

Circuit Court for Montgomery County  
Case No. 401369V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 594

September Term, 2017

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HENRI JEAN-BAPTISTE

v.

AT&T WIRELESS, *et al.*

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Woodward, C.J.,  
Kehoe,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 8, 2018

\*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.

In July 2015, Henri Jean-Baptiste, appellant, filed an amended complaint, in the Circuit Court for Montgomery County, raising various claims against Shady Grove Adventist Hospital; Adventist Behavioral Health; Samina Yousufi, M.D.; the Montgomery County Police Department; Montgomery County Police Officer David Mitchell; Medical Emergency Professionals, LLC; William Dooley, M.D.; Nilantha Lenora, M.D.; AT&T Wireless (AT&T); and Vicki Jean-Baptiste, appellees. Those claims were based on a 2012 incident where Jean-Baptiste was involuntarily committed for an emergency mental health evaluation as a result of an alleged suicide attempt.

On October 20, 2015, the circuit court issued an order dismissing Jean-Baptiste’s claims against some, but not all, appellees. Jean-Baptiste filed a notice of appeal from that order on November 16, 2015. This Court dismissed that appeal as having been taken from a non-final order. *Jean-Baptiste v. AT&T Wireless*, No. 1977, Sept. Term 2015 (filed February 6, 2017). On November 30, 2015, the circuit court entered an order dismissing Jean-Baptiste’s remaining claims and dismissing his amended complaint without prejudice. Jean-Baptiste did not file a notice of appeal from that order.

On February 22, 2017, Jean-Baptiste filed a “Motion to Re-Open and Review Orders to Direct Entry of a Final Judgment Pursuant to Maryland Rule 2-535(b),” (Rule 2-535(b) motion), wherein he requested the circuit court to modify its previous dismissal orders to allow him to file a new notice of appeal. Specifically, he alleged that the dismissal orders were “procured with extreme irregularities” and that appellees had “committed extrinsic fraud” by telling the court that they possessed signed court orders relating to his involuntary commitment that, he claimed, do not exist. He also contended that the court

had erred when it postponed a hearing on some of appellees’ motions to dismiss due to their failure to serve him with those motions. The court denied Jean-Baptiste’s Rule 2-535(b) motion on March 29, 2017.

On April 24, 2017, Jean-Baptiste filed a “Motion for Reconsideration of the Denied Orders to Direct Entry of a Final Judgment/ In the Alternative Plaintiff Request the Court’s mediation to Resolve the Matter.” In that motion, he requested the court to reconsider the denial of his Rule 2-535(b) motion and essentially repeated the same claims that he had made in his Rule 2-535(b) motion. He also alleged that the court should reconsider its orders dismissing his amended complaint because he had applied for a statement of charges against his wife in 2012, which he claimed constituted newly discovered evidence under Maryland Rule 2-535(c). The court denied that motion on May 18, 2017. This appeal followed.

Jean-Baptiste raises five issues on appeal. However, the only issue that is properly before us is whether the court abused its discretion in denying his Rule 2-535(a) motion. In *Pickett v. Noba, Inc.*, 122 Md. App. 566, 570-71 (1998), this Court recognized that a motion to alter or amend filed within ten days of the entry of judgment stays the deadline to file an appeal, whereas one filed more than ten days after entry of the judgment does not. Because Jean-Baptiste’s motion for reconsideration was filed more than ten days after the entry of the March 29, 2017, order denying his Rule 2-535(b) motion, the deadline to file an appeal from that judgment was not stayed. As such, his May 22, 2017, notice of appeal does not encompass that judgment and is only timely as to the court’s denial of his

motion for reconsideration. *See* Rule 8-202(a) (requiring notice of appeal to be filed within thirty days of the judgment from which the appeal is taken).

We review the denial of a motion for reconsideration for abuse of discretion. *See Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 723-24 (2002). “We will not reverse the judgment of the hearing judge unless there is grave reason for doing so [,]” and “[o]ur focus is on whether justice has not been done.” *Id.* at 724. A court abuses its discretion only “where no reasonable person would take the view adopted by the [trial] court, or when the court acts without reference to any guiding rules or principles.” *Smith v. State*, 232 Md. App. 583, 598 (2017) (internal quotation marks and citation omitted).

Here, the court did not abuse its discretion in denying Jean-Baptiste’s motion for reconsideration. First, none of the claims raised in his Rule 2-535(b) motion demonstrated the existence of any fraud, mistake or irregularity that would have warranted the circuit court setting aside the final judgment dismissing his amended complaint. *See generally Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (“Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments.”). Specifically, Jean-Baptiste’s claim that appellees lied to the circuit court during the hearing on their motions to dismiss, even if true, would not prove extrinsic fraud. *See Pelletier v. Burson*, 213 Md. App. 284, 290-91 (2013) (“Fraud is extrinsic when it actually prevents an adversarial trial but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, the truth was distorted by the complained of fraud.”). Moreover, contrary to Jean-Baptiste’s claim, the court was not required to hold a hearing before denying his motion for reconsideration. *Id.*

at 292-93 (2013) (noting that the court is not required to hold a hearing before denying a motion for reconsideration filed more than ten days after the entry of judgment because the denial of such a motion is not dispositive of a claim or defense).

Finally, to the extent that Jean-Baptiste was also seeking to revise the underlying judgment dismissing his complaint based on newly discovered evidence, that claim was untimely because it was filed more than thirty days after the entry of judgment. *See* Maryland Rule 2-535(c) (motion that a request for a new trial based on newly discovered evidence must be filed within thirty days after entry of judgment). And, in any event, the fact that Jean-Baptiste had attempted to press criminal charges against his wife in 2012 does not constitute newly discovered evidence because he was presumably aware that he had tried to do so at the time his complaint was dismissed.

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