a motion for the predicate factual findings necessary to apply for Special Immigrant Juvenile (SIJ) status for her thirteen-year-old grandson, S.H.C. The trial court obtained personal jurisdiction over both S.H.C.'s mother and unknown father in Honduras and then, inexplicably, dismissed the case for lack of prosecution. We return the case to the Circuit Court for Prince George's County.

### **BACKGROUND**

S.H.C. was born in Honduras to Ingrid Suyapa Humbert Corea and an unknown father. Almost immediately, Ingrid sent S.H.C. to live with his grandmother, Maria, who then immigrated to Maryland with him. Maria filed a petition seeking sole custody and for the factual findings necessary to apply for SIJ status on September 21, 2018. The petition for custody was uncontested. On October 26, 2018, Ingrid was served in Honduras. The circuit court obtained jurisdiction over her on December 11, 2018, as evidenced by the Affidavit of Service.<sup>1</sup>

S.H.C.'s father's identity is unknown.<sup>2</sup> Maria, therefore, filed a Motion for Alternative Service with her original pleading to provide notice. This motion was denied on October 19, 2018. Maria's second Motion for Alternative Service was filed on February 4, 2019 and denied on April 5, 2019. On May 13, 2019, the circuit court clerk's office

---

<sup>1</sup> An Amended Service Affidavit was filed with the court on October 15, 2019 to correct the name of the person who served the documents on Ingrid.

<sup>2</sup> Ingrid was gang raped in Honduras by three men. She did not know the names of the men who raped her, except for the first name of one of the men who is now deceased. S.H.C.'s father is, therefore, unknown.

automatically generated a notification of contemplated dismissal pursuant to Rule 2-507(d), indicating that unless Maria took action, the petition would be dismissed for “lack of jurisdiction.”<sup>3</sup> Maria filed a Motion to Defer Dismissal and a third Motion for Alternative Service on June 5, 2019. The circuit court granted the Motion for Alternative Service on July 3, 2019, granting Maria leave to serve process by “publication at least once in at least one newspaper in general circulation in the area of the country where the parent last resided.” *See* MD. CODE, FAM. LAW §5-316 (f). Maria submitted proof of publication on July 16, 2019, thereby effectuating jurisdiction over the unknown father.

Therefore, as of July 16, 2019, the circuit court had obtained jurisdiction over both defendants, Ingrid and the unknown father. On October 4, 2019, however, the circuit court denied Maria’s June 5, 2019 Motion to Defer Dismissal and dismissed the case “without prejudice for [Maria’s] failure to properly pursue,” apparently converting the grounds of the Rule 2-507 dismissal from jurisdictional (under Rule 2-507 (b)) to failure to prosecute (under Rule 2-507(c)). Not realizing that her case had already been dismissed, Maria filed a Request for Order of Default on October 15, 2019. Then, once she received notice of the dismissal, Maria filed a Motion to Alter or Amend and to Vacate that dismissal on November 12, 2019. On December 27, 2019, the circuit court denied the motion to vacate. This timely appeal followed.

---

<sup>3</sup> The clerk of the court also generated a notice of dismissal for Ingrid, even though the circuit court had already obtained jurisdiction on December 11, 2018.

## DISCUSSION

At the time the circuit court dismissed Maria’s petition, neither of the grounds for dismissal under Rule 2-507 existed. *First*, Maria had done all that the circuit court required for the court to obtain jurisdiction over the defendants. Thus, dismissal under Rule 2-507(b) was inappropriate. *Second*, Maria’s case had not been idle for one year from the last docket entry (it was closer to three months since the proof of publication was submitted on July 16, 2019), and was not, in any way, “deadwood” clogging the court’s docket. *Powell v. Gutierrez*, 310 Md. 302, 308 (1987). This was an active case. Thus, the circuit court’s dismissal of this case on October 4, 2019 was clearly inappropriate under Rule 2-507(c). As such, we hold that it was an error of law and an abuse of discretion. We, therefore, reverse. Moreover, we return the matter to the active docket at the point at which the circuit court improperly granted the dismissal. That is to say, the circuit court must next consider Maria’s motion for default and make the required factual findings for SIJ status pursuant to the standard set forth in *Romero v. Perez*, 463 Md. 182, 190-93 (2019).<sup>4</sup>

---

<sup>4</sup> There is a further error by the circuit court that doesn’t change the outcome, but that we must correct. For reasons that we cannot fathom, the circuit court didn’t make its dismissal effective on the day signed, but purported to make it effective some three months earlier by writing, “nunc pro tunc to August 30, 2019.” We don’t know why the trial court did this or why it thought to do so was appropriate. The power to enter an order “nunc pro tunc” is used exclusively to correct minor clerical errors, in effect to record now, what was done previously. *Short v. Short*, 136 Md. App. 570, 578 (2001). There was, however, no act done on August 30, 2019 that failed to be recorded. *Id.* at 579 (explaining that if the error is merely a clerical one, the judgment will not change “in the slightest degree” and relief will be granted “merely to correct the record evidence of such judgment”). To the best of our knowledge, this was simply a misuse of the circuit court’s power to enter orders nunc pro tunc.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY  
REVERSED. CASE REMANDED FOR  
FURTHER PROCEEDINGS CONSISTENT  
WITH THIS OPINION. COSTS TO BE  
PAID BY PRINCE GEORGE'S COUNTY.**