

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0862

September Term, 2015

SADIE M. CASTRUCCIO

v.

ESTATE OF PETER A. CASTRUCCIO,
et al.

Woodward,
Kehoe,
Nazarian,

JJ.

Opinion by Nazarian, J.

Filed: December 20, 2016

* 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.

The appeal, like others before it,¹ flows from the death of Peter Castruccio (“Peter”) in 2013, and relates to the process of marshaling the assets of Peter’s estate (the “Estate”). Peter’s widow, Sadie Castruccio (“Sadie”), appeals a summary judgment entered by the Circuit Court for Anne Arundel County finding her in constructive civil contempt of an order granting Peter’s attorneys entry into his offices and access to his property, records, and papers, and, as a sanction, ordering her to pay some of the Estate’s attorneys’ fees. The Estate cross-appeals the court’s dismissal of contempt charges against two attorneys who at one time represented Sadie. We vacate the judgment and attorneys’ fee award in favor of the Estate, affirm the judgment in favor of Sadie’s former attorneys, and remand.

I. BACKGROUND

Peter died on February 19, 2013. For much of his lifetime, he worked at an office on Dicus Mill Road (the “Office”) that, after his death, contained numerous records and papers and a safe, among other things, the ownership of which is disputed. As part of the process of administering the estate, *see* Md. Code (1974, 2014 Repl. Vol.), § 7-102 of the Estates & Trusts Article (“ET”), Peter’s personal representative, John R. Greiber, Jr., sought entry to the Office to examine and gather his property. Sadie opposed this request, and, as if to emphasize the point, changed the locks on the door and had it screwed closed.

The Estate filed a petition in the Orphans’ Court seeking an order granting the Estate access to the Office, claiming not only that Sadie had barred it from entering, but also had

¹ *See Castruccio v. Estate of Castruccio*, 230 Md. App. 118 (2016); *Castruccio v. Estate of Castruccio*, No. 2622, Sept. Term 2014 (Md. App. Feb. 3, 2016).

“removed volumes of records” and “destroyed records and papers which were removed from Peter’s office after his death.” Litigation ensued, and on July 16, 2013, the Orphans’ Court entered an Order (the “Access Order”) that required that Sadie “or her attorney” provide “unfettered access” to the Office. The Access Order is the starting point for the issues before us in this particular appeal.

Sadie contends that she “granted the Estate access to the offices on July 29, 2013, at which time it duplicated more than 1,600 pages of documents.” The Estate, on the other hand, asserts that on that date, “certain records and property were missing,” and that it was “denied access to certain areas of the Office [] and advised that the materials contained therein were pre-determined by Sadie’s then attorneys to be ‘irrelevant.’” Darlene Barclay, who had worked with Peter for many years in the Office, accompanied the Estate’s attorneys on the visit and testified that filing cabinets, records, and a safe were missing, that her desk had been emptied, and that someone had gone through file drawers. The Estate sent a letter to Sadie’s counsel on August 30, 2013 cataloguing twenty-two categories of files, papers, and documents (including payroll stubs, tax documents, rental income documents, and the like) that it claimed were missing from the Office.

Sadie’s response to the August 30, 2013 letter did not satisfy the Estate. So it filed a petition in the Orphan’s Court on October 2, 2013 seeking an order to show cause why Sadie and her counsel should not be held in contempt for failing to comply with the Access Order. The petition claimed that Sadie and her counsel “knowingly and willfully violated” the Access Order by failing to provide “unfettered access” to the Office, and failing to

provide originals or copies of the documents that were removed. After some back-and-forth (much of which, as we explain below, centered on what Sadie had produced and when she or her counsel had produced it), the Orphan’s Court held a hearing on June 24, 2014, and issued a Decision on July 3, 2014. The court found that Sadie hadn’t, in fact, granted “unfettered or unrestricted access” to Peter’s “office, property and papers,” and it noted that “even though a video of the contents of the safe was provided, no attorneys from both sides were present when the safe was opened and contents removed.” As a result, the court found Sadie in contempt of the Access Order and stated that “[a]ll attorney fees and courts costs shall be the responsibility of Sadie Castruccio.”

Sadie appealed the Order to the circuit court on July 28, 2014. The court granted a continuance of a hearing scheduled for February 6, 2015 to allow Sadie to retain new counsel, and an altogether different back-and-forth followed—according to the Estate, Sadie’s new lawyers adopted “a new and more cooperative attitude toward compliance with the Access Order.” An inspection at Sadie’s home followed, and led to the production of “thousands of pages” of documents that had been removed from Peter’s office, and that were now interspersed with other materials at Sadie’s home.

Then, on May 1, 2015, the circuit court held a *de novo* hearing on the Estate’s contempt motion. At the outset, the circuit court agreed that Sadie’s counsel, Messrs. Frank and Jarashow, had not been served with process or adjudged to be in contempt in the first place, and so were not subject to the court’s jurisdiction. The court then heard argument about whether summary judgment should be entered against Sadie. Much of the hearing

was consumed with the question of whether there were disputes of material fact that would need to be resolved to support a finding that Sadie was in contempt of the Access Order. Sadie took the position that the many disagreements about what she was required to produce “show a clear dispute of material fact” about whether she had complied. Counsel stressed that Sadie owned the safe she had removed from the Office after Peter’s death, and that the parties disagreed about how and when the safe was opened:

She owns the safe. And there’s a dispute as to what the contents were. But they have the contents. They’ve been given -- they had a video showing the opening. They have a list of contents. *That is a big dispute as to what’s been given and what hasn’t.*

(Emphasis added.)

The Estate countered that any disagreements about the contents of the safe and the manner of inspection were immaterial—Sadie had violated the Access Order merely by declining to give the “unfettered” access to the safe that the Order required. The Estate also argued that the lack of access prohibited the Estate from knowing what to ask for—as the judge noted in questioning Sadie’s counsel, “they wouldn’t know what they’re missing.” Counsel also identified a list of documents that the Estate obtained during the March 26, 2015 inspection at Sadie’s home office, which included Peter’s passport, personal correspondence, an estate plan, and documents relating to a company he owned (wholly) and to his rental properties—all of which, the Estate claimed, should have been produced long before.

After further argument from both sides, the court ruled from the bench. Because the scope of the court's findings lies at the heart of the issues before us, we reproduce its ruling in full:²

THE COURT: Well, I've listened to the arguments. I am going to grant the Summary Judgment, and find that Sadie Castruccio is in constructive civil contempt for willful failure to comply with the terms of the Access Order of the Orphans Court on July 16th 2013.

And the Court will impose a civil fine in the amount of \$228,523.26 against Sadie M. Castruccio for reasonable attorney's fees and costs incurred by the Estate for the failure of Sadie Castruccio to comply with the July 16, 2013 Access Order and the decision issued by the Orphans Court of this county.

Sadie Castruccio is liable to the estate in the amount of \$228,523.26 as reasonable attorney's fees and costs actually incurred to prosecute this contempt. This amount shall be paid by certified check within 20 days of the date of this Order as follows: \$190,688.26 to DLA Piper, LLP, and \$37,835 to Cawood & Cawood, LLC. Anything else?

[COUNSEL FOR THE ESTATE]: Your Honor, I just want to be clear. Because I'm sure we're going up on appeal here.

THE COURT: Oh, I'm sure of that.

[COUNSEL FOR THE ESTATE]: The fees that you ordered, were they under 6-341 and 1-341 or as a contempt sanction --

THE COURT: Yes, didn't I mention that?

[COUNSEL FOR THE ESTATE]: No, I just wanted to be clear.

THE COURT: Oh, yes.

² Two written orders embodying these rulings followed on May 7, 2015.

[COUNSEL FOR THE ESTATE]: Okay. So, they are pursuant to 1-341 and 6-341?

THE COURT: Right.

[COUNSEL FOR THE ESTATE]: Thank you.

THE COURT: Okay.

* * *

[COUNSEL FOR SADIE]: Your Honor, I believe the rules require a purge provision.

[COUNSEL FOR THE ESTATE]: Well, the purge provision --

THE COURT: Well, that is the purge. You can purge it by the payments.

[COUNSEL FOR SADIE]: The purge provision requires that she be given time to comply with the Order, Your Honor.

[COUNSEL FOR THE ESTATE]: Your Honor, that's only true if you issued the sanction as a contempt sanction, not as a 6-341 or 1-341--

THE COURT: That's right.

[COUNSEL FOR SADIE]: And for 1-341, you must make a factual finding, and take testimony, and find bad faith. And that's not occurred here, Your Honor.

[COUNSEL FOR THE ESTATE]: We don't think you need to take testimony. You made a finding.

THE COURT: I don't think so. I don't think so.

[COUNSEL FOR THE ESTATE]: Thank you, Your Honor.

The court entered a written order memorializing this ruling that read almost verbatim from the transcript, although it did add a finding that “the Court finds no dispute of material fact as to the willful failure of Sadie M. Castruccio to comply with the Access Order issued by the Orphans’ Court of Anne Arundel County on July 16, 2013.” The court also denied Sadie’s motions to stay payment pending appeal and to alter or amend the judgment. On June 19, 2015, the court issued an Order stating that Sadie still had not paid and entered a money judgment against her. A timely Notice of Appeal followed.

II. DISCUSSION

The Access Order directed Sadie to give the Estate (in the form of the Personal Representative and his professionals, of course) access to Peter’s offices, property, records, and papers. Instead, the Access Order begat procedural disputes about whether the Orphans’ Court had jurisdiction to issue the order in the first place and scoping disputes about what offices, property, records, and papers were Peter’s, which in turn begat resistance, self-help remedies, and more litigation. We can see from the ensuing in-court ruling and orders that Sadie’s interpretation of and compliance with the Access Order frustrated both the Orphans’ Court and the circuit court. But we don’t have before us a straightforward question of compliance—we have a ruling that Sadie was in constructive civil contempt that begat a decision to order her to pay attorneys’ fees to the Estate pursuant (simultaneously) to Maryland Rules 6-141 and 1-341.

Sadie contends that the court erred by resolving disputed issues of fact on a summary judgment posture and by failing to make the findings necessary to support the contempt

judgment and fee award.³ The Estate challenges the court's decision that Sadie's lawyers were never served with the contempt petition, and thus not before the Orphans' Court or the circuit court.⁴

³ Sadie's brief states the Questions Presented as follows:

- I. Because there were disputed issues of fact, and as a matter of law contempt is not susceptible to determination on summary judgment, was the trial court clearly erroneous and did it err in finding Sadie in constructive civil contempt without affording her an evidentiary hearing?
- II. Did the trial court err when it failed to make findings of fact to support its imposition of Maryland Rule 1-341 and 6-141 attorney's fees and costs against Appellant?
- III. Did the trial court err when it imposed attorney's fees and costs as part of its sanction for contempt?
- IV. Did the trial court have jurisdiction to find Sadie in contempt, where a Petition to Transmit Issues was filed prior to entry of the July 16, 2013 Access Order, and the Orphans' Court, and the Orphans' Court never ruled on Sadie's Motion to Reconsider the Access Order?
- V. Did the Orphans' Court have jurisdiction to order access to real and personal property not owned by the decedent, or to resolve issues of title, where title to such property was disputed?

⁴ The Estate's cross-appeal presents the following question:

Did the Circuit Court abuse its discretion in dismissing Messrs. Frank and Jarashow for lack of service of process despite their being named in the operative pleadings, their waiver of service of process, and their uncontested participation in the activities that were the subject of the contempt proceedings?

“The standard of review for a grant of summary judgment is whether the trial court was legally correct.” *Goodwich v. Sinai Hosp. of Balt. Inc.*, 343 Md. 185, 204 (1996). “Summary judgment unquestionably is an important device, within our court system, for streamlining litigation and ensuring the application of limited judicial resources to potentially meritorious claims. Additionally, it saves the parties expense and the delays of protracted and non-meritorious litigation.” *Sadler v. Dimensions Healthcare Corp.*, 378 Md. 509, 534 (2003). But it also “deprives the parties of a trial and the opportunity to develop their claims and present them to a jury. [A reviewing court] has therefore been careful to restrict application of summary judgment to cases that present no material facts that may reasonably be said to be disputed.” *Id.* It is not the mere existence of factual disputes that matters, but rather their materiality: “the purpose of the summary judgment procedure is not to try the case or to decide the factual disputes, but to decide whether there is an issue of fact, which is sufficiently material to be tried.” *Taylor v. NationsBank, N.A.*, 365 Md. 166, 173 (2001) (internal citations and quotations omitted).

We take the issues in a slightly different order than the parties: we start by affirming the trial court’s jurisdiction to consider these issues, then address the merits.

A. The Trial Court Had Jurisdiction To Find Sadie In Contempt.

Sadie challenges the trial court’s (and the Orphans’ Court before it) jurisdiction to find her in contempt. She argues *first*, citing *Hill v. Lewis*, 21 Md. App. 121, 126–27 (1974), that her filing of a Motion to Transmit Issues in response to the Estate’s Petition to access Peter’s Office divested the Orphans’ Court of jurisdiction to take any further action

because that Motion froze the range of issues that could be considered by the circuit court. *Second*, she cites *Kaouris v. Kaouris*, 324 Md. 687 (1991), for the proposition that she was entitled to challenge the circuit court’s jurisdiction in the circuit court proceeding. And *third*, she claims that even if the Orphans’ Court did have authority to issue the Access Order, her filing of a motion to reconsider that Order on July 22, 2013 “suspend[ed] the underlying judgment of the court until the court ruled on the Motion to Reconsider.” From there, she reasons, the Access Order did not constitute a final judgment because the Orphans’ Court has never ruled on the Motion to Reconsider. The Estate counters that the motion to transmit issues did not extend to the factual issues bearing on her compliance with the Access Order (and that the Orphans’ Court didn’t grant her request to stay the Access Order in any event), that the Access Order was not a final judgment that Sadie could appeal, and that the motion to reconsider had no effect on the viability of the Access Order. We agree with the Estate.

Sadie filed the Petition to Transmit Issues on July 16, 2013. That motion asked the Orphans’ Court to transmit “certain issues of disputed fact” to the circuit court, including questions about whether “any estate property [is] located in the offices to which Greiber seeks access,” and whether numerous other documents and records were owned by Sadie and Peter. She argues in her brief that the Orphans’ Court entered the Access Order “in complete disregard of the rules, on the same date and after the filing of the Petition to Transmit Issues.” But she cites no rule that was disregarded, and, as we discuss next, orders designed to facilitate the marshaling of estate assets lie within the Orphans’ Court’s

jurisdictional wheelhouse. And in any event, we agree with the Estate that the Access Order was not a final judgment, so an unresolved motion for reconsideration did not have the effect of suspending the proceedings. *Popham v. State Farm Mut. Ins. Co.*, 333 Md. 136, 144 (1995). That left the circuit court free to determine whether Sadie had complied with it.

B. The Orphans’ Court Had Jurisdiction To Order Access To The Office.

Sadie argues *next* that the Orphans’ Court lacked jurisdiction to compel her to grant access to the Office, reasoning that ET § 2-102 does not give such broad reach to the Orphans’ Court. We disagree—section 2-102(a) gives the Orphans’ Court broad authority within its particular jurisdictional space:

The court may conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent. It may summon witnesses. The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred.

Section 2-103 then gives the Orphans’ Court “the same legal and equitable powers to effectuate its jurisdiction, punish contempts, and carry out its orders, judgments, and decrees as a court of record with general jurisdiction in equity.” *See also Radcliff v. Vance*, 360 Md. 277, 286 (2000) (noting that the orphans’ court jurisdiction extends to “such matters as are necessarily incident to the exercise of the powers expressly granted to them.”). The Access Order falls squarely within the range of actions “required in the course

of the administration of an estate of a decedent,” and the court had the authority to enter and enforce it in the context of administering this Estate.

C. The Contempt Finding Against Sadie And The Attorneys’ Fee Awards Must Be Vacated.

Third, Sadie challenges the contempt finding and sanctions by arguing the court erred in finding her in contempt on a summary judgment posture and that the court’s orders both as to contempt and attorneys’ fees lacked the required findings.

1. The contempt element of the order lacked an appropriate purge provision.

With regard to the contempt finding, Sadie focuses primarily on the extent to which the facts bearing on the finding—on her compliance with the Access Order—were disputed, and thus inappropriate for the court to resolve on summary judgment. Although the court didn’t say so on the record, the court did find in its May 7, 2015 written order that there were no disputes of material fact bearing on Sadie’s willful violation of the Access Order. Even so, and without opining on the broader question of whether contempt ever could be entered on a summary judgment posture,⁵ we agree with Sadie that the court did not make the findings required by Maryland Rule 15–207.

⁵ A finding of contempt on summary judgment is not unheard of. *See, e.g., United States v. City of Jackson, Miss.*, 318 F. Supp. 2d 395, 408 (S.D. Miss. 2002) (summary judgment was appropriate in contempt proceeding where non-moving party conceded there was no dispute as to material facts), *aff’d*, 359 F.3d 727 (5th Cir. 2004); *Rambo v. Morehouse Par. Sch. Bd.*, 37 F. Supp. 2d 482, 484 (W.D. La. 1999) (upholding grant of summary judgment in civil contempt proceeding to enforce Title VII consent decree).

This case involves allegations of constructive civil contempt—the allegedly contemptuous behavior did not occur in court and the Estate did not (this time) seek incarceration as a penalty. Rule 15-206 sets forth the procedural requirements for initiating constructive civil contempt proceedings, and Sadie doesn't challenge the court's handling of any of these, nor does she contend that she didn't have notice of the hearing or the underlying allegations. She complains instead that the court should not have considered the Estate's summary judgment motion, which was filed shortly before the hearing, and that the court erred in resolving disputed issues of material fact without taking testimony.

First, the ground rules. “[I]n constructive contempt proceedings, the court must give the accused contemnor an opportunity to challenge the alleged contempt and show cause why a finding of contempt should not be entered.” *Fisher v. McCrary Crescent City, LLC*, 186 Md. App. 86, 119 (2009) (citing *Betz v. State*, 99 Md. App. 60, 66 (1994)). After an appropriate hearing, the court must make a specific set of findings if it eventually finds a party in constructive civil contempt:

A court must find civil contempt by a preponderance of the evidence. [*State v.*] *Roll and Scholl*, 267 Md. [714,] 728 [(1973)]. Following a finding of contempt, the court must issue a written order specifying (1) the coercive sanction imposed for the contempt, and (2) how the contempt may be purged. Md. Rule 15-207(d)(2); *Roll and Scholl*, 267 Md. at 730 (stating that “[i]f it is a civil contempt the sanction is coercive and must allow for purging....”). The purging provision—another critical difference between civil and criminal contempt—is important. “In this way, a civil contemnor is said to have the keys to the prison in his own pocket.” *Jones v. State*, 351 Md. 264, 281 (1998). Absent a purging provision, the sanction is no longer coercive and remedial. *See id.* at 279–83. Rather, the sanction is punitive,

and the constitutional and procedural rules applied to criminal trials must be observed.” *Id.* at 280.

Not only must a sanction contain a purge provision, but the contemnor must have the ability to comply with the purge provision. *Jones*, 351 Md. at 281-82. In other words, completion of the purging provision must be feasible. *See Young [v. Fauth]*, 158 Md. App. [105, 113–14,] (2004); *Redden [v. Dep’t of Soc. Serv’s]*, 139 Md. App. [66,]77–78 [(2001)].

Id. at 120.

The motions hearing followed copious filings by both parties, and Sadie absolutely disputed that she had violated the Access Order. We can see from the hearing transcript and its written order that the court disagreed. But we can’t tell from either the transcript or the written order *which* alleged actions of Sadie’s amounted to a “willful failure... to comply with the Access Order,” which in turn prevents us from assessing whether the factual premises of the contempt finding were undisputed. The court didn’t take testimony at the hearing—it heard argument from counsel about what happened (or didn’t), what had been produced (or not) and when, and why, arguments that included discussion of competing affidavits. We cannot say, therefore, that all of the facts were undisputed. And without some grounding in specific facts or actions, we can’t determine whether Sadie’s contempt arose from an undisputed flouting of the Access Order or the court’s resolution of a disputed question, such as what assets were Sadie’s (rather than Peter’s) or when property was made available for inspection. For that reason, we must vacate the entry of summary judgment.

In addition, the written order lacks an appropriate purge provision. Sanctions for constructive civil contempt are meant to be remedial, which “in this context means to coerce compliance with court orders for the benefit of a private party or to issue ancillary orders for the purpose of facilitating compliance or encouraging a greater deal of compliance with court orders. We have not used the term ‘remedial’ to mean a sanction, such as a penalty or compensation, where compliance with a prior court order is no longer possible or feasible.” *Dodson v. Dodson*, 380 Md. 438, 448 (2004). Again, the contemnor must have a present ability to purge the contempt, and there must be a finding that she can. *Id.* at 449–50. Here, the sanction and the purge are the same: the court ordered Sadie to pay the Estate’s attorneys’ fees, *in full*, and allowed her to purge contempt only by paying the sanctions *in full* within twenty days. That sort of “purge” circumvents the remedial purpose of a contempt sanction, and really functions as a penalty for past behavior. This is not to say that the court lacked the ability to impose attorneys’ fees on Sadie under other authorities—it had the ability to order Sadie to pay attorneys’ fees, and we will address that possibility next. Viewed in connection with the finding of constructive civil contempt, though, the order directing Sadie to pay the Estate’s attorneys’ fees in full as a contempt sanction within twenty days does not provide a purge that complies with Rule 15-207(d)(2), and must be vacated as well.

This holding should not be read by anyone as an endorsement of Sadie’s (or anyone’s) litigation behavior, nor to suggest that Sadie was not, in fact, in contempt, and we leave it to the circuit court on remand to decide what the next steps should be. It may

be possible on the existing record to decide whether undisputed acts on Sadie’s part or other undisputed facts support a finding that she willfully violated the Access Order, and that the court could decide as much in an order that specified the undisputed facts on which the contempt finding was based. The court may, on the other hand, decide to take testimony on disputed points, or to assess credibility. The errors we identify lie in the absence of written findings and in the structure of the sanction, not in the decision to find Sadie in contempt.

2. The attorneys’ fee award is not supported by the required findings.

The court also cited Maryland Rules 1-341 and 6-141 in support of its sanctions order, and its order lacks the required findings when viewed through these lenses as well. Rule 1-341 authorizes the court to impose sanctions upon a finding of bad faith conduct (or conduct without substantial justification) on the part “of any party in maintaining or defending any proceeding,” “on motion by an adverse party.” It permits the court to require “the offending party or the attorney advising the conduct or both of them . . . to pay the costs of the proceeding and the reasonable expenses, including reasonable attorneys’ fees, incurred by the adverse party in opposing it.” Rule 1–341(a). Rule 6–141 contains a parallel provision within Title 6 of the Rule, governing the settlement of decedents’ estates.

An award grounded in these rules may only be made, however, upon a record that “must reflect that the trial judge made the requisite findings, as well as the basis for those findings.” *Zdravkovich v. Bell Atlantic-Tricon Leasing Corp.*, 323 Md. 200, 210 (1991). We have explained that “there should be evidence that there has been a clear focus upon

the criteria justifying [such an award] and a specific finding that these criteria have been met. Moreover, some brief exposition of the facts upon which the finding is based and an articulation of the particular finding involved are necessary for subsequent review.” *Talley v. Talley*, 317 Md. 428, 436 (1989). We acknowledge the court’s legitimate frustration with Sadie’s resistance to the Estate’s discovery requests, but those findings weren’t made here. We agree with the court that the Estate couldn’t ask about what it didn’t know, and it couldn’t move to compel the production of documents about which it was unaware when Sadie thwarted its effort to inspect the Office and gather documents and property. But the court must “denote with particularity how its award corresponds with the party’s misconduct,” “to not only make specific findings on bad faith and lack of substantial justification, but additionally to demonstrate precisely how its award corresponds with a party’s misconduct.” *Barnes v. Rosenthal Toyota Inc.*, 126 Md. App. 97, 106, 108 (1999). This order makes none of those findings—at the end of the contempt hearing, after imposing attorneys’ fees and costs as a sanction for contempt, counsel asked if the court was relying on Rules 1-341 and 6-141, and the court answered affirmatively, then included conclusory language to that effect in its written order. And for that reason, we must vacate the attorneys’ fee award as well, and we remand for further proceedings.

We note again, as we did with regard to the contempt order, that this holding is not meant to foreclose an attorneys’ fee award, in this amount or any other supported by the record. We leave it to the circuit court to decide on remand whether the existing record can support an order that contains the findings required by Rules 1-341 and 6-141, or

whether it should convene a further hearing (evidentiary or not) to make whatever record it may yet need.

D. The Circuit Court Properly Declined To Extend The Contempt Proceedings To Sadie’s Attorneys.

The Estate argues on cross-appeal that the trial court should have exercised jurisdiction over Sadie’s former attorneys for the purpose of determining whether they too should be held in contempt for Sadie’s noncompliance with the Access Order. It claims *first*, that even though neither counsel was served with a show cause order, they waived service by appearing, and effectively “conceded that they . . . were parties to the contempt proceedings.” Although the circuit court also explained to the Estate that Sadie’s counsel were “never adjudged to be in contempt in the Orphans’ Court” in the first place, the Estate claims that the circuit court abused its discretion when it declined to “examine anew” the Estate’s request to include them within the show cause order.

We disagree. *First*, the Estate sought to have the Orphans’ Court find Sadie and her counsel in contempt, but the order that that court ultimately issued specifically did *not* hold either in contempt. But they were never served with the show cause order initiating contempt proceedings in the Orphans’ Court, and the circuit court lacked jurisdiction to bring them back into the case, when they were never there in the first place.

Second, the Estate doesn’t have standing to appeal the court’s decision not to bring them in. “[T]he statutory right to appeal from a contempt judgment is conferred on the person adjudged to be in contempt.” *Hermina v. Balt. Life Ins. Co.*, 128 Md. App. 568, 576 (1999). Under Md. Code (1973, 2013 Repl. Vol.), § 12-304(a) of the Courts & Judicial

Proceedings Article, “[a]ny person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and adjudging him in contempt of court, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.” “[Section] 12-304 is the only source for the right of appeal,” and that section “clearly and unambiguously limits the right to appeal in contempt cases to persons adjudged in contempt. Its plain language says as much.” *Pack Shack, Inc. v. Howard Cty., Md.*, 371 Md. 243, 251, 254 (2002). But here, the Estate seeks to expand the reach of a contempt finding to counsel who were never parties to the underlying contempt proceeding. We agree that Sadie’s lawyers were never served, did not waive service when they appeared, and were properly not pulled into the contempt proceedings at the circuit court stage.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED IN PART, VACATED IN
PART, AND REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE DIVIDED
EQUALLY.**