UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2441

September Term, 2014

MICHAEL TANN

v.

BALTIMORE CITY OFFICE OF CHILD SUPPORT ENFORCEMENT ex rel. RUBY JEAN MOORE

Eyler, Deborah S.,
Arthur,
Salmon, James P.,
(Retired, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: November 30, 2015

The Baltimore City Office of Child Support Enforcement (the "OCSE"), petitioned the Circuit Court for Baltimore City to find Michael Tann in contempt for overdue child support payments. In an order docketed on August 5, 2014, the circuit court declined to find Mr. Tann in contempt, but entered a money judgment against him in the amount of $5,795.64.

Mr. Tann, representing himself, attacked the judgment in two post-judgment motions, the first of which he filed on August 19, 2014, 14 days after the entry of judgment. The court denied the last of his motions on December 19, 2014, and Mr. Tann appealed to this Court on January 14, 2015.

Mr. Tann raises three questions for review, which we have rephrased as follows:

I. Did the circuit court erroneously exercise personal jurisdiction over Mr. Tann, where he had been served with a "request for contempt" as opposed to a "petition for contempt"?

II. In entering the money judgment on August 5, 2014, did the circuit court fail to state its justification or reasoning in accordance with Md. Rule 2-522?

III. Did the trial court err or abuse its discretion in denying Mr. Tann's motion to alter or amend by inadequately addressing each of Mr. Tann's arguments?

In its brief, OCSE raises the separate question of whether Mr. Tann's challenge to the money judgment is untimely, because he failed to note his appeal until approximately 162 days after the entry of the final judgment.

Because we conclude that Issues I and II involve untimely challenges to the money judgment of August 5, 2014, we do not have jurisdiction to address those

questions. With respect to Issue III, we hold that the trial court did not abuse its extremely broad discretion and affirm the court's judgment.

DISCUSSION

The money judgment of August 5, 2014, was, unquestionably, an appealable final judgment: it was intended by the court as an unqualified, final disposition of the matter in controversy; it adjudicated or completed the adjudication of all claims against all parties; and the clerk made a proper record of it on the docket. *See*, *e.g.*, *Waterkeeper Alliance, Inc. v. Maryland Dep't of Agric.*, 439 Md. 262, 278 (2014). Furthermore, the judgment was set forth in a separate document, as required by Md. Rule 2-601(a).

In general, therefore, if Mr. Tann wanted to appeal that judgment, he was required to file his notice of appeal within 30 days – *i.e.*, by September 4, 2014. Md. Rule 8-202(a). Mr. Tann could stay the time for noting his appeal and delay the running of the 30-day deadline only by filing a motion for a new trial under Rule 2-533 or a motion to alter or amend the judgment under Rule 2-534. *See*, *e.g.*, *Martino v. Arfaa*, 169 Md. App. 692, 702 (2006), *aff'd*, 404 Md. 364 (2008).[1] Both of those motions, however, had to have been filed within 10 days after entry of judgment if they were to stay the time for noting an appeal. Md. Rule 2-533(a); Md. Rule 2-534(a).

Mr. Tann did not file a post-judgment motion under Rules 2-533 or 2-534 within 10 days of the entry of the money judgment of August 5, 2014. Instead, 14 days after the

[1] Had the case been tried to a jury, which it was not, Mr. Tann could also have stayed the time for noting an appeal and delayed the running of 30-day deadline by filing a motion for judgment notwithstanding the verdict under Rule 2-532.

entry of judgment, he moved for reconsideration. That motion did not stay the 30-day deadline for noting an appeal. *See*, *e.g.*, *Pickett v. Noba, Inc.*, 114 Md. App. 552, 556 (1997) (citing *Stephenson v. Goins*, 99 Md. App. 220 (1994)).

"'The requirement . . . that an order of appeal be filed within thirty days of a final judgment is jurisdictional; if the requirement is not met, the appellate court acquires no jurisdiction and the appeal must be dismissed.'" *In re Nicole B.*, 410 Md. 33, 62 (2009) (quoting *Houghton v. Cnty. Comm'rs of Kent Cnty.*, 305 Md. 407, 413 (1986)). Because Mr. Tann did not file a notice of appeal within 30 days of the entry of the money judgment, this Court has no power to consider his challenges to the money judgment itself.

On the other hand, we do have the power to consider Mr. Tann's challenge to the denial of his motion to alter or amend the order denying his post-judgment "motion for permanent injunction" against the enforcement of the money judgment. Mr. Tann filed his "motion for permanent injunction" on September 23, 2014, and the court denied it in an order docketed on October 17, 2014. Mr. Tann stayed the time for appealing that decision because 10 days thereafter, on October 27, 2014, he moved to alter or amend. *See Martino*, 169 Md. App. at 702. Finally, Mr. Tann filed his notice of appeal within 30 days after the December 19, 2014, decision denying his motion to alter or amend. Consequently, we shall consider the merits of his appeal of the decision denying the motion to alter or amend.

Although characterized as a request for injunctive relief, Mr. Tann's "motion for permanent injunction" was, in substance, a post-judgment attack on the validity of the

judgment itself. Complaining of statutory, constitutional, and common-law violations allegedly resulting from the circuit court's order, Mr. Tann asked the court to "permanently bar" the execution of the money judgment. The court denied the motion on the ground that it did not comply with Rule 2-311(c), because it "fail[ed] to adequately state with particularity the grounds and authorities supporting [the] request for 'permanent injunctive relief[.]'"[2]

Mr. Tann complains that the court erred or abused its discretion in denying the motion to alter or amend that he filed within 10 days of the ruling denying his "motion for permanent injunction." Pursuant to Rule 2-534, the circuit court had "'broad discretion whether to grant motions to alter or amend filed within ten days of the entry of judgment.'" *Schlotzhauer v. Morton*, 224 Md. App. 72, 84 (2015) (quoting *Benson v. State*, 389 Md. 615, 653 (2005).

> An appellate challenge to a court's ruling on a Rule 2-534 motion is typically limited in scope. In general, the denial of a motion to alter or amend a judgment is reviewed by appellate courts for abuse of discretion.

Schlotzhauer, 224 Md. App. at 84 (citations and quotation marks omitted).

[2] Because Mr. Tann did not file the "motion for permanent injunction" until more than 30 days after the entry of the money judgment, the court could also have treated it as a motion to revise an enrolled judgment under Rule 2-535(b), which in substance it was. Because the court may revise an enrolled judgment only upon a showing of "fraud, mistake, or irregularity" as those terms have been narrowly defined and strictly applied (*see*, *e.g.*, *Hamilos v. Hamilos*, 297 Md. 99, 105-06 (1983) (fraud); *Tandra S. v. Tyrone W.*, 336 Md. 303, 317-18 (1994) (mistake); *Early v. Early*, 338 Md. 639, 652-53 (1995) (irregularity)), and because Mr. Tann made no such showing, the court could properly have denied the "motion for permanent injunction" on this ground as well.

In an often-cited opinion, Judge Moylan explained the tremendous scope of a circuit court's discretion in ruling upon a motion to alter or amend:

> With respect to the denial of a Motion to Alter or Amend, . . . the discretion of the trial judge is more than broad; it is virtually without limit. What is, in effect, a post-trial motion to reconsider is not a time machine in which to travel back to a recently concluded trial in order to try the case better with hindsight. The trial judge has boundless discretion not to indulge this all-too-natural desire to raise issues after the fact that could have been raised earlier but were not or to make objections after the fact that could have been earlier but were not. Losers do not enjoy *carte blanche,* through post-trial motions, to replay the game as a matter of right.

Steinhoff v. Sommerfelt, 144 Md. App. 463, 484 (2002).

In his motion to alter or amend, Mr. Tann took issue with the circuit court's "vague" finding that he had "failed to adequately state with particularity the grounds and authorities supporting his request" for the injunction against the enforcement of an enrolled judgment. Mr. Tann then pivoted to reiterate the many reasons why, in his view, the court ought to have granted his permanent injunction.

The court rejected his arguments, correctly observing that it had decided the case on the merits when it had entered the money judgment against Mr. Tann and that he had failed to file a timely notice of appeal from that judgment. In other words, the court saw the "motion for permanent injunction" and the motion to alter or amend for what they were – an effort to "replay the game" (*Steinhoff*, 144 Md. App. at 484) after Mr. Tann had lost. The court's decision not only fell within its virtually boundless discretion to deny a motion to alter or amend; it was correct in every respect.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. APPELLANT TO PAY ALL COSTS.