

Circuit Court for Montgomery County
Case No. 434541V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 282

September Term, 2018

BRENDA A. WALKER

v.

SEAN MCCOY, ET AL.

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

JJ.

PER CURIAM

Filed: April 3, 2019

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

Brenda Angela Walker, the appellant, appeals from the dismissal of her civil action against GEICO Insurance Corp. (“GEICO”) and its insured, Sean McCoy, the appellees, in the Circuit Court for Montgomery County. Perceiving no error, we affirm.

On July 19, 2017, Ms. Walker filed a one-count complaint asserting a claim for negligence arising out of a motor vehicle accident that had occurred on July 21, 2014. She gave an address in Washington, D.C. for Mr. McCoy and the court issued a 60-day summons as to him and a 30-day summons as to GEICO.

GEICO was served and, on October 4, 2017, the court granted GEICO’s motion to dismiss for failure to state a claim. Ms. Walker does not challenge that ruling on appeal.

Mr. McCoy was not served within 60-days (by September 17, 2017) and Ms. Walker did not request reissuance of the summons. Consequently, on November 29, 2017, the court issued a notice of contemplated dismissal for lack of jurisdiction as to the claim against Mr. McCoy pursuant to Md. Rule 2-507(b).¹ That notice advised that the case would be dismissed in 30 days (December 29, 2017) unless Ms. Walker filed a “WRITTEN motion showing good cause to defer the entry of dismissal[.]”

On December 29, 2017, Ms. Walker caused an affidavit of service to be filed with the court. The affidavit stated that Mr. McCoy was served “by personal service” in

¹ Rule 2-507 provides, in pertinent part, that 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.” The 120-day period elapsed on November 16, 2017.

Washington, D.C., on December 28, 2017. The private process server did not enter the “Date the summons for the Complaint[] . . . was issued” on the standard form affidavit.

On January 3, 2018, the Clerk of the Court dismissed the case pursuant to Rule 2-507. Two weeks later, Ms. Walker moved to “reinstate” her case on the ground that she had caused Mr. McCoy to be served prior to the dismissal of her case. GEICO and Mr. McCoy opposed the motion to reinstate, asserting that Mr. McCoy had not been properly served with a summons and a copy of the complaint because the 60-day summons issued by the circuit court had expired before Mr. McCoy was served, and had not been reissued.

The court held a hearing on the motion to reinstate and denied it. Ms. Walker timely moved for reconsideration of the denial of her motion to reinstate. That motion was denied. Ms. Walker then noted a timely appeal from the denial of her motions to reinstate and for reconsideration.

Ms. Walker contends the circuit court erred by denying her motion to reinstate because GEICO, having been dismissed from the case, lacked “standing” to oppose the motion; because the court failed to inquire as to the efforts she had undertaken to effectuate service on Mr. McCoy; and because it penalized her for representing herself.

Rule 2-507(e) provides that, if within 30 days after the issuance of a notice of contemplated dismissal, the plaintiff moves to defer dismissal, the court may, for good cause shown, defer entry of the order of dismissal. The “decision to grant or deny . . . dismissal [under Rule 2-507] is committed to the sound discretion of the trial court,” and

will be “overturned on appeal only ‘in extreme cases of clear abuse.’” *Reed v. Cagan*, 128 Md. App. 641, 648 (1999) (quoting *Stanford v. District Title Ins. Co.*, 260 Md. 550, 555 (1971)). Here, because Ms. Walker failed to file a motion to defer dismissal within 30 days after the November 29, 2017 notice, as required by Rule 2-507(e) and as stated in the notice that was served upon her, and because she failed to effectuate proper service on Mr. McCoy for more than 200 days after the filing of the complaint, the court did not abuse its broad discretion by denying her later filed motion to reinstate her case.

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