

Circuit Court for Queen Anne's County  
Case No. C-17-CV-20-000140

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

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No. 972  
September Term, 2020

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MARY E. JOURDAK

v.

GORDANA SCHIFANELLI

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Berger,  
Friedman,  
Zic,

JJ.

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Opinion by Friedman, J.

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Filed: August 10, 2021

Appellant Mary Jourdak apparently failed to appear at her scheduled deposition.<sup>1</sup> Appellee Gordana Schifanelli filed a motion that, in substance, sought discovery sanctions but was titled as a motion to hold Jourdak in contempt. The trial court signed an order granting the motion that was, regrettably, titled as Schifanelli had suggested, as holding Jourdak in contempt.

Jourdak then filed the current interlocutory appeal asserting that the trial court erred in finding her in contempt. She provides a long and comprehensive list of procedural and substantive errors that the trial court made in holding her in contempt. Schifanelli defends by arguing that the trial court, despite Schifanelli's request, did not actually hold Jourdak in contempt, but merely awarded discovery sanctions pursuant to Rule 2-433. Schifanelli also seeks to persuade us that the trial court was correct in so doing.

In evaluating Schifanelli's motion and, more importantly, the trial court's order, we look to the substance not the title:

Under Maryland law, when motions and other pleadings are considered by a trial judge, it is the **substance** of the pleading that governs its outcome, and not its **form**. In other words, the nature of a motion is determined by the relief it seeks and not its label or caption.

*Davis v. Bd. of Educ. for Prince George's Cnty.*, 222 Md. App. 246, 271 (2015) (emphasis in original); *State v. Taylor*, 371 Md. 617, 648 (2002) ("Although cloaked in the form of the grant of motions to dismiss, the substance of the trial judges' rulings was to grant judgments of acquittal and so must we treat them for double jeopardy analysis."); *see also*

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<sup>1</sup> For reasons that will, hopefully, become clear, we express no opinion about the truth of this statement.

*U.S. v. Jorn*, 400 U.S. 470, 478 n.7 (1971) (“[T]he trial judge’s characterization of his own action cannot control the classification of the action[.]”). Having carefully scrutinized the motion, the order, and the surrounding events, we hold that Schifanelli’s motion sought discovery sanctions and that the trial court’s order granted discovery sanctions.

While at the time this appeal was noted and argued, this Court had appellate jurisdiction, pursuant to MD. CODE, CTS. & JUD. PROC. ART. (“CJ”), § 12-304(a),<sup>2</sup> to consider the validity of an order of contempt, having now determined that no order of contempt was entered, this Court has no continuing appellate jurisdiction. *See Rustic Ridge, LLC v. Washington Homes, Inc.*, 149 Md. App. 89, 100 (2002) (dismissing appeal after determining that circuit court’s order was not an appealable interlocutory order as defined in CJ § 12-303 and that, as a result, this Court had no continuing appellate jurisdiction).<sup>3</sup>

We express no opinion as to the correctness of the trial court’s grant of discovery sanctions. That determination, if still required, will have to await appellate review after final judgment pursuant to CJ § 12-301.

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<sup>2</sup> That statute provides: “Any person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.” CJ § 12-304(a).

<sup>3</sup> Because it concerns our jurisdiction, Jourdak’s suggestion that Schifanelli is judicially estopped from arguing that Jourdak was not held in contempt, is irrelevant to our analysis. *See King v. State Road Comm’n of State Highway Admin., Acting for and on Behalf of State of Maryland*, 294 Md. 236, 241 (1982) (“It is elementary that parties may not confer appellate jurisdiction by consent upon this Court.”).

**APPEAL DISMISSED. COSTS TO BE  
PAID BY APPELLANT.<sup>4</sup>**

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<sup>4</sup> Despite our dismissal of this interlocutory appeal and the return of the matter to the Circuit Court for Queen Anne's County for further proceedings, the parties may still consider alternative ways of resolving their dispute, such as our Alternative Dispute Resolution Division.