Circuit Court for Frederick County
Case No. C-10-CV-22-000289

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1856

September Term, 2024

XUAN HUYNH PHAM

v.

GET R DONE GENERAL HAULING INC, ET AL.

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: December 5, 2025

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

This appeal arises from a rear-end accident in 2019 between Appellant, Xuan Huynh Pham ("Appellant") and Appellees, Paul Judson Roberts, driver, and Get R Done General Hauling Inc. (collectively "Appellees"), resulting in Appellant filing a personal injury suit in the Circuit Court for Frederick County in May 2022. Around October 2024, the circuit court denied two motions for a continuance/postponement of trial by Appellant based on alleged issues with post-traumatic stress disorder, anxiety, depression and panic attack symptoms. Appellant asserts that the circuit court committed reversible error in denying her requests for postponement and subsequently entering judgment in favor of Appellees.

QUESTIONS PRESENTED

Appellant presents two questions for our review:

1. Whether the circuit court erred in failing to postpone the trial of this matter?

2. Whether the circuit court erred in entering judgment in favor of the Defendants?

For the reasons that follow, we affirm the judgment of the circuit court.

BACKGROUND

This matter arose from a motor vehicle collision that occurred on May 29, 2019 in Frederick County, Maryland. On May 20, 2022, Appellant filed a complaint against Appellees, Get R Done General Hauling, Inc. and Paul Judson Roberts, alleging negligence and respondeat superior liability.

Appellant was initially represented by counsel, but counsel filed a motion to strike/withdraw appearance on March 25, 2024. On April 15, 2024, the circuit court granted the motion, struck counsel's appearance and issued a notice requiring Appellant to

employ new counsel. Appellant proceeded without representation for several months and did not employ new counsel.

The trial was scheduled for October 28, 2024. The scheduling order had been modified several times throughout the case, with the last modification issued on September 11, 2023.[1] At the time of trial, the case had been pending for over two years.

On October 11 and 12, 2024, appearing *pro se*, Appellant filed two motions for a postponement of the trial. Appellant initially requested a postponement due to "panic attacks daily in preparation for the trial" and a "severe mental health crisis with suicidal thoughts and self- injurious behaviors." The initial motion sought a one-month postponement, while a second motion requested that the circuit court "defer the trial." Appellant did not include any affidavits, records, or letters from a doctor or mental health professional in support of these motions.

On October 14, 2024, Appellees filed an opposition to Appellant's motions. Appellees argued the motions were unsupported, that Appellant had over a year to prepare for trial, and that Appellees would be unfairly prejudiced by another delay.

[1] The circuit court initially scheduled a status conference for January 27, 2023; pre-trial conference for August 16, 2023; and trial for September 12-14, 2023. Upon request by Appellees, the court postponed the status conference to June 30, 2023. Upon request by Appellant, the pre-trial conference was postponed to November 15, 2023, and trial was postponed to January 2-5, 2024. Upon further request by both parties, the court re-scheduled the pre-trial conference to October 2, 2024, and trial to span October 28-31, 2024.

On October 15, 2024, Appellant filed hundreds of pages of medical records from Denver Health with the circuit court. Most of the records pertained to a dog bite incident that occurred in September 2024. The records were not accompanied by a motion or memorandum and were not supported by any affidavits or certificates of authenticity. The records included a signed letter from MacKenzie L. Dwyer, P.A., dated October 14, 2024. This letter suggested that Appellant had been diagnosed with post-traumatic stress disorder and unspecified depression. However, the letter made no reference to Appellant being unable to prepare for and attend trial due to these diagnoses, nor did they provide a nexus between the accident at issue and those diagnoses.

The records also included a purported letter to the circuit court allegedly written by Laura Rogers, a nurse practitioner (PMHNP). Unlike the other records, this letter was not on Denver Health letterhead. The letter was undated, unsigned, and contained several grammatical and spelling errors. The letter stated that "the reality of self-representation with English as her second language and growing psychiatric instability has become more than she can bare [sic]." It referenced "medication adjustments" and psychotherapy and requested a minimum of five weeks for Appellant to "psychologically prepare to defend herself at trial." On October 15, 2024, the court denied Appellant's Motions to Postpone the trial.

On October 16, 2024, Appellant filed a motion for reconsideration, essentially repeating the claims outlined in her earlier postponement motions. Appellant stated that "I believed, in early October, I was sufficiently prepared for the trial, as my mental health was stable, and I was ready to address the case. However, the deeper I investigate the case,

the more my mental health declines into a crisis and intensifies in severity." Appellant blamed her prior counsel for "leaving the case without providing me with any documents and updates." She claimed suicidal ideation and requested "an extended period" to undergo "intensive psychotherapy and pharmacotherapy." Appellant did not provide any affidavits or certified records in support of her motion for reconsideration.

On October 19, 2024, Appellees filed an opposition to the motion for reconsideration. Appellees argued, among other things, that the challenges faced by Appellant were of her own making and were not due to the actions or inactions of prior counsel. On October 22, 2024, the court denied Appellant's motion for reconsideration.

The case was called for trial on October 28, 2024. Appellees and their respective counsel appeared for trial. The presiding judge advised that the law clerk had attempted to contact Appellant several times and never received a response. The court indicated that "[t]he Clerk's Office did receive a call this morning from the plaintiff indicating she was hospitalized, but did not, has not filed any formal request for postponement."

Counsel for Appellees objected to any postponement on the record, noting that Appellees had traveled from Florida for the trial and made arrangements to stay for several days. Counsel further noted that considerable time and expense were incurred in preparing for trial and that Appellant had never contacted Appellees about her alleged hospitalization. Counsel argued that, in the absence of any proof of hospitalization, there was no good cause to postpone the trial.

Appellees then moved for judgment, arguing that Appellant would not be able to meet her burden of proof based on the failure to appear. The court noted the prior denials

of Appellant's motions to postpone, the absence of any formal filing of a motion or proof of hospitalization, and Appellant's failure to appear and proceed with her case. The court granted Appellees' motion and entered judgment in favor of Appellees.

On October 28, 2024, the trial court entered a written Order entering judgment in favor of Get R Done Hauling. On October 30, 2024, the trial court entered an Amended Order entering judgment in favor of both Appellees, Get R Done Hauling and Paul Judson Roberts. Appellant noted her appeal on November 19, 2024. She did not file any documentation evidencing her hospitalization, nor any post-judgment motions, before filing this appeal.

STANDARD OF REVIEW

Maryland Rule 2-508(a) provides that "on motion of any party or on its own initiative, the court may continue or postpone a trial or other proceeding as justice may require." The decision to grant or deny a request for postponement is within the sound discretion of the trial court. *Das v. Das*, 133 Md. App. 1, 31 (2000). A trial court's action in response to a request for postponement will not be reviewed on appeal unless the court acts arbitrarily. *Thanos v. Mitchell*, 220 Md. 389, 392 (1959). Absent an abuse of discretion, courts have historically declined to disturb the decision to deny a motion for postponement. *Greenstein v. Meister*, 279 Md. 275, 294 (1977); *Dart Drug Corp. v. Hechinger Co.*, 272 Md. 15, 28 (1974); *Butkus v. McClendon*, 259 Md. 170, 173 (1970).

Similarly, this Court will not vacate a default judgment unless there has been an abuse of discretion. *See Das*, 133 Md. App. at 15; *Wells v. Wells*, 168 Md. App. 382, 394 (2006). "When reviewing a motion to vacate a judgment based on a party's failure to

appear at a proceeding, the court must consider relevant emergency circumstances that contributed to the failure to appear, if presented with information by the moving party." *See* Md. Rules 2-535 (committee note). An abuse of discretion has been defined as "discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." *Jenkins v. City of College Park*, 379 Md. 142, 165 (2003).

DISCUSSION

I. The Circuit Court Did Not Abuse Its Discretion by Denying Appellant's Motion for Postponement.

A. The Parties' Arguments

Appellant argues the circuit court committed reversible error in denying her request for postponement. She relies heavily on *Thanos*, 220 Md. 389, contending that the instant case is "squarely within the scope" of that decision. Appellant asserts she provided medical records showing she suffered from anxiety, PTSD, and suicidal ideation, and presented a letter from a psychiatric mental health nurse practitioner stating that as trial approached, "the reality of self-representation with English as her second language and growing psychiatric instability has become more than she can bare [sic]." Appellant argues this evidence was sufficient to meet the standard set forth in *Thanos* and *Jackson v. State*, 214 Md. 454, 459 (1957), which contemplates that a continuance should be granted when a party demonstrates they had "a reasonable expectation of securing the evidence of the absent witness or witnesses within some reasonable time; that the evidence was competent and material, and he believed that the case could not be tried without it; and that he had made a diligent and proper efforts to secure the evidence."

Appellant further cites *Plank v. Summers*, 205 Md. 598, 605 (1954), for the proposition that requiring a case to proceed without the party's presence "would have been 'like the play of Hamlet with Hamlet left out.'"

Appellees counter that Appellant failed to establish she suffered from a mental health condition or crisis that would prevent her from preparing for and attending trial. Appellees argue the evidence provided by Appellant was insufficient and of questionable authenticity. They emphasize that the letter allegedly written by Laura Rogers, PMHNP, was not on letterhead, was unsigned, undated, and contained several grammatical and spelling errors. Appellees assert that no weight should be given to the letter and that other records filed by Appellant do not support her claim that she was unable to attend trial. Appellees additionally note that most of the medical records pertained to a dog bite incident in September 2024, and that Appellant never provided an affidavit from a doctor or mental health professional establishing the existence of any diagnoses or that they would prevent her from preparing for and attending trial.

Appellees also emphasize the prejudice they would suffer if the trial were postponed. The case had been pending for over two years at the time of trial. At first, Appellant sought only a one-month postponement, but later moved for the circuit court to "defer the trial" indefinitely. Appellees argue that it would have been very unlikely that the court could reschedule the trial just one month later, meaning that another postponement would have led to yet another lengthy delay. Appellees were fully prepared for trial and incurred significant expenses in doing so. They traveled from Florida to attend the trial and made arrangements to stay in Maryland until the trial concluded. As such,

Appellees argue that the time and expenses incurred would have been wasted if the trial was postponed, resulting in significant, unfair prejudice.

Additionally, Appellees assert that Appellant's true concern was not a mental health crisis, but her lack of preparation for trial. Appellant stated in her motion for reconsideration that she was mentally prepared for trial in early October, but "the deeper I investigate the case, the more my mental health declines into a crisis and intensifies in severity." Appellant blamed her prior counsel for not providing documents and updates. Appellees argue these statements reveal that Appellant was seeking to postpone the trial because she was not prepared, not because she was genuinely unable to attend due to a mental health crisis.

Finally, in her reply brief, Appellant argues that Appellees cannot now challenge the credibility of her medical records because they did not raise this issue before the trial court. Appellant cites Maryland Rule 8-131(a), *Devereux v. Berger*, 264 Md. 20, 31 (1970), and *Drug Fair of Maryland, Inc. v. Smith*, 263 Md. 341, 356 (1971),[2] for the proposition that "[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court."

[2] In both of the aforementioned cases, the court relied on rules that have since been superseded. *Devereux*, 264 Md. at 31 (applying Md. Rule 885); *Smith*, 263 Md. at 355-56 (applying Md. Rules 552, 563, and 885). The appropriate rule today states that although appellate review is ordinarily confined to issues appearing in the record as raised or decided by the trial court, this Court may address other matters when "necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal." *See* Md. Rule 8-131(a).

B. Analysis

We discern no abuse of discretion by the trial court's denial of Appellant's motions for postponement, based on the evidence before it.

The landmark case in this area is *Thanos*, 220 Md. 389. In *Thanos*, the plaintiff was unable to appear for trial due to mental illness. *Id.* at 391. On the November trial date, counsel for the plaintiff informed the court of his client's condition and requested a temporary postponement until after the Christmas holidays. *Id.* Critically, the motion was supported by affidavits from two doctors, both of whom swore that the plaintiff was unfit to testify at trial. *Id.* at 391. The motion was opposed by the defendant and ultimately denied by the trial court. *Id.* at 392.

The Supreme Court of Maryland reversed, noting that "whether to grant a continuance is in the sound discretion of the trial court, and unless he acts arbitrarily in the exercise of that discretion, his action will not be reviewed on appeal." *Id.* at 392 (citing *Harris v. State*, 141 Md. 526, 530 (1922); *Cumberland & Westport Transit Co. v. McNamara*, 158 Md. 424, 454 (1930); *Millstein v. Comet Lines, Inc.*, 197 Md. 348 (1951)). However, the Court found the case before it was "one of the exceptional instances where there was prejudicial error." *Id.* The Court emphasized that the facts and opinions of the doctors, as expressed in their affidavits, "left no doubt that it would be impossible for the plaintiff to be in court to present her case." *Id.*

The Court also cited to *Plank*, 205 Md. at 605, noting that to have required the case to proceed without the plaintiff's presence "would have been 'like the play of Hamlet with Hamlet left out.'" *Thanos*, 220 Md. at 393. The Court further referenced the standards set

forth in *Jackson*, 214 Md. at 459, regarding when a party has shown sufficient grounds for a continuance: "that he had a reasonable expectation of securing the evidence of the absent witness or witnesses within some reasonable time; that the evidence was competent and material, and he believed that the case could not be tried without it; and that he had made a diligent and proper efforts to secure the evidence." *Thanos*, 220 Md. at 393. The Court concluded that all these standards were met by the plaintiff. *Id.* at 392-93.

The case at bar is readily distinguishable from *Thanos*. Most critically, Appellant provided no affidavits from doctors or mental health professionals establishing that she was unable to prepare for and attend trial. Md. Rule 2-508(c) provides that "[a] motion for a continuance or postponement on the ground that a necessary witness is absent shall be supported by an affidavit." The Court in *Thanos* specifically emphasized the importance of the two doctors' affidavits, which "left no doubt that it would be impossible for the plaintiff to be in court to present her case." *Id.* at 392. Here, the circuit court had no such sworn evidence before it.

The medical records Appellant submitted consisted primarily of documents related to a dog bite incident in September 2024. While one signed letter from MacKenzie L. Dwyer, P.A., indicated Appellant had been diagnosed with post-traumatic stress disorder and unspecified depression, the letter made no reference to Appellant being unable to prepare for and attend trial as a result. A diagnosis alone does not establish incapacity to participate in legal proceedings.

Appellant primarily relies on a letter purportedly from Laura Rogers, PMHNP. However, the authenticity and reliability of this document is questionable. As Appellees

note, the letter is not on Denver Health letterhead, was unsigned, undated, and contained several grammatical and spelling errors. Unlike the sworn affidavits in *Thanos*, this letter was not accompanied by any affidavit or certificate of authenticity. The trial court was entitled to view this document with skepticism given these deficiencies.

Moreover, even accepting the Rogers letter at face value, it does not establish the level of incapacity found in *Thanos*. The letter requests "a minimum of an additional five weeks for her to psychologically prepare to defend herself at the trial[,]" but does not state that Appellant was unable to appear or participate in trial proceedings. Indeed, Appellant herself stated in her motion for reconsideration that she "believed, in early October, I was sufficiently prepared for the trial, as my mental health was stable." This statement undermines her claim of an acute mental health crisis preventing trial participation.

Appellant's own statements suggest her difficulty was lack of preparation and possible mental health issues. She stated, "the deeper I investigate the case, the more my mental health declines into a crisis and intensifies in severity[,]" and blamed her prior counsel for "leaving the case without providing me with any documents and updates." While we recognize that trial preparation can be stressful, particularly for a pro se litigant, stress and lack of preparation are not equivalent to the mental incapacity that warranted reversal in *Thanos*.

The prejudice to Appellees also supports the trial court's decision. Unlike in *Thanos*, where the plaintiff initially sought a one-month continuance, Appellant here first requested a one-month postponement but then moved to "defer the trial" indefinitely. The case had already been pending for over two years. Appellees traveled from Florida to

Maryland for trial and incurred significant expenses in preparation. They made lodging arrangements expecting to stay until the trial concluded. All these efforts and expenses would have been wasted by a postponement. Courts must balance the interests of both parties, and the circuit court could reasonably conclude that granting yet another continuance in a years-old case would work substantial unfairness to Appellees who appeared ready to proceed.

We also note that Appellant failed to provide any formal motion or proof on the morning of trial when she allegedly called to report she was hospitalized. Even assuming Appellant was indeed hospitalized, she never submitted evidence of this hospitalization to the court either before trial or in any post-judgment motion. This failure further supports the trial court's exercise of discretion in proceeding with the case.

Even assuming, *arguendo*, Appellant satisfied the procedural requirements for requesting a postponement by filing appropriate affidavits, the denial of such request remains within the sound discretion of the circuit court. *See Zdravkovich v. Siegert*, 151 Md. App. 295, 303 (2003). A postponement is not a matter of right—rather, it is only warranted when necessary to prevent a substantial injustice. Every postponement poses a disruption to the court's schedule and potential prejudice to litigants who have prepared for the scheduled date. A moving party must also show reasonable diligence in making a postponement request. *See* Md. Rule 2-508(c). Notably here, Appellant had ample time to assess her mental health, but did not file her requests for postponement until the month of trial. Even then, Appellant's requests did not proffer a definite or reasonable timeframe for when she anticipated being fit to stand trial. The lower courts are best situated to

balance the parties' interests in postponement with the overall judicial economy, as well as determining whether the moving party has showed reasonable diligence. As such, for the reasons previously expressed, we hold that the circuit court did not act in an arbitrary fashion in its denial of Appellant's requests.

Regarding Appellant's argument in her reply brief that Appellees cannot challenge the credibility of her medical evidence because they did not raise this issue at trial, we acknowledge that the trial court itself was not convinced by the evidence Appellant provided. The trial court denied both the initial motions for postponement and the motion for reconsideration after reviewing all the materials submitted by Appellant. The court, when the case was called for trial, specifically noted "the absence of any formal filing of a motion or proof of her hospitalization." The trial court's decisions reflect its assessment that Appellant's submissions were insufficient, regardless of whether Appellees explicitly challenged their authenticity below. The standard of review—whether the trial court abused its discretion—does not require that every argument raised on appeal be first presented to the trial court when the trial court's decision itself reflects proper consideration of the relevant factors.

Furthermore, Maryland Rule 8-131(a) provides that appellate courts will not decide issues not raised below, but here the fundamental issue—whether the trial court abused its discretion in denying the postponement—was squarely before the trial court and properly preserved for appeal. Appellees' specific arguments about why Appellant's evidence was insufficient go to the merits of that preserved issue.

In sum, the circuit court did not act arbitrarily or abuse its discretion in denying Appellant's requests for postponement. The court appropriately balanced Appellant's claimed need for a continuance against the evidence supporting that need (which was insufficient) and the prejudice to Appellees (which would have been substantial). This case lacks the compelling medical evidence present in *Thanos* and instead reflects the more common situation where a party is unprepared or stressed about trial but not genuinely incapacitated. The trial court's decision to require the case to proceed falls well within the bounds of reasonable discretion.

II. The Circuit Court Did Not Err in Granting Judgment in Favor of Appellees.

Having concluded the trial court did not err in denying Appellant's requests for postponement, it follows that the trial court did not err in entering judgment in favor of Appellees. Appellant does not argue the judgment was improper, only that the postponement should have been granted. Since we affirm the denial of the postponement, we necessarily affirm the entry of judgment.

CONCLUSION

We hold that the circuit court did not abuse its discretion in denying Appellant's motions for continuance and postponement. The evidence presented by Appellant was insufficient to establish she was unable to attend and participate in trial, and Appellees would have suffered substantial prejudice from further delay in a case that had already been pending for over two years. Accordingly, the court's decision was a proper exercise of discretion, and we affirm.

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.