Circuit Court for Baltimore County
Case No. C-03-CV-23-000454

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 681

September Term, 2024

CRYSTAL GODEN, *et al*.

v.

JOHN KALENDEK

Arthur,
Shaw,
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 25, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Crystal and Kenrick Goden, appellants, appeal from an order issued by the Circuit Court for Baltimore County denying their motion to vacate a default judgment that was entered against them. On appeal, they contend that the court erred in denying their motion to vacate because they were never served with a copy of the summons and complaint, and the default judgment was obtained based on fraudulent misrepresentations of fact by appellee. For the reasons that follow, we shall affirm.

In February 2023, Mr. Kalendek filed a complaint against the Godens, claiming that they had rented a commercial property from him and then breached the lease agreement by failing to pay rent for eight months, failing to pay the water bill, and substantially damaging the property before they vacated the premises. After appellants failed to file an answer, the circuit court issued a default judgment against the Godens, and in favor of Mr. Kalendek, in the amount of $113,775.07. Twenty days after that judgment was entered, the Godens filed a motion to vacate the default judgment pursuant to Md. Rule 2-613. Although they acknowledged that the "merits of this case are not up for review," appellants attached several exhibits to the motion which allegedly showed they had not breached the lease or damaged appellee's property. Appellants thus claimed that the underlying basis for appellee's claim for damages was "false," and that his "intentional misrepresentations of fact arguably constitute fraud" which warranted relief from the default judgment.

Appellants further contended that the default judgment should be vacated because they had never been served with a copy of the summons and complaint. Appellants conceded that a private process server had filed an affidavit of service stating that he had served both appellants by going to their residence on September 3, 2023, and "handing to

Crystal Goden" a copy of the summons and complaint. The process server further stated that the person whom he served was an "African American female, appears to be in her 40s, has black hair, is approximately 5-8 or 5-9 tall and has a thin build" and that she matched the "physical description" of Ms. Goden provided by appellee.

Ms. Goden nevertheless submitted an affidavit in which she claimed to have never been served, and to have had no knowledge of the complaint prior to the default judgment being entered. Instead, she believed that the process server had accidentally served her sister-in-law, who was also named Crystal Goden. Ms. Goden further averred that her sister-in-law was not a resident, but had been at the house on September 3, 2023, for a large family gathering.

Appellee filed an opposition, which included an additional affidavit from the process server. In that affidavit, the process server stated that when he rang the doorbell at the residence a "boy of about twelve years old answered the door." He asked the boy to speak to either Crystal Goden or Kenrick Goden, and the boy stated he would get Ms. Goden. Thereafter, a "woman came to the door," who "refused to give her name" and stated that appellants "were not home and would not be home for a week." Given that the boy had said he would get Crystal Goden, the woman who came to the door refused to give her name, and the woman matched the description of Crystal Goden, the process server served her with the summons and complaint. On May 21, 2024, the court entered an order denying the motion to vacate without a hearing. This appeal followed.

As they did in the circuit court, appellants first claim that the default judgment should have been vacated because they were never served with a copy of the summons and complaint. "The determination [of] '[w]hether a person has been served with process is essentially a question of fact.'" *Wilson v. Md. Dep't of Env't*, 217 Md. App. 271, 286 (2014) (quoting *Harris v. Womack*, 75 Md. App. 580, 585 (1988)). "A proper return of service is prima facie evidence of valid service of process, but the presumption of validity can be rebutted." *Wilson*, 217 Md. App. at 285. To rebut the presumption of validity, "a mere denial of service is not sufficient[.]" *Id.* However, "if the 'denial is supported by corroborative evidence by independent, disinterested witnesses, the denial will stand unless the corroborative evidence is refuted.'" *Id.* (quoting *Ashe v. Spears*, 263 Md. 622, 628 (1971)).

Here, the process server submitted a proper return of service. And appellants' attempt to rebut the validity of service consisted entirely of a self-serving affidavit from Ms. Goden denying that she had been served. In short, appellants' motion to vacate presented no "corroborative evidence" by an "independent disinterested witness" in support of their claim.[1] Appellants make much of the fact that, in his second affidavit, the process server indicated that the person he served refused to give their name and stated that appellants were not home. However, we are not persuaded that this was sufficient "corroborative evidence" of Ms. Goden's claimed denial of service. To hold otherwise would open the door to persons being able to evade service by simply refusing to identify

[1] For example, appellants did not provide an affidavit from Ms. Goden's sister-in-law regarding her receipt of service.

themselves when they are served, and then claiming not to have been served when a judgment is later entered against them. Moreover, in this case, the process server also noted that the person that he served: (1) was present in appellants' home; (2) came to the door after he told the boy who answered the door that he wanted to speak to appellants; and (3) matched the description of Ms. Goden. Under these circumstances, we hold that appellants failed to present sufficient evidence to rebut the presumption of validity that attached to the process server's return of service. Consequently, the court did not err in denying their motion to vacate on the grounds of lack of service.

Appellants alternatively contend that the court erred in denying the motion to vacate because appellee submitted fraudulent documents to prove his claim that they had breached the terms of the lease and damaged his property. Again, we disagree. Once the circuit court enters its default judgment in compliance with Rule 2-613, that judgment "may be stricken or revised only upon a showing of fraud, mistake, or irregularity in conformance with Md. Rule 2–535(b)." *Dir. of Fin. of Baltimore City v. Harris*, 90 Md. App. 506, 511 (1992).[2] Fraud, under Rule 2-535(b), is limited to extrinsic fraud, which is where the fraud "actually prevents an adversarial trial . . . [because] the fraud prevented the actual dispute from being submitted to the fact finder[.]" *Hrseko v. Hrseko*, 83 Md. App. 228, 232 (1990).

[2] The court can also revise a default judgment within 30 days after it is entered, but only as to the relief granted. *See* Maryland Rule 2-613(g). Appellants do not specifically contend that the court should have granted them relief under this Rule. But in any event, based on our review of the record, appellants' fraud claims, although framed as a challenge to damages, were in fact an attempt to contest their liability.

Here, the "fraud" identified in appellants' motion to vacate concerns evidence that appellee presented to the court to support his claims.[3] But even if appellants' allegations were true, they are examples of intrinsic – rather than extrinsic – fraud and are not grounds for relief under Rule 2-535(b).

Appellants alternatively ask that we expand the scope of Rule 2-535(b) to include intrinsic fraud, noting that intrinsic fraud can be the basis to set aside a judgment in other jurisdictions. However, we decline to overturn longstanding Maryland precedent, adopted by both the Supreme Court of Maryland and this Court, limiting relief under that rule to the existence of extrinsic fraud. Consequently, we shall affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.

[3] Appellants also assert that the process server's original affidavit, which did not set forth all the details contained in his second affidavit, constituted extrinsic fraud. We need not consider this contention as appellants did not raise it in the circuit court. In any event, this does not sufficiently demonstrate a the existence of extrinsic fraud within the meaning of Rule 2-535(b).