

Circuit Court for Prince George's County
Case No. CAL22-22028

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 2453

September Term, 2024

ANTONIO BELL

v.

PRINCE GEORGE'S COUNTY,
MARYLAND

Ripken,
Tang,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: April 24, 2026

*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).

This appeal arises out of a complaint filed by the appellant, Antonio Bell, against three Prince George’s County police officers and the County seeking damages for alleged police misconduct. The issue on appeal relates to whether the County was properly named as a defendant in this case and could be liable under the theory of *respondeat superior* for the constitutional torts committed by its employees. We do not answer that question because we do not have appellate jurisdiction of this case. Accordingly, we dismiss this appeal.

PROCEDURAL HISTORY

On July 21, 2022, the appellant filed an eight-count complaint against three Prince George’s County police officers and the County seeking damages for police misconduct. Seven counts of the complaint sought damages from the three officers for various common law and constitutional torts that they had allegedly committed against the appellant. The County was named as a defendant solely in the remaining count of the complaint—a count labeled “Respondeat Superior.”

The County filed a motion to dismiss the single count against it with prejudice. On November 29, 2023, the Circuit Court for Prince George’s County dismissed the count against the County with prejudice after a hearing. The court did not dispose of the other counts against the three officers. In fact, the officers had not yet been served with the complaint.

On January 22, 2024, after his request to reconsider was denied, the appellant appealed the dismissal of the count against the County.

The circuit court had previously issued a notice of contemplated dismissal as to the three officers pursuant to Maryland Rule 2-507(b) and (d).¹ On February 6, 2024, while the appeal was pending, the appellant filed a Motion for Deferral of the Dismissal Order and a Request for Decision on Alternative Service. He asserted that the officers were evading service and sought permission to serve them with the complaint by alternative methods.

On February 12, 2024, the circuit court entered an order reserving decision on the motion and directing the clerk to reissue summonses for the three officers. The order stated that if the officers were not served before the summonses expired, the court “shall dismiss” the officers pursuant to Maryland Rule 2-507(b), and the case “may be closed for statistical purposes.” It also allowed the appellant to file a motion for alternative service once the summonses were issued. That same day, the clerk issued a summons for each officer, notifying the appellant that each summons was “effective for service only if served within 60 days” of issuance. However, the officers were not served.

In the meantime, this Court dismissed the appeal for lack of appellate jurisdiction, explaining that there was no final judgment as to all claims and all defendants. *See Bell v. Prince George’s Cnty.*, No. 2250, Sept. Term, 2023, 2024 WL 5152752, at *2 (Md. App.

¹ Maryland Rule 2-507(b) provides, “An action against any defendant who has not been served or over whom the court has not otherwise acquired jurisdiction is subject to dismissal as to that defendant at the expiration of 120 days from the issuance of original process directed to that defendant.” Subsection (d) authorizes the clerk to serve notice of contemplated dismissal for lack of jurisdiction under subsection (b).

Ct. Dec. 18, 2024). The mandate was entered in the circuit court on January 21, 2025.² That same day, the circuit court entered a docket entry that read, “Dismissal – Lack of Jurisdiction *Case closed as to all defendants per 2-507 Order 2/12/2024.*” No separate document accompanied this entry setting forth the judgment of dismissal.

On February 2, 2025, the appellant requested a new summons to serve the officers with the complaint. On February 4, 2025, the clerk issued the appellant a Notice of Deficiency, explaining that the “Case is closed due to a 2-507 notice; therefore, summonses cannot be issued.”

The Instant Appeal

The appellant filed a notice of appeal on February 21, 2025, thirty-one days after the January 21 docket entry reflecting dismissal of the case as to all defendants. Recognizing the delay, the appellant filed an amended notice of appeal that same day, explaining that the clerk of the circuit court had informed counsel that the thirty-day period for filing a notice of appeal began from the January 21 docket entry. *See* Md. Rule 8-202(a) (providing that the notice of appeal shall be filed within thirty days after entry of the judgment or order from which the appeal is taken). In a footnote, counsel explained that

² On February 21, 2025, the appellant filed with the circuit court a request for a written order directing the entry of a final judgment solely as to the County under Maryland Rule 2-602(b) (“If the court expressly determines in a written order that there is no just reason for delay, it may direct in the order the entry of a final judgment: (1) as to one or more but fewer than all of the claims or parties . . .”). The circuit court determined that the motion was moot.

the January 21 docket entry closing the case was not communicated to the parties, apparently due to a policy of the clerk’s office.

The clerk of the Appellate Court sent a letter to counsel, which was later incorporated into an order to show cause issued on April 2, 2026, directing counsel to explain why this appeal should not be dismissed. The Court requested the parties to address three issues: whether this appeal was taken from a final judgment given the absence of a separate document as required by Maryland Rule 2-601(a); whether the Court can find a waiver of the separate document requirement under the circumstances; and, if the appeal was taken from a final judgment, whether the notice of appeal was timely filed.³

In his response, the appellant acknowledged that the January 21, 2025 docket entry indicating the dismissal did not constitute a final judgment because it was not accompanied by a separate document as required by Maryland Rule 2-602(a). However, he contends that the February 4, 2025 Notice of Deficiency “appears to serve as an unequivocal final judgment as to all claims and all defendants.” Therefore, he asserts that the separate document requirement can be waived, making his February 21, 2025 notice of appeal timely.

ANALYSIS

“A final judgment does not take effect unless and until it is set forth on a ‘separate document’ consistent with Rule 2-601(a) and is entered on the docket consistent with Rule

³ The show cause order directed “the parties” to respond within fifteen days of the issuance of the order. The appellant filed a timely response. The County did not file any response.

2-601(b).” *Md. Bd. of Physicians v. Geier*, 241 Md. App. 429, 479 (2019) (citation modified). The separate document requirement ““must be mechanically applied in determining whether an appeal is timely.”” *Id.* (citation omitted).

Preliminarily, we are not persuaded by the appellant’s contention that the Notice of Deficiency issued by the clerk of the circuit court on February 4, 2025 constituted a final judgment. The Maryland Rules define “judgment” as an “order of court final in its nature entered pursuant to these rules.” Md. Rule 1–202(p). The rendition of judgment “is the judicial act by which the court settles and declares the decision of the law on the matters at issue. In other words, rendition is the court’s pronouncement . . . of its decision upon the matter submitted to it for adjudication.” *Hiob v. Progressive Am. Ins. Co.*, 440 Md. 466, 485 (2014) (citation omitted). Here, the Notice of Deficiency was not an order of court; it was a notice by the clerk merely advising that the court could not issue the requested summons because the case had been closed.

The purported final judgment dismissing the claims against all defendants was entered on the docket on January 21, 2025, stating “Dismissal – Lack of Jurisdiction *Case closed as to all defendants per 2-507 Order 2/12/2024.*” While the dismissal was entered on the docket consistent with Rule 2-601(b), it did not constitute a final judgment because it was not set forth in a separate document consistent with Rule 2-601(a).⁴

⁴ The February 12, 2024 order referenced in the docket entry could not satisfy the separate document requirement for the judgment of dismissal entered later on January 21, 2025; rather, it only contemplated dismissal conditioned on the summons not being served timely. *See Won Sun Lee v. Won Bok Lee*, 240 Md. App. 47, 67 (2019) (the purpose of the

Parties may waive the separate document requirement when strict compliance would create unnecessary delay, or when “the trial court intended the docket entries made by the court clerk to be a final judgment and . . . no party objected to the absence of a separate document after the appeal was noted.” *Wireless One, Inc. v. Mayor of Balt.*, 465 Md. 588, 599 n.2 (2019) (citation omitted). However, they may do so “only when a party is not prejudiced by the waiver.” *Hiob*, 440 Md. at 480. In other words, the separate document requirement may be waived “in order to *preserve* an appeal, rather than eliminate it as untimely.” *URS Corp. v. Fort Myer Constr. Corp.*, 452 Md. 48, 67 (2017) (emphasis in original).

We decline to find a waiver of the separate document requirement under the circumstances presented. To do so would mean that the final judgment became effective on January 21, 2025, which would render the appellant’s notice of appeal filed on February 21, 2025 untimely. The Supreme Court of Maryland “has been reticent or unwilling to find a waiver of the separate document requirement where such a finding would preclude an appeal.” *MAS Assocs., LLC v. Korotki*, 475 Md. 325, 374 (2021); *see also Byrum v. Horning*, 360 Md. 23, 32 (2000) (declining to hold that parties had waived separate document requirement where treating the relevant docket entry as a final judgment would have rendered the appeal untimely instead of preserving the right to appeal).

separate document requirement is to ensure that litigants “have ‘a clear indication of when judgment is entered,’ not an indication that depends on assumptions or deduction” (citation omitted)).

For the reasons stated, we shall dismiss this appeal yet again without expressing a view on the merits of the issues raised on appeal. *See* Md. Rule 8-602(a), (b)(1) (dismissal of appeal on court’s own initiative is mandatory when the appeal is not allowed by law). The case is remanded to the circuit court to enter the appropriate judgment pursuant to Rule 2-601. Once the court enters a final judgment, a new notice of appeal may be filed in accordance with the Rules.

**APPEAL DISMISSED AND CASE
REMANDED TO THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY FOR
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE PAID BY
APPELLANT.**