Circuit Court for Cecil County
Case No: 07-P-98-000154

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 298

September Term, 2021

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ALVIN K. HOLLAND, JR.

v.

CHILD SUPPORT ADMINISTRATION, *et al.*

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

JJ.

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PER CURIAM

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Filed: March 2, 2022

This appeal stems from an order entered by the Circuit Court for Cecil County 1) denying a motion to vacate a 1998 paternity and child support order and 2) setting an amount in child support arrearages. For the reasons that follow, we shall affirm the judgment of the circuit court.

## BACKGROUND

*1998 Paternity and Child Support Order*

In September 1998, a "Paternity Petition and Complaint for Support" ("the Petition") was filed in the Circuit Court for Cecil County by Jessica M. Brown and the Cecil County Department of Social Services' Child Support Administration (the "Administration"), appellees. The Petition sought to establish that Alvin K. Holland, appellant, was the father of Ms. Brown's then-minor child, D.S., and to set an amount for the payment of child support. The record reflects that "Alvin Holland" was served with the Petition by a sheriff on November 17, 1998. Following a March 1999 hearing, for which Mr. Holland was not present, the court entered an order ("the Paternity and Support Order"), declaring that Mr. Holland was the father of D.S. and establishing the amount of his child support obligation.

On two occasions in 1999, Mr. Holland was taken into custody on a bench warrant for civil contempt for failure to pay child support and released upon satisfaction of the purge amount set by the court. Though Mr. Holland contends on appeal that the record "shows that the case with [the Administration] was closed for collections on December 11, 2000," the record does not contain any order modifying or terminating his child support obligation.

*Motion to Vacate the Paternity and Support Order*

Approximately two decades passed, and in September of 2019, Mr. Holland filed a motion requesting that the court 1) vacate the Paternity and Support Order, 2) "immediately cease and desist all collections," 3) "immediately restore, with due interest thereupon, all wages and refunds collected," 4) award any "fees and costs to bring this action," and 5) provide "any other equitable relief." Mr. Holland alleged, in pertinent part, that he had not been personally served with the Petition and summons to appear for the initial paternity and support hearing. As a result, he contended, the court lacked jurisdiction to enter the Paternity and Support Order. Mr. Holland's motion to vacate was amended and refiled, in varying forms, on several different occasions. The record reflects that the "Motion to Vacate," filed on April 8, 2020, was served on all parties. In it, Mr. Holland realleged that he had not been personally served with the initial summons, that the court entered the paternity and child support order without jurisdiction to do so, that the petition was unsupported by affidavit, and that the paternity finding was not supported by evidence. Pursuant to Maryland Rule 2-535, Mr. Holland requested that the court exercise its revisory power to correct the "jurisdictional mistake."

In response, on April 30, 2020, the Administration filed an opposition to the Motion to Vacate, contending, in pertinent part, that the doctrine of laches barred Mr. Holland from asserting the purported jurisdictional mistake. In support, the Administration argued that because Mr. Holland "knowingly and unreasonably delayed in asserting his claims," Ms. Brown and D.S. were "prejudiced by [the] delay" because they were now "barred by Maryland law from initiating any proceedings for paternity and child support."

Additionally, the Administration filed a "Motion for Judgment and Payment," seeking past due child support from Mr. Holland. The record reflects that Mr. Holland filed a written opposition thereto.

*Motion for Leave to Amend and Motion to Dismiss*

On February 11, 2021, the court entered an order, setting a February 12, 2021 deadline for "any amendments of pleadings." On February 19, 2021, Mr. Holland filed a motion for leave to amend his Motion to Vacate. With the motion for leave, he filed an "Amended Motion to Vacate/Revise" because he sought to "simply…add alternative causes of action for revision."

On February 22, 2021, Ms. Brown filed a "Motion to Dismiss," requesting that the court dismiss Mr. Holland's pending motions as barred by the doctrines of laches and collateral estoppel. The motion also objected to Mr. Holland's filing of an Amended Motion to Vacate/Revise. Subsequent to these filings, the court extended the amendment of pleadings deadline to February 26, 2021. Accordingly, the Administration filed a response to Mr. Holland's Amended Motion to Vacate/Revise. On March 2, 2021, Mr. Holland filed a written opposition to Ms. Brown's Motion to Dismiss. Despite the extension of the amendment of pleadings deadline, the court issued an order on March 15, 2021 denying Mr. Holland's motion for leave to amend.

On March 17, 2021, the court entered an order ("the Dismissal Order") which granted Ms. Brown's Motion to Dismiss and established that Mr. Holland owed $7,031.80 in unpaid child support arrearages. Following a timely filed motion to alter and amend, Mr. Holland noted an appeal to this Court.

## DISCUSSION

On appeal, Mr. Holland raises four questions for our consideration, which we rephrase for clarity as follows:

1. Did the circuit court err in denying Mr. Holland's "Motion for Leave to Amend Filing?"

2. Did the circuit court err in granting Ms. Brown's Motion to Dismiss?

3. Did the circuit court err in granting the Administration's petition for determination of child support arrears?

4. Did the circuit court err in failing to consider Mr. Holland's motion to amend?

*Denial of Motion for Leave to Amend*

In Mr. Holland's first claim of error, he asserts that the circuit court did not address his Amended Motion to Vacate/Revise in the Dismissal Order because the court had erroneously denied his "Motion for Leave of Court to Amend Filing" two days prior to the hearing. Indeed, the March 15, 2021 order denying Mr. Holland's motion for leave to amend was entered in error. The February 24, 2021 order "outlining the deadlines for amendment or pleadings" extended the amendment deadline to February 26, 2021. Mr. Holland's Amended Motion was filed on February 19, 2021 and was, therefore, timely filed. Accordingly, the motion for leave to file should have been granted.

However, "appellate courts of this State will not reverse a lower court judgment for harmless error: the complaining party must show prejudice as well as error." *Sumpter v. Sumpter*, 436 Md. 74, 82 (2013) (italics in original). The record does not reflect that Mr. Holland was prejudiced by the entry of the March 15, 2021 Order. At the February 23,

2021 hearing, the court clearly instructed the parties that it was "not going to strike" Mr. Holland's Amended Motion to Vacate/Revise and the record reflects that the parties proceeded with that understanding. After the hearing, the Administration filed a response to Mr. Holland's Amended Motion to Vacate/Revise on February 26, 2021. Additionally, Mr. Holland replied to Ms. Brown's Motion to Dismiss by citing portions of his Amended Motion to Vacate/Revise. Moreover, at the merits hearing, both the Administration and Mr. Holland made references to and argued portions of the Amended Motion to Vacate/Revise. Further, the court encouraged Mr. Holland, on several occasions, to make any legal argument that he desired to make in support of his position and, at the close of his argument, he conveyed that he had covered "as much as [he] could." In its oral ruling, the court even quoted language from Mr. Holland's Amended Motion to Vacate/Revise.

Moreover, Mr. Holland does not aver with particularity that he was prejudiced by the entry of March 15, 2021 order. Though he contended in his Motion to Alter and Amend that he was prevented from "presenting and defending issues in [the] case," he did not state which issue, in particular, he was prevented from presenting or defending. Lastly, Mr. Holland contends that March 17, 2021 Dismissal Order did not enter "a judgment" with respect to the Amended Motion to Vacate/Revise. However, Ms. Brown's Motion to Dismiss sought the dismissal of Mr. Holland's previously filed motions, which included his Amended Motion to Vacate/Revise. The grant of Ms. Brown's Motion to Dismiss, therefore, included the dismissal of the Amended Motion to Vacate/Revise. Accordingly, we are satisfied that Mr. Holland was not prejudiced by the entry of the March 15, 2021 Order.

*Grant of Ms. Brown's Motion to Dismiss*

In his second claim of error, Mr. Holland contends that the court erred in granting Ms. Brown's Motion to Dismiss. He argues that his Amended Motion to Vacate/Revise adequately stated a claim that the Paternity and Support Order should have been vacated and that the doctrines of laches and collateral estoppel were inapplicable to bar the relief sought. We are satisfied, however, that the doctrine of laches barred Mr. Holland's efforts to set aside the Paternity and Support Order for jurisdictional mistake.

"[T]he doctrine of laches is applicable in situations where a party unreasonably delays an assertion of his or her rights that prejudices an opposing party." *Ademiluyi v. Egbuonu*, 466 Md. 80, 124 (2019). The record supports the court's finding that Mr. Holland's delay in seeking to vacate the Paternity and Support Order was unreasonable. "A delay, for purposes of laches, begins when an individual knew or should have known of the facts concerning the alleged error." *State v. Christian*, 463 Md. 647, 653 (2019) (internal citation and quotations omitted). At the very least, the record reflects that Mr. Holland was aware of the entry of the Paternity and Support Order in 1999 when he was twice taken into custody on a bench warrant for civil contempt for failure to comply with the order. Even pursuant to Mr. Holland's assertion, he was aware that the Administration resumed, after a hiatus, collecting child support and past-due support arrearages in 2011. Mr. Holland failed to provide the court with any explanation as to why he waited until 2019 to challenge the court's jurisdiction to enter the Paternity and Support Order.

Moreover, the record reflects that Ms. Brown and D.S. would have been prejudiced by Mr. Holland's inexcusable delay. A finding of prejudice "is dependent upon the facts

and circumstances of each case, but it is generally held to be anything that places [an opposing party] in a less favorable position." *Ademiluyi*, 466 Md. at 80. (internal citation and quotation omitted). By 2019, D.S. was 21 years of age, and pursuant to § 5-1006(a) of the Family Law Article, the Administration would have been unable to initiate paternity proceedings after D.S.'s eighteenth birthday and, therefore, unable to establish a new child support order or collect on Mr. Holland's outstanding arrears. Because Mr. Holland inexcusably waited until D.S. was emancipated, Ms. Brown and D.S. would have been significantly prejudiced had the court vacated the Paternity and Support Order.

Though Mr. Holland contends that the doctrine of laches does not apply with respect to a "void judgment," he does not offer any legal support for this contention and we, therefore, will not consider it. *See* Maryland Rule 8-504(a)(5) (stating that an appellate brief shall contain "[a]rgument in support of the party's position."); *Klauenberg v. State*, 355 Md. 528, 552 (1999) (stating that "arguments not presented in a brief or not presented with particularity will not be considered on appeal").

Moreover, in additional to the applicability of laches, the record reflects that Mr. Holland was collaterally estopped from challenging the effective service of the Petition in 1998. Collateral estoppel provides that, "[w]hen an issue of fact or law is actually litigated and determined by a valid final judgment, and the determination is essential to the judgment, the determination is conclusive even in a subsequent action between the parties, whether on the same or a different claim." *See Dabbs v. Anne Arundel County*, 458 Md. 331, 340 n.9 (2018). In his Amended Petition to Vacate/Revise and the affidavit appended thereto, Mr. Holland averred that during the August 30, 1999 contempt hearing, "he

requested dismissal for lack of proper service, which was denied." So, by his own admission, Mr. Holland raised the same claim of a jurisdictional mistake resulting from improper service during the 1999 contempt proceedings and that claim was denied. The court correctly determined that he was estopped from relitigating this issue.

*Determination of Child Support Arrears*

In his next claim of error, Mr. Holland challenges the circuit court's finding that he owed any child support arrears to Ms. Brown, contending that the Paternity and Support Order did not allow the Administration to seek past due arrearages beyond the date of emancipation. The Paternity and Support Order, however, expressly provided that Mr. Holland would be responsible for the payment of "any future arrearages." Mr. Holland fails to direct this Court to any authority that the emancipation of D.S. nullified his obligation to pay any unpaid amounts owed under the Paternity and Support Order. Moreover, the testimony and evidence presented by the Administration at the hearing supported the finding that Mr. Holland owed $7,031.80 in arrears. This amount was unchallenged and uncontroverted by Mr. Holland. We, therefore, do not ascertain any error in the court's assessment of arrears.

*Motion to Amend Judgment*

In his last claim of error, Mr. Holland contends that evidence and law included in his "Motion to Amend Judgments and Motion for New Trial" was "wholly ignored" by the court. The record reflects that the court considered and denied Mr. Holland's motion to amend. Moreover, on appeal, Mr. Holland fails to argue with particularity that the court

should have granted his motion to amend. Because he does not offer any support for this contention, we will not consider it. *See* Maryland Rule 8-504(a)(5).

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