Circuit Court for Prince George's County
Case No. C-16-FM-24-007188

CHILD ACCESS

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1325

September Term, 2025

ODUNAYO AJAYI

v.

OLAIDE OGUNSADE

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

JJ.

Opinion by Albright, J.

Filed: February 12, 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 Rule 1-104(a)(2)(B).

This appeal arises from a judgment, entered in the Circuit Court for Prince George's County, granting Olaide Ogunsade ("Wife") an absolute divorce from Odunayo Ajayi ("Husband"), awarding Wife custody of the parties' minor child, and ordering Husband to pay retroactive support. Following entry of the court's judgment, Husband filed a motion to alter or amend, which the court denied. Husband then filed a renewed motion to alter or amend, which the court also denied. Husband thereafter noted this appeal.

In this appeal, Husband presents six questions for our review. For clarity, we have consolidated those questions[1] into a single question:

> Did the circuit court err or abuse its discretion in denying Husband's renewed motion to alter or amend?

Finding no error or abuse of discretion, we affirm.

BACKGROUND

Husband and Wife were married in 2020. In 2023, the parties had a child.

On August 5, 2024, Wife obtained a Final Protective Order against Husband. Husband was ordered to stay away from the marital home until the order expired on August 5, 2025.

On September 6, 2024, Wife filed for divorce. On October 4, 2024, Husband was personally served with a Writ of Summons and a copy of the divorce complaint.

[1] All of Husband's questions focus on alleged errors made by the circuit court in entering the judgment of divorce. As discussed in greater detail *infra*, the sole issue here is whether the court erred or abused its discretion in denying Husband's renewed motion to alter or amend.

In October 2024, Husband submitted a filing for the court's consideration. That filing was rejected by the court clerk because it did not include a signature or certificate of service. The exact nature of the filing is unclear from the record.[2]

On November 6, 2024, an attorney entered her appearance on behalf of Husband. That same day, Husband's attorney filed a "Notice of Inability to File Answer on Behalf of Defendant Odunayo Ajayi." In that filing, Husband claimed, through counsel, that he had "been in the custody of the Prince George's County Sheriff's Department since October 4, 2024." Husband alleged that, "as a result his incarceration, [he had] been unable to file an Answer and otherwise participate in the above captioned matter." Husband asked the court to "not enter an Order of Default."

On November 14, 2024, Wife filed a motion asking the court to enter an Order of Default against Husband based on his failure to file an answer to Wife's complaint for absolute divorce. Wife also filed an affidavit of service, which indicated that, on October 4, 2024, Husband was personally served with a Writ of Summons and a copy of the divorce complaint.

On November 20, 2024, the court entered an Order of Default against Husband. Notice of the default order was addressed to Husband and mailed to the marital residence. A notice was also sent to Husband's counsel.

[2] Husband claims that he "filed a *pro se* written response from jail, requesting additional time to reply" and that he included "his jail address on the document." We could not confirm Husband's claims, as he failed to include any citation to the record in support, and our independent review of the record did not reveal any such document or documents.

A merits hearing was scheduled to take place on February 12, 2025. Notice of the hearing was sent to Husband at the marital residence and to Husband's counsel. That hearing was subsequently cancelled and rescheduled for April 24, 2025. Notice of the rescheduled hearing was sent to Husband at the marital residence and to Husband's counsel.

On February 13, 2025, Husband's counsel withdrew from the case. On February 19, 2025, the court sent a "Notice to Employ New Counsel" to Husband at the marital residence.

On April 24, 2025, a merits hearing was held before a magistrate. Husband did not attend the hearing. According to Wife, Husband was incarcerated at the time of the hearing.

On May 13, 2025, the court entered a judgment of absolute divorce. The court awarded Wife sole custody of the parties' minor child and ordered Husband to pay $23,231.00 in "unpaid family support."

On May 23, 2025, Husband filed a "Motion to Alter or Amend Judgment or, in the Alternative, Motion to Reconsider." Husband's primary allegation was that he "was incarcerated at the time the divorce proceedings commenced and was not properly served in accordance with Maryland law." Husband's motion included additional claims of error regarding the court's custody and support decisions. Husband asked the court to vacate the judgment and reopen the case to permit further proceedings on the merits.

On June 18, 2025, the court denied Husband's motion to alter or amend. In so doing, the court noted that Husband had been personally served in October 2024.

On July 17, 2025, Husband filed a "Renewed Motion to Alter or Amend Judgment or, in the Alternative, Motion to Reconsider." Husband alleged that he "was not provided with actual or constructive notice of either the original proceedings or the ongoing litigation, depriving him of a meaningful opportunity to participate or respond and thereby violating his procedural and constitutional rights." Husband argued that,

> [P]ursuant to Maryland Rule 2-121(a)(3), when a party is incarcerated, service must be made either by delivering the summons and complaint to the warden or administrative head of the correctional institution, or by arranging qualified personal delivery at the facility, such as by a process server during designated visiting hours.

Husband claimed that, because "essential filings and notices, including those concerning hearings, custody, support, and the final judgment, were not appropriately delivered through the required institutional channels or correctional personnel," he was "not apprised of key proceedings" and "therefore was unable to defend himself." Husband also claimed that the court's award of custody to Wife was improper because it was made "without a full evidentiary hearing" and without a consideration of the requisite statutory factors. Husband asked the court vacate the judgment of divorce, reopen the case, and "direct proper service in accordance with Rule 2-121(a)(3)" to allow him "to participate in further proceedings on the merits, including those involving custody, property division, and support obligations[.]"

On August 8, 2025, the court entered an order denying Husband's renewed motion to alter or amend. The court noted that Maryland Rule 2-121(a)(3) merely states that service of process may be made "by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: 'Restricted Delivery – show to whom date, address of delivery.'" The court also noted that Husband was personally served with process on October 4, 2024.

On August 26, 2025, Husband noted the instant appeal. Additional facts will be supplied as needed below.

DISCUSSION

A. Husband's Contentions

Husband contends that the circuit court erred and abused its discretion in entering the judgment of absolute divorce. First, Husband argues that the court violated his due process rights by failing to provide proper notice of the proceedings, and that opposing counsel deprived him of a fair trial by deliberately mailing notices to the marital residence despite knowing that Husband was incarcerated. Second, Husband argues that the court erred in awarding custody to Wife without Husband's participation at the merits hearing. Third, Husband argues that the court erred in imposing retroactive support and failing to classify the marital home as non-marital property. Finally, Husband argues that the "cumulative effect" of the errors warrants reversal.[3]

[3] Wife did not file a responsive brief in this appeal.

B. Scope of Appeal

Before discussing the merits of Husband's claims, we must discuss the procedural posture of the case, as that posture defines the scope of our review. As noted, the court entered the judgment of absolute divorce on May 13, 2025, but Husband did not file his notice of appeal challenging the court's judgment until August 26, 2025. Ordinarily, such a belated appeal would be dismissed as untimely. *See* Md. Rule 8-202(a) (requiring a notice of appeal to be filed within thirty days after entry of the judgment from which the appeal is taken).

That said, where, as here, a motion to alter or amend is filed within ten days of entry of judgment, that filing tolls the appeals period until thirty days after the motion is withdrawn or the court rules on the motion. *Estate of Vess*, 234 Md. App. 173, 194 (2017). Because Husband filed his first motion to alter or amend within ten days of entry of the court's judgment of absolute divorce, the thirty-day window for challenging that judgment was tolled until June 18, 2025, which is when the court denied Husband's motion to alter or amend. Thus, Husband had thirty days from that date to file a timely notice of appeal challenging the court's judgment of absolute divorce.

Unfortunately for Husband, he did not file his notice of appeal within that time. Rather, on July 17, 2025, Husband filed his renewed motion to alter or amend the court's judgment. That filing did not further toll the period within which Husband was required to file his notice of appeal challenging the court's judgment of absolute divorce. *See Johnson v. Francis*, 239 Md. App. 530, 541 (2018) ("[O]nce a court has denied one motion for reconsideration, the filing of additional such motions does not toll the running

of the time to note an appeal."). By the time the court denied Husband's renewed motion on August 8, 2025, the appeals period for challenging the court's judgment of absolute divorce had lapsed. Husband's notice of appeal, which he filed on August 26, 2025, was therefore timely with respect to the denial of his renewed motion to alter or amend, but it was untimely with respect to any challenge to either the court's judgment of absolute divorce or the court's denial of Husband's initial motion to alter or amend. As such, our review in the instant appeal is limited to whether the court erred or abused its discretion in denying Husband's renewed motion to alter or amend. *See id.* at 541–42; *see also Sydnor v. Hathaway*, 228 Md. App. 691, 707–08 (2016) (where a revisory motion is filed beyond the ten-day period set forth in Rule 2-534, an appeal noted within thirty days after the court resolves the revisory motion is limited to the issues generated by the revisory motion).

Furthermore, under Maryland Rule 2-535(a), a court is generally permitted to exercise revisory power and control over a judgment on a motion filed by a party within thirty days after entry of judgment. *Facey v. Facey*, 249 Md. App. 584, 604–05 (2021). After that thirty-day time period, however, the judgment becomes enrolled, and "the court may revise it only upon finding of fraud, jurisdictional mistake, or irregularity, which are narrowly construed." *LVNV Funding LLC v. Finch*, 463 Md. 586, 607–08 (2019); *see also* Md. Rule 2-535(b) ("On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity."). Here, Husband's renewed motion to alter or amend was not filed until July

17, 2025, more than two months after the court entered the judgment of absolute divorce. Thus, not only is our review limited to whether the court erred or abused its discretion in denying Husband's renewed motion, but our review is further limited to whether there was some fraud, jurisdictional mistake, or irregularity that would have justified revision of the court's judgment of absolute divorce.

C. Analysis

A court's decision to revise a judgment for fraud, mistake, or irregularity is ordinarily reviewed for abuse of discretion. *Facey*, 249 Md. App. at 601. On the other hand, whether fraud, mistake, or irregularity exists, as a factual predicate, is a question of law we review without deference. *Id.*

"The burden of proof in establishing fraud, mistake, or irregularity is clear and convincing evidence." *Id.* (cleaned up). "Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, and irregularity, in order to ensure finality of judgments." *Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (cleaned up). "Moreover, the party moving to set aside the enrolled judgment must establish that he or she acted with ordinary diligence and in good faith upon a meritorious cause of action or defense." *Id.* (cleaned up).

A. Fraud

"Maryland courts may vacate an enrolled judgment for extrinsic, but not for intrinsic, fraud." *Das v. Das*, 133 Md. App. 1, 18 (2000). "[F]raud is extrinsic when it actually prevents an adversarial trial, but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit that truth

was distorted by the complained of fraud." *Access Funding, LLC v. Linton*, 482 Md. 602, 664 (2022) (cleaned up). "In determining whether or not extrinsic fraud exists, the question is not whether the fraud operated to cause the trier of fact to reach an unjust conclusion, but whether the fraud prevented the actual dispute from being submitted to the fact finder at all." *Das*, 133 Md. App. at 18 (cleaned up). Examples of extrinsic fraud include:

> Where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side,[ ] these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and a fair hearing.

Access Funding, 482 Md. at 664 (quoting *United States v. Throckmorton*, 98 U.S. 61, 65 (1878)).

We hold that Husband has failed to establish fraud by clear and convincing evidence. The record shows that Husband was made aware of the proceedings on October 4, 2024, long before the court held the merits hearing on Wife's complaint for absolute divorce. At that point, Husband had a duty to keep himself informed as to the progress of the case. *See Das*, 133 Md. App. at 19. The record also shows that, upon being made aware of the proceedings, Husband filed a response and, when that response was rejected by the clerk, retained counsel, who then filed, on Husband's behalf, a notice indicating

that Husband could not file an answer due to his incarceration and asking the court not to enter an order of default. From that, it is clear that Husband was not only aware of the proceedings but knew that he was in default and that further action was required. Importantly, although Husband did mention that he was incarcerated, at no point did he ask the court or Wife to send future communications and notices to him in prison, nor did he include his prison address on any court filing. *See id.* at 20 (noting that "a litigant has a continuing obligation to furnish the court with [his] most recent address") (cleaned up). And, aside from those initial filings, Husband submitted no papers or requests for relief as to the order of default and the merits hearing, despite the fact that he was at least constructively aware, by way of notices to his attorney, that the order of default had been entered and that a merits hearing was to be held. Given those circumstances, we cannot say that the court erred or abused its discretion in refusing to revise its judgment of absolute divorce on the basis of fraud.

B. Mistake

"'[I]t is well settled that mistake, as used in Rule 2-535(b), is limited to jurisdictional error, such as where the Court lacks the power to enter the judgment.'" *Facey*, 249 Md. App. at 639 (cleaned up). A court's power, or jurisdiction, to enter a judgment usually concerns two aspects: "(a) jurisdiction over the person—obtained by proper service of process—and (b) jurisdiction over the subject matter—the cause of action and the relief sought." *Id.* at 640 (cleaned up). We have said,

> It is only when the court lacks the power to render a decree, for example because the parties are not before the court, as being improperly served with

> process, or because the court is without authority to pass upon the subject matter involved in the dispute, that its decree is void.

Thacker, 146 Md. App. at 225 (cleaned up).

We hold that Husband has failed to establish mistake by clear and convincing evidence. It is beyond question that the circuit court had subject matter jurisdiction over the divorce proceedings, and Husband does not argue otherwise. As for personal jurisdiction, the record shows that Husband, a Maryland resident, was properly served with process on October 4, 2025. *See* Md. Rule 2-121(a) ("Service of process may be made within this State . . . by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it[.]"). That was sufficient for the court to obtain personal jurisdiction over Husband. *See Facey*, 249 Md. App. at 640 (holding that the court had personal jurisdiction over the defendant, who was "a Maryland resident and was properly served with process"); *see also Conwell Law LLC v. Tung*, 221 Md. App. 481, 498 (2015) ("A court obtains *in personam* jurisdiction over a defendant when that defendant is 'notified of the proceedings by proper summons.'") (cleaned up). Thus, the court did not err or abuse its discretion in refusing to revise its judgment of absolute divorce on the basis of mistake.

C. Irregularity

An "irregularity" is "the doing or not doing of that, in the conduct of a suit at law, which, conformable to the practice of the court, ought or ought not to be done." *Velasquez v. Fuentes*, 262 Md. App. 215, 242 (2024) (cleaned up). Such "irregularities" most often involve "a failure of process or procedure by the clerk of a court, including,

for example, failures to send notice of a default judgment, to send notice of an order dismissing an action, to mail a notice to the proper address, and to provide for required publication." *Thacker*, 146 Md. App. at 219–20. On the other hand, "if the judgment under attack was entered in conformity with the practice and procedures commonly used by the court that entered it, there is no irregularity justifying the exercise of revisory powers under Rule 2-535(b)." *Id.* at 221. "When determining whether an irregularity occurred, a trial court must consider the totality of the circumstances." *Id.* at 219 (cleaned up). Furthermore, "[i]rregularity, like fraud, provides very narrow grounds for revising a final judgment under Rule 2-535(b)." *Das*, 133 Md. App. at 23. As we have explained, "the crux of an irregularity finding is 'to prevent hardships which may result from a lack of notice and the corresponding lack of an opportunity to interpose defense prior to enrollment of a judgment." *Velasquez*, 262 Md. App. at 241 (cleaned up).

We hold that Husband has failed to establish irregularity by clear and convincing evidence. As discussed, Husband received service of process in October 2024, retained counsel in November 2024, and filed a response that same month. In so doing, Husband indicated that he was aware of the proceedings and the fact that he was in default for failing to file an answer. At that point, it was reasonable for the court to continue utilizing the same process for notifying Husband as to ongoing matters, particularly given that Husband did not request, expressly or implicitly, that notification be made in any other manner. Moreover, there is nothing in the record to indicate that the court's method of notification was inconsistent with the practice and procedures commonly used by the

court. As such, the court did not err or abuse its discretion in refusing to revise its judgment of absolute divorce on the basis of irregularity.

Finally, even if the circumstances of Husband's case constituted the sort of fraud, mistake, or irregularity that would have justified revision of the court's judgment of absolute divorce, we cannot say that the court abused its discretion in refusing to do so. As discussed, a party moving to set aside an enrolled judgment must establish that he or she acted with "ordinary diligence." *See Thacker*, 146 Md. App. at 217. Here, the record makes plain that Husband's current predicament was caused by his lack of diligence and not by the actions of the court or Wife.

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