Circuit Court for Prince George's County
Case No. CAP08-01885

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1334

September Term, 2021

REGINALD LEEVERETT WASHINGTON

v.

CHRISTINA M. WILLIAMS

Kehoe,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 26, 2022

*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.

Reginald Leeverett Washington, appellant, and Christina M. Williams, appellee, are the parents of A.W., a minor child. In 2008, the Prince George's County Office of Child Support, appellee, filed a complaint to establish paternity and for child support against Mr. Washington on behalf of Ms. Williams in the Circuit Court for Prince George's County. Following a hearing before a magistrate, during which Mr. Washington acknowledged reviewing a DNA paternity test and admitted to being the minor child's father, the magistrate filed a report recommending that Mr. Washington pay Ms. Williams $581.00 per month in child support commencing February 1, 2008. Mr. Washington filed exceptions, and following a hearing on the exceptions, the court changed the amount of child support a to $429.00 per month. The court further assessed child support arrears in the amount of $3,073.00 and ordered Mr. Washington to pay $107.00 per month on arrears until paid in full. Mr. Washington did not file a notice of appeal from that order.

In May 2021, Mr. Washington filed a Motion to Set Aside, Vacate, or Terminate Child Support (motion). In that motion, he claimed that the 2008 child support complaint had "failed to characterize an offense" that would "require relief" and "allow [him] to prepare for a proper defense;" that there was no "substantial evidence produced to support any claims in the complaint;" that the "order [was] not consistent with the child support guidelines;" and that the court had lacked "subject matter jurisdiction" to enter the order. Mr. Washington subsequently filed a motion for summary judgment, requesting the court to grant the motion to vacate; "correct all negative entries on [his] credit report;" "reimburse [him] of all monies that [were] paid;" and "erase the arrears" from the child

support order. On October 13, 2021, court denied the motion to vacate and the motion for summary judgment without a hearing.

On appeal, appellant contends that the court erred in denying his motion for summary judgment and motion to vacate. Specifically, he asserts that the child support order should have been vacated because: (1) Section 10-203 of the Family Law Article, which criminalizes non-support, is void for vagueness; (2) Section 5-203 of the Family Law Article, which requires the payment of child support if paternity is established, is void for vagueness; (3) Section 5-1032 of the Family Law Article, which requires the court to enter an order providing for the support of the child upon a finding that an alleged father is the father of a minor child, violates the Equal Protection Clause; (4) the court lacked subject matter jurisdiction to enter the child support order because the aforementioned laws are unconstitutional; and (5) he was not afforded due process because he has had custody of the children 55% of the time since 2009 and therefore, the court should have used the "shared custody child support obligation work sheet" to calculate his child support obligation. For the reasons that follow, we shall affirm.

"[T]he doctrine of res judicata applies in the modification of . . . child support and the court may not 'relitigate matters that were or should have been considered at the time of the initial award.'" *Lieberman v. Lieberman*, 81 Md. App. 575, 597 (1990) (quoting *Lott v. Lott*, 17 Md. App. 440, 444 (1973). Because Mr. Washington filed the motion to vacate more than 30 days after the entry of the child support order the only possible way for him to have vacated that judgment in its entirety was by filing a motion pursuant to Maryland Rule 2-535(b). *See Kent Island, LLC v. DiNapoli*, 430 Md. 348, 366 (2013) (noting that

after 30 days have passed after the entry of a final judgment, a court may only modify its judgment upon a motion filed pursuant to Rule 2-535(b)).[1] However, with the exception of appellant's contention that the court had lacked subject matter jurisdiction, none of the claims raised in his motion, even if true, would demonstrate the existence of fraud, mistake, or irregularity, as those terms are used in Rule 2–535(b). *See generally Peay v. Barnett*, 236 Md. App. 306, 321 (2018) ("Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, to ensure finality of judgments." (quotation marks and citation omitted)).

With respect to subject matter jurisdiction, appellant asserted that various statutes governing the issuance of child support orders were unconstitutional. But a jurisdictional mistake that can be attacked by way of a Rule 2-535(b) motion after a judgment has been enrolled is limited to a situation where "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[.]" *Thacker v. Hale*, 146 Md. App. 203, 225 (2002). On the other hand, the

[1] Section 12-104(a) of the Family Law Article provides that a child support order can be modified prospectively upon a showing of a material change in circumstances. But in the motion to vacate, Mr. Washington never requested the court for a prospective modification of child support, only to vacate the original child support judgment and any arrears that had accrued under that judgment. To the extent that Mr. Washington is asserting that there has been a changed custody arrangement since the 2008 order that represents a material change in circumstances, he must raise that claim in a motion for modification of child support. This opinion is without prejudice to his filing such a motion. We note, however, that such a claim would not justify vacating the child support order or modifying his child support obligations retroactively.

"question of whether it was appropriate to grant the relief," even if it would have affected the court's proprietary jurisdiction, "merges into the final decree and cannot thereafter be successfully assailed for that reason once enrolled." *Id.*

Section 1-201 of the Family Law Article provides that an equity court has jurisdiction over custody, visitation, and support of a child. FL § 1–201(b)(5), (6), (9). In other words, FL § 1–201 conferred subject-matter jurisdiction on the Circuit Court for Prince George's County to decide a case involving the custody, visitation, and child support of a child who lives in Prince George's County. Because the minor child resided in Prince George's County, the circuit court had fundamental jurisdiction to grant an award of child support. Appellant's constitutional arguments address whether it was appropriate for the court to have granted relief. Thus, those claims should have been raised prior to the court entering the initial child support order and are now barred by the doctrine of res judicata. Because the circuit court had subject matter jurisdiction to issue the 2008 child support order, and Mr. Washington's motion did not otherwise establish the existence of fraud, mistake, or irregularity, the court did not err in denying his motion for summary judgment and motion to vacate.

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