

Circuit Court for Cecil County
Case No. 07-C-15-001103

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1778

September Term, 2019

MARIA MIRANDA FALCON

v.

GEORGE FALCON

Kehoe
Beachley,
Shaw Geter,

JJ.

Opinion by Beachley, J.

Filed: December 8, 2020

*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.

Appellant, Maria Miranda Falcon (“Maria”), and appellee George Falcon (“George”) were granted a Judgment of Absolute Divorce on February 3, 2017, in the Circuit Court for Cecil County. The divorce case was contested, with the parties appearing before a family law magistrate who issued a lengthy “Report, Findings and Recommendations.” The magistrate’s recommendations were fully adopted by the circuit court in its divorce decree. As relevant here, the circuit court expressly adopted the magistrate’s recommendation that “neither party shall be entitled to the other party’s pension and/or retirement accounts or any portion thereof.” According to the magistrate’s report, George was then receiving \$3,088.11 per month from his General Motors pension.

More than two years after entry of the divorce judgment, George filed a Motion for Entry of Qualified Domestic Relations Order (“QDRO”). In his Motion, George asserted that, in order for Maria to be removed from “Post-Retirement Surviving Spouse Coverage,” the plan administrator for his pension plan required the issuance of a QDRO. Maria filed a “Preliminary Motion to Dismiss,” principally arguing that federal law precluded the issuance of a QDRO to divest her of vested survivor benefits. A hearing on Maria’s motion to dismiss was ultimately set for September 12, 2019, but on September 11 the circuit court granted George’s motion and entered a QDRO providing that Maria “is not entitled to a share of the post-retirement surviving spouse benefit.” In granting George’s motion, the court affixed the following to a copy of the motion:

Granted – the Court finds from the language in the Judgement [sic] of Absolute Divorce, including “. . . or any portion thereof[.]” that the parties intent and waiver included survivor benefits.

The court thereafter denied Maria’s motion to alter or amend judgment. Notably, the circuit court never held a hearing on any of the motions. Maria noted this timely appeal.

Although we have no difficulty with the proposition that a court may generally interpret its own judgment or decree, the court erred in determining that the judgment here reflected the parties’ *intent* to waive pension “survivor benefits.” The parties’ divorce case was fully-contested, resulting in the magistrate’s nineteen-page “Report, Findings and Recommendations” that was ultimately endorsed by the divorce decree. In the hearing before the magistrate, Maria requested a share of George’s pension that was in pay status. Although the court denied Maria’s request, it is clear that she never “intended” to waive any claim to George’s pension, and it was error for the court to summarily conclude, without a hearing, that she did.

We further note the odd procedural posture of this case where the court effectively granted George summary judgment on *Maria’s* motion to dismiss. We shall therefore vacate the QDRO and remand this case to the circuit court for further proceedings, including a ruling on Maria’s Preliminary Motion to Dismiss and, if appropriate, an evidentiary hearing.¹

**QUALIFIED DOMESTIC RELATIONS
ORDER DATED SEPTEMBER 11, 2019,
IS VACATED. CASE REMANDED TO
CIRCUIT COURT FOR FURTHER**

¹ From this record, we know nothing about George’s pension except that he apparently earned it through his employment at General Motors and it was in pay status at the time of the divorce. The pension plan document is not in the record extract, nor is there any documentary evidence confirming the plan administrator’s alleged notice to George to seek a QDRO. The circuit court is the appropriate forum to consider relevant evidence and adjudicate the parties’ claims concerning the post-retirement survivor benefit.

**PROCEEDINGS CONSISTENT WITH
THIS OPINION. APPELLEE TO PAY
COSTS.**