Circuit Court for Prince George's County
Case No.: C-16-CV-23-004064

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1130

September Term, 2024

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ALEXANDER ZAJAC

v.

PRINCE GEORGE'S PROPERTY TAX ASSESSMENT APPEALS BOARD, ET AL.

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Shaw,
Albright,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Kehoe, Christopher, J.

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Filed: December 8, 2025

*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 Rule 1-104(a)(2)(B).

Appellant, Alexander Zajac, filed a complaint in the Circuit Court for Prince George's County against Prince George's County Property Tax Assessment Appeals Board (the "Board") and the Supervisor of Assessments for Prince George's County (the "Supervisor"), appellees. The circuit court granted appellees' motions to dismiss, and Mr. Zajac noted the instant appeal, where he asks us three questions, which we have reworded slightly:

1. Whether the circuit court is authorized to allow the Board to evade service for months?

2. Whether the circuit court may issue five different orders without a single sentence of reasoning?

3. Whether appellant has correctly pleaded a *Prince George's County v. Longtin*, 419 Md. 450 (2011) claim against appellees?

We will affirm the judgment of the circuit court.

*Background*

Mr. Zajac is an owner of real property located in Prince George's County. The State Department of Assessments and Taxation, through county supervisors, reviews property assessments every three years pursuant to Md. Code Ann., Tax Property ("Tax Prop.") §§ 2-203(a)(1), 8-202. In 2021, Mr. Zajac's property was due for re-assessment. In December of 2021, and as part of the re-assessment process, the Supervisor conducted its review of Mr. Zajac's property and assessed it at a value of $417,900.

Dissatisfied with the assessment, Mr. Zajac embarked upon three levels of administrative appeal. First, pursuant to Tax Prop. § 14-502(a)(1), he noted an appeal to the Supervisor. The Supervisor denied his appeal, and Mr. Zajac noted his second-level

administrative appeal, to the Board, pursuant to Tax Prop. § 14-509(a)(1). The Board held a hearing and affirmed the Supervisor's determination. Finally, pursuant to Tax Prop. § 14-512(f)(1), Mr. Zajac noted his third-level administrative appeal and appealed the Board's determination to the Maryland Tax Court. After a hearing, the Maryland Tax Court reduced Mr. Zajac's assessment to $399,632.

Nearly nine months later, on September 4, 2023, Mr. Zajac initiated the instant litigation by filing a civil action seeking a declaratory judgment, together with injunctive relief, costs, and other appropriate relief because appellees "conducted property assessment appeals contrary to Maryland state law." He asserted three causes of action relating to his second-level and third-level administrative appeals: violation of COMAR 14.10.01.05, COMAR 14.10.01.06 and COMAR 14.12.01.07. Specifically, he asserted that: (1) the Supervisor failed to provide comparable sales information prior to the appeals as provided in COMAR 14.10.01.05(C)(4) and COMAR 14.12.01.07(A)(4), and (2) the Board failed to issue a written decision with its findings following the second-level appeal as provided by COMAR 14.10.01.06(A). Mr. Zajac also sought certification of this case as a class action.

On October 13, 2023, Mr. Zajac served a copy of the complaint and the summons for the Supervisor on the Office of the Attorney General. Appellees assert, and Mr. Zajac does not dispute, that Mr. Zajac "did not serve a copy of the summons for the [Board] on the Office of the Attorney General at that time."

On November 3, 2023, the Supervisor filed a motion to dismiss Mr. Zajac's complaint, asserting, in part, that Mr. Zajac had failed to exhaust his administrative remedies and that his complaint failed to state a claim upon which relief could be granted. Mr. Zajac opposed the motion. On December 21, 2023, the Supervisor's motion was granted, and Mr. Zajac's claims against the Supervisor were dismissed.

In the interim, Mr. Zajac made several attempts to serve the Board. On November 17, 2023, Mr. Zajac filed a return of service asserting that he had served the chair of the Board. Thereafter, on December 12, 2023 and February 13, 2024, he filed two motions for default against the Board. Both motions were denied. Next, on April 4, 2024, Mr. Zajac filed a return of service asserting that he had served the clerk of the Board. On May 14, 2024, Mr. Zajac filed a third motion for an order of default against the Board. On June 6, 2024, the Board filed an opposition to Mr. Zajac's motion, noting that the Board was a state government entity and that it had not been served as required by Maryland Rule 2-124(k). On June 10, 2024, the court denied Mr. Zajac's third request for an order of default against the Board.

On June 28, 2024, Mr. Zajac filed an affidavit of service asserting that, on June 26, 2024, he had served the Attorney General with the complaint and a summons for the Board. On July 22, 2024, the Board filed a motion to dismiss. Among other things, the Board asserted that Mr. Zajac had no right to a judicial review of the Board's decision and that his complaint failed to state a claim upon which relief could be granted. On

August 6, 2024, the circuit court granted the Board's motion and dismissed Mr. Zajac's remaining claims. Mr. Zajac timely noted this appeal.

*The Standard of Review*

This Court reviews "the grant of a motion to dismiss *de novo*." *Reichs Ford Rd. Joint Venture v. State Rds. Comm'n of the State Highway Admin.*, 388 Md. 500, 509 (2005). In other words, "[w]e examine whether the complaint, assuming all well-pleaded facts and reasonable inferences drawn therefrom in a light most favorable to the pleader, states a legally sufficient cause of action." *Id.* Further, the Supreme Court of Maryland has observed that "[t]he grant of a motion to dismiss may be affirmed on 'any ground adequately shown by the record, whether or not relied upon by the trial court.'" *Gomez v. Jackson Hewitt, Inc.*, 427 Md. 128, 142 (2012) (quoting *Parks v. Alpharma, Inc.*, 421 Md. 59, 65 n.4 (2011)).

ANALYSIS

*1. Mr. Zajac's motions for orders of default against the Board*

Mr. Zajac asserts that he "properly served a summons and a copy of the [c]omplaint on the Maryland Attorney General," and that "[t]he Attorney General even responded on behalf of Appellee Supervisor but deliberately chose to ignore the claims pleaded against [the Board.]" Accordingly, he contends, the court erroneously denied his motions for an order of default against the Board. Appellees respond that the court properly denied Mr. Zajac's motions because the Board "had not been properly served when those motions were decided." Appellees are correct.

"There can be no judgment nor decree *in personam* unless the defendant has been notified of the proceeding by proper summons[.]" *Lohman v. Lohman*, 331 Md. 113, 130 (1993). Md. Rule 2-112(a) provides that "[u]pon the filing of the complaint, the clerk shall issue forthwith a summons for each defendant[.]" Further, Md. Rule 2-121(a) provides that service of process includes "a copy of the summons, complaint, and all other papers filed with it[.]" *See also Conwell Law LLC v. Tung*, 221 Md. App. 481, 500 (2015) ("Effective service under Rule 2-121(a) requires delivery of 'a copy of the summons, complaint, and all other papers filed with it.'" (emphasis omitted) (quoting Md. Rule 2-121(a))).

Md. Rule 2-124(k) provides that service is made on a State entity "by serving (1) the resident agent designated by the officer or agency, or (2) the Attorney General or an individual designated by the Attorney General in a writing filed with the Clerk of the Supreme Court." After a party is properly served, that party "shall file an answer to an original complaint, counterclaim, cross-claim, or third-party claim[.]" Md. Rule 2-321(a). "If the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default." Md. Rule 2-613(b).

In the present case, Mr. Zajac's three motions for orders of default against the Board were filed prior to June of 2024. However, the record does not reflect, and Mr. Zajac does not contend, that the Board was properly served with process—namely, a copy of the summons issued for the Board together with the complaint—at any point

before June 26, 2024. Instead, Mr. Zajac's attempts at service on the Board prior to June 26 were on the chair and the clerk of the Board—neither of whom were resident agents of the Board. Mr. Zajac did not avail himself of the opportunity to serve process either on the Attorney General or on an individual designated by the Attorney General to accept process as permitted by Md. Rule 2-124(k).

Nonetheless, Mr. Zajac maintains that, because the Supervisor, not the Board, was properly served, an order of default against the Board was appropriate because the Attorney General "deliberately chose to ignore" the claims against the Board. In other words, Mr. Zajac contends that the Attorney General's knowledge of Mr. Zajac's claims, from service of process upon the Supervisor, was sufficient for the court to enter an order of default against the Board. We disagree. That the Supervisor had been properly served when Mr. Zajac's motions for default against the Board were pending is of no significance to the issues before us. Mr. Zajac did not serve the Board before filing his motions for order of default against the Board, and accordingly, the circuit court had no jurisdiction to enter a default order. *Flanagan v. Dep't of Hum. Res.*, 412 Md. 616, 624 (2010) ("[F]ailure to comply with [the Maryland Rules governing service of process] constitutes a jurisdictional defect that prevents a court from exercising personal jurisdiction over [a] defendant."). Mr. Zajac's motions for orders of default were properly denied, and the fact that the court did not explicitly provide its reasoning for denying the motions does not alter our conclusion.

*2. Appellees' motions to dismiss*

Mr. Zajac contends that the court's "lack of reasoning" for granting appellees' motions to dismiss "should warrant reversal." Appellees respond that the court's failure to provide detailed reasoning is not reversible error and that the court's rulings should be affirmed.

As an initial matter, we note that, as a general rule, Maryland courts are not required to provide either a written or an oral explanation of their decisions. *See, e.g.*, *Abrishamian v. Barbely*, 188 Md. App. 334, 351 (2009) ("Maryland law does not require a written statement of reasons for the court's decision[.]"); *see also Fraidin v. Weitzman*, 93 Md. App. 168, 210 (1992) (observing that "there is no requirement in Maryland that a trial court state on the record its reasons" for its ruling). Indeed, both the Supreme Court of Maryland and this Court have made it clear that an appellate court may "affirm the judgment of a trial court to grant a motion to dismiss on a different ground than that relied upon by the trial court, as long as the alternative ground is before the [c]ourt properly on the record." *Forster v. State, Off. of Pub. Def.*, 426 Md. 565, 580-81 (2012); *see also Bennett v. Ashcraft & Gerel, LLP*, 259 Md. App. 403, 451 (explaining that we "may affirm the dismissal of a complaint on any ground adequately shown by the record, regardless of whether the trial court relied on that ground or whether the parties raised that ground"), *cert. denied*, 486 Md. 246 (2023), *cert. denied*, 487 Md. 51 (2024).

Furthermore, it is clear that Mr. Zajac failed to exhaust his administrative remedies. As our Supreme Court has explained: "where the Legislature has provided an

administrative remedy for a particular matter or matters, there is a presumption that the Legislature intended such remedy to be primary and intended that the administrative remedy must be invoked and exhausted before resort to the courts." *Furnitureland S., Inc. v. Comptroller of Treasury of State*, 364 Md. 126, 133 (2001); *see also State Dep't of Assessments & Tax'n v. Clark*, 281 Md. 385, 401 (1977) ("[O]rdinarily when an administrative remedy is provided by statute, relief provided under those statutory provisions must be exhausted before a litigant may resort to the courts."). Stated differently, where a statutory remedy exists, the Supreme Court of Maryland has made clear that "a party may not bypass the special statutory remedy[.]" *Furnitureland*, 364 Md. at 133.

Here, the General Assembly has provided a special statutory remedy for tax assessment disputes in the form of three separate administrative appeals: first to the Supervisor, then to the Board, and ultimately, to the Maryland Tax Court. Tax Prop. §§ 14-502(a)(1), 14-509(a)(1), and 14-512(f)(1). Further, the General Assembly has provided that a party dissatisfied with the Maryland Tax Court's ruling may file a petition for judicial review pursuant to Tax Prop. § 14-513. However, as appellees correctly point out, Mr. Zajac failed to exercise his right to judicial review of the administrative appeals. Indeed, he did not file a complaint in the circuit court until nearly nine months after the Maryland Tax Court's decision—well after the thirty-day deadline for filing a petition for judicial review. *See* Md. Rule 7-203(a). Accordingly, because Mr. Zajac failed to timely file a petition for judicial review, we conclude that his attempt to "bypass the special

statutory remed[ies]" set forth by the General Assembly by commencing the instant litigation was properly denied. *Furnitureland*, 364 Md. at 133; *see also Modell v. Waterman Fam. Ltd. P'ship*, 232 Md. App. 13, 20 (2017) (noting that "[b]ecause a circuit court does not have discretion to consider late-filed petitions for judicial review, the court cannot review an administrative decision when the petition is filed beyond the thirty-day period").

The single-sentence explanation Mr. Zajac gives for failing to exhaust his administrative remedies is that "there is a 'constitutional exception' to the requirement of administrative exhaustion[,]" citing to *Harbor Island Marina, Inc. v. Bd. of County Commissioners of Calvert County*, 286 Md. 303, 308 (1979). However, as this Court made clear in *Holzheid v. Comptroller of Treasury of Maryland*, 240 Md. App. 371 (2019), "[t]he 'constitutional exception' to the requirement that administrative remedies must be exhausted . . . is 'an extremely narrow one.'" *Id*. at 398 (quoting *Prince George's County v. Ray's Used Cars*, 398 Md. 632, 650 (2007)). Indeed, we have noted that "[t]he constitutional exception is only available when an aggrieved party 'attacks the validity of the statute as a whole, and not merely a portion of the statute or the statute's application in a particular circumstance.'" *Id.* at 399 (quoting *Priester v. Baltimore County*, 232 Md. App. 178, 212 (2017)).

Mr. Zajac does not, in whole or in part, challenge the constitutional validity of Maryland's procedures for imposing and collecting real property taxes. Accordingly, we

hold that the constitutional exception to the doctrine of administrative remedies does not apply to the case before us.

*3. Mr. Zajac's pattern or practice claim*

Finally, Mr. Zajac asserts that the court erred in dismissing his complaint because he adequately plead an unconstitutional pattern or practice claim under *Prince George's County v. Longtin*, 419 Md. 450 (2011). He is wrong. His complaint contained no allegations asserting an unconstitutional pattern or practice claim.

"The allegations in the complaint frame the issues before the court." *Univ. of Md. E. Shore v. Rhaney*, 159 Md. App. 44, 47 (2004), *aff'd on other grounds*, 388 Md. 585 (2005). Indeed, "[d]espite the fact that Maryland has long since abandoned the necessities of common law pleading, it is clear that the pleading requirements 'remain important elements in the process of bringing a case to trial[,]' and 'cannot be dispensed with altogether.'" *Ledvinka v. Ledvinka*, 154 Md. App. 420, 429 (2003) (quoting *Liberty Mut. Ins. Co. v. Ben Lewis Plumbing, Heating & Air Conditioning, Inc*., 121 Md. App. 467, 475 (1998)). In *Ledvinka,* we explained that

> [p]leading serves four important purposes: (1) it provides notice to the parties as to the nature of the claim or defense; (2) it states the facts upon which the claim or defense allegedly exists; (3) it defines the boundaries of litigation; and (4) it provides for the speedy resolution of frivolous claims and defenses.

*Id*. "The most important of the four is notice." *Id.*

Returning to the case before us, Mr. Zajac's complaint sets out three causes of action each one asserting a claim for violating a separate COMAR provision. His

complaint includes no references to unconstitutional patterns and practices and no allegations of a constitutional violation whatsoever. Mr. Zajac's complaint did not adequately put appellees on notice of a constitutional claim of any sort.[1] *See Rhaney v. Univ. of Md. E. Shore*, 388 Md. 585, 590 (2005) (noting this Court's rejection of a theory that had "not been alleged by [the plaintiff] in his complaint as a theory of recovery"). The circuit court did not err in dismissing Mr. Zajac's complaint.

**THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.**

[1] Indeed, at oral argument before this Court, Mr. Zajac conceded that, "with the benefit of hindsight, [he] would have written the complaint differently" as to his unconstitutional pattern and practice claim.