

Circuit Court for Frederick County
Case No. C-10-CV-18-000438

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3208

September Term, 2018

ALEXANDER BATHULA

v.

CHARLES E. CRABBS, et al.

Kehoe,
Reed,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: August 6, 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.

This case concerns the effective filing date of an electronically-filed submission in the Circuit Court for Frederick County.¹ On May 8, 2018, Alexander Bathula, appellant, filed a complaint to foreclose the right of redemption in property for which he purchased the tax sale certificate (the “Certificate”) on May 9, 2016. The circuit court, *sua sponte*, entered an Order of Dismissal on July 18, 2018 stating that the May 9, 2016 Certificate (the “Certificate”) was “void at the time of filing.”² In this appeal, appellant asks:

Whether the circuit court erred in finding that a complaint electronically filed within the statute of limitations was untimely if the complaint was not accepted until after the statute of limitations had expired?

We will remand to the circuit court to determine, after a hearing, whether the May 8, 2018 submission included the Complaint, and if so, whether under Md. Rule 20-202,³ the filing was required to be rejected. If the Complaint was filed and the filing was not required to be rejected, the docket should be corrected to reflect the May 8, 2018 filing date, and the case allowed to proceed in accordance with Md. Code Ann., Tax Property Article, § 14-808 *et seq.*

¹ The defendants and the named appellees were Charles E. Crabbs and Frederick County, Maryland. Neither participated in the circuit court proceedings or this appeal.

² Md. Code Ann., Tax Property Article, § 14-833(c)(1) provides: “The certificate is void unless a proceeding to foreclose the right is filed within two years of the date of the certificate of sale.”

³ Rule 20-202, Effective Date of Filing, provides: The MDEC system shall record the date and time an electronically filed submission is received by the MDEC system. Subject to Rules 20-201(i) and 20-203, the date recorded shall be the effective date of filing and shall serve as the docket date of the submission filed. It has remained the same since March 15, 2015.

FACTUAL AND PROCEDURAL BACKGROUND

On May 8, 2018, one day less than two years after the issuance of the Certificate, appellant, through counsel, filed an electronic submission purported to be a Complaint to Foreclose the Right of Redemption in the MDEC system.⁴ On May 10, 2018, the filing was rejected, with the comment “No Complaint submitted,” even though the May 8 “envelope”⁵ identified the complaint as a PDF document (544.79 KB in size) as the “Lead Document” filed.

Upon receipt of the May 10, 2018 rejection, counsel re-filed on May 14, 2018. A refiled submission was again rejected for “No Complaint” on May 22, 2018. It was eventually accepted on May 24, 2018, which was entered as the effective filing date.

Based on the May 24, 2018 date, the circuit court, *sua sponte*, entered an order of dismissal on July 18, 2018, stating “the Certificate of Sale presented for this property was void at the time of filing.” Appellant’s motion for reconsideration of that order was denied on August 22, 2018, because, as stated by the court:

Per the Clerk’s office, the Complaint was not included under the document submission marked complaint, and was rejected several times before the submission was corrected, by which time the Statutory time for filing had run.

⁴ Maryland Electronic Courts or MDEC is designed “to create a judiciary-wide integrated case management system that will enable courts at all levels to collect, store, process, and access records electronically.” www.mdcourts.gov/MDEC/about. MDEC has been implemented throughout Maryland with the exception of Baltimore City, and Prince George’s and Montgomery Counties.

⁵ Rule 20-201(e) provides: Multiple Submissions Filed Together. All submissions related to a particular MDEC action that are filed together at one time shall be included in a single electronic folder, sometimes referred to as an envelope.

On November 6, 2018, Tyler Technologies, the MDEC software provider, sent all registered users of Maryland’s electronic filing system an email, stating that:

a new stamp on e-filed documents has been added in File & Serve for ‘Submission date,’ in addition to the existing ‘Docket Date.’ When a filer resubmits a deficient filing, the Courts will now change the file date back to the original docket date of the deficient filing. Therefore, the document will have a ‘Submission Date’ which indicates when the filer submitted the document, and a ‘Docket Date’ that reflects the date of the original filing.

That email prompted appellant’s November 29, 2018 Motion to Re-open the proceeding. That same day, and again on December 7, 2018, appellant was issued MDEC Deficiency Notices regarding that filing. Both notices pointed out that the Certificate, which was included as an exhibit to the motion, was “sideways” and requested that counsel “rescan it” and “rotate/flip it before filing so that it is in an upright orientation.”

The circuit court denied the Motion to Re-open on January 2, 2019 and a timely appeal to this Court was filed on February 1, 2019.

STANDARD OF REVIEW

We review a trial court’s decision to deny a Motion to Re-open for abuse of discretion. *Cooper v. Sacco*, 357 Md. 622, 637 (2000). An otherwise discretionary decision premised upon legal error is necessarily an abuse of discretion because a “court’s discretion is always tempered by the requirement that the court correctly apply the law applicable to the case.” *Arrington v. State*, 411 Md. 524, 552 (2009); *see also Alston v. Alston*, 331 Md. 496, 504 (1993) (noting “even with respect to a discretionary matter, a trial court must exercise its discretion in accordance with correct legal standards”). Rule

interpretation is a question of law that we review *de novo* “to determine if the trial court was legally correct.” *Davis v. Slater*, 383 Md. 599, 604 (2004).

DISCUSSION

Contentions

Appellant contends that the May 8, 2018 submission satisfied Md. Code Ann., Tax Property Article, § 14-833(c)(1), and should not have been rejected. He points to “Envelope Id: 1792243,” which indicates “Submitted Date: 5/8/2018 9:33 PM EST”; and the “Submitted User Name: pdougherty@distrategies.com,” which is appellant’s counsel’s email address.⁶ Appellant views the email from Tyler Technologies as an “implicit recognition of, and attempt to address, deficiencies in electronic filing which may, and [in this case] actually did, prejudice otherwise meritorious claims.”

Analysis

As previously noted, Rule 20-202 provides that the “MDEC system shall record the date and time an electronically filed submission is *received* by the MDEC system” and, with specified exceptions, that date “shall be the effective date of filing and shall serve as the docket date of the submission filed.” Md. Rule 20-202 (emphasis added). In interpreting the Rule, we apply “the general tenets of statutory construction.” *Cooper v. Sacco*, 357 Md. 622, 629 (2000). In other words, we:

⁶ The Filing Details section indicated “Filing Type: EFile; Filing Code: Complaint/ Petition; Filing Description: Complaint to Foreclose the Right of Redemption; Comments to Court; and Filing Status: Rejected.”

examine the words of the rule, giving them ordinary and natural meaning. Where the language of the rule is clear and unambiguous, our analysis ends. However, the goal of such analysis is always to discern the legislative purpose To that end we must consider the context in which . . . the rule appears, including related statutes or rules and relevant legislative history.

Hoang v. Hewitt Ave. Assocs., 177 Md. App. 562, 588 (2007) (cleaned up).

Our search for legislative purpose began in the early dawn of electronic filing in Maryland courts. On November 22, 2013, the Court of Appeals Standing Committee on Rules of Practice and Procedure (“Rules Committee”) discussed an amendment to Rule 1-322 of the General Provisions of the Rules. The purpose of the amendment was to:

nail down that key moment that the actual receipt by the clerk happens, so that there is a date certain. A number of events can happen in the clerk’s office, some of which have been given significance in the electronic case reporting over the years. *The purpose of the current revisions was to try to fix one particular date that judges, litigants, and attorneys can all look to, and then the other Rules, such as those governing time to appeal, will be tied to that.*

Meeting Minutes on November 22, 2013 at 17 (emphasis added).

During that discussion, Judge Alan M. Wilner, Chair of Rules Committee, voiced the concern:

[T]here was some question as to whether in some clerks’ offices, filings that are made by mail come in and are not immediately attended to by the clerk. These filings can accumulate for a day or more. What happens if the filing is not stamped on the same day? Mr. Lowe responded that in preparation for this discussion, he had surveyed every clerk’s office in the State. He had asked two questions. One was: “When a pleading comes in by mail, is it stamped on the day that it is received in the office?” The second question was: “Is that date used as the ‘file’ date when it is put into the system, and it shows up electronically?” Mr. Lowe said that he received responses from every clerk’s office in the State. The response was “yes” to both questions. The practice among every clerk’s office is that (1) the filing is stamped when it arrives in that day’s mail and (2) even if the clerk cannot input it into the

electronic system that day, that date will be used as the day that it is received, and the day that it is filed.

Meeting Minutes on November 22, 2013 at 17–18.

After the discussion between Mr. Lowe and the Chair, the Rules Committee agreed to add the language “[o]n the same day that a pleading or other item is received in a clerk’s office” into section (a) of Rule 1-322. *Id.* at 21.

Rule 1-322(a), as amended,⁷ provides:

The filing of pleadings, papers, and other items with the court shall be made by filing them with the clerk of the court, except that a judge of that court may accept the filing, in which event the judge shall note on the item the date the judge accepted it for filing and forthwith transmit the item to the office of the clerk. *On the same day that an item is received in a clerk’s office*, the clerk shall note on it the date it was received and enter on the docket that date and any date noted on the item by a judge. The item shall be deemed filed on the *earliest* of (1) the filing date noted by a judge on the item (2) *the date noted by the clerk on the item*, or (3) the date established under section (d) of this Rule.⁸ No item may be filed directly by electronic transmission, except (1) pursuant to an electronic filing system approved under Rule 16-203, (2) as permitted by Rule 14-209.1, (3) as provided in section (b) of this Rule, or (4) pursuant to Title 20 of these Rules.

Md. Rule 1-322(a) (emphasis added).

Fixing one particular date that judges, litigants, and attorneys can look to and around which other important dates revolve is no less important for electronic filing. And that same reasoning is reflected in the plain language of Md. Rule 20-202. With limited

⁷ The amendment to Rule 1-322 was adopted on May 2, 2015, effective on May 15, 2015.

⁸ Section (d) of the Rule relates to self-represented individuals confined in certain facilities without direct access to the U.S. Postal Service or are unable to file electronically.

exceptions, the effective filing date of an electronic submission is to be the date of the initial submission into the electronic system.

A subsequent amendment to and clarification of Rule 20-203(a)(2) provides further support of that position. The Minutes of the Rules Committee meeting on June 21, 2018 provide in pertinent part:

AMEND Rule 20-203 by deleting reference to all Rules in subsection (a)(2) except Rule 20-201(g) and deleting the second sentence of that subsection, by deleting references to Rule 20 - 107(a)(1) from section (c), by clarifying procedures pertaining to certain non-compliant submissions, by extending the time to resolve a deficiency in a filing to 14 days, and by providing for the refund of certain fees only upon motion and order of the court, as follows:

Rule 20 - 203. REVIEW BY CLERK; STRIKING OF
SUBMISSION; DEFICIENCY NOTICE; CORRECTION;
ENFORCEMENT

(a) Time and Scope of Review

(2) Review by Clerk

As soon as practicable, the clerk shall review a submission for compliance with ~~Rule 20-106, 20-107(a)(1), 20-201(d), (g), and (i)~~ and the published policies and procedures for acceptance established by the State Court Administrator. ~~Until the submission is accepted by the clerk, it remains in the clerk's queue and shall not be docketed.~~

Minutes of June 21, 2018 Meeting of the Rules Committee at 61 (emphasis added). [hereinafter “Meeting Minutes in 2018”]. This amendment limited the striking by the clerk to a submission that did not contain a required certificate of service.⁹ *Id.* According to the minutes, the proposed amendment:

⁹ Rule 20-201 (g)(1) provides:

emanate[d] from the concerns and recommendations of the MDEC (Maryland Electronic Courts) Executive Steering Committee. Rule 20-103 was intended to *bring greater uniformity in the way that clerks deal with submissions that for various reasons do not comply with MDEC filing requirements*. Some clerks are issuing deficiency notices for some of the non-compliant filings, and others are not for the same kind of non-conformance.

Id. at 65 (emphasis added). As to why the failure to contain a certificate of service should be the only ground for striking a filing, the minutes reflect:

The reason for not requiring striking for other deficiencies is that many deficiencies can be dealt with by a deficiency notice procedure. The deficient submission will be served on the other side. The mere fact that it is deficient or the mere fact that it is going to have a deficiency notice does not stop it from being served. The other side will have notice of it. If it does not contain a certificate of service, there is the prospect that it will not be served, and the other side may not know about it, which is why the recommendation is to leave that as a ground for striking. However, it is the only one.

Id. at 66. In other words, a deficient submission would not ordinarily be rejected or stricken but be dealt with by deficiency notices without change to the effective filing date.

MDEC was launched in Frederick County on October 16, 2017, less than a year before appellant filed the Complaint.¹⁰ The email from Tyler Technologies, along with the new “Submission Date” stamp, and the amendment to Rule 20-203(a)(2) all indicate that transition to MDEC was not a perfectly smooth process. And because clerks were dealing

Generally. Other than an original pleading that is served by original process, each submission that is required to be served pursuant to Rule 20-205 (d) shall contain a certificate of service signed by the filer.

In this case, service of the Complaint would be by original process.

¹⁰ Maryland Courts, *Maryland Judiciary Expands Electronic Case Filing to Western Maryland*, Md. Cts., <https://mdcourts.gov/media/news/2017/pr20171016> (last visited June 24, 2020).

with submissions differently, adjustments were required to satisfy the purpose and intent of Rule 20-202. If appellant’s filing should not have been rejected, the effective filing date was May 8, 2018, the Certificate was not void, and the case should not have been dismissed. For that reason, and in light of appellant’s assertions in the Motion to Reopen and in Exhibit C to that motion, we are persuaded that it was an abuse of discretion to deny the motion to reopen without a hearing on the merits.

On remand, the circuit court should determine whether the May 8, 2018 submission included the Complaint to Foreclose the Right of Redemption as it appears that it did. And, if it did, whether the submission should have been rejected under Md. Rule 20-203. If it is determined that the submission should not have been rejected, the docket should be corrected to reflect a filing date of May 8, 2018 and the case permitted to continue under Md. Code Ann., Tax Property Article, § 14-808 *et seq.*

CASE REMANDED FOR FURTHER FACT-FINDING IN ACCORDANCE WITH THE OPINION; COSTS TO BE PAID BY APPELLANT.