Circuit Court for Baltimore City
Case No. 24-C-23-005022

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1109

September Term, 2024

NDEYE A. JAMES

v.

CATHOLIC RELIEF SERVICES

Nazarian,
Zic,
Maloney, John M.
(Circuit Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: February 4, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This appeal arises from a complaint filed in the Circuit Court for Baltimore City by Ndeye A. James, appellant, against her former employer, Catholic Relief Services ("CRS"), appellee. CRS subsequently filed a motion to dismiss pursuant to the doctrine of *forum non conveniens*. Following a full briefing and a hearing, the circuit court granted CRS' motion to dismiss.

Ms. James now appeals and presents two questions for our review, which we have recast and rephrased as one:[1] Did the circuit court err in granting CRS' motion to dismiss on the basis of *forum non conveniens*? For the following reasons, we answer this question in the negative and affirm.

BACKGROUND

Ms. James' Employment with CRS

CRS is an international humanitarian agency incorporated in the District of Columbia and headquartered in Baltimore, Maryland. In September 2019, CRS hired Ms. James as a country representative for several West African countries, including Senegal. Throughout her employment with CRS, Ms. James lived and worked

[1] Ms. James phrased the questions as follows:

1. Whether the [c]ircuit [c]ourt erred by dismissing with [p]rejudice and [w]ithout [l]eave to [a]mend [Ms. James'] [c]omplaint based on the doctrine [of] *forum non conveniens*, pursuant to Md. Code. Ann., Cts. & Jud. Proc. § 6-104(a).
2. Whether the [c]ircuit [c]ourt erred by relying on the action initiated by [Ms. James] in Senegal as ground[s] to dismiss [Ms. James'] [c]omplaint on the doctrine of *forum non conveniens*.

exclusively in Dakar, Senegal.

Ms. James' direct supervisor, Jennifer Overton, was based in Baltimore, Maryland, while one of Ms. James' subordinates, Mary Beth Molin, worked in Senegal. Ms. James asserts that Ms. Overton and Ms. Molin subjected her to discriminatory workplace treatment based on race and national origin. In October 2021, Ms. James reported concerns about Ms. Molin's poor job performance and allegedly discriminatory conduct to Ms. Overton and other CRS officials. On January 26, 2022, a Human Resources professional informed Ms. James that Ms. Molin had made various allegations regarding their working relationship and had, accordingly, requested mediation. The following day, Ms. James filed with CRS' Recruitment, Equity, Diversity, and Inclusion Office a complaint and a request for an investigation into Ms. Molin's allegations. On February 3, 2022, Ms. James submitted to CRS' ethics office a separate complaint and a request for an investigation against Ms. Molin and Ms. Overton. CRS then conducted an internal investigation into Ms. James' claims.

In April 2022, Ms. James "sought medical evaluation . . . and was diagnosed with reactive depression." In July 2022, Ms. James applied for disability leave in accordance with her doctor's recommendation, and, on September 5, 2022, Ms. Overton approved Ms. James' request for disability leave through November 2022. On October 14, 2022, however, CRS terminated Ms. James' employment.

Litigation in Senegal

On December 22, 2022, Ms. James filed a lawsuit against CRS in the Senegalese

Labor Tribunal, asserting claims for payment of sick leave and severance pay, as well as damages for wrongful dismissal and non-issuance/delivery of a work certificate. CRS did not contest jurisdiction and voluntarily participated in the Senegalese proceedings. On July 26, 2023, the Senegalese Labor Tribunal entered judgment in Ms. James' favor and awarded her monetary damages. CRS appealed this decision.[2]

Litigation in Maryland

On November 27, 2023,[3] Ms. James filed a complaint in the Circuit Court for Baltimore City, alleging (1) disparate treatment based on race and national origin, in violation of § 20-606(a)(1)(i) of the State Government ("SG") Article of the Maryland Code; (2) workplace retaliation, in violation of SG § 20-606(f); (3) intentional infliction of emotional distress, under Maryland common law; and (4) retaliation for filing a workers compensation claim, in violation of § 9-1105 of the Labor and Employment ("L&E") Article of the Maryland Code.

On April 10, 2024, CRS moved to dismiss Ms. James' complaint on *forum non conveniens* grounds, arguing that Senegal was the more appropriate forum for adjudicating Ms. James' claims. On June 24, 2024, the circuit court granted CRS' motion because Ms. James had already pursued related employment claims against CRS in Senegal. In its oral ruling, the court explained that Senegal provided an available

[2] From this Court's understanding of the record, CRS' appeal is ongoing.

[3] On December 19, 2022, three days before initiating litigation in Senegal, Ms. James filed a charge of discrimination with the United States Equal Employment Opportunity Commission.

alternative forum for Ms. James' remaining claims and that the *forum non conveniens* factors supported dismissal of her complaint.[4] Ms. James timely noted the instant appeal. We supplement with additional facts as necessary.

STANDARD OF REVIEW

Maryland appellate courts review the dismissal of a complaint under *forum non conveniens* for abuse of discretion. *Univ. of Md. Med. Sys. Corp. v. Kerrigan*, 456 Md. 393, 401 (2017) (citation omitted); *Urquhart v. Simmons*, 339 Md. 1, 17 (1995) (citations omitted); *HBC US Propco Holdings, LLC v. Fed. Realty Inv. Tr.* (*HBC*), 258 Md. App. 689, 702 (2023) (citation omitted). "Once the trial judge enters into the balancing process [in a *forum non conveniens* analysis], the discretion entrusted is extremely wide and *the appellate deference owed is concomitantly wide*." *Smith v. Johns Hopkins Cmty. Physicians, Inc.*, 209 Md. App. 406, 416 (2013) (quoting *Payton-Henderson v. Evans*, 180 Md. App. 267, 287 (2008)) (first alteration added). "So long as the [c]ircuit [c]ourt applies the proper legal standards and reaches a reasonable conclusion based on the facts before it, an appellate court should not reverse a decision vested in the trial court's discretion merely because the appellate court reaches a different conclusion." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 436 (2007) (citations omitted).

[4] The circuit court also stated that it "would dismiss . . . for failure to state a claim" Ms. James' intentional infliction of emotional distress claim, which was already disposed of when the court granted CRS' motion to dismiss on the grounds of *forum non conveniens*.

DISCUSSION

I. THE *FORUM NON CONVENIENS* DOCTRINE

A. CJP § 6-104(a)

Under the doctrine of *forum non conveniens*, "[a] state will not exercise jurisdiction if it is a seriously inconvenient forum for the trial of the action [,] provided that a more appropriate forum is available to the plaintiff." *Johnson v. G.D. Searle & Co.*, 314 Md. 521, 525 (1989) (quoting Restatement (Second) of Conflict of Laws § 84 (1971)). Maryland has codified the doctrine of *forum non conveniens* in § 6-104(a) of the Courts and Judicial Proceedings ("CJP") Article of the Maryland Code (1974, 2020 Repl. Vol.), which provides: "If a court finds that in the interest of substantial justice an action should be heard in another forum, the court may stay or dismiss the action in whole or in part on any conditions it considers just." Maryland's appellate courts have had only three occasions to review CJP § 6-104(a) since its enactment: *Johnson*, 314 Md. at 527-28, 537-38; *Jones v. Prince George's County*, 378 Md. 98, 102-03 (2003); and *HBC*, 258 Md. App. at 689. We discuss each case in turn.

B. *Johnson*

In *Johnson*, two plaintiffs from Illinois filed product liability and personal injury claims in Maryland against an Illinois-based pharmaceutical manufacturer of an intrauterine contraceptive and its parent company (collectively, "Searle"). 314 Md. at 523-24. "The parties recognize[d] that [the statute of] limitations ha[d] probably run . . . under Illinois law[,] which allows two years after discovery within which to sue." *Id.* at 529. Searle, nonetheless, moved to dismiss the complaints under CJP § 6-104(a), arguing

that "each action should [alternatively] be heard in an Illinois forum." *Id.* at 524. The circuit court determined that Illinois was a more suitable forum for the litigation and, therefore, granted Searle's motions to dismiss pursuant to the doctrine of *forum non conveniens*. *Id.* at 524-25.

On appeal, the Supreme Court of Maryland began its analysis with the following observation:

> If the instant cases involved only the weighing of factors bearing on convenience, without presenting any issue of availability, we assume that it would have been within the discretion of the circuit court unconditionally to dismiss the actions because Illinois was the more convenient forum. But this case is not really about convenience. It is about *limitations*.

Id. at 529 (emphasis added). The Court reasoned that, "[i]n order to apply a *forum non conveniens* analysis[,] there must be an alternative forum which is available for the litigation." *Id.* at 530 (emphasis added). As the Court explained, an alternative forum is unavailable, and dismissal is "anomalous, if not disingenuous, . . . when the action will likely never be heard in the other forum because it is barred by limitations there." *Id.* at 537.

The Court clarified that these procedural limitations encompass both jurisdictional authority and the statute of limitations. For example, the Court held that a lawsuit "will be entertained [in the plaintiff's chosen forum], no matter how inappropriate the forum may be, if the defendant cannot be subjected to jurisdiction in [the alternative forum]." *Id.* at 530. The Court also held that "[t]he same will be true if the plaintiff's cause of action would elsewhere be barred by the statute of limitations." *Id.* Thus, the Court

elaborated, "a circuit court abuses its discretion by unconditionally dismissing actions on the ground of *forum non conveniens* when the statute of limitations has likely run in the alternative forum." *Id.* at 523 (emphasis added). Because the parties stipulated that the statute of limitations had expired, the Court vacated the judgments and remanded the case to the circuit court, explaining that the "absolute bar of limitations would leave the plaintiffs without remedy in Illinois." *Id.* at 529, 537-38.

C. *Jones*

In *Jones*, a Prince George's County police officer followed Prince Carmen Jones, Jr., as the latter drove from the District of Columbia to Maryland; back through the District of Columbia to Fairfax County, Virginia; and, ultimately, to Mr. Jones' fiancée's home in Virginia. 378 Md. at 102-03. Once stopped in Virginia, the officer exited his vehicle and exhibited his weapon but allegedly failed to identify himself as a police officer. *Id.* at 103. Mr. Jones attempted to flee, and the officer fatally shot him five times. *Id.*

Mr. Jones' father and fiancée filed a wrongful death lawsuit in Maryland against Prince George's County, the Police Department, and the Police Chief. *Id.* at 103-04. The complaint alleged that wrongful police actions in Maryland resulted in Mr. Jones' death in Virginia. *Id.* at 105. The defendants moved to dismiss the action on the ground of *forum non conveniens*, arguing that Virginia was a more convenient forum because the shooting occurred in Virginia, and Mr. Jones' fiancée and child lived in Virginia. *Id.* at 106. The circuit court granted the motion and dismissed the case. *Id.*

On appeal, based on the defendants' counsel's concession at oral argument that "no action could be filed in Virginia unless the bar of limitations were waived[,]" the Supreme Court of Maryland concluded that the circuit court improperly dismissed the action on the basis of *forum non conveniens*. *Id.* at 121. Ultimately, the Court held that Virginia was an unavailable alternative forum because its two-year "statute of limitations [for wrongful death claims] ha[d] likely run," thus precluding the plaintiffs from filing such a claim. *Id.* (quoting *Johnson*, 314 Md. at 523).

D. *HBC*

Most recently, this Court reviewed CJP § 6-104(a) in *HBC*, 258 Md. App. at 702-03. There, HBC U.S. Propco Holdings, LLC ("HBC, LLC"), a Delaware limited liability company with a principal place of business in New York, filed a claim in Maryland against Federal Realty Investment Trust ("FRIT"), a real estate investment trust based in Maryland, over the lease of commercial property located in Pennsylvania. *Id.* at 693. Twenty-one minutes later, FRIT initiated its own lawsuit against HBC, LLC in Pennsylvania involving the same property. *Id.* at 693, 696. FRIT subsequently moved to dismiss HBC, LLC's claim on *forum non conveniens* grounds. *Id.* at 694, 696-97. The circuit court ultimately dismissed HBC, LLC's lawsuit in Maryland, suggesting that Pennsylvania was a more appropriate forum because the "dispute involve[d] the extent of liability under a lease, executed in Pennsylvania, for a Pennsylvania property." *Id.* at 698. The court reasoned that "Pennsylvania law would apply both to the interpretation of the lease and to HBC[, LLC]'s defenses to liability[,]" and that "the factfinder would hear

evidence . . . [that] 'might include' [testimony from] local residents and local authorities in Pennsylvania." *Id.* at 700.

On appeal, we explained that "the question before the circuit court was not so much whether Maryland was an inconvenient forum for the parties, but whether a Maryland court should entertain this case when an identical case, involving the same parties, had been filed almost simultaneously in Pennsylvania." *Id.* at 719. The circuit court had identified ongoing "'parallel litigation' in Pennsylvania and Maryland," had noted that the dispute's location and HBC, LLC's residence were in Pennsylvania, and had determined that "equitable considerations" supported adjudication in Pennsylvania. *Id.* at 698-701. As we explained, "[i]n these circumstances, the court was rightly concerned about the public and private costs of duplicative litigation. The court may also have been concerned about the possibility of conflicting rulings and conflicting judgments if the cases proceeded on separate tracks in two different [fora]." *Id.* at 719. Because of the public interest in avoiding duplicative litigation and conserving judicial resources, we upheld the dismissal and "recognized that the two cases arose from the 'same transactions,' involved 'identical legal issues,' and were 'mirror images' of one another." *Id.* at 698, 719-20.

With the relevant case law now defined, we turn to the parties' contentions in the case before us.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN GRANTING CRS' MOTION TO DISMISS UNDER THE DOCTRINE OF *FORUM NON CONVENIENS*.

A. Parties' Contentions

In her brief, Ms. James primarily argues that the circuit court erred in dismissing her complaint because she could not have pursued her statutory discrimination and retaliation claims before the Senegalese Labor Tribunal. Ms. James emphasizes that the Maryland Fair Employment Practices Act ("FEPA") creates "nonwaivable rights and protections for Maryland workers against discrimination and retaliation." Relying on *Jones*, 378 Md. at 118, and *Johnson*, 314 Md. at 521, Ms. James contends that Senegal is not an available alternative forum for these claims because the Senegalese Labor Tribunal hears "only severance and contract rights, not statutory discrimination protections." Therefore, according to Ms. James, her statutory employment rights cannot be adjudicated in a Senegalese forum, which "do[es] not offer equivalent protections" to those afforded by Maryland courts enforcing FEPA.[5]

Ms. James further argues that the circuit court remained uncertain about the potential procedural barriers that could ostensibly preclude litigation before the Senegalese Labor Tribunal.[6] She speculates that the statute of limitations may have

[5] During oral argument, counsel for Ms. James suggested that an alternative forum is available only when "the [exact] claims can be litigated, where the . . . plaintiff is not barred from bringing those claims." He then argued that "[i]n this case, [Ms. James] is barred. [Ms. James] has no forum to bring Maryland claims that are based on [FEPA.]"

[6] In defending her position, Ms. James notes that the circuit court acknowledged its own uncertainty about the procedural requirements for bringing these claims in Senegalese courts: "[I]t's been shown to me by [CRS] that discrimination claims are

(continued)

expired on her discrimination and retaliation claims in Senegal. Thus, Ms. James asserts that there was insufficient information in the record for the circuit court to properly determine the Senegalese Labor Tribunal was an available alternative forum.[7]

Conversely, CRS responds that Senegal provided an available alternative forum for Ms. James' employment-related claims. CRS maintains that the circuit court properly weighed the relevant private and public interest factors in its *forum non conveniens* analysis and acted accordingly, within its discretion, to dismiss Ms. James' complaint.

B. Ms. James' Choice Of Forum

As a threshold matter, Ms. James' continuous residence and employment outside Maryland undermine any substantial connection between her case and the forum that she selected. Generally, "when multiple venues are jurisdictionally appropriate, a plaintiff has the option to choose the forum." *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 439 (2003). Although a plaintiff's forum selection is entitled to deference,

available to [Ms. James] in Senegal. Whether they were available in the exact proceeding that she brought I do not have a basis to determine." Ms. James elaborates that "the circuit court made clear that it was in the dark [about] whether the statute of limitations expired on these claims, if Ms. James was to now bring them before the Senegal[ese] [Labor] [T]ribunal after the dismissal of the circuit court case."

[7] During oral argument, counsel for Ms. James repeatedly referenced the lack of direct evidence in the record to argue that the circuit court erred in dismissing her complaint. He specifically noted that "there is no record . . . that the Maryland discrimination and retaliation claims could not have been tried in [] Senegal, except that . . . the Senegal forum is a labor tribunal, and the claims that were brought in the Senegal forum were based on severance . . . and other [] Senegalese statute[s]." He later reiterated that "[t]here is no evidence in the record, on which the trial court could have based its decision, that the Senegal forum could have adjudicated Maryland statutory claims."

Johnson, 314 Md. at 530, this Court has upheld the countervailing rationale that "[t]he plaintiff's choice . . . is not an absolute and uncontrolled privilege that is determinative under present *forum non conveniens* law." *Cobrand*, 149 Md. App. at 440 (citing 1 A.L.R. Fed. 15, 51 (1969)). As we have repeatedly explained, this deference is discounted when the plaintiff does not reside in the forum that she initially chooses. *See Murray v. TransCare Md., Inc.*, 203 Md. App. 172, 191 (2012) ("'[L]ess deference should be accorded' to a plaintiff's choice [of forum] when the plaintiff is not a resident of the forum[.]") (quoting *Stidham v. Morris*, 161 Md. App. 562, 569 (2005)); *Thompson v. State Farm Mut. Auto. Ins. Co.*, 196 Md. App. 235, 253 (2010) ("[L]ess deference is accorded to a plaintiff's choice of forum when she is not a resident of that jurisdiction.") (citation omitted); *Smith v. State Farm Mut. Auto. Ins. Co.*, 169 Md. App. 286, 300 (2006) (holding that the plaintiff's choice of forum is further discounted when the forum "has no meaningful connection to the suit").

In the present case, Ms. James is not a resident of Maryland, much less a resident of Baltimore City—the forum that she initially selected for her discrimination and retaliation claims. Ms. James has shown no "meaningful connection" to her chosen forum aside from her remote employment with CRS. *Smith*, 169 Md. App. at 300. Therefore, "less deference is accorded" to Ms. James' forum selection in the underlying action. *Thompson*, 196 Md. App. at 253 (citation omitted).

C. Availability Of An Alternative Forum

1. CRS' Receptiveness to Process in Senegal

When conducting a *forum non conveniens* analysis, the circuit court must consider the availability of the defendant's suggested alternative forum. *HBC*, 258 Md. App. at 708. As the Supreme Court of the United States explained in *Piper Aircraft Co. v. Reyno* (*Piper*), a seminal case cited with approval by Maryland appellate courts,[8] "[o]rdinarily, this requirement will be satisfied when the defendant is 'amenable to process' in the other jurisdiction." 454 U.S. 235, 254 n.22 (1981).

Here, Ms. James' counsel conceded before the circuit court that CRS is amenable to process in Senegal when he acknowledged that "[CRS] did not contest the jurisdiction of the [Senegalese] [L]abor [T]ribunal[,] and [it] did participate in that process." Thus, CRS' receptiveness to process in Senegal was not disputed before the circuit court. *HBC*, 258 Md. App. at 708.

2. Adequate and Satisfactory Remedy in Senegal

An available alternative forum must offer the plaintiff an adequate and satisfactory remedy. The primary question for *forum non conveniens* purposes is whether the plaintiff

[8] *See, e.g.*, *Univ. of Md. Med. Sys. Corp. v. Kerrigan*, 456 Md. 393, 407 n.7 (2017) ("This Court has repeatedly and consistently referred to *Piper* [] for its general exposition of the law[.]"); *Leung v. Nunes*, 354 Md. 217, 228-29 (1999) ("Because the central purpose of any *forum non conveniens* inquiry is to ensure that the trial is convenient, a foreign plaintiff's choice deserves less deference.") (quoting *Piper*, 454 U.S. at 256); *Urquhart v. Simmons*, 339 Md. 1, 17 (1995) ("[T]he *forum non conveniens* determination is committed to the sound discretion of the trial court[.]") (quoting *Piper*, 454 U.S. at 257); *Stidham*, 161 Md. App. at 569 (same); *Cobrand*, 149 Md. App. at 437 (same).

would be deprived of *any* remedy in the alternative forum—not whether the alternative forum would provide the same remedies as the plaintiff's selected forum. *See Piper*, 454 U.S. at 251 (explaining that the *forum non conveniens* analysis does not require that "the law applied by the alternative forum is as favorable to the plaintiff as that of the chosen forum").

In some instances, however, "the remedy provided by the alternative forum is so clearly inadequate or unsatisfactory," *Johnson*, 314 Md. at 537 (citation omitted), that "dismissal would not be in the interests of justice." *Piper*, 454 U.S. at 254. As previously stated, a forum is considered unavailable, and dismissal is improper, when the alternative forum does not permit litigation of the subject matter of the dispute. *See Johnson*, 314 Md. at 530 (quotation omitted). Dismissal is also inappropriate when the statute of limitations obviates the need for adjudication. *See id.* (quotation omitted).

In the case before us, we are not persuaded that the remedy from the Senegalese Labor Tribunal is clearly inadequate or unsatisfactory. Ms. James admits in her appellate brief that she filed employment-related lawsuits against CRS in both Senegal and Maryland. Thus, Ms. James' reliance on *Jones* and *Johnson* is misplaced. Central to the Court's analysis in those cases were the following two factors: (1) no litigation had been previously filed in the alternative forum, and (2) the plaintiff's claims were procedurally time-barred by the statute of limitations in the alternative forum. *Jones*, 378 Md. at 121; *Johnson*, 314 Md. at 537.

Here, by contrast, Ms. James successfully filed and litigated various employment

claims in Senegal before filing her complaint in Maryland. In its oral ruling, the circuit court found that "it is undisputed, based on the parties' submissions, that Ms. James has been able to file an action [in Senegal]." The court emphasized that the Senegalese Labor Tribunal already entered judgment in Ms. James' favor "at the initial trial or hearing level[,]" prior to the instant appeal.[9]

Ms. James, nevertheless, contends that the Senegalese Labor Tribunal lacks the ability to fully and fairly adjudicate her "statutory discrimination protections[,]" notwithstanding its prior judgment on her other employment-related claims. While the Supreme Court of Maryland has generally held that a circuit court abuses its discretion by unconditionally dismissing an action on *forum non conveniens* grounds when the alternative forum is unavailable due to procedural barriers, *Johnson*, 314 Md. at 523, 530, Ms. James does not offer this Court any indication that either jurisdictional or statutory limitations would prevent her from pursuing her discrimination and retaliation claims in Senegal. Unlike the moving parties in *Jones*, 378 Md. at 121, and *Johnson*, 314 Md. at 523-24, 529, CRS never conceded that the relevant statute of limitations had lapsed, or was likely to lapse, in Senegal. Ms. James also presents no evidence that Senegalese tribunals prohibit litigation of employment discrimination and retaliation claims. During oral argument, counsel for Ms. James conceded that "there is no record . . . that the Maryland discrimination and retaliation claims could not have been tried in [] Senegal[.]"

[9] In her appellate brief, Ms. James also stipulated that "the Senegalese [Labor] [T]ribunal entered judgment and awarded [her] monetary damages[.]"

In her brief, Ms. James merely states that "the circuit court had no information to determine if the Senegal[ese] [Labor] [T]ribunal had jurisdiction to hear [her] discrimination claims." This unsubstantiated assertion is insufficient to demonstrate that the circuit court abused its discretion in dismissing Ms. James' complaint.[10] *See Smith v. Johns Hopkins Cmty. Physicians, Inc.*, 209 Md. App. 406, 416 (2013). The instant case is, therefore, distinguishable from *Jones*, 378 Md. at 121, and *Johnson*, 314 Md. at 537, because no absolute bar of limitations has precluded Ms. James from obtaining a remedy in Senegal.

Instead, Ms. James' case more closely resembles *HBC*. As in *HBC*, Ms. James' lawsuits in Senegal and Maryland "ar[i]se from the 'same transactions,' involve[] 'identical legal issues,' and [are] 'mirror images' of each other." 258 Md. App. at 698. Like the parties in *HBC*, who filed parallel lawsuits in Maryland and Pennsylvania involving the same commercial lease dispute, *id.* at 693, Ms. James decided to split her employment-related claims between fora in Senegal and Maryland. In her opposition to CRS' motion to dismiss, Ms. James indicated the overlap between her two separate, yet inextricably related cases, stating that she "brought [an] action relating to her employment and termination by CRS in [the] Senegal[ese] [Labor] Tribunal and [in] th[e] [Circuit Court for Baltimore City.]" Indeed, *all* of Ms. James' claims—including those related to sick leave payments, severance payments, and wrongful dismissal damages that

[10] After engaging in the requisite "balancing process," the circuit court concluded that CRS had shown that "discrimination claims are available to [Ms. James] in Senegal" and explained that Ms. James offered no evidence to the contrary.

she previously pursued in Senegal, as well as those involving discriminatory and retaliatory conduct that she chose to litigate in Maryland—arise from the same underlying employment dispute with CRS.[11]

Moreover, as previously stated, the central question in evaluating Senegal's availability as an alternative forum is not whether the Senegalese Labor Tribunal applies Maryland's FEPA or offers the same statutory causes of action, but whether Ms. James would be completely deprived of any remedy in Senegal. *See Jones*, 378 Md. at 121; *Johnson*, 314 Md. at 537. Although Senegal may not recognize statutory causes of action denominated as "discrimination" or "retaliation" under FEPA, its tribunals provide a mechanism for employees to challenge unlawful terminations and recover financial compensation. This is evidenced by Ms. James' own successful employment-related litigation in the Senegalese Labor Tribunal. The availability of an additional or more favorable remedy in Maryland is not a legally cognizable consideration in the *forum non conveniens* analysis. Accordingly, we hold that the circuit court did not abuse its discretion in concluding that Senegal is an available alternative forum for Ms. James' claims.

[11] Ms. James argues that the Senegalese Labor Tribunal is unavailable for litigation involving her statutory discrimination and retaliation claims because the Senegalese proceedings had concluded at the time of the circuit court's ruling. We disagree. Ms. James' decision to file her discrimination and retaliation claims in Maryland, rather than in Senegal, does not suggest that the Senegalese Labor Tribunal is now an unavailable forum. It merely demonstrates that Ms. James initially opted against pursuing those claims in Senegal.

D. Forum Considerations

Once the availability of an alternative forum is established, the circuit court must consider various private and public interest factors, including, but not limited to, the convenience of the parties and witnesses, the location of relevant evidence, the strength of the forum state's interest in the action, the need to avoid duplicative litigation, the possibility of conflicting rulings and judgments, and systemic integrity and justice. *Jones*, 378 Md. at 120-21 (quotation omitted); *HBC*, 258 Md. App. at 708, 718 (citation omitted); *Stidham*, 161 Md. App. at 568-69; *Cobrand*, 149 Md. App. at 438. "It is the moving party who has the burden of proving that the interests of justice would be best served by transferring the action[.]" *Odenton Dev. Co. v. Lamy*, 320 Md. 33, 40 (1990) (citations omitted). Thus, the moving party must present evidence that "weigh[s] strongly in favor of . . . transfer." *Nodeen v. Sigurdsson*, 408 Md. 167, 180 (2009) (citation omitted). Although we allocate a "heavy burden of persuasion" to the party requesting the transfer, *Payton-Henderson v. Evans*, 180 Md. App. 267, 287 (2008), we have consistently clarified that the deference owed to the plaintiff's initial forum selection is merely a guideline, rather than a standard of appellate review. *See, e.g.*, *Smith*, 209 Md. App. at 415-16; *Payton-Henderson*, 180 Md. App. at 287. Ultimately, "[w]hen determining whether a transfer of the action for the convenience of the parties and witnesses is in the interest of justice, a [circuit] court is vested with wide discretion." *Odenton*, 320 Md. at 40.

In the instant case, the circuit court did not abuse its discretion in analyzing the

relevant public and private interest factors and, accordingly, did not err in dismissing Ms. James' complaint. We discuss both types of factors below.

1. Private Interest Factors

As we noted in *Stidham*, private interests consist of

> [t]he relative ease of access to sources of proof; [the] availability of compulsory process for attendance of unwilling [witnesses]; [the] cost of obtaining attendance of willing[] witnesses; [the] possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious[,] and inexpensive.

161 Md. App. at 568. Historically, our evaluation of the relevant private interest factors has focused on "the convenience of the parties and witnesses." *Murray v. TransCare Md., Inc.*, 203 Md. App. 172, 191-92 (2012); *Cobrand*, 149 Md. App. at 438 n.5. In *Payton-Henderson*, we expanded on this principle, centering our review of the convenience factor around where the parties and witnesses lived and worked in relation to the court. 180 Md. App. at 285, 289-91.

We have repeatedly affirmed circuit courts' decisions to transfer cases based on *forum non conveniens* when the plaintiffs and/or the majority of witnesses reside in the alternative fora. *See, e.g., HBC*, 258 Md. App. at 718-20; *Smith*, 209 Md. App. at 417-18, 426; *Murray*, 203 Md. App. at 191-92, 194-95, 197; *Nace v. Miller*, 201 Md. App. 54, 78 (2011); *Thompson v. State Farm Mut. Auto. Ins. Co.*, 196 Md. App. 235, 254 (2010); *Payton-Henderson*, 180 Md. App. at 294; *Smith v. State Farm Mut. Auto. Ins. Co.*, 169 Md. App. 286, 301, 303 (2006); *Cobrand*, 149 Md. App. at 442, 444, 446. Conversely, in *Jones*, the Supreme Court of Maryland ruled that dismissal on *forum non*

conveniens grounds was unwarranted because "all of the defendants and the intervenor [were] [] residents [of the plaintiffs' chosen forum], as was the decedent." 378 Md. at 121.

Here, the circuit court engaged in a comprehensive evaluation of the relevant private interest factors by reviewing the residences of all parties and witnesses in relation to the Circuit Court for Baltimore City. *See Murray*, 203 Md. App. at 191-92, 194-95; *Payton-Henderson*, 180 Md. App. at 289-91. This case stands in stark contrast to *Jones*, 378 Md. at 121, because Ms. James and Ms. Molin resided and worked in Senegal at all pertinent times. The circuit court determined that Ms. James "was not traveling and working partly in Baltimore and partly in Senegal." Instead, the court found that "Ms. James [worked] entirely in Senegal" during her employment with CRS. Requiring Ms. Molin and any other relevant witnesses to travel internationally from Senegal to Maryland could impose significantly onerous burdens on convenience and trial efficiency. *Murray*, 203 Md. App. at 192; *Payton-Henderson*, 180 Md. App. at 289-91; *Cobrand*, 149 Md. App. at 438 n.5. Collectively, these private interest factors weigh in favor of dismissing Ms. James' Maryland complaint.

On the other hand, Ms. James presented evidence that Ms. Overton and CRS' Human Resources Department operate from Maryland. As the circuit court noted, "Ms. James' supervisor and the administrative people who would supervise her employment, that is who would maintain records of her employment and her discharge, are located here in Baltimore." Moreover, CRS is headquartered in Baltimore, suggesting that the circuit court has an interest in litigating this controversy involving a Maryland-based

agency. Therefore, the relevant private interest factors could justify adjudicating Ms. James' discrimination and retaliation claims in Maryland.

Ms. James argues that the circuit court did not "give[] the proper weight" to these private interest factors and, instead, "erroneously dismissed the case with prejudice and without leave to amend." Ms. James' "argument misapprehends the nature of the discretionary decision that the circuit court was called upon to make. The court was required to weigh a number of [private and public] factors to make a determination about what 'the interests of substantial justice' required." *HBC*, 258 Md. App. at 718. Ultimately, private interest is only one consideration in the *forum non conveniens* analysis and, thus, cannot independently override the public interest in avoiding duplicative litigation and promoting systemic integrity and fairness. *See, e.g., Jones*, 378 Md. at 120-21 (balancing private and public interest factors); *Leung v. Nunes*, 354 Md. 217, 224 (1999) (explaining balance of factors that courts must consider).

2. Public Interest in Avoiding Duplicative and Inconsistent Proceedings

Maryland courts have an interest in avoiding "duplicative litigation[,]" "conflicting rulings[,] and conflicting judgments" if cases involving identical parties and legal issues proceed simultaneously in multiple jurisdictions. *HBC*, 258 Md. App. at 718-19. Here, the circuit court properly concluded that "the litigation that [Ms. James] is pursuing [in Maryland] ends up being duplicative or potentially inconsistent with the outcome of her claims in Senegal." CRS provided incontrovertible evidence that Ms. James has already prevailed on employment-related claims in Senegal. *See Nodeen*, 408

Md. at 180 (explaining moving party's burden to present evidence supporting transfer); *Payton-Henderson*, 180 Md. App. at 287 (describing "heavy burden of persuasion" on party requesting transfer). As the circuit court stated, "Maryland cannot undo those proceedings, cannot interfere with those proceedings in any way." Adjudicating Ms. James' additional employment-related claims in Maryland creates the risk of "duplicative litigation and the possibility of conflicting rulings and judgments." *HBC*, 258 Md. App. at 718. Thus, as in *HBC*, the court's interest in avoiding duplicative litigation weighs against "maintaining two actions at once, especially when there is another forum which has already obtained jurisdiction . . . [and] which is a more appropriate forum." *Id.* at 701.

3. Public Interest in Systemic Integrity and Fairness

The public interest of justice "embraces such broad citizen concerns as the county's road system, its educational system, its governmental integrity, its police protection, its crime problem, its fire protection, etc." *Payton-Henderson*, 180 Md. App. at 293. Public interest factors include "considerations of court congestion, the burdens of jury duty, and local interest in the matter." *Stidham*, 161 Md. App. at 569 (citing *Johnson*, 314 Md. at 526).

"Administrative difficulties follow for courts when litigation is piled up in congested centers instead of being handled at its origin." *Johnson*, 314 Md. at 526 (quoting *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947)). Maryland appellate courts have consistently recognized that the costs and obligations of jury service should only be assumed by a court system with an immediate interest in the litigation. *See, e.g.*,

Johnson, 314 Md. at 526 ("Jury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.") (quoting *Gulf Oil Corp.*, 330 U.S. at 508-09); *HBC*, 258 Md. App. at 698 (describing "the [lack of] fairness of imposing jury duty on a community with little or no relationship to the controversy"); *Thompson*, 196 Md. App. at 253 ("There is no local interest in burdening a Baltimore City jury with deciding this case. The collision occurred in Anne Arundel County. This is where the appellant resides, and . . . this is where the other driver lives."). Regarding local interests, we have held that "[t]here is a local interest in having localized controversies decided at home." *Stidham*, 161 Md. App. at 569 (quoting *Johnson*, 314 Md. at 526).

Here, as in *HBC*, "the pertinent [public interest] factors do not all point in the same direction." 258 Md. App. at 718. Ms. Overton's operative, allegedly discriminatory conduct occurred in Maryland, and CRS is headquartered in Baltimore. Thus, Maryland is certainly not an inconvenient forum for CRS, "though this alone is hardly a dispositive consideration." *Id.*[12]

[12] In *HBC*, we cited several federal cases that support this proposition, including the following:

> *Fox v. Callender*, 729 F. Supp. 32, 34 (D. Md. 1990) (transferring a case from the District of Maryland to the Eastern District of Virginia under 28 U.S.C. § 1404(a) because "the only connection that this case has with Maryland is the residence of the [d]efendants, who, by their own motion, show a preference in having this action tried in Virginia"); *accord Mamani v. Bustamante*, 547 F. Supp. 2d at 474 (transferring a case from the District of Maryland to the

(continued)

While Maryland has a legitimate interest in enforcing its anti-discrimination laws, that interest is attenuated when the employee works exclusively abroad, the employment relationship is centered in an alternative forum, and the employee has already obtained relief in that alternative forum. *Cf. Johnson*, 314 Md. at 526; *HBC*, 258 Md. App. at 718-20; *Stidham*, 161 Md. App. at 572. In the instant case, the alleged discrimination occurred over a three-year period while Ms. James worked and resided in Senegal. As the circuit court explained, Ms. James maintained her employment relationship with CRS in Senegal, and Ms. Molin's allegedly discriminatory conduct transpired in Senegal. Under these circumstances, litigating Ms. James' discrimination claims in Maryland could impose an inappropriate burden on Baltimore City residents. *See Johnson*, 314 Md. at 526; *HBC*, 258 Md. App. at 698; *Thompson*, 196 Md. App. at 253-54; *Payton-Henderson*, 180 Md. App. at 294.

Here, as in *HBC*, "the circuit court applied the proper legal standards and reached a reasonable conclusion based on the facts before it." 258 Md. App. at 719. Because "the circuit court was under no obligation to assign the same weight to th[e] [public and private interest] factors as [the plaintiff] does[,]" *id.*, we have no basis to set aside the court's exercise of its discretion. *Univ. of Md. Med. Sys. Corp. v. Kerrigan*, 456 Md. 393, 401 (2017) (citation omitted).

> Southern District of Florida under 28 U.S.C. § 1404(a) because the only connection with Maryland was the residence of the defendants, who had moved to have the action tried elsewhere).

258 Md. App. at 718 n.15.

CONCLUSION

We hold that the circuit court did not abuse its discretion in dismissing Ms. James' complaint on the basis of *forum non conveniens*. Accordingly, we affirm the judgment of the circuit court.

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