

Circuit Court for Harford County
Case No. C-12-CV-19-001046

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 654

September Term, 2020

MICHAEL C. WORSHAM

v.

ANGELA M. EAVES

Fader, C.J.,
Reed,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, C.J.

Filed: July 15, 2021

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

Michael C. Worsham, the appellant, filed a complaint in the Circuit Court for Harford County against the appellee, the Honorable Angela M. Eaves, Administrative Judge for that court. In the complaint, Mr. Worsham sought declaratory and injunctive relief barring Judge Eaves from “deciding or taking part in any case or portion of a case involving [him].” The circuit court granted Judge Eaves’s motion to dismiss the complaint for failure to state a claim upon which relief could be granted. On appeal, Mr. Worsham argues that the circuit court erred in: (1) granting the motion to dismiss; and (2) striking a line he had filed and staying discovery pending its decision on the motion to dismiss. We hold that the trial court properly dismissed the complaint, which renders the discovery ruling moot. Accordingly, we will affirm the judgment of the circuit court.

BACKGROUND

Mr. Worsham, who is self-represented in this action, was formerly a licensed attorney in Maryland. In that capacity, he “carved out a practice that concentrated in the private enforcement of federal and state laws prohibiting unsolicited faxes and telephone calls[,]” under the federal and Maryland versions of the Telephone Consumer Protection Act. *Att’y Grievance Comm’n v. Worsham*, 441 Md. 105, 109 (2014).

Mr. Worsham’s criticisms of Judge Eaves originate with an attorney grievance proceeding against him. In May 2013, the Attorney Grievance Commission charged Mr. Worsham with multiple violations of the Maryland Lawyers’ Rules of Professional Conduct stemming from (1) his failure to file state and federal income tax returns and to pay income taxes over a period of several years and (2) his representation of four clients.

Id. at 110. The Court of Appeals designated Judge Eaves to hold a hearing on the charges, make findings of fact, and recommend conclusions of law. *Id.* After a two-day evidentiary hearing, Judge Eaves issued a 91-page memorandum detailing her findings and concluding that Mr. Worsham “had committed nearly all of the violations alleged by the Commission[.]” *Id.* Judge Eaves further found “that Mr. Worsham’s testimony at the hearing . . . was ‘at the best, not credible and at the worst, misrepresentations to the Court.’” *Id.* at 117.

On October 3, 2014, the Court of Appeals issued a per curiam order disbarring Mr. Worsham. *Att’y Grievance Comm’n v. Worsham*, 440 Md. 183 (2014) (per curiam). In its subsequently filed opinion explaining its decision, the Court rejected Mr. Worsham’s substantive objections to Judge Eaves’s findings and determined that Mr. Worsham “engaged in intentional misconduct” by not filing his state and federal tax returns over a period of eight years. *Worsham*, 441 Md. at 134-35. Because the Court agreed that the evidence of tax-related violations was “overwhelming” and concluded that those violations merited disbarment, the Court declined to address the alleged violations stemming from Mr. Worsham’s representation of clients.¹ *Id.* at 111.

¹ In a footnote, the Court summarized Judge Eaves’s findings concerning “Mr. Worsham’s dealings with his clients[.]” *Worsham*, 441 Md. at 111 n.3. After observing that Mr. Worsham had excepted to most of those findings, the Court stated:

We appreciate the conscientious efforts of the hearing judge and the detailed nature of her findings as to all of the alleged violations. Although, as indicated above, we need rely on only her findings as to the tax-related violation to conclude that Mr. Worsham’s misconduct merits disbarment, it was appropriate for the hearing judge to provide her

After his disbarment, Mr. Worsham continued to pursue Telephone Consumer Protection Act actions on his own behalf against various entities, litigating at least eight lawsuits in the Circuit Court for Harford County. Judge Eaves was initially recused in two of those lawsuits, *Worsham v. MacGregor*, No. 12-C-09-001879 (“*MacGregor*”), and *Worsham v. Lifestation, Inc.*, No. 12-C-17-000645 (“*Lifestation*”). However, scheduling issues subsequently arose in several of Mr. Worsham’s cases, apparently attributable at least in part to the recusal of several other judges. By letter dated May 15, 2019, Judge Eaves advised the parties to the pending cases that she would: (1) “resume handling procedural matters as well as pretrial motions and hearings”; (2) rescind her recusals in *MacGregor* and *Lifestation*; (3) schedule motions hearings in the cases, including joint hearings for motions raising similar issues; (4) assign judges for trial, as necessary; and (5) “reserve the right to preside over any of the trials [her]self.”

On October 22, 2019, Mr. Worsham filed this action, in which he alleged that Judge Eaves had violated his “rights to due process and equal protection guaranteed by the Fifth and Fourteenth Amendments” to the United States Constitution and by Article 24 of the Maryland Declaration of Rights. In his complaint, as later amended, Mr. Worsham alleged that Judge Eaves was biased against him. As evidence of bias, Mr. Worsham pointed to Judge Eaves’s findings in his attorney grievance case, which, he alleged, contained at least six false statements, including that his testimony was evasive, that he had made

assessment of the evidence presented as to all of the violations charged by the Commission.

Id.

misrepresentations to the court, that he had filed a frivolous tax appeal, and that the testimony of one of his clients (who was also a defendant in one of the pending cases) was “completely credible.” Mr. Worsham also alleged improper conduct by Judge Eaves in some of the pending cases, including her denial of motions for her recusal in some of those cases. In light of that conduct, Mr. Worsham alleged that Judge Eaves was demonstratively biased against him and obligated to recuse herself from involvement in his cases. Because she had refused to do so, Mr. Worsham sought a declaration that Judge Eaves’s “impartiality might reasonably be questioned[,], that she has a personal bias or prejudice concerning [him], and that she should be disqualified from deciding cases involving [him] under Maryland Rule 18-102.11(a)(1).” Mr. Worsham also sought a declaration that Judge Eaves’s conduct violated his rights under the federal constitution and Article 24 of the Maryland Declaration of Rights, and a permanent injunction preventing her from violating his rights and “deciding or taking part in any case or portion of a case involving [him].”

Judge Eaves moved to dismiss Mr. Worsham’s complaint on alternative grounds, including that he had failed to state a claim upon which relief may be granted and that she was judicially immune from suit. Mr. Worsham opposed the motion. After a hearing, the circuit court granted the motion to dismiss for failure to state a claim.² The court reasoned that judges were empowered to decide motions to recuse on a case-by-case basis. Because Mr. Worsham could seek appellate review in any action in which Judge Eaves was alleged

² The judge who ruled on the motion to dismiss was a judge of the Circuit Court for Baltimore County, sitting by designation.

to have improperly presided, the court ruled that recusal of a judge was not an “appropriate subject for a declaratory or injunctive action.” This timely appeal followed.

DISCUSSION

THE CIRCUIT COURT DID NOT ERR IN GRANTING THE MOTION TO DISMISS.

Mr. Worsham first contends that he stated a claim for relief under the Maryland Uniform Declaratory Judgments Act, §§ 3-401 – 3-415 of the Courts and Judicial Proceedings Article, because he sought a determination that Judge Eaves violated both Rule 18-102.11(a)(1) and administrative regulations governing the assignment of judges.³ He asserts that Judge Eaves’s impartiality might reasonably be questioned based on her involvement in his attorney grievance case, and therefore declaratory relief was proper to terminate the ongoing controversy in the eight other cases and in any future cases he might file. He also contends that the court erred in dismissing his claim for injunctive relief brought under 42 U.S.C. § 1983.

The Declaratory Judgments Act authorizes a circuit court to grant declaratory relief to a person “whose rights . . . or other legal relations are affected by a statute . . . [or] administrative rule or regulation” to “determin[e] any question of construction or validity arising under the . . . statute . . . [or] administrative rule or regulation[.]” Cts. & Jud. Proc.

³ Mr. Worsham also argues that Judge Eaves was not entitled to judicial immunity for actions taken in her administrative capacity. As mentioned, the court granted the motion to dismiss solely on the ground that Mr. Worsham failed to state a claim upon which relief may be granted. Because we affirm the court’s ruling on that basis, we decline to consider the issue of judicial immunity.

§ 3-406. But Maryland courts “will refuse [to issue declaratory judgment] where another court has jurisdiction of the issue, where a proceeding involving identical issues is already pending in another tribunal, where a special statutory remedy has been provided, or where another remedy will be more effective or appropriate under the circumstances.” *Elvaton Towne Condo. Regime II, Inc. v. Rose*, 453 Md. 684, 710 (2017) (alteration in original) (quoting *Haynie v. Gold Bond Bldg. Prods.*, 306 Md. 644, 651 (1986)). “Ordering declaratory relief ‘to decide an issue, even though the issue is presented in another pending case between the parties[,]’ is reserved for ‘very unusual and compelling circumstances.’” *Elvaton Towne Condo.*, 453 Md. at 710-11 (quoting *Haynie*, 306 Md. at 652). Similarly, a court is justified in declining to order declaratory relief when it believes “that *more* effective relief can and should be obtained by another procedure[.]” *Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 485 (2004) (quoting Edwin Borchard, *Declaratory Judgments* 303 (2d ed. 1941)).

Here, the declaratory relief that Mr. Worsham seeks is a blanket disqualification of Judge Eaves from any case involving him, both those currently pending and those he may file in the future. However, “the question of recusal . . . ordinarily is decided, in the first instance, by the judge whose recusal is sought[.]”⁴ *Surratt v. Prince George’s County*, 320 Md. 439, 464 (1990). If a party is aggrieved by the decision of a judge not to recuse in a

⁴ An exception arises when the “asserted basis for recusal is personal conduct of the trial judge that generates serious issues about his or her personal misconduct,” in which case another judge should decide a motion to recuse. *Surratt v. Prince George’s County*, 320 Md. 439, 466 (1990). No allegation of such personal misconduct is raised here.

case, the proper avenue of relief for that party is to raise that issue on appeal from a final judgment. *See, e.g., Conner v. State*, 472 Md. 722, 745, 750 (2021) (addressing failure to recuse on appeal); *Boyd v. State*, 321 Md. 69, 85-86 (1990) (same). To permit litigants to collaterally adjudicate motions to recuse by seeking declaratory or injunctive relief would “unduly burden the courts” and create an avenue for otherwise disallowed interlocutory appeals of rulings that ultimately might not prejudice the parties seeking recusal. *Vargas-Aguila v. State, Off. Chief Med. Exam’r*, 202 Md. App. 375, 383-84 (2011) (citation omitted).

If properly preserved, the remedy of a direct appeal is available to Mr. Worsham in each of the eight cases at issue. In at least one, he has already raised the recusal issue on appeal to this Court.⁵ Mr. Worsham’s arguments here for why the remedy of direct appeal is inadequate do not justify our departing from the general rule barring declaratory relief while the instigating issue is pending in another case or when another remedy is more appropriate under the circumstances. He contends that because his concern involves multiple similar cases with the same judge and involves future cases in which the issue has not yet been raised, it would be expensive and unfair for him to have to litigate each matter separately, introduce long delays, and still not prevent Judge Eaves from assigning herself to new cases. Mr. Worsham has not cited any apposite authority to support his contention, and we are not aware of any. Although it may be more efficient from Mr. Worsham’s

⁵ The sixth question presented in Mr. Worsham’s appellant’s brief in *Worsham v. Lifestation* is: “Whether Judge Eaves erred in rescinding her recusal and not disqualifying herself.” Appellant’s Br. at 6, *Worsham v. Lifestation, Inc.*, No. 661, Sept. Term 2020.

perspective to permit an interlocutory, collateral attack on Judge Eaves’s handling of his cases, permitting such end-runs around ordinary procedure would be contrary to the efficient and effective management of cases overall. Moreover, Mr. Worsham’s concern about future cases is overstated, as an appellate ruling on the propriety of recusal in one or more of the eight pending cases will likely have the effect of settling the issue for future cases as well.

Mr. Worsham also failed to state a claim for injunctive relief under 42 U.S.C. § 1983, which creates a statutory remedy against state officials who deprive a person of rights secured by the United States Constitution, including the Fourteenth Amendment rights to due process and equal protection under the law. Section 1983 “does not create substantive rights, but instead, it provides ‘a method for vindicating federal rights elsewhere conferred by those parts of the United States Constitution and federal statutes that it describes.’” *Cunningham v. Baltimore County*, 246 Md. App. 630, 655 n.17, *cert. denied*, 471 Md. 268 (2020) (quoting *City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 749 n.9 (1999) (Souter, J., concurring in part)).⁶

⁶ 42 U.S.C. § 1983 provides, in part, that “[i]n any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” Mr. Worsham contends that that provision does not preclude his request for injunctive relief because Judge Eaves was acting in an administrative, as opposed to a judicial, capacity in assigning his cases. In the alternative, he contends that even if Judge Eaves were acting in a judicial capacity, injunctive relief is still available if declaratory relief is not. Because we conclude that the amended complaint did not state a claim for relief under § 1983, we need not address those arguments.

Mr. Worsham’s allegations of bias arising in the course of judicial proceedings do not rise to the level necessary to state a cognizable claim under the Due Process Clause of the Fourteenth Amendment or Article 24 of the Declaration of Rights. *See Bracy v. Gramley*, 520 U.S. 899, 904 (1997) (stating that “most questions concerning a judge’s qualifications to hear a case are not constitutional ones, because the Due Process Clause of the Fourteenth Amendment establishes a constitutional floor, not a uniform standard”). Recusal is required as a matter of due process only when “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable[.]” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009) (quoting *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). Here, the source of Judge Eaves’s alleged bias stems from her prior involvement as a judge assigned to his attorney grievance matter and her handling of his pending cases. The findings made by Judge Eaves in the attorney grievance matter, though adverse to him, are not of the type giving rise to actual bias of a constitutional dimension. *See, e.g., Liteky v. United States*, 510 U.S. 540, 555 (1994) (stating that “opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible”).⁷ Nor do findings or conclusions in other cases

⁷ Other circumstances where recusal may be required under the federal due process clause, such as when a judge has a pecuniary interest in a case or when a judge presides over a case involving that judge’s previous service as a prosecutor, are not implicated here. *See, e.g., Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (pecuniary interest); *Williams v. Pennsylvania*, 579 U.S. ___, 136 S. Ct. 1899, 1906 (2016) (prior prosecutorial role).

that are adverse to a litigant, even if ultimately reversed or vacated on appeal, provide grounds for mandatory recusal or establish a due process violation.

Likewise, the amended complaint does not state a claim under the Equal Protection Clause of the Fourteenth Amendment. To make out a claim for an equal protection clause violation that does not implicate a suspect class or a fundamental right, a plaintiff must prove that “the State treated [the plaintiff] differently from a similarly situated individual” and that the dissimilar treatment was not “rationally related to any legitimate state interest.” *Washington v. State*, 450 Md. 319, 341-42 (2016). Beyond a single conclusory allegation that Judge Eaves has “not treated any other person the way that she has treated [Mr.] Worsham,” his complaint does not identify any similarly situated litigants who have been treated differently with respect to case assignment or recusal decisions. The circuit court therefore did not err in dismissing the claim for relief under 42 U.S.C. § 1983.

Finally, Mr. Worsham contends that the circuit court erred in staying discovery and granting Judge Eaves’s request to strike a line he filed pertaining to requests for admission. That contention is moot in light of our ruling that the complaint was properly dismissed. *See Alston v. State*, 433 Md. 275, 285 (2013) (stating that an issue is moot “if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide” (quoting *Att’y Gen. v. Anne Arundel County Sch. Bus Contractor Ass’n*, 286 Md. 324, 327 (1979))).

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