

Circuit Court for Montgomery County
Case No. 141625FL

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 411

September Term, 2024

CARROLL F. DUDLEY

v.

STEPHANIE RIVERA

Graeff,
Leahy,
Kenney, James A., III
(Senior Judge, Specially Assigned)

JJ.

Opinion by Graeff, J.

Filed: July 30, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

This appeal arises from an order issued by the Circuit Court for Montgomery County denying Carroll Dudley, appellant, intervenor status in a custody dispute involving A. and I., the minor children of Juan Rivera (“Father”) and Michelle Dudley (“Mother”).¹

On appeal, appellant presents the following question for this Court’s review:

Did the circuit court err or abuse its discretion in denying appellant’s Motion to Intervene?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

This case has a complicated procedural history, including a prior appeal to this Court, arising from custody proceedings involving the children. We will briefly discuss the earlier proceedings and then discuss the proceedings relevant to this appeal.

I.

Earlier Proceedings

In a previous unreported opinion, *Dudley v. Rivera*, No. 0143, Sept. Term, 2023, 2023 WL 7401361 (Md. App. Ct. Nov. 9, 2023), we discussed the procedural history of this case. In essence, the multiple proceedings involved Stephanie Rivera, the children’s paternal aunt and appellee, filing petitions for guardianship and custody of the children in early 2017. *Id.* at *1.

Valerie Dudley, the children’s maternal grandmother (“Grandmother”), filed a motion to intervene, supplemented by a complaint for visitation. *Id.* The court granted the

¹ We will refer to the children by these initials to protect their identities.

motion and ordered that she have visitation. *Id.* at *1-2. Grandmother died during the ensuing custody proceedings. *Id.* at *3.

Monica Dudley (“Aunt Monica”), Mother’s sister and the children’s aunt, also filed a motion to intervene, supplemented by a motion to modify custody and visitation. *Id.* at *2. Multiple motions were filed to modify the court’s order giving Ms. Rivera primary physical custody. *Id.* at *2-3.

On September 26, 2022, Aunt Monica filed a motion requesting to be removed as an intervenor, which the court granted on October 19, 2022. *Id.* at *4. On September 30, 2022, the court amended its custody decisions, ordering that Ms. Rivera have sole legal custody of the children and primary physical custody, with Mother having supervised access according to an access schedule. *Id.* The court permitted Aunt Monica, whose motion to intervene had initially been granted, but who was subsequently removed as an intervenor at her request, to participate in supervised visitation, but it noted that she “shall not serve as a supervisor.” *Id.* at *3-4. The court set a hearing for February 10, 2023, to review the status of the supervised visitation. *Id.* at *4.

On February 10, 2023, the court began the status hearing by noting that Mother had died. *Id.* at *5. The court stated that nothing had been filed in the case regarding Mother’s death, and once the “suggestion of death” was filed, the matter involving Mother’s supervised visitation would be closed. *Id.*

On March 1, 2023, Aunt Monica filed a motion to intervene, supplemented by a complaint for visitation, stating that she was seeking intervention because she was the

maternal aunt of the children, and prior to 2017, she “lived in very close proximity to” the children, “which caused a strong emotional bond . . . to be formed over the course of their childhood.” *Id.* In the attached complaint for visitation, Aunt Monica alleged that she was a *de facto* parent of the children, stating that she had “developed a long-lasting, bonded, and dependent maternal/parental relationship with” the children, and visitation was in the best interests of the children because “[t]heir biological Mother is deceased, as her next of kin I want to make sure their bond with her side of the family remains strong.” *Id.* She noted that the children had a six-month-old half brother, and she wanted “that relationship to stay strong as well.” *Id.* Aunt Monica requested that the court grant visitation for “[e]very other weekend, rotating holidays and extended time during the summer and winter breaks.” *Id.*

On March 17, 2023, Ms. Rivera filed a motion in opposition to Aunt Monica’s motion to intervene. *Id.* Ms. Rivera stated that Aunt Monica lacked standing to intervene and seek custody because “[s]he is neither a parent or a grandparent of the minor children at issue.” *Id.* On March 24, 2023, the circuit court denied Aunt Monica’s motion to intervene. *Id.* The court did not provide a reason for its decision, aside from a notation indicating that the court had considered the motion and Ms. Rivera’s opposition. *Id.*

On appeal from this ruling, this Court vacated and remanded the court’s judgment for further proceedings. *Id.* at *1. We explained that “remand to the circuit court is appropriate so the court can state the basis for its decision,” and if, “on remand, the court determines that dismissal is warranted because the motion did not adequately state the

grounds to intervene, [Aunt Monica] could request leave to amend her pleading.” *Id.* at *7.

On September 22, 2023, the Circuit Court for Howard County issued a judgment of adoption. It noted Mother’s death, ordered that Father’s parental rights be terminated, and decreed that the children were the legally adopted children of Ms. Rivera and her husband, Jose Ortiz.²

II.

Proceedings at Issue on Appeal

On February 29, 2024, the circuit court addressed Aunt Monica’s subsequent motion to intervene and denied it. The court also granted Ms. Rivera’s oral motion to close the case.³ Aunt Monica did not appeal the circuit court’s order.

That same day, February 29, 2024, appellant filed a Motion to Intervene. He asserted that Mother had fostered a “parent-like relationship” between him and the children, and the children had lived with him, Grandmother, and Aunt Monica from their births until 2017. He claimed that, as a *de facto* parent of the children, he was entitled to intervene in the matter.

Ms. Rivera filed an opposition to appellant’s motion to intervene and requested sanctions. She asserted that she and her husband had legally adopted the children, and they

² There were further motions in the circuit court after this, but they are not relevant to this appeal, and therefore, it is not necessary to recount them.

³ No transcript of the hearing appears in the record.

lived in Howard County. She argued, therefore, that there was no justiciable controversy, and venue was no longer proper in Montgomery County. Ms. Rivera also noted that, prior to the children’s adoption, appellant had not attempted to intervene or otherwise participate as a party in the custody proceeding. She asserted that appellant’s motion to intervene was nothing more than a “poorly disguised refile of” Aunt Monica’s Motion to Intervene, “down to the verbatim recitation of *de facto* parenthood factors that [Aunt Monica] attempted to argue in her prior Motions,” and nothing in the record supported appellant’s claims that he was a *de facto* parent to the children.

On March 27, 2024, the circuit court, without a hearing, denied appellant’s motion to intervene. The court found that there was a lack of justiciable controversy, and it lacked jurisdiction over the children, who had been adopted and resided in Howard County.

This appeal followed.

DISCUSSION

Mr. Dudley contends that the circuit court erred or abused its discretion in denying his motion to intervene because the children had lived with him, or prior intervenors, until 2017. He asserts that, as a grandparent and *de facto* parent to the children, he was entitled to intervene.

Ms. Rivera counters that the circuit court did not abuse its discretion in denying appellant’s motion to intervene because there was no controversy before the court, and it did not have jurisdiction over the matter because she and the children do not live in Montgomery County, and they were not residents of that county on the date appellant filed

his motion to intervene. On the merits, Ms. Rivera asserts that, because she and her husband adopted the children, they have the authority to make decisions regarding visitation and access by third parties. She contends that appellant lacks standing “to pursue any path forward for visitation with the minor children as an Intervenor in the case below,” and appellant provides no evidence to support his claim of *de facto* parenthood.

Ms. Rivera’s and Mr. Ortiz’s adoption of the children was finalized in September 2023. In February 2024, the circuit court granted Ms. Rivera’s oral request to close the case after denying Aunt Monica’s motion to intervene. On March 22, 2024, Ms. Rivera filed a Voluntary Stipulation of Dismissal, dismissing Father, the sole living defendant in the guardianship/custody matter, and the action, with prejudice. Therefore, when the circuit court denied Mr. Dudley’s motion to intervene on March 27, 2024, there was, as the court noted, a lack of a justiciable controversy because there was no open case in which Mr. Dudley could intervene, and no remedy the court could provide.⁴

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

⁴ Moreover, the record indicates, and Mr. Dudley does not dispute, that Ms. Rivera, the only remaining party to the custody action, and the children reside in Howard County, as they did at the time Mr. Dudley filed his motion to intervene. Pursuant to Md. Code Ann., Cts. & Jud. Proc. (“CJ”) § 6-202(5) (2020 Repl. Vol.), an action relating to custody, guardianship, maintenance, or support of a child is proper “[w]here the father, alleged father, or mother of the child resides, or where the child resides.” As neither the children nor either of their adoptive parents reside in Montgomery County, any action relating to their custody—including visitation—is no longer appropriate in that court.