Circuit Court for Baltimore County
Case No. C-03-FM-23-001777

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 793

September Term, 2025

KEITH WHACK

v.

ADRIAN MABE

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.

Keith Whack, appellant, appeals from two orders, issued by the Circuit Court for Baltimore County, denying his motions to vacate a child support order pursuant to Maryland Rule 2-535(b).[1] He raises three issues on appeal: (1) whether the court erred in denying his motions to vacate because it lacked subject matter jurisdiction to enter the child support order; (2) whether the court erred in denying his motions to vacate because it never acquired personal jurisdiction over him; and (3) whether the court erred in denying his motions to vacate without holding a hearing. For the reasons that follow, we shall affirm.

This appeal concerns K.W., a minor child who reached the age of majority in January 2024. In March 2023, appellee, the guardian of K.W., filed a complaint for custody and child support against appellant. Appellant did not file an answer, and on January 18, 2024, the court entered an Order of Default. However, it never entered a default judgment.

[1] As set forth more fully herein, appellee filed a complaint for child custody and child support, and the court initially entered an Order of Default after appellant failed to file an answer. However, no default judgment was entered, and the court never adjudicated the issue of custody because the minor child reached the age of majority. The court did, however, enter a final judgment with respect to child support on October 17, 2024. But again, this was not a default judgment. Appellant states in his brief that he is seeking to vacate both the Order of Default and the October 17, 2024, child support order. But an Order of Default is not a final judgment as it does not finally adjudicate liability between the parties. Rather, it is "interlocutory in nature and can be revised by the court at any time up until the point a final judgment is entered." *Bliss v. Wiatrowski*, 125 Md. App. 258, 265 (1999). Consequently, the October 17, 2024, child support order represents the only final judgment entered by the court. And thus, it is the only judgment that could have been vacated pursuant to Rule 2-535(b).

In April 2024, the magistrate filed a Scheduling Conference Checklist, noting that because K.W. had turned 18, custody was no longer an issue. The magistrate noted, however, that the issue of child support still needed to be determined as K.W. was not expected to graduate high school until May 2025. A hearing on the issue of child support was eventually set for July 15, 2024. The record indicates that appellant attended the hearing, and the case was postponed to August 23, 2024. Appellant also attended the August 23 hearing and informed the court that he wished to obtain an attorney. The child support hearing was thus postponed again to September 30, 2024. Although appellant has not provided a transcript of the September 30 hearing, the magistrate's written report and recommendation indicates that he attended the hearing, and that he consented to pay appellant $300 per month in child support, backdated to January 2024. The court entered a final judgment establishing child support in this amount on October 17, 2024, based on the agreement of the parties.

In March 2025, appellant filed a motion to vacate the "void" Order of Default claiming that he had never received a copy of the original complaint. He further asserted that the affidavit of service filed by appellant demonstrated that he had not been served with the complaint because in the section where it states, "check all that apply[,]" the process server only checked that the writ of summons had been served. Notably, appellant did not request the court to vacate the child support order, only the Order of Default. The court denied that motion as moot on March 25, 2025, noting that K.W. had already reached the age of majority.

Thereafter, appellant filed multiple motions seeking to vacate both the Order of Default and the child support order including: (1) an April 3, 2025, "Objection" to the court's order denying his motion to vacate the Order of Default; (2) an April 3, 2025 "Motion to Terminate" the child support order; (3) an April 15, 2025, "Objection" to the order that denied the "Motion to Terminate"; and (4) a May 19, 2025, "Rebuttal and Motion for Reconsideration" of the court's May 7, 2025 order denying his April 15, 2025 "Objection." All these motions essentially raised the same issues, specifically that: (1) the court lacked subject matter jurisdiction to enter any orders with respect to child support or child custody after K.W. turned 18, and (2) the court lacked personal jurisdiction because he was not properly served with the complaint. The court denied these motions without a hearing, finding that the court had subject matter jurisdiction because K.W. was a minor at the time the action was filed, and that appellant had waived his argument regarding personal jurisdiction by participating in the child support proceedings. This appeal followed.

Because appellant's motions to vacate were filed more than 30 days after the entry of the child support judgment, the only possible avenue under which he could have obtained relief was Maryland Rule 2-535(b). *See Kent Island, LLC v. DiNapoli*, 430 Md. 348, 366 (2013) (noting that after 30 days have passed after the entry of a final judgment, a court may only modify its judgment upon a motion filed pursuant to Rule 2-535(b)). To vacate or modify an enrolled judgment pursuant to Rule 2-535(b), a movant must establish the existence of either fraud, mistake, or irregularity. Relevant to this appeal, a mistake is

limited "to jurisdictional error, such as where the Court lacks the power to enter judgment." *Green v. Ford Motor Credit Co.*, 152 Md. App. 32, 51 (2003).

Appellant first contends that the court erred in denying his motions to vacate because the court lacked subject matter jurisdiction to enter the child support order.[2] We disagree. Section 1-201 of the Family Law Article provides that an equity court has jurisdiction over the support of a child. FL § 1-201(b)(9). Thus, FL § 1-201 confers subject-matter jurisdiction on the Circuit Court for Baltimore County to decide a case involving child support of a child who lives in Baltimore County. Because K.W. resided in Baltimore County, the circuit court thus had fundamental jurisdiction to grant an award of child support provided she was eligible to receive it.

Here, appellee filed her complaint for child support prior to K.W. turning 18 years old. Thus, K.W. was eligible to receive child support as the circuit court has the authority to award child support for "a period from the filing of the pleading that requests child support." FL § 12-101(a)(3). Moreover, because K.W. was still in high school, the court also had the authority to order the payment of child support until K.W. either graduated or attained the age of 19 years, whichever came first. *See* Gen. Prov. Art. § 1-401(b). Finally, appellant's arguments with respect to whether it was appropriate for the court to have granted the relief that it did are not relevant to the court's subject matter jurisdiction. Thus, they do not provide grounds to vacate the child support order pursuant to Rule 2-535(b).

[2] We reiterate that despite the initial issuance of an Order of Default, the court did not enter a final judgment with respect to custody. Because K.W. is no longer a minor child, the issue of whether the court would have theoretically had subject matter jurisdiction to enter a final custody order is moot.

Alternatively, appellant contends that the court never obtained personal jurisdiction over him because he was not properly served with a copy of the complaint. But even if we assume that the absence of a check mark on the return of service was sufficient to establish that he was not served with the complaint, the court did not abuse its discretion in finding that appellant waived the right to object to the lack of personal jurisdiction. Here, appellant appeared at multiple hearings, participated in the final hearing on child support, and ultimately consented to pay child support to appellee. Because he did not raise any objection regarding service at any point prior to the court entering its final judgment, appellant submitted himself to jurisdiction of the court. *See Caucus Distribs., Inc. v. Md. Sec. Comm'r*, 320 Md. 313, 337 (1990) (holding that a "party's appearance and participation in the proceedings will waive" deficiencies alleged about service). Thus, the court did not err in finding that his claim of improper service, raised for the first time approximately five months after the court entered a child support order, is waived.

Finally, turning to appellant's procedural claim, we find no error in the court's decision to deny his motions without a hearing because no hearing was required. *See Pelletier v. Burson*, 213 Md. App. 284, 292-93 (2013) (noting that the court is not required to hold a hearing before denying a motion for reconsideration filed more than ten days after the entry of judgment because the denial of such a motion is not dispositive of a claim or defense).

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