Circuit Court for Harford County
Case No. 12-C-16-000549

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND**

No. 1842

September Term, 2022

MARK ROBERT MICHAEL WOZAR

v.

GAYLE LYNNE WOZAR

Wells, C.J.,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: May 24, 2023

*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.

**At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

This is the third appeal by appellant Mark Robert Michael Wozar ("Father") from an order by the Circuit Court for Harford County concerning his two sons with his former spouse, appellee Gayle Lynne Wozar ("Mother"). For jurisdictional and other reasons, we shall dismiss this appeal.

BACKGROUND

Father and Mother were divorced in November 2016. *See Wozar v. Wozar*, No. 2286, Sept. Term 2019 (filed Aug. 7, 2020), slip op. at 2 ("*Wozar I*"). As a result of prior orders affirmed by this Court, Mother had primary physical and joint legal custody; Father had liberal visitation subject to each child's agreement, but was subject to restrictions on his communications with and about the children. *See id*. at 4-8. Mother was required to provide Father with updates regarding the children's "health and education." *See Wozar v. Wozar*, No. 1785, Sept. Term 2021 (filed Aug. 2, 2022), slip op. at 6 (hereinafter, "*Wozar II*").

By the time we decided *Wozar II* in August 2022, the older son, born in November of 2002, was no longer a minor, and the younger son, born in October of 2004, was due to reach the age of majority within the next few months. *See Wozar II*, slip op. at 1 n.1. Both children are now adults.

This appeal arises from a petition that Father filed while the *Wozar II* appeal was pending and the younger son was still 17. In that petition, Father asked the court to hold Mother in contempt for violating court orders by failing to provide information that he claimed was necessary to exercise his parental rights with respect to medical and educational matters concerning their younger son.

On November 28, 2022, after we issued the mandate in *Wozar II*, and after the younger son had turned 18, the circuit court held a hearing on Father's contempt petition. Both Father and Mother represented themselves.

Testifying on his own behalf, Father pointed to the terms of a 2015 marital settlement agreement governing "medical information, medical insurance, and child support." He claimed that he had "asked for those medical cards[,]" as well as "information on report cards" and "information on medicine[,]" but that nothing had "been provided." When the court asked whether he had made his inquiries in accordance with its June 30, 2020, order, which allowed him "to submit written questions to [Mother] to be shared with medical professionals during visits[,]" Father answered, "[T]hat would be great if [Mother] would tell me when the appointments are, but [she] doesn't tell me until after the fact." Because he had been denied that information, Father claimed, his ability to parent the younger son had been compromised.

Father called no other witnesses. Mother did not cross-examine Father, testify, or present any evidence.

During the hearing, neither the parties nor the court mentioned that the children were no longer minors. Instead, the court denied Father's contempt petition on the merits, explaining that Mother "is not in violation of the Court's orders."

On November 29, 2022, the court entered an order denying Father's "Petition for Contempt[.]" On December 28, 2022, Father noted this appeal.

DISCUSSION

We shall dismiss Father's appeal for two reasons. First, we lack appellate jurisdiction to decide it. Second, the case is moot.

I. Lack of Appellate Jurisdiction

We first consider whether we have appellate jurisdiction. Although Father's brief does not address the issue, "we must dismiss a case *sua sponte* on a finding that we do not have jurisdiction[.]" *See*, *e.g.*, *Miller & Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 240 (2010); *see also* Md. Rule 8-602(a)-(b); Kevin F. Arthur, *Finality of Judgments and Other Appellate Trigger Issues* § 2 (2018).

We do not have appellate jurisdiction to entertain Father's appeal from the denial of his petition for constructive civil contempt.[1] The right to appeal is entirely statutory. *See*, *e.g.*, *Gray v. Fenton*, 245 Md. App. 207, 211 (2020). Section 12-304 of the Courts & Judicial Proceedings Article of the Maryland Code (1974, 2020 Repl. Vol.) "clearly and unambiguously limits the right to appeal in contempt cases to persons adjudged in

[1] Father captioned his petition as a "motion for Constructive Criminal Complaint[,]" but the circuit court correctly treated his request as a petition to have Mother held in constructive civil contempt. In Maryland, there are "'two forms of contempt—direct and constructive—and two types of each form—criminal and civil.'" *Hammond v. State*, 436 Md. 22, 33 (2013) (quoting *Smith v. State*, 382 Md. 329, 338 (2004)). "'Direct contempt is committed in the presence of the trial judge . . . while constructive contempt is any other form of contempt.'" *Id.* (quoting *Smith v. State*, 382 Md. at 338). Civil contempt proceedings are "remedial," in that they "are intended to coerce future compliance," "whereas imposing a sanction for past misconduct is the function of criminal contempt." *Dodson v. Dodson*, 380 Md. 438, 448 (2004). Although a party may initiate constructive civil contempt proceedings within a pending civil proceeding, only the State or the court may initiate, as a separate criminal action, proceedings for criminal contempt. *See* Md. Rule 15-205; Md. Rule 15-206.

contempt[.]" *Pack Shack, Inc. v. Howard Cnty.*, 371 Md. 243, 254 (2002). Therefore, a "party that files a petition for constructive civil contempt does not have a right to appeal the trial court's denial of that petition." *Id*. at 246. It follows that Father cannot appeal the denial of his petition.

We are not persuaded otherwise by Father's attempts to broaden the scope of the hearing. The record shows that the circuit court repeatedly restricted the hearing to Father's contempt claim. Noting that "[t]his matter was set in this morning on Mr. Wozar's petition for contempt[,]" the court rejected Father's attempts to "revisit" a claim that Mother "is not responding to discovery." When Father attempted to raise "a matter of default and motion for default judgments[,]" the court again redirected Father "to present evidence with regard to the contempt." As Father testified about not seeing his children and not obtaining a hearing on his claims that the children had suffered "child abuse, malnutrition, [and] sexual abuse[,]" the court stated that it was "not going address that in this proceeding." In short, each time Father asserted other grievances, the court reiterated that it would address only his contempt petition.

Under Md. Rule 8-602(b)(1), an appellate "court shall dismiss an appeal if . . . the appeal is not allowed by these Rules or other law[.]" Because this Court does not have appellate jurisdiction to review the circuit court's denial of Father's civil contempt petition, we must dismiss this appeal. *See id.*; *Pack Shack, Inc. v. Howard Cnty.*, 371 Md. at 254.

II. Mootness Based on Lack of Circuit Court Jurisdiction

Even if we were to view the challenged decision more broadly, as denying Father's demands for discovery or other injunctive remedies, we would conclude that the circuit court lacked jurisdiction to grant that relief after the younger son turned 18. Consequently, Father's claims that he was entitled to more information than Mother provided him are now moot.

A circuit court has equitable jurisdiction to decide "custody or guardianship *of a child*" and "visitation *of a child*[.]" Maryland Code (1984, 2019 Repl. Vol.), § 1-201(b)(5)-(6) of the Family Law Article ("FL") (emphasis added). Specifically, "[i]f the parents live apart," as in this case, "a court may award custody *of a minor child* to either parent or joint custody to both parents." FL § 5-203(d)(1) (emphasis added).

For custody and visitation purposes, a "minor" is statutorily defined as an individual who is under 18. *See* Maryland Code (2014, 2019 Repl. Vol.), § 1-103(b) of the General Provisions Article ("GP") (except in certain matters of child support, the term "minor," "as it pertains to legal age and capacity . . . , means an individual under the age of 18 years"). Only with respect to child support is this age limit briefly extended, to cover an 18 year old who is still enrolled in secondary school. *See* GP § 1-401(b).[2]

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[2] GP § 1-401 provides:

(a)(1) The age of majority is 18 years.

(2) Except as provided in subsection (b) of this section or as otherwise specifically provided by statute, an individual at least 18 years old is an adult for all purposes and has the same legal capacity, rights, powers,

(continued)

Although this Court had pointed out that the older son had reached the age of majority, and that the younger son would reach the age of majority in October of 2022, *see Wozar II*, slip op. at 1 n.1, the parties nevertheless convened on November 28, 2022, to debate whether Mother had complied with the court's prior order to supply Father with information regarding medical and educational matters. They did so without acknowledging that the younger son was no longer a "child" subject to the court's jurisdiction.

Consequently, even if we treat Father's requests as seeking discovery and injunctive relief (as opposed to a contempt order), the circuit court could not have granted that relief. Because the court no longer had authority to "direct who shall have the custody or guardianship of a child," FL § 1-201(c)(1), its prior order requiring Mother to provide Father medical and educational information pertaining to the younger son was

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> privileges, duties, liabilities, and responsibilities that an individual at least 21 years old had before July 1, 1973.
>
> (b) An individual who has attained the age of 18 years and who is enrolled in secondary school has the right to receive support and maintenance from both of the individual's parents until the first to occur of the following events:
>
> (1) the individual dies;
>
> (2) the individual marries;
>
> (3) the individual is emancipated;
>
> (4) the individual graduates from or is no longer enrolled in secondary school; or
>
> (5) the individual attains the age of 19 years.

moot. *See generally In re M.C.*, 245 Md. App. 215, 224 (2020). Because this Court will "not render judgment on moot questions[,]" dismissal of this appeal is warranted. *See id.*; Md. Rule 8-602(c)(8) (stating that an appellate "court may dismiss an appeal if . . . the case has become moot").

APPEAL FROM ORDER OF THE CIRCUIT COURT FOR HARFORD COUNTY ENTERED NOVEMBER 29, 2022, DENYING APPELLANT'S CONTEMPT PETITION, DISMISSED. COSTS TO BE PAID BY APPELLANT.

The correction notice(s) for this opinion(s) can be found here:

https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1842s22cn.pdf