

Circuit Court for Washington County
Case No. 21-C-16-058528

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1124

September Term, 2017

SUZANNE SMITH

v.

DANIEL D. SMOCK

Graeff,
Nazarian,
Fader,

JJ.

Opinion by Nazarian, J.

Filed: August 2, 2018

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Daniel D. Smock (“Husband”) and Suzanne M. Smith (“Wife”) were divorced in Pennsylvania in 2011. Husband accumulated significant divorce-related arrears in the years that followed, and Wife reduced them to judgment and enrolled the judgments in Maryland, where he now lives. Wife has sought to execute against these judgments through a variety of mechanisms, including garnishing Husband’s wages, and Husband largely has resisted. In this action, Husband went on offense: he sought a declaratory judgment that Wife had collected more through the garnishment than the judgments permitted. After a bench trial, the Circuit Court for Washington County entered judgment against Husband, but denied Wife’s motion for sanctions under Maryland Rule 1-341. Wife appeals the decision to deny sanctions, and although we understand her frustration, we affirm the judgment.

I. BACKGROUND

Among the components of their March 2011 divorce judgment, the Court of Common Pleas for Greene County, Pennsylvania, awarded Wife indefinite alimony of \$1,100 per month and ordered Husband to pay Wife the amount the couple owed to Citibank on their credit cards; Wife remained responsible to pay Citibank. Husband immediately fell behind.

In August 2011, the Pennsylvania court suspended Husband’s alimony obligation because he was laid off, but also entered an arrearage judgment against him for \$4,535. In September, the court entered “judgment . . . in favor of [Wife] for the sum of \$13,553.51 with accumulated interest,” *i.e.*, the amount of the Citibank debt. And in May 2013, the court reinstated the monthly alimony of \$1,100, found that Husband had failed willfully to

report his reemployment, and entered an order permitting Wife to garnish Husband's wages. The court found as well that "the arrearages in the payment of alimony, after application of the defendant's \$15,000 bond credited to the arrearages . . . is now \$5,900 as of May 2013." Wife enrolled the judgments in Maryland, filed wage garnishments in the District Court of Maryland for Washington County, and has collected since July 2013. The judgments totaled \$29,332.12, and approximately \$4,878 remained unpaid as of the time of trial.

In November 2016, Husband filed the complaint that initiated this case. He sought a declaratory judgment stating that Wife had collected \$18,000 beyond the judgment amounts and, therefore, that Wife had converted the overage. Wife, who now lives in Michigan, initially did not file an answer, but attempted to negotiate with Husband through a Michigan attorney. As the negotiation soured, Wife hired a Maryland attorney and filed an answer¹ denying both counts and containing a request to dismiss the case. The two parties continued negotiating and proceeded to discovery. Husband later amended his complaint to add a claim for unjust enrichment and request attorneys' fees. This new count alleged that Wife had been unjustly enriched because she had settled the Citibank debt for \$5,000, but continued to garnish his wages to collect the full amount of the judgment.

Both parties moved for summary judgment. After argument on the morning of trial, the circuit court held the motions and went forward with the trial. Both parties testified,

¹ The circuit court issued an order on April 10, 2017, allowing Wife to file her answer on or before April 26.

and Wife also moved for sanctions under Maryland Rule 1-341 against Husband for filing this suit. The court considered the evidence and arguments and entered judgment in Wife’s favor on all three counts. The judge then denied Wife’s motion for sanctions, finding that “the declaratory judgment action had merit.” The court reduced both decisions to a written order. Wife appeals the denial of her motion for sanctions, and we affirm.

We supply additional facts as necessary below.

II. DISCUSSION

Wife presents a single question that we have rephrased: Did the circuit court err in denying Wife’s motion for sanctions pursuant to Maryland Rule 1-341?² She contends that the circuit court erred in two ways: *first*, she says, the court should have found that Husband brought this case without substantial legal or factual justification. She argues that he raised no facts supporting his initial complaint that “would generate an issue of fact for the fact finder,” and that his unjust enrichment claim had no basis in fact or law. *Second*, she argues that Husband brought this case in bad faith, after long failing to pay alimony and other marital debts, and that his frivolous filings were designed solely to hinder her collection efforts.³

Maryland Rule 1-341 authorizes a court to impose costs and attorney’s fees on a

² Wife stated the Question Presented as follows in her brief: “Did the Circuit Court err in finding that Appellant [sic] did not act in bad faith or without substantial justification in bringing and maintaining this action?”

³ In this regard, Wife points to claims Husband filed in the Pennsylvania courts in 2013, as well as his challenge to the garnishment in the District Court of Maryland for Washington County—all of which, as we discuss below, fall outside the purview of this appeal.

party that maintains or defends a proceeding (1) without substantial justification or (2) in bad faith. When reviewing a circuit court’s ruling on a motion for sanctions under this Rule, we apply a two-step analysis:

First, the judge must find that the proceeding was maintained or defended in bad faith and/or without substantial justification. This finding will be affirmed unless it is clearly erroneous or involves an erroneous application of law. Second, the judge must find that the bad faith and/or lack of substantial justification merits the assessment of costs and/or attorney’s fees. This finding will be affirmed unless it was an abuse of discretion.

Inlet Assocs. v. Harrison Inn Inlet, Inc., 324 Md. 254, 267–68 (1991).

Maryland Rule 1-341 sanctions are warranted only if a party “proceed[s] in the courts without any colorable right to do so,” and the court should only view the party’s action “at the time it took place, not with the benefit of judicial hindsight.” *Legal Aid Bureau, Inc. v. Bishop’s Garth Assocs. Ltd. P’ship*, 75 Md. App. 214, 224 (1988); *Garcia v. Foulger Pratt Dev., Inc.*, 155 Md. App. 634, 684 (2003). We evaluate the claim, and its justification, “under the totality of the circumstances presented to the court.” *Christian v. Maternal-Fetal Med. Assocs. of Md., LLC*, 459 Md. 1, 23 (2018).

Wife contends that Husband’s claims lacked substantial justification because “a simple, accurate accounting demonstrated that [Wife] had not over-collected.” She argues that Husband failed submit any evidence to support his overcollection theory, and that Husband proceeded to trial knowing his claims lacked a legal or factual basis. We agree that Husband’s claims lacked merit, but we don’t fault the circuit court for finding the facts disputed and permitting the claims to proceed to trial.

Generally speaking, a trial court’s decision to deny summary judgment indicates that it finds substantial justification for a claim. *See Christian*, 459 Md. at 25; *State v. Braverman*, 228 Md. App. 239, 261 (2016), *cert. denied sub nom. Goldberg v. State*, 450 Md. 115, 146 (2016); *Needle v. White, Mindel, Clarke & Hill*, 81 Md. App. 463, 479 (1990). Issues that are “sufficiently novel, difficult, and debatable” to justify denying summary judgment typically mean that the party was justified in pursuing them. *Braverman*, 228 Md. App. at 261. Even so, any presumption of substantial justification can be rebutted if the circuit court, after hearing all the evidence, grants a renewed motion for judgment. *Christian*, 459 Md. at 29.

Here, the circuit court didn’t deny summary judgment, but declined to rule on both parties’ motions because it found material disputes that needed to be resolved, specifically whether the credit card was individual or marital debt, whether the 2013 May order superseded the 2011 August order, and whether Wife’s settlement with Citibank in any way altered Husband’s payment obligations. The answers were relatively straightforward and, with the benefit of hindsight and the circuit court record, we can agree readily that Wife’s positions were correct (and we understand her frustration in having to defend Husband’s claims in order to maintain the *status quo*). But we have the benefit of that record. Before trial, the circuit court had a twice-amended complaint and parties offering conflicting characterizations of their financial transactions and the Pennsylvania court’s rulings. The answers seemed clear once the court received evidence and heard testimony, but we cannot say that the court erred in finding “a reasonable basis for believing that the

claims would generate an issue of fact for the fact finder,” *Art Form Interiors, Inc. v. Columbia Homes, Inc.*, 92 Md. App. 587, 594 (1992), or that the declaratory judgment action had enough merit to proceed past motions.

Wife, who has lived first-hand through these post-marital disputes, urges us to consider the full context of Husband’s behavior—particularly his history of filing “absurd actions to hinder the extraction of his payments”—and to find that he pursued this case in bad faith. Again, we empathize, but those disputes aren’t before us, and we can’t consider Husband’s filings in other states or filings he made after the order before us when reviewing the circuit court decision that is. *See Marquardt v. Papenfuse*, 92 Md. App. 683, 714–15 (1992).

Instead, we review whether the circuit court abused its discretion in finding, on the record it had, that Husband didn’t bring his claims in bad faith. We have defined “bad faith” under Rule 1-341 as “vexatiously, for the purpose of harassment or unreasonable delay, or for other improper reasons.” *Seney v. Seney*, 97 Md. App. 544, 554 (1993) (quoting *Inlet Assocs.*, 324 Md. at 268. A claim isn’t brought in bad faith simply because it lacks merit—the court must find that the claim was brought *primarily* for the purpose of harassment or delay:

The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. Such action is not frivolous even though the lawyer believes that the client’s position ultimately will not prevail. The action is frivolous, however, if the client desires to have the action taken primarily for the purpose of harassing or maliciously injuring a person or

if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law.

Christian, 459 Md. at 23–24 (quoting *Legal Aid Bureau*, 75 Md. App. at 221–22).

The circuit court’s finding that Husband’s declaratory judgment action “had merit” effectively ends the inquiry. The court didn’t agree with Husband, and ruled in Wife’s favor, but disagreed that Husband brought the case for bad faith reasons. And Wife may, based on her history with Husband, have reasons to quarrel with that conclusion. But the circuit court found the questions valid enough to require testimony and evidence and, after hearing the case, disagreed that Husband brought the case in bad faith. We cannot say on the record before us that the circuit court abused its discretion in so finding.

For what it’s worth, we likely would have affirmed had the circuit court found bad faith. Our decision not to reverse the circuit court here is no endorsement of Husband’s litigation tactics, nor should his victory on this one issue embolden him to continue fighting issues already decided or to launch new, sovereign-citizen-inflected collateral attacks on this long-overdue debt. *Cf. Anderson v. O’Sullivan*, 224 Md. App. 501, 507 (2015) (neither redemptionist nor vapor money theories qualifies as valid defense or meritorious argument to foreclosure). As the record builds, future courts may well view his strategic and tactical decisions differently than the circuit court did this time.

**JUDGMENT OF THE CIRCUIT COURT
FOR WASHINGTON COUNTY
AFFIRMED. APPELLANT TO PAY
COSTS.**