Circuit Court for Prince George's County
Case No. CAL22-05496

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1432

September Term, 2024

ROGER KEETON

v.

DARCARS OF BRANCH AVENUE, INC.

Arthur,
Ripken,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: December 31, 2025

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

The Circuit Court for Prince George's County granted summary judgment in the defendant's favor on both counts of the plaintiff's complaint. Fourteen days after the clerk entered the grant of summary judgment on the court's electronic case management system, the plaintiff moved for "reconsideration." The court denied the motion for "reconsideration," and the plaintiff appealed.

The plaintiff noted his appeal less than 30 days after the denial of the motion for "reconsideration" but more than 30 days after the grant of summary judgment. Consequently, the only issue before us is whether the court abused its discretion in declining to reconsider its earlier ruling. *See, e.g.*, *Stuples v. Baltimore Police Dep't*, 119 Md. App. 221, 231-32 (1998). Because the ruling in question survives that "minimal and deferential" standard of review, *id.* at 232, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

For purposes of the limited issue before us, the pertinent facts are as follows:

Plaintiff Roger Keeton bought a car from defendant Darcars of Branch Avenue, Inc., in 2015. Keeton contends that the car was a lemon.

On about March 9, 2020, Keeton brought his car to Darcars for service. Darcars gave Keeton a loaner vehicle.

When he received the loaner, Keeton signed a rental agreement that required him to return it to Darcars by March 31, 2020. Keeton did not return the loaner.

On April 2, 2020, Darcars' service manager, Jeremy O'Connor, spoke to Keeton on the telephone. O'Connor claims to have told Keeton that his car was ready, that the

rental term had expired, and that he needed to return the loaner. O'Connor also claims that Keeton refused to return the loaner.

On April 3, 2020, O'Connor sent an email to Keeton. The email notified Keeton that his car had been repaired and that he must return the loaner. Keeton admitted that he received an email from O'Connor.

Also on April 3, 2020, O'Connor swore out a criminal complaint in the District Court of Maryland for Prince George's County. The complaint asserted that Keeton had violated section 7-205 of the Criminal Law ("Crim. Law") Article of the Maryland Code (2002, 2012 Repl. Vol.) by refusing to return the loaner at the end of the term. A district court commissioner issued a warrant for Keeton's arrest even though Darcars had not complied with the statutory requirements that it send "a written demand for the return of the motor vehicle . . . by regular mail and certified United States mail, return receipt requested," to Keeton's last known address, and that it give him five days to respond. Crim. Law § 7-205(b)(1)-(2).

On May 11, 2020, a police officer stopped Keeton in Washington, D.C., because he was driving a car that had been reported as stolen. The officer arrested Keeton for theft and for illegal possession of a firearm, which the officer had found in the car. Keeton was released from custody the following day.

Keeton contends that some of his property was missing from the loaner after it was returned to Darcars. He does not know who removed the property. Nor does he know whether the property had been removed from the loaner before it was returned to Darcars.

In February 2021 the State nol prossed the charges against Keeton.

On March 7, 2022, Keeton filed a two-count complaint against Darcars in the Circuit Court for Prince George's County. Count I stated a claim for malicious prosecution; Count II stated a claim for conversion.

After discovery, Darcars moved for summary judgment. Darcars supported its motion with excerpts from Keeton's deposition; Keeton's answers to interrogatories; an affidavit from the service manager, O'Connor; and other admissible evidence. In his affidavit, Darcars' service manager, asserted that when he swore out the charges against Keeton, he was unaware of the statutory requirement to send a written demand for the return of the loaner and to give the recipient five days to respond. The service manager also asserted that he bore no ill will or malice toward Keeton and that the failure to send the written demand "was a mere mistake."

In opposing the motion for summary judgment, Keeton submitted no admissible evidence controverting Darcars' assertions. The only materials accompanying the opposition were an unauthenticated warranty form and an unauthenticated vehicle history report from Carfax, a company that provides vehicle history reports to help people buy and sell used cars.

At a hearing on August 14, 2024, the circuit court granted Darcars' motion for summary judgment. The court reasoned that Keeton could not prove an essential element of his claim for malicious prosecution because he could not prove that Darcars lacked

probable cause to institute the criminal proceedings against him.[1] In addition, the court reasoned that Keeton could not prove who had removed his property from the loaner and, thus, could not prove that Darcars had converted his property.

On that same day, August 14, 2024, the court signed an order granting summary judgment in Darcars' favor. The clerk entered the order on the electronic case management system on that day as well.

On August 28, 2024, 14 days after the entry of summary judgment, Keeton filed what he called a "motion for reconsideration." The motion included, for the first time, an affidavit from Keeton.

Darcars opposed the "motion for reconsideration," and on September 9, 2024, the circuit court denied the motion.

On September 20, 2024, Keeton noted this appeal.

[1] "[T]he elements necessary for the successful maintenance of an action for malicious prosecution [of a criminal charge are] . . . (a) a criminal proceeding instituted or continued by the defendant against the plaintiff, (b) termination of the proceeding in favor of the accused, (c) absence of probable cause for the proceeding, and (d) '[m]alice,' or a primary purpose in instituting the proceeding other than that of bringing an offender to justice." *Durante v. Braun*, 263 Md. 685, 688 (1971); *accord Montgomery Ward v. Wilson*, 339 Md. 701, 714 (1995); *Exxon Corp. v. Kelly*, 281 Md. 689, 693 (1978). In a claim for malicious prosecution, any underlying factual disputes pertaining to the existence of probable cause are for the jury to resolve, but the ultimate question of whether those facts establish probable cause is for the court alone to decide. *Palmer Ford, Inc. v. Wood*, 298 Md. 484, 498-507 (1984).

QUESTION PRESENTED

Both parties proceed as though the principal question before this Court is whether the circuit court erred in granting the motion for summary judgment.[2] They are incorrect.

[2] Keeton formulated the questions presented as follows:

> [1.] Was it legally incorrect for the Circuit Court's [sic] to conclude that it was reasonable for Appellee's employee to suspect Appellant to be guilty of the crime of refusing to return the rental car, when the only evidence of that refusal is a statement by that employee, especially since that statement was disputed?
>
> [2.] Was it legally incorrect for the Circuit Court to overlook the failure of Appellant to issue the written notice required pursuant to Md. Code Ann., Criminal Law § 7-205?
>
> [3.] Was it legally incorrect for the Circuit Court to find probable cause based on the issuance of an arrest warrant?
>
> [4.] Should the court properly have continued both motions [Darcars had filed a motion in limine as well as a motion for summary judgment] instead of prematurely granting summary judgment and denying reconsideration?

Darcars formulated the questions presented as follows:

> 1. Whether the trial court correctly determined there was no genuine dispute of material fact, where Appellant presented no evidence to support his claims.
>
> 2. Whether the trial court correctly granted summary judgment as to Appellant's malicious prosecution claim on the grounds that probable cause existed to believe Appellant was not going to return the loaner car notwithstanding the lack of written notice pursuant to Md. Code Ann., Crim. Law § 7-205.
>
> 3. Whether the trial court correctly denied Appellant's Motion for Reconsideration of its Order granting DARCARS's Motion [in limine].

Because Keeton filed the "motion for reconsideration" more than 10 days but fewer than 30 days after the entry of judgment, the motion was a motion to revise the judgment under Maryland Rule 2-535(a). Unlike a motion for judgment notwithstanding the verdict under Rule 2-532, a motion for a new trial under Rule 2-533, or a motion to alter or amend under Rule 2-534, a motion to revise a judgment under Rule 2-535(a) does not stay the time for noting an appeal from the judgment itself. *See, e.g.*, *Estate of Vess*, 234 Md. App. 173, 194-95 (2017).

Keeton noted an appeal within 30 days of the denial of his revisory motion, but did not note an appeal within 30 days of the entry of summary judgment. Consequently, the question of whether the circuit court erred in granting summary judgment is not before us. Instead, the sole question before us is whether the court abused its discretion in denying the revisory motion.

DISCUSSION

"'An appeal from the denial of a motion asking the court to exercise its revisory power is not necessarily the same as an appeal from the judgment itself.'" *Bennett v. State Dep't of Assessments & Taxation*, 171 Md. App. 197, 203 (2006) (quoting *Green v. Brooks*, 125 Md. App. 349, 362 (1999)); *see also Furda v. State*, 193 Md. App. 371, 377 n.1 (2010); *accord Estate of Vess*, 234 Md. App. at 204. "The scope of review is 'limited to whether the trial [court] abused [its] discretion in declining to reconsider the judgment.'" *Estate of Vess*, 234 Md. App. at 205 (quoting *Grimberg v. Marth*, 338 Md. 546, 553 (1995)). An appellate court should reverse the denial of a motion to revise a

judgment only if the decision "was *so far wrong*—to wit, *so egregiously wrong*—as to constitute a clear abuse of discretion." *Stuples v. Baltimore City Police Dep't*, 119 Md. App. at 232 (emphasis in original). "It is hard to imagine a more deferential standard than this one." *Estate of Vess*, 234 Md. App. at 205.

Writing in the related context of the denial of a motion to alter or amend a judgment, Judge Moylan described the immense scope of a judge's discretion not to reconsider an earlier ruling:

> [T]he discretion of the trial judge is more than broad; it is virtually without limit. What is, in effect, a post-trial motion to reconsider is not a time machine in which to travel back to a recently concluded trial in order to try the case better with hindsight. The trial judge has boundless discretion not to indulge this all-too-natural desire to raise issues after the fact that could have been raised earlier but were not or to make objections after the fact that could have been earlier but were not. Losers do not enjoy *carte blanche*, through post-trial motions, to replay the game as a matter of right.

Steinhoff v. Sommerfelt, 144 Md. App. 463, 484 (2002).

In this case, Keeton asked the court to reconsider the grant of summary judgment solely because of points that he made or could have made before the court had ruled. He did not ask the court to reconsider its ruling on the basis of a new development that he could not have raised before the court ruled. In these circumstances, the court had almost limitless discretion not to consider those arguments. *Schlotzhauer v. Morton*, 224 Md. App. 72, 85 (2015), *aff'd*, 449 Md. 217 (2016). The circuit court did not abuse its discretion in denying Keeton's post-judgment revisory motion.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

AFFIRMED. COSTS TO BE PAID BY APPELLANT.