

Circuit Court for Baltimore City  
Case No. 24-C-17-001409

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 283

September Term, 2018

---

SAMUEL MWABIRA-SIMERA

v.

MORGAN STATE UNIVERSITY, *ET AL.*

---

Nazarian,  
Arthur,  
Thieme, Raymond G., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Nazarian, J.

---

Filed: November 7, 2019

\* 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.

Samuel H. Mwabira-Simera filed a civil action against Morgan State University and, along with his complaint, a Motion to Waive Prepayment of Filing Fees. The Circuit Court for Baltimore City denied the motion. This appeal arises solely from that decision: the case never proceeded to the point where a summons issued or Morgan State was served. We hold that a Motion to Waive Prepayment of Filing Fees may properly be denied if the complaint itself is frivolous, and we affirm the judgment of the circuit court.

### **I. BACKGROUND**

On March 20, 2017, Mr. Mwabira-Simera filed his complaint and Motion to Waive Prepayment of Filing Fees.<sup>1</sup> His complaint named Morgan State University and many of its employees as defendants and sought to redress various harms he alleges he suffered while a student there.

On June 9, 2017, the circuit court denied Mr. Mwabira-Simera’s motion. Although the court found that he met the financial eligibility guidelines of the Maryland Legal Services Corporation and was “unable by reason of his poverty” to pay the prepaid costs for filing, the court denied the waiver because the complaint appeared frivolous on its face. The court found that Mr. Mwabira-Simera had filed the same claim previously and that his accompanying Motion to Waive Prepayment of Filing Fees in that case had likewise been denied.

On June 19, 2017, Mr. Mwabira-Simera filed a “Motion to Request for

---

<sup>1</sup> He also filed a “Request for Waiver of Prepaid Appellate Costs” form. The form is marked as applying to the Circuit Court for Baltimore City, the trial court in this case.

Reconsideration in the Circuit Court for Baltimore City” seeking reconsideration of the denial of his Motion to Waive Prepayment of Filing Fees. Along with this motion, Mr. Mwabira-Simera submitted a second “Request for Waiver of Prepaid Appellate Costs.”<sup>2</sup>

On July 19, 2017, Mr. Mwabira-Simera filed a second motion seeking reconsideration of the denial of his earlier motion.<sup>3</sup>

On March 20, 2018, Mr. Mwabira-Simera filed another “Request for Waiver of Prepaid Appellate Costs” form and a third motion seeking reconsideration of the denial of his earlier motion. The circuit court treated the “Request for Waiver of Prepaid Appellate Costs” form as “a motion to reconsider th[e] court’s order” denying Mr. Mwabira-Simera’s initial June 9, 2017 motion. The court found again that although Mr. Mwabira-Simera met the financial eligibility guidelines of the Maryland Legal Services Corporation, his fees could not be waived because his complaint appeared frivolous on its face because it included the same claim and request for relief as an earlier case where his request for a waiver was likewise denied.

On April 12, 2018 (according to the docket), Mr. Mwabira-Simera filed a “Request

---

<sup>2</sup> On the “Request for Waiver of Prepaid Appellate Costs” form, Mr. Mwabira-Simera marked “Court of Appeals,” but also indicated that the form was intended for the circuit court and filed it there.

<sup>3</sup> Mr. Mwabira-Simera again sought reconsideration of the denial of his Motion to Waive Prepayment of Filing Fees. This, his second motion for reconsideration, was titled “Motion to Resubmit the Request for Waiver” and also was accompanied by a “Request for Waiver of Prepaid Appellate Costs” form. Although the Motion was date-stamped July 19, 2017, the request form inexplicably was date-stamped “June 12, 2017” by the circuit court.

for Waiver of Prepaid Costs for Assembling the Record for an Appeal” form and a motion appealing the denial of his initial waiver to this Court. One week later, the circuit court granted Mr. Mwabira-Simera’s Waiver of Prepaid Costs for Assembling the Record for an Appeal. A few days later, on April 24, 2018, this Court granted Mr. Mwabira-Simera’s request *to this Court* for Waiver of Prepaid Appellate Costs.<sup>4</sup> And on June 6, 2018, we ordered that the appeal proceed.

## II. DISCUSSION

The only issue on appeal is whether the circuit court erred in denying Mr. Mwabira-Simera’s request for waiver of prepaid filing fees.<sup>5</sup> He presents several arguments, many

---

<sup>4</sup> Our order noted that the waiver did not waive the requirement that Mr. Mwabira-Simera order and pay for any transcripts necessary for the appeal. However, the circuit court already had granted Mr. Mwabira-Simera’s other request for waiver of record assembly fees.

<sup>5</sup> Mr. Mwabira-Simera listed the following Questions Presented in his brief:

1. Whether the trial court committed reversible error when it refused to accept Appellant’s motion for waiver regarding the inadmissibility of Supplemental Security Income (SSI) and State Supplementary Payment (SSP) (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) and Maryland Legal Services Corporation (MLSC) Client Income Eligibility Guidelines (50% of Maryland Median Income) July 1, 2017 – June 30, 2018, and 2018 Federal Poverty Level Standards, Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)), USA Federal Poverty Guideline pursuant to Section 8630?
2. Whether the trial court erred when it failed to grant waiver’s motions based upon Plaintiffs’ [sic] submission copies of income as evidence to establish the proximate Federal Poverty Level legibility?

of which appear to speak to the merits of the initial complaint rather than the issue before us. Morgan State University, although listed as the appellee in this case, was never served with the complaint and did not file an appellate brief. We hold that the circuit court did not abuse its discretion when it denied Mr. Mwabira-Simera’s petition for a fee waiver.

We review the trial court’s denial of Mr. Mwabira-Simera’s motion for abuse of discretion. *Torbit v. State*, 102 Md. App. 530, 536 (1994) (“A circuit court’s decision to grant or deny a request for a waiver of fees and costs under Maryland Rule 1-325(a) is reviewed under an abuse of discretion standard.”). “The grant or denial of the waiver application is vested within the sound discretion of the trial court and will not be disturbed absent a clear abuse of discretion.” *Davis v. Mills*, 129 Md. App. 675, 679 (2000).

Section 7-201(b) of the Courts and Judicial Proceedings Article (“CJ”) (Maryland Code § 7-201(b) (1973, 2013 Repl. Vol.)) and Maryland Rule 1-325 together specify the criteria for evaluating fee waivers.<sup>6</sup> *See id.* at 678–79 (“When the Maryland Rules deal with

- 
3. Whether the trial court erred when it deemed the complaint as a frivolous claim that deprived Appallent [sic] of an Opportunity to be heard and prejudicial opinion testimony and exhibits?
  4. Whether the Appellate Court upholding trial court erred when it failed to grant the appeal to the waiver’s Motion in the Alternative Motion for New Trial based on the shocking and excessive noneconomic damage awards?

<sup>6</sup> CJ § 7-201(b) provides:

The circuit court shall pass an order waiving the payment in advance if:

- (1) Upon petition for waiver, it is satisfied that the petitioner is unable by reason of his poverty to make the payment; and

the same subject matter as a statute, they are to be ‘construed so as to harmonize with each other and not produce an unreasonable result.’”) (*quoting Johnson v. State*, 274 Md. 29, 41 (1975)). Petitions for waivers from *pro se* litigants will be granted when the circuit court is “satisfied that the petitioner is unable by reason of his poverty to make the payment” *and*, importantly, if the “action is not frivolous.” *Id.* at 678, 679. If the petitioner fails to meet either of these standards, the circuit court will deny the petition.

Courts must explain decisions to deny waiver applications, *id.* at 679 (“it was an abuse of discretion for a trial court to deny a waiver, without meaningful explanation”), but this requirement should “not be an onerous one.” *Torbit*, 102 Md. App. at 537. “A lengthy statement is not necessary; a brief, one line notation, such as ‘affidavit does not show that applicant is indigent,’ or ‘complaint is patently meritless [or frivolous]’ will normally suffice.” *Id.* We also have held that “a trial court must make, in all cases involving relief pursuant to CJ § 7-201(a) a determination of whether or not the case is frivolous.” *Davis*, 129 Md. App. at 681.

---

(2) The petitioner’s attorney, if any, certifies that the suit, appeal, or writ is meritorious.

Maryland Rule 1-325(e) provides in relevant part:

(1) Request for Waiver. An individual unable by reason of poverty to pay a prepaid cost . . . may file a request for an order waiving the prepayment of the prepaid cost. The request shall be accompanied . . . if the individual is represented by an attorney, the attorney’s certification that, to the best of the attorney’s knowledge, information, and belief, there is good ground to support the claim, application, or request for process and it is not interposed for any improper purpose of delay.

The circuit court did not abuse its discretion when it denied Mr. Mwabira-Simera’s fee waiver petition. In denying his petition, the circuit court explained that his claims were frivolous and precluded by an earlier application:

The claim, appeal, application or request for process . . . DOES appear, on its face, to be frivolous. This claim is precluded because Petitioner filed the same claim and request for relief in this court under Case Number 24-C-16-006945. This Court denied Petitioner’s request for waiver of costs under that case number. THE COURT HEREBY ORDERS that the waiver is . . . DENIED.<sup>7</sup>

This explanation is substantially more than the “brief, one line notation” this court requires and incorporates a determination as to the frivolity of the complaint. *Torbit*, 102 Md. App. at 537. This case is not like *Davis*, where the explanatory statement by the trial court did not permit this court “to discern, within the framework of the statute and rule, the basis for the denial.” 129 Md. App. at 680 (“The trial court . . . denied appellant’s request for a waiver stating only, ‘A civil action of this nature must be accompanied by the payment of \$90.00 court costs before processing.’”). Here, there was no confusion about the bases of the court’s decision. And to the extent Mr. Mwabira-Simera seeks, by discussing the merits of his claims, to challenge the court’s conclusions that his claims are frivolous, his brief confirms that he is attempting to re-litigate claims that were dismissed by the circuit court in the past and offers no viable theory through which we could resurrect them now.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS ASSESSED TO APPELLANT.**

---

<sup>7</sup> The circuit court found that Mr. Mwabira-Simera met the other requirement (*i.e.*, that he was “unable by reason of poverty to pay the prepaid costs”).