Circuit Court for Wicomico County
Case No. C-22-CV-24-000383

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 117

September Term, 2025

CRYSTAL J. SHOWELL, PHD

v.

VERIZON WIRELESS SERVICES, LLC

Zic,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 31, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Crystal J. Showell, PhD, appellant, appeals from an order issued by the Circuit Court for Wicomico County which stayed her civil action against Verizon Wireless Services, LLC, appellee, and compelled the parties to submit to arbitration. On appeal, she contends that the court erred in granting appellee's motion to compel arbitration, and in denying her motion for summary judgment, because appellee did not file an answer or responsive pleading within 60 days of being served with a copy of the summons and complaint. For the reasons that follow, we shall affirm.

In October 2024, appellant filed a complaint against appellee raising claims of fraud, breach of contract, violation of the Door-to-Door Sales Act, and false credit reporting. Those claims were based on allegations that appellee had improperly billed her for a phone that she had returned, and then wrongfully reported a past due balance on her account to credit reporting agencies. Appellant filed an affidavit of service on November 14, 2024, indicating that a copy of the summons and complaint had been served on appellee. On January 24, 2025, appellant filed a motion for summary judgment, based on the fact that appellee had not yet filed an answer or responsive pleading. The court denied the motion on February 21, 2025, without an explanation.

Three days later, appellee filed a motion to compel arbitration, claiming that when appellant purchased her phone from appellee, she had agreed to resolve any disputes by way of binding arbitration. Appellee further alleged that in January 2024, appellant had filed a similar lawsuit in the Circuit Court for Cecil County based on the same operative facts, and the court had already granted appellee's motion to compel arbitration in that case. Finally, appellee alleged that its failure to respond was due to the fact that appellant "did

not notify [its] counsel that this action had been filed[,]" despite "knowing that [it] was represented in connection with this dispute," which "led to internal confusion" and "a delay in [it] appearing" in court. On March 21, 2025, the court granted the motion to stay the litigation and compel arbitration. This appeal followed.

"An order compelling arbitration is a final and appealable judgment of the trial court." *Ford v. Antwerpen Motorcars Ltd.*, 443 Md. 470, 476 (2015). But "[w]hen reviewing a trial court's decision compelling arbitration, our role extends only to a determination of the existence of an arbitration agreement." *Id.* (citation and quotation marks omitted). Appellant, however, does not raise any issues with respect to the existence or validity of the arbitration agreement. Consequently, we will not consider whether appellant's dispute was subject to arbitration on appeal. *Klauenberg v. State*, 355 Md. 528, 552 (1999) (noting that "arguments not presented in a brief or not presented with particularity will not be considered on appeal").

Appellant nevertheless claims that the court should have granted her motion for summary judgment because appellee did not file a responsive pleading within 60 days after being served with a copy of the summons and complaint. As an initial matter, the court could not grant a motion for summary judgment based on appellee's failure to file a timely answer. At most, appellant was entitled to an Order of Default. *See generally* Maryland Rule 2-613(b) ("If the time for pleading has expired and a defendant has failed to plead . . ., the court, on written request of the plaintiff, shall enter an order of default."). But even if we assume that the court should have construed her motion as a request for an order of default, and that the court erred in not entering such an order, appellant has not met her

burden of showing that the error was sufficiently prejudicial as to require reversal. *See Barksdale v. Wilkowsky*, 419 Md. 649, 660 (2011) ("[T]he burden to show error in civil cases is on the appealing party to show that an error caused prejudice."). That is because a defendant may file a motion to vacate an order of default within 30 days, which must "state the reasons for the failure to plead and the legal and factual basis for the defense to the claim." Md. Rule 2-613(d). Importantly, the court must vacate the default if it "finds that there is a substantial and sufficient basis for an actual controversy as to the merits of the action and that it is equitable to excuse the failure to plead[.]" Md. Rule 2-613(e).

Had the court entered an order of default, the next step would not have been a judgment, but notice to appellee, and a thirty-day opportunity to file a motion to vacate the entry of default. And it follows, based on the actual progression of events, that appellee would have filed such a motion, and made the arguments it successfully raised in its motion to compel arbitration, which it filed within 30 days of appellant filing her motion for summary judgment. In other words, it is clear that appellee would not have conceded the merits, and the circuit court in fact considered and decided the same issues and arguments an order of default would have placed before it. Faced with the same questions, albeit on an inverted posture, we are comfortable that the circuit court would have vacated an order of default under Rule 2-613(c). In fact, its refusal to do so would likely have constituted an abuse of discretion under the circumstances. *See Holly Hall Publ'ns, Inc. v. Cnty. Banking & Tr., Co.*, 147 Md. App. 251, 257 & 267 (2002) (holding that the trial court abused its discretion in denying a motion to vacate an order of default, where the defendant demonstrated the "basis for an actual controversy" and counsel's failure to file the answer

came from inadvertence and not a "continuing pattern of neglect"). Consequently, we are persuaded that any error in not entering an Order of Default did not prejudice appellant, and therefore the court's denial of her motion for summary judgment did not constitute reversible error.

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