

Circuit Court for Baltimore County  
Case No. C-03-CV-22-001056

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1431

September Term, 2022

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JOHN A. GALBREATH

v.

STATE OF MARYLAND DEPARTMENT OF  
BUDGET AND MANAGEMENT, CENTRAL  
COLLECTION UNIT

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Graeff,  
Zic,  
Salmon, James P.  
(Senior Judge, Specially  
Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: September 14, 2023

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

Appellant, John A. Galbreath, filed a complaint in the Circuit Court for Baltimore County, seeking a declaratory judgment that a letter sent by the State of Maryland Department of Budget & Management, Central Collection Unit (“CCU”), appellee, constituted a notice of intent to intercept his tax refund under the Maryland Tax Refund Intercept Program (“TRIP”) thereby triggering his statutory right to request an investigation. On September 14, 2022, after a hearing, the court issued an order dismissing Mr. Galbreath’s complaint for failure to state a claim upon which relief could be granted. Mr. Galbreath filed a motion to alter or amend the judgment, which the court denied on October 19, 2022.

On appeal, Mr. Galbreath presents two questions for this Court’s review,<sup>1</sup> which we have consolidated and rephrased, as follows:

Did the circuit court err in dismissing Mr. Galbreath’s complaint for a declaratory judgment?

Appellee contends that the issue is moot because the debt has “been canceled and is no longer sought.” It also asserts that the circuit court properly concluded that “Mr.

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<sup>1</sup> Mr. Galbreath presented the following two questions:

1. Did the Circuit Court err when it held that the May 17, 2019 notice to Galbreath did not trigger the 15-day investigation requirement in MD Code, Tax Gen., §13-916 and COMAR regulations 17.01.02.04 and 03.04.05.04?
2. Did the Circuit Court err in dismissing Galbreath’s declaratory judgment complaint for failure to state a claim, where the complaint states sufficient facts to show the existence of a subject matter and dispute that is within the contemplation of the relief afforded by the declaratory judgment statute?

Galbreath had no right to a precertification investigation” in its order dismissing the complaint.

For the reasons set forth below, we shall dismiss the appeal as moot.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **I.**

#### **CCU Communications Regarding Debt**

On April 13, 2019, Mr. Galbreath received a letter from the Maryland Department of Budget & Management notifying him that he had an outstanding debt with the CCU in the amount of \$851.76. The letter titled “Notice of Intent to Offset,” advised that this debt would be offset by any eligible federal vendor payments to which he was entitled unless Mr. Galbreath made arrangements to resolve the matter within 60 days. The notice further explained that payment plans were available, if needed, and it stated that, if Mr. Galbreath believed that the debt was not due or legally enforceable, he must “send a written request and evidence to support your position.”

On April 26, 2019, Mr. Galbreath replied by letter to the CCU, stating that he was unaware of any outstanding debt owed and requesting more information regarding the nature of the debt. On May 15, 2019, the CCU responded, stating that the \$851.76 debt resulted from an insurance violation stemming from a lapse in insurance coverage from October 14, 2018, through January 31, 2019, on a 1994 Honda Accord.<sup>2</sup> The letter

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<sup>2</sup> Section 17-104(b) of the Transportation Article requires that owners of motor vehicles registered in Maryland maintain insurance during the registration period. Md.

provided a Debtor ID number and a CCU Account number and directed Mr. Galbreath to send a copy of the declaration page from his insurance company during the insurance lapse if he felt that the account was referred to CCU in error.

In a reply letter dated May 17, 2019, Mr. Galbreath stated that he had not received any notice of the alleged insurance violation before receiving the CCU letter regarding its intent to offset the debt. Mr. Galbreath explained that his 1994 Honda had been destroyed in a June 2018 accident, towed to a salvage yard, never driven again, and therefore, he did not renew the insurance in October 2018. The letter stated that the State of Maryland Motor Vehicle Crash Report, indicating that his vehicle had been destroyed, was attached. For these reasons, Mr. Galbreath stated that he believed the account was sent in error.

That same day, May 17, 2019, Mr. Galbreath received another letter informing him that his “*MVA INSURANCE LAPSE DEFAULT*” had been referred to the CCU for collection and that failure to make immediate payment or to secure an alternative payment arrangement with the CCU would result in further action being taken to offset the debt. Specifically, the letter explained that:

CCU is authorized by law to initiate any of the following, depending on the type of debt, in addition to and not as a substitute for any actions the State agency referring the debt may take as a result of the delinquent debt:

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Code. Ann., Transp. (“TR”) § 17-104(b) (2022 Repl. Vol.). Failure to maintain insurance subjects the owner to a fine of \$150.00 for the first 30 days and \$7 per day for each day thereafter, up to a maximum fine of \$2,500.00 per year. TR § 17-106(e). If the owner provides evidence to the Motor Vehicle Administration (“MVA”) demonstrating that the vehicle was not operated during the period in which there was a lapse in coverage, the fine may be adjusted or canceled. MD. CODE. REGS. (“COMAR”) 11.18.03.02 (2023).

- Refer delinquent accounts to the Office of the Attorney General (OAG) for litigation
- Garnish your wages/attach any other assets permitted by law
- Intercept your vendor invoice payment
- Report non-payment of this delinquent debt to the Credit Bureau(s)
- Withhold Motor Vehicles Administration (MVA) services
- Intercept your Maryland State Tax Refund\*

Below the language regarding the interception of a Maryland State Tax Refund, there was an asterisk, followed by language stating:

If you believe that under the law your name should not be certified for tax interception, you have the right to request that CCU investigate the circumstances and confirm or modify the existence or amount of the debt. Please be specific, giving pertinent dates, amounts, case numbers and contact persons. Please provide copies of cancelled checks, invoices or correspondence. Matters already determined by a court are not subject to redetermination. An investigation must be requested in writing to the Central Collection Unit, at the above address, within fifteen (15) days of the above date. Following the completion of an investigation, you may request an appeal hearing to further contest this debt. You have the right to appeal an adverse hearing decision to the court. You cannot request a hearing until after the investigation has been completed. (MD.CODE.ANN.,TAX-GEN. Sections 13-912 to 13-919).

The letter then reiterated that Mr. Galbreath's account was past due, and it advised Mr. Galbreath to resolve this matter "NOW" to avoid further action being taken.

On May 22, 2019, Mr. Galbreath responded to this letter, again informing the CCU that he had not received any notice of an insurance violation from the MVA, his car was destroyed in an accident,<sup>3</sup> and he did not renew the insurance because the car was never

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<sup>3</sup> The letter indicates that Mr. Galbreath again attached the police accident report to his correspondence.

driven again. Mr. Galbreath then asked that the CCU consider his letter a request to investigate the account, if his previous letter did not constitute a request.

Approximately 17 months later, on October 7, 2020, the CCU sent Mr. Galbreath another letter, notifying him that, pursuant to Md. Code. Ann., Tax-Gen. (“TG”) §§ 13-912 through 13-919 and COMAR 17.01.02, it intended to certify his name to the Revenue Administration Division, Comptroller of the Treasury. The letter explained that this would result in any Maryland income tax refund due to him to be intercepted and applied to his outstanding debt. The letter also explained that, if he believed his name should not be certified, he had the right to request the CCU to investigate the validity of the debt. Following completion of the investigation, Mr. Galbreath could request an appeal hearing to further contest the debt.<sup>4</sup>

In response to the CCU’s October 7, 2020 notice, Mr. Galbreath asserted, in an October 10, 2020 letter to the CCU, that the debt matter had been resolved in May 2019. Mr. Galbreath stated that, in response to an April 2019 Notice of Intent to Offset, he sent letters on May 19, 2019 and May 22, 2019, attaching the police report indicating that his car had been totaled and requesting an investigation. Mr. Galbreath stated that the CCU had not sent anything since then, and therefore, he assumed that the October 7, 2020 letter from the CCU must have been a “computer-generated notice” received in error.

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<sup>4</sup> The language used to explain the investigation and appeals process was identical to the language contained after the asterisk in the earlier May 17, 2019 letter, in which the CCU set forth the six types of action it is authorized to take to collect a delinquent debt, and to which Mr. Galbreath responded with a request for an investigation.

The CCU treated Mr. Galbreath's October 10, 2020 letter as a request for investigation, and on October 28, 2020, it issued written investigation findings ("the Report"). The Report listed the date the protest was received as October 16, 2020. It stated that the CCU found that the MVA debt was still outstanding because the tags for the 1994 Honda were received or expired after the insurance terminated, and the MVA had documented that Mr. Galbreath had not provided sufficient documentation to show proof of loss, noting that a total loss letter from the insurance company was required.<sup>5</sup> The Report explained that the tax interception process would continue until Mr. Galbreath paid the debt in full, and it notified Mr. Galbreath of his right to request a hearing within 30 days of the date of the investigation. The Report attached a letter to Mr. Galbreath from the MVA, dated October 23, 2020, informing him that it had assessed an uninsured motorist penalty fee against him based on a lapse of insurance coverage.<sup>6</sup> The attached MVA letter noted the alleged period of non-coverage, from October 14, 2018, until the tag expiration date of January 31, 2019, and, it directed Mr. Galbreath to either contact his insurance company to verify insurance or return the vehicle's registration plates immediately if the vehicle was not insured.

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<sup>5</sup> The Report stated that the amount due was \$851.76, which included \$728.00 principal due, and \$123.76 for the 17% statutory collection fee.

<sup>6</sup> The MVA issued this letter well after the CCU had issued multiple letters to Mr. Galbreath regarding the alleged debt stemming from the MVA fine, and Mr. Galbreath alleges that he first received the letter only as an attachment of the CCU Investigation Report.

Mr. Galbreath sent two letters in response to the Investigation Report – dated November 2, 2020, and November 18, 2020 – requesting that the CCU revise the “Date Protest Received” from October 16, 2020, to May 22, 2019, stating that the May date was the one on which he first requested an investigation into the alleged debt. Mr. Galbreath requested a corrected investigation notice, and “in an abundance of caution in the absence of a corrected notice,” he requested a hearing.

## **II.**

### **Administrative Hearing**

In a letter dated December 2, 2020, the CCU notified the Office of Administrative Hearings (“OAH”) that Mr. Galbreath requested a hearing. The letter stated that, due to an outstanding debt to the MVA, Mr. Galbreath’s name was certified to the Maryland State Income Tax Division, Comptroller of the Treasury.<sup>7</sup> Mr. Galbreath was copied on that correspondence, and on December 8, 2020, he asked the CCU for a third time to issue a corrected investigation notice to indicate the “Date Protest Received” as May 22, 2019. The record does not reflect any response by the CCU to Mr. Galbreath’s letters regarding the date of protest.

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<sup>7</sup> Although the letter stated that certifying Mr. Galbreath’s name “caused the Maryland income tax refund due to Mr. Galbreath to be intercepted and applied to the indebtedness,” Mr. Galbreath stated at oral argument that, in fact, there was no deduction of any refund.



Prior to the administrative hearing scheduled for March 30, 2021, the CCU advised that it had decertified the debt from the TRIP and a hearing was no longer necessary.<sup>8</sup> The OAH held a hearing, however, because Mr. Galbreath did not withdraw his hearing request. The CCU moved to dismiss the appeal as moot because the MVA had reduced Mr. Galbreath's debt to zero, and the CCU had removed Mr. Galbreath's name from the certification list, and therefore, there was no effective remedy that could be awarded to Mr. Galbreath.

In the ALJ's ruling, she stated that Mr. Galbreath objected to dismissal on the ground that there was an important issue to be decided, i.e., whether the CCU properly followed the law in certifying his debt. On May 21, 2021, the ALJ issued a written ruling dismissing the appeal from CCU's determination to certify Mr. Galbreath's name through the TRIP program as moot.

### **III.**

#### **Complaint For Declaratory Judgment**

On March 18, 2022, Mr. Galbreath filed a complaint in the Circuit Court for Baltimore County seeking a declaratory judgment that the CCU violated Maryland law in

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<sup>8</sup> Mr. Galbreath asserts that on January 7, 2021, he sent the MVA the police accident report (the same report that had been sent several times to the CCU as an attachment to correspondence) as well as damage and valuation figures from the insurance company of the driver at fault in the accident. The CCU claims that Mr. Galbreath provided a total-loss letter from his insurance company in March 202[1]. Neither letter is in the record, but it appears that the CCU decertified the debt and reduced it to zero based on additional correspondence that Mr. Galbreath sent prior to the scheduled hearing date.

the process of certifying his alleged debt. On July 19, 2022, the circuit court heard argument on the CCU's motion to dismiss the complaint.<sup>9</sup>

Mr. Galbreath explained that he was requesting a declaration that the May 17, 2019 letter from the CCU constituted a TRIP notice under TG § 13-916, and the corresponding regulation, MD. CODE. REGS. ("COMAR") 03.04.05.04 (2023), triggering his right to request an investigation and the CCU's obligation to investigate and to make a written determination within 15 calendar days after receipt of the request. Mr. Galbreath alleged that the CCU ignored both his May 22, 2019 request for an investigation (and the attached documentation) showing that his vehicle had been destroyed, and improperly tried to restart the entire notification process over again by issuing the October 7, 2020 notice. Mr. Galbreath further argued that the CCU's failure to respond to his May 22, 2019 letter within the 15-day period required by the statute adversely affected him because he assumed that the matter had been resolved, asserting that, when "someone requests an investigation then never hear[s] back on it, the matter should be done with." He asserted that, in failing to respond to his first request for an investigation, and then pursuing the tax interception approximately 17 months later, the State was attempting to "get a second bite of the apple." He argued that, if the CCU could then decertify the debt upon receipt of a protest and "declare the case moot," it is able to continue with its "extra-legal practices."

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<sup>9</sup> Mr. Galbreath acknowledged at the hearing that no money had been paid on the alleged debt.

The CCU asserted that the May 17, 2019 letter was not a TRIP notice; it was merely a general notification that the alleged debt had been referred to the CCU, and the CCU was authorized to take “additional steps in the future” to offset the debt. The CCU further explained that, although “[a]nybody can request an investigation at any time, . . . the right to the investigation is triggered by the actual 13-914 notice.” Thus, despite the language after the asterisk in the May 17, 2019 letter stating that Mr. Galbreath had the right to request an investigation, and that any such investigation must be requested in writing “within fifteen (15) days of the above date,” the May 17, 2019 letter “d[id] not give rise to a legal requirement” under the statute that it investigate the claim because it was not an official “TRIP notice that requires a mandatory investigation.”

At the conclusion of the hearing, the CCU raised the issue of mootness, stating that it would rely on its motions unless the court wanted to hear argument. Mr. Galbreath responded that the case was not moot because the declaratory judgment statute provides that an affected person may seek a determination of any question of statutory construction or validity, and a judgment in this case would serve to “terminate the uncertainty or controversy giving rise to the proceeding.”

On September 14, 2022, the circuit court issued a written opinion granting the CCU’s motion to dismiss for failure to state a claim. The court found, as a matter of law, that the May 17, 2019 letter notifying Mr. Galbreath that the alleged MVA debt had been referred for collection to the CCU was not the formal precertification notice of an intent to certify the debt to the Comptroller for withholding under TG § 13-914.

The court stated that the May 17, 2019 letter was “confusing by over-inclusion,” but it found that the document was not the functional substitute for the formal precertification notice required by TG § 13-914 because the intent to request the withholding of the debt amount from Mr. Galbreath’s tax refund was “notably absent.” The court thus rejected Mr. Galbreath’s argument that, by failing to conduct an investigation in response to his request in 2019, CCU acted unlawfully in sending the 2020 TRIP notice. It stated that Mr. Galbreath did not provide authority for the proposition “that the failure to complete a requested investigation precertification precludes an investigation post certification.”

This appeal followed.

### **DISCUSSION**

We begin with CCU’s argument that the case is moot because Mr. Galbreath did not suffer any injury due to its ultimate cancellation of the debt. Mr. Galbreath admits that he never paid any money on the alleged debt, but he asserts that he was harmed by having to deal with the CCU. He also argues that review is appropriate because the “wrongful conduct” of the CCU is capable of repetition and may evade review. The CCU stated at oral argument, however, that it had amended the form it sent in May 2019 to take out the language following the asterisk, which Mr. Galbreath alleged made the notice a TRIP notice, triggering the requirement of an investigation on request.

The Maryland Uniform Declaratory Judgment Act (“the Act”), Md. Code Ann., Cts. and Jud. Proc. (“CJ”) §§ 3-401 to 3-415 (2020 Repl. Vol.), is liberally construed to permit a person to obtain a judicial declaration to “afford relief from uncertainty and insecurity

with respect to rights, status, and other legal relations.” CJ § 3-402. The Act provides that any person affected by a statute or administrative rule or regulation “may have determined any question of construction or validity” and may “obtain a declaration of rights, status, or other legal relations under it.” CJ § 3-406. It provides that “a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding.” CJ § 3-409(a).

The “uncertainty or controversy” forming the basis for the declaratory judgment claim, however, “must be justiciable.” *Hanover Invs., Inc. v. Volkman*, 455 Md. 1, 15 (2017) (internal quotations omitted). The statute specifies that there must be an “actual controversy” between the parties to sustain an action for declaratory relief. CJ § 3-409(a)(1). A controversy is not justiciable if it has become moot. *Stevenson v. Lanham*, 127 Md. App. 597, 612 (1999). A party is not permitted to bring a declaratory judgment action to resolve questions that are moot, as such a judgment will “not serve a useful purpose.” *Id.* at 613; *accord Post v. Bregman*, 349 Md. 142, 159 (1998).

This Court recently explained the mootness doctrine, as follows:

Generally, a case is moot if no controversy exists between the parties or ‘when the court can no longer fashion an effective remedy.’” *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 351–52 (2019) (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006)). “It is well settled that ‘[a]ppellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course.’” *Cottman v. State*, 395 Md. 729, 744 (2006) (quoting *State v. Ficker*, 266 Md. 500, 506–07 (1972)). “The test of mootness is whether, when it is before the court, a case presents a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy.” *Adkins v. State*, 324 Md. 641, 646 (1991). “In other words, ‘mootness prevents review of an issue only when the court can no longer fashion an effective remedy.’”

*Tallant v. State*, 254 Md. App. 665, 682–83 (2022) (quoting *Hawkes v. State*, 433 Md. 105, 130 (2013)) (cleaned up). Accord *Md. Tobacco Growers’ Ass’n v. Md. Tobacco Auth.*, 267 Md. 20, 25–26 (1972) (“[W]hen the chronology of a case makes it apparent that nothing [the court] could do could undo or remedy that which has already occurred,” then “the case must be dismissed as moot.”).

*Lee v. State*, 257 Md. App. 481, 517 (2023), *cert. granted*, 483 Md. 589 (2023). In other words, a case is moot when the controversy is no longer “live.” *Housing Opportunities Comm’n of Montgomery Cty. v. Adebayo*, 258 Md. App. 137, 155 (2023).

Here, the issue presented by Mr. Galbreath is moot. It is undisputed that, prior to filing his complaint in the circuit court, the CCU had dismissed its tax intercept action for the collection of the alleged MVA debt against Mr. Galbreath and reduced the debt to zero. At oral argument, counsel for CCU said that, at this point, it could not again seek to collect debt in this regard. Accordingly, an “actual” and “live” controversy between Mr. Galbreath and the CCU no longer exists. See *Housing Opportunities Comm’n of Montgomery Cty.*, 258 Md. App. at 155 (controversy no longer “live” once third party withdrew from deal). Any declaration regarding whether the CCU violated statutory and/or regulatory provisions under TRIP would have no impact on Mr. Galbreath’s “rights, status, and other legal relations.” CJ § 3-402. See, e.g., *American Civil Liberties Union Found of Md. v. Leopold*, 223 Md. App. 97, 127 (2015) (dispute over propriety of withholding requested tapes was moot because declaratory judgment would serve no useful purpose once tapes were produced); *Campbell v. Lake Hallowell Homeowners Ass’n*, 152 Md. App. 139, 148 (2003), *cert. denied*, 378 Md. 614 (2003) (dispute over homeowner association’s enforcement of rules was moot because plaintiffs no longer lived in the community);

*Stevenson*, 127 Md. App. at 615, 621 (declaratory judgment action was moot when appellant had changed the nature of his hunger strike and discontinued the conduct at issue).

As Mr. Galbreath notes, however, there are exceptions to the mootness doctrine where an appellate court will express its views on a moot issue. However, “we rarely do so and usually dismiss the appeal without addressing the merits of the issue.” *Powell v. Maryland Dep’t of Health*, 455 Md. 520, 540 (2017).

Mr. Galbreath contends that this Court should consider the appeal under the exception for a controversy that is capable of repetition yet evades review. We disagree. As indicated, there are no claims that the CCU might resume its debt collection action against Mr. Galbreath, and counsel for the CCU stated at oral argument that it cannot do so. Counsel further stated that the language of the initial letter, which Mr. Galbreath contended gave the impression that an investigation must be made, if requested, has been changed to resolve any controversy.

We are not persuaded that the issue presented is likely to recur but evade review. We hold that Mr. Galbreath’s appeal from a complaint requesting a declaratory judgment that the CCU’s May 17, 2019 letter constituted a TRIP notice is moot.

**APPEAL DISMISSED. COSTS TO BE PAID  
BY APPELLANT.**