

Circuit Court for Charles County  
Case No: C-08-CV-19-001081

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 499

September Term, 2020

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TORINA A. COLLIS

v.

QUEST MOTORS INC., *et al.*

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Nazarian,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 2, 2021

\*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.

In December 2019, Torina A. Collis, appellant, filed a petition in the Circuit Court for Charles County seeking judicial review of a decision issued by the Board of Appeals for the Maryland Department of Labor denying her claim for unemployment benefits. On February 28, 2020, after the administrative agency record was transmitted to the circuit court, the clerk issued a notice of receipt to the parties. Pursuant to Maryland Rule 7-207(a)<sup>1</sup>, therefore, Ms. Collis was required to file a memorandum with the court on or before March 30, 2020. The memorandum was to set forth “a concise statement of the questions presented for review, a statement of facts material to those questions, and argument on each question.” Maryland Rule 7-207(a).

On April 1, 2020, the circuit court granted a “Joint Consent Motion” filed by the parties and ordered that “the time for submission of the memorandum [was] extended thirty (30) days.” On April 24, 2020, Ms. Collis filed a second “Joint Consent Motion,” requesting “an additional 2 week extension past the current due date to submit [her] memorandum.” In an order entered on May 15, 2020, the circuit court granted Ms. Collis’ request, extending her memorandum deadline to May 18, 2020, a Monday. Ms. Collis contends that the order was only mailed to her on May 18, 2020 and, as support, provides a postmarked envelope that she purportedly received from the court. Ultimately, Ms. Collis did not meet the May 18<sup>th</sup> deadline, nor did she file any memorandum with the circuit court

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<sup>1</sup> Maryland Rule 7-207(a) requires the petitioner to file a memorandum with the court “[w]ithin 30 days after the clerk sends notice of the filing of the record.”

after the deadline passed. Therefore, on June 22, 2020, the circuit court dismissed Ms. Collis’ petition for failure to file a memorandum with the court.

On appeal, Ms. Collis raises three questions for our review, which we consolidate and rephrase for clarity:

1. Did the circuit court err by failing to give Ms. Collis adequate notice of the May 18, 2020 memorandum deadline?
2. Did the circuit court abuse its discretion in dismissing Ms. Collis’ petition for judicial review for failure to file a memorandum?

For the foregoing reasons, we shall affirm the judgment of the circuit court.<sup>2</sup>

## DISCUSSION

### *Sufficiency of Notice*

On appeal, Ms. Collis contends that the court “failed to give [her] ample time and notice” of the May 18, 2020 deadline for the filing of her memorandum. In support, she provides this Court with an envelope she purportedly received from the clerk of circuit court, postmarked on May 18, 2020. This, she contends, is evidence that the court did not mail notice of the deadline until May 18, 2020.

However, this Court “must confine its review to the evidence actually before the trial court when it reached its decision.” *Franklin Credit Mgmt. Corp. v. Nefflen*, 208 Md. App. 712, 724 (2012). Upon review of the record, there is no indication that Ms. Collis provided the postmarked envelope to the circuit court for its consideration on the issue of adequate notice. Instead, the envelope was provided to this Court for the first time on

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<sup>2</sup> Though requested in her brief, we decline to hear oral argument on the issues raised by Ms. Collis on appeal.

appeal and, therefore, it must be stricken. Even were we to consider the postmarked envelope, the copy provided to this Court does not contain an addressee and is, therefore, insufficient to establish when notice was sent to Ms. Collis. The docket entries reflect that copies of the circuit court’s order were “mailed to All Parties” on May 15, 2020, the date on which the order was entered, in compliance with Maryland Rule 1-324 (requiring that “upon entry on the docket,” the clerk “send a copy of the order...to all parties entitled to service.”).

Furthermore, Ms. Collis never raised the issue of insufficient notice for the circuit court’s consideration. Though she claims on appeal to have called the clerk’s office and judge’s chambers regarding the issue, this contention is not supported by any writing or statement on the record. We, therefore, decline to take up this issue on appeal. *See Baltimore Cty., Maryland v. Aecom Servs., Inc.*, 200 Md. App. 380, 421 (2011) (“[a] contention not raised below...and not directly passed upon by the trial court is not preserved for appellate review.”).

We note, additionally, that the circuit court afforded Ms. Collis with the relief she requested in the second consent motion: “an additional 2 week extension *past the current due date* to submit [her] memorandum.” (emphasis added). Given that the prior due date was May 1, 2020,<sup>3</sup> the motion only requested an extension through May 15, 2020.

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<sup>3</sup> The April 1, 2020 order failed to specify the date on which the 30-day extension commenced. If the 30 days commenced from the date her memorandum was initially due, the new deadline would have fallen on April 29, 2020. If it commenced from the date that the order was entered, her memorandum would have been due on May 1, 2020. We will,

Therefore, Ms. Collis should have been on notice that, if granted, her brief would be due at that time. To the extent that she anticipated needing additional time over and above the two weeks requested, Ms. Collis should have filed a third extension request with the circuit court.

*Dismissal for Failure to File Memorandum*

We review a circuit court’s decision to dismiss a judicial review proceeding for abuse of discretion. *Gaetano v. Calvert County*, 310 Md. 121, 127–28 (1987). Absent a mistake of law or clear error, reversal is appropriate only if “the decision under consideration [is] well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *North v. North*, 102 Md. App. 1, 14 (1994).

We have previously held that the dismissal of a petition for judicial review is not an abuse of discretion where the petitioner fails to file a memorandum as it prejudices both the respondent and the circuit court. *See Swatek v. Board of Elections*, 203 Md. App. 272 (2013). Moreover, pursuant to Maryland Rule 7-207(d), the circuit court was permitted to dismiss Ms. Collis’ petition for judicial review for failure to file a memorandum.

Ms. Collis’ petition for judicial review was not dismissed by the circuit court until June 22, 2020. She, therefore, had an entire month past the May 18<sup>th</sup> deadline to either request another extension of time or file a memorandum with the court. She did neither.

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for the purposes of this opinion, presume that the order provided Ms. Collis with the greatest extension possible.

“Even an untimely memorandum, assuming the date of the submission afforded the opposing party sufficient time to prepare, [would] have satisfied the purpose of Md. Rule 7-207(a)” and staved off dismissal. *Id at 284.*

Based on the foregoing, we discern no abuse in the circuit court’s discretion.

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