

Circuit Court for Wicomico County
Case No. 22-C-00-000882

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1271

September Term, 2024

MCKINLEY HAYWARD

v.

HELEN R MESSICK

Friedman,
Albright,
Getty, Joseph M.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: November 3, 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).

This appeal arises out of a decades-old contract dispute. In July of 2000, the Circuit Court for Wicomico County entered a money judgment in favor of Helen Messick against Defendant-Appellant McKinley Hayward in the amount of \$66,000 plus costs. Ms. Messick died shortly after the judgment was entered, and her Estate became the substitute judgment holder. Over twenty years later, the Messick Estate enforced the judgment by levying on, and then selling via a sheriff's sale, real property owned by Mr. Hayward. The ratification of that sheriff's sale is the basis of this appeal. Mr. Hayward presents one question for our review,¹ which we rephrase as:

Was the renewal of the judgment and subsequent sale of the real property invalid because the Messick Estate had abandoned the judgment?

We answer “no” and affirm the judgment of the circuit court.

BACKGROUND

I. The Initial Suit, Judgment, & Estate Administration

In July of 2000, Ms. Messick filed suit against Mr. Hayward in the circuit court. The initial complaint alleged that, over several years, Mr. Hayward borrowed funds from Ms. Messick, amounting to \$67,000. The suit was initiated at the suggestion of Ms. Messick's counsel, John B. Robins, IV, who advised that the parties' financial arrangement be formalized for the purposes of facilitating Ms. Messick's estate planning.

¹ Mr. Hayward phrased his question as follows:

Did the Circuit Court err in renewing the underlying judgment and thereafter allowing execution against real property of the judgment debtor?

Mr. Hayward failed to appear to defend against the suit, and a default judgment was entered against him in the amount of \$66,000² on September 1, 2000. Thereafter, Mr. Hayward did not seek to have the judgment revised by the circuit court.³

Ms. Messick subsequently passed away, and Ms. Elva Burns was appointed as Personal Representative of Ms. Messick's Estate ("the Estate"). In March 2006, Ms. Burns, represented by Mr. Robins, filed a Notice of Substitution to name the Estate as the judgment holder against Mr. Hayward rather than the deceased. Several months later, on behalf of Ms. Burns, Mr. Robins filed a Request for Garnishment of Mr. Hayward's wages in enforcement of the judgment. The amount due as of May 2006 totaled \$103,639.78. Although Mr. Hayward's employer, the Wicomico County Board of Education, answered the Request for Garnishment, there is nothing in the record to indicate whether Mr. Hayward's wages were actually garnished.

² While Mr. Hayward borrowed \$67,000 in total, \$1,000 had been repaid prior to the suit.

³ Because money judgment was entered by default against Mr. Hayward, the judgment was not subject to the circuit court's revisory power under Md. Rule 2-535(a) "except as to the relief granted." *See* Md. Rule 2-613(g). Mr. Hayward did not ask the circuit court to exercise revisory power under Rules 2-535(a) or 2-535(b). *See* Md. Rule 2-535(a) (permitting the court "to exercise revisory power and control over the judgment" on the motion of any party filed within 30 days after entry of the judgment); Md. Rule 2-535(b) ("On motion of any party at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity."). Not long after the default judgment was entered, Ms. Messick moved to have it revised to reflect the correct spelling of Mr. Hayward's first name. That motion was granted.

Several years later, Mr. Robins, on behalf of the Estate, filed a Notice of Renewal of the Judgment pursuant to Maryland Rule 2-625,⁴ and the judgment was renewed by the court on June 25, 2009. In 2019, after ten years of inactivity in the case, Mr. Robins filed a second Notice of Renewal of the Judgment, and the judgment was again renewed by the court.

In February 2024, following the death of Ms. Burns, two orders relevant to this case were issued upon the request of Mr. Robins. First, the Orphans’ Court for Wicomico County appointed Mr. Robins as Special Administrator of the Messick Estate, specifically tasking him with “enabl[ing] the Estate to enforce and collect the judgment which was entered at the suit of Helen R Messick against McKinley Hayward . . . and otherwise protect[ing] the property/claim for the benefit of the Estate.” The second order, entered by the circuit court, was a Notice of Substitution assigning Mr. Robins as the judgment holder in place of Ms. Burns, with the Estate remaining the named Plaintiff.

II. Levy & Sale of Mr. Hayward’s Property

Mr. Robins, now tasked with securing the judgment against Mr. Hayward on behalf of the Estate, filed a Request for Writ of Execution. The amount due as of February 2024 was \$216,562.02. Mr. Robins requested that the Wicomico County Sheriff levy against and sell the property owned by Mr. Hayward, located at 905 Price Road, Salisbury, Maryland 21801 (“the Property”). The court issued the Writ and instructed the

⁴ Rule 2-625 provides: “A money judgment expires 12 years from the date of entry or most recent renewal. At any time before expiration of the judgment, the judgment holder may file a notice of renewal and the clerk shall enter the judgment renewed.”

Wicomico County Sheriff to satisfy the judgment by sheriff's sale of the Property. Mr. Hayward, who was notified of both the levy and subsequent sale, objected to neither. Notice of the impending sheriff's sale was posted at the entrance to the circuit court and published in a local newspaper, *The Daily Times*, on three occasions.

At the sheriff's sale held on June 11, 2024, Lot of Fig LLC, a Maryland limited liability company, purchased the Property for \$92,000. Notice of the sale was posted in *The Daily Times* on three occasions, indicating that the sale would be ratified if no objection was filed prior to July 13, 2024. The sheriff's accounting following the sale indicated that Mr. Hayward still owed the Estate \$128,960.04.

III. Suit Following Sale

Mr. Hayward, now represented by counsel, filed an Exception to Sale and Motion to Reconsider Order of Sale, or in the alternative, a Stay of Ratification. Mr. Hayward argued that (1) the sheriff's sale was defective because of insufficient notice; and (2) his Property should be exempt from the sale because the Property is his primary residence and exempted under the Homestead Exemption; and (3) the court should consider equitable grounds such as his age and his status as *pro se* during the proceedings. Mr. Robins filed a Response to the Motion, asserting that many of Mr. Hayward's arguments were applicable only to foreclosure sales, that Mr. Hayward did receive proper notice of the sale under Rule 2-644,⁵ and that Mr. Hayward failed to state any proper basis to stay

⁵ Maryland Rule 2-644(b) provides:

the ratification.

The court, finding that Mr. Hayward “ha[d] asserted no factual or legal basis to delay the ratification of the sale made . . . or to grant the relief requested,” ratified the sale. On August 23, 2024, Mr. Hayward filed a Notice of Appeal of the Ratification. On behalf of both the Estate and Lot of Fig LLC, Mr. Robins then motioned for a Writ of Restitution, arguing that the appeal was moot due to Mr. Hayward’s failure to file a security to stay the judgment for the duration of the appeal. The court approved the Writ of Restitution and ordered the sheriff to “deliver to Lot of Fig, LLC, possession of the [P]roperty . . . and to remove from the premises, by force if necessary, any occupants of the [P]roperty and their tangible personal property.”

DISCUSSION

Mr. Hayward contends that the judgment against him was invalid at the time of the sheriff’s sale because the personal representative for the Estate had abandoned the judgment prior to the first renewal by failing to include the judgment in the Estate’s final accounting. Mr. Hayward continues that, because the judgment was abandoned, the circuit court was without jurisdiction to issue a writ of execution to enforce the judgment.

The sheriff shall give notice of the time, place, and terms of the sale. The notice shall be posted on the courthouse door or on a bulletin board in the immediate vicinity of the door of the courthouse and published in a newspaper of general circulation in the county where the property is located at least (1) ten days before the sale of an interest in personal property or (2) 20 days before the sale of an interest in real property. When the property under levy is perishable, the sheriff may sell the property with less notice or with no notice, if necessary to prevent spoilage and loss of value.

Labeling this a jurisdictional error, Mr. Hayward urges us to review it even though he did not raise it in the circuit court. To make this argument, Mr. Hayward points to documents apparently from the Orphans' Court for Wicomico County, documents that Mr. Hayward included in an appendix to his appellate brief but that were not before the circuit court below. Ultimately, Mr. Hayward asks that “the matter [be] remanded to the circuit court for entry of a judgment in favor [of him] in the full amount of the appraised value of the [P]roperty as reported by the [s]heriff.”

The Estate counters that this appeal is moot because the sheriff's sale “has been consummated, and the proceeds of sale have been distributed by the [s]heriff.” It adds that Mr. Hayward did not post a supersedeas bond or otherwise secure a stay of the sale. As for Mr. Hayward's abandonment argument, the Estate points out that it was not raised in the circuit court and is therefore unpreserved. Alternatively, the Estate denies that the judgment had been abandoned.

In Maryland, “a question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide.” *In re Sophie S.*, 167 Md. App. 91, 96 (2006) (cleaned up). Although Mr. Hayward acknowledges that the sale cannot be set aside nor can possession and title be returned to him, he does not concede the absence of an existing controversy between the parties. Instead, he contends that the Estate abandoned the judgment against him and that he is entitled to a money judgment in his favor as a

result. He asks that we remand this case to the circuit court for entry of such a judgment. Under these circumstances, Mr. Hayward’s appeal is not moot.

Nonetheless, we agree with the Estate that Mr. Hayward’s appeal fails. An action to enforce a judgment can be filed for a period of twelve years after the judgment is entered. Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 5-102(a)(3); *see also Lang v. Wilmer*, 131 Md. 215, 227 (1917) (“The statute of limitations begins to run as to judgments from the date of the judgment[.]”). That twelve-year period may be extended if the judgment holder asks that the judgment be renewed before the twelve-year period expires. Md. Rule 2-625 (“A money judgment expires 12 years from the date of entry or most recent renewal. At any time before expiration of the judgment, the judgment holder may file a notice of renewal and the clerk shall enter the judgment renewed.”).

The money judgment against Mr. Hayward was subject to enforcement by the Estate because the judgment had been entered and twice renewed at the time the Estate sought enforcement via levy on, and sheriff’s sale of, the Property. The original judgment, a default judgment, was entered against Mr. Hayward by the circuit court on September 5, 2000. On June 25, 2009, less than twelve years after the entry of judgment, the clerk renewed the judgment following a Notice of Renewal filed by the Estate. Ten years later, on May 31, 2019, the clerk again renewed the judgment following a second Notice of Renewal. At no point did more than twelve years elapse between the date of entry (or most recent renewal) and a subsequent renewal. Therefore, the judgment against Mr. Hayward was extant when the Property was levied on and sold.

Mr. Hayward’s claim of a jurisdictional error does not change this result. To be sure, jurisdiction, unless waived under Maryland Rule 2-322,⁶ is an issue we review “whether or not raised in and decided by the trial court.” *See* Md. Rule 8-131(a). But “[j]urisdiction of the subject-matter means not simply the particular case to which the attention of the court is directed, but the class of cases to which it belongs, and over which the authority of the court extends.” *Fooks’ Ex’rs v. Ghingher*, 172 Md. 612, 620, *cert. denied subnom, Phillips v. Ghingher*, 302 U.S. 726 (1937).

Because the Estate’s money judgment, and subsequent enforcement attempts, were civil matters arising within Wicomico County, and against real property in Wicomico County, the Circuit Court for Wicomico County had subject matter jurisdiction over the matter. *See* CJP § 1-501 (“Each [circuit court] has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law.

, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.”). Thus, even if the circuit court somehow erred in issuing a writ of execution as to the Property (the circuit court did not err), that error does not mean that the circuit court was without subject matter jurisdiction to adjudicate the Estate’s request for a writ

⁶ Under Maryland Rule 2-322, lack of jurisdiction over the person is waived if not raised by preliminary motion. Md. Rule 2-322(a) (“The following defenses shall be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the person[.] . . . If not so made and the answer is filed, these defenses are waived.”). As we understand it, Mr. Hayward is only challenging the circuit court’s subject matter jurisdiction.

of execution.

Mr. Hayward’s claim of abandonment does not help him either, as it is a non-jurisdictional argument that was neither raised nor decided below.⁷ “Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Md. Rule 8-131(a). Mr. Hayward did not raise his abandonment argument in the circuit court. In other words, in his Exception to Sale and Motion to Reconsider Order of Sale, or in the alternative, a Stay of Ratification, Mr. Hayward did not argue to the circuit court that the money judgment was invalid because the Orphans’ Court approved the Estate without the money judgment having been listed among its assets. Nor did Mr. Hayward introduce to the circuit court the Orphans’ Court filings that he relies on here. Nor does Mr. Hayward identify a point at which the circuit court decided the issue.

Even if we were to reach the merits of Mr. Hayward’s argument, doing so would not advance Mr. Hayward’s position. As the Estate points out, there was ample evidence before the circuit court that the Estate did not abandon the money judgment. An essential element of “abandonment” is an intention to relinquish or part with property.

⁷ Mr. Hayward premises this argument on documents that are not in the appellate record from the circuit court. These documents appear to be an Inventory of the Messick Estate filed in the Orphans’ Court for Wicomico County and the First and Final Administration and Distribution Account of the Estate (collectively “Orphans’ Court filings”). Mr. Hayward provided these documents to us in the appendix to his appellate brief. For the purposes of this appeal, we will take judicial notice that these papers are what they purport to be, i.e., papers that were filed in the Orphans’ Court for Wicomico County. *See* Md. Rule 5-201(f) (“Judicial notice may be taken at any stage of the proceeding.”).

Messersmith v. Mayor & Common Council of Riverdale, 223 Md. 323, 326 (1960). After Ms. Messick’s death, the Estate substituted in as plaintiff on the judgment. The Estate undertook enforcement efforts in the form of post-judgment discovery and garnishment of Mr. Hayward’s wages. After the Personal Representative of Ms. Messick’s Estate passed, another plaintiff was substituted in 2024. And, as above, the Estate twice requested that the money judgment be renewed. Thus, even if Mr. Hayward had claimed abandonment below, and the circuit court had rejected his claim, that decision would not have warranted reversal. *See* Md. Rule 8-131(a) (“When an action has been tried without a jury, an appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.”).

Finally, we decline to consider Mr. Hayward’s request for a remand so that the circuit court could enter money judgment in Mr. Hayward’s favor. An appellate brief must contain “[a]rgument in support of the party’s position on each issue.” Md. Rule 8-504(a)(6). This includes legal authority. *See Anderson v. Litzenberg*, 115 Md. App. 549, 577–78 (1997) (declining to consider contention on appeal that is “completely devoid of legal authority”). Here, Mr. Hayward identifies no place below where he made an affirmative claim for a money judgment in his favor. Without some legal authority for why a remand would nonetheless be appropriate, we decline to consider Mr. Hayward’s request for the same. *See* Md. Rule 8-504(c) (“For noncompliance with this Rule, the

appellate court may dismiss the appeal or make any other appropriate order with respect to the case[.]”).

**JUDGMENT OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**