Circuit Court for Baltimore County
Case No. C-03-FM-21-807762

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2146

September Term, 2025

KEVIN HENDERSON

v.

ASHLEY HENDERSON

Nazarian,
Arthur,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: July 6, 2026

*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 Rule 1-104(a)(2)(B).

In 2021 the Circuit Court for Baltimore County entered a final domestic violence protective order against Kevin Henderson. More than four years later, Mr. Henderson moved to revise that order under Maryland Rule 2-535(b).

The circuit court denied the motion. Mr. Henderson appealed. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On March 15, 2021, Ashley Henderson filed a petition for protection from domestic violence and child abuse in the Circuit Court for Baltimore County. As the respondent, she named her husband, Mr. Henderson. As the basis for relief, Ms. Henderson alleged that Mr. Henderson had threatened violence, that he had inflicted mental injury on their two-year-old son, and that he had tried to harm their unborn child. In a written attachment, she explained that, after an incident in which Mr. Henderson had screamed at her, threatened her, and insulted her, she discovered that he had confiscated the medicine that she needed in order to avoid having a miscarriage. The attachment implies that Mr. Henderson was unhappy that his wife had become pregnant again.

The circuit court granted a temporary protective order on March 15, 2021, and set a hearing on the final protective order for March 22, 2021.

The hearing went forward on March 22, 2021. Both parties were represented by counsel.

After the hearing, the court entered a final protective order. As the bases for its decision, the court wrote that Mr. Henderson took away the medicine that his wife needed in order to prevent a miscarriage. The court added that there was a "prior history of domestic violence." The protective order lasted for one year, until March 21, 2022.

Mr. Henderson, through counsel, filed a timely request for in banc review of the order granting the final protective order. On May 5, 2021, a three-judge panel affirmed. In the immediate aftermath of that ruling, Mr. Henderson pursued other relief, without success, but he did not seek further appellate review.

On November 3, 2025, Mr. Henderson, representing himself, moved to vacate the protective order, which had become an enrolled judgment after the passage of more than 30 days. *See LVNV Funding LLC v. Finch*, 463 Md. 586, 607-08 (2019). In support of his motion, he asserted that his wife had terminated the pregnancy on March 17, 2021, three days before the entry of the final protective order. He charged that his wife and her counsel "perpetrated a fraud" upon the court. He attached many exhibits.

On November 4, 2025, the circuit court denied the motion without a hearing. On December 4, 2025, Mr. Henderson noted a timely appeal.

QUESTIONS PRESENTED

In his informal brief, Mr. Henderson poses three questions, which we quote:

1. Whether the Circuit Court erred as a matter of law and abused its discretion by finding "no statutory basis for relief" under Maryland Rule 2-535(b) despite evidence of extrinsic fraud and fraud upon the court.

2. Whether the Circuit Court erred by failing to recognize "irregularities" in the proceeding, specifically the improper "Child Abuse" case designation and the procedural conduct of Petitioner's counsel.

3. Whether the Circuit Court violated the Appellant's right to Due Process by denying the Motion to Vacate and Motion for Reconsideration without an evidentiary hearing.

MOOTNESS

Because the final protective order expired more than four years ago, on March 21, 2002, one might reasonably ask whether the challenge to the protective order has become moot. What difference does it make if the circuit court erred in entering an order that is no longer in effect?

Although Ms. Henderson has not filed a brief and thus has not raised the issue of mootness, an appellate court can raise the issue of mootness on its own motion. *See Sanchez v. Potomac Abatement, Inc.*, 198 Md. App. 436, 439 (2011).

"Generally, a case is moot if at the time it is before the court there is no longer an existing controversy between the parties and the court cannot provide an effective remedy." *Piper v. Layman*, 125 Md. App. 745, 749 (1999). "[M]ootness," however, "will not preclude appellate review in situations where a party can demonstrate that collateral consequences flow from the lower court's disposition." *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 352 (2019).

In *Piper v. Layman*, 125 Md. App. at 752, this Court held that, even though a protective order had expired, a challenge to the order was not moot because it "could have significant repercussions . . . in several ways." *Id.* at 752. In this case, for example, if Ms. Henderson were to file another petition for a protective order, a court would consider the prior order in evaluating the merits of the new petition and thus might find a pattern of abuse. *Id.* More broadly, a person against whom a domestic violence protective order had been issued may suffer the stigma of being labeled an abuser. *Id.* at 753.

In this regard, we note that Mr. Henderson claims to have been forced to resign from his job in 2021 in order to avoid being fired because of the charges of domestic violence. He will undoubtedly continue to experience the consequences of that forced resignation throughout his professional career. His case is not moot.

STANDARD OF REVIEW

On appeal from the denial of a motion to revise an enrolled judgment under Maryland Rule 2-535(b), "'the only issue before the appellate court is whether the trial court erred as a matter of law or abused its discretion in denying the motion.'" *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374, 400-01 (2006) (quoting *In re Adoption/Guardianship No. 93321055/CAD*, 344 Md. 458, 475 (1997)).

DISCUSSION

Maryland Rule 2-535(b) states: "On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity." "The terms 'fraud, mistake, or irregularity' as used in Rule 2-535(b) . . . are narrowly defined and are to be strictly applied." *Early v. Early*, 338 Md. 639, 652 (1995). "The burden of proof in establishing fraud, mistake, or irregularity is clear and convincing evidence." *Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008).

Rule 2-535(b) reflects a strong policy in favor of putting an end to litigation (*see*, *e.g.*, *Penn Cent. Co. v. Buffalo Spring & Equip. Co*., 260 Md. 576, 585 (1971); *Bland v. Hammond*, 177 Md. App. 340, 357 (2007)) and of fostering the certainty and reliability of enrolled judgments. *See Powell v. Breslin*, 430 Md. 52, 70 (2013). "The overarching aim of Md. Rule 2-535(b)[] . . . is the preservation of the finality of judgments, unless specific conditions are met." *Id.* at 71. "[O]nce parties have had the opportunity to present before a court a matter for investigation and determination, and once the decision has been rendered and the litigants, if they so choose, have exhausted every means of reviewing it, the public policy of this State demands that there be an end to that litigation." *Schwartz v. Merchants Mortg. Co*., 272 Md. 305, 308 (1974); *accord Kent Island, LLC v. DiNapoli*, 430 Md. 348, 366 (2013).

In this case Mr. Henderson asked the court to revise the judgment only on the grounds of "fraud" and "irregularity." We begin with the issue of "fraud."

In the context of Rule 2-535(b), "fraud" means "extrinsic fraud"—that is, "fraud [that] actually prevents an adversarial trial" and "prevent[s] the actual dispute from being submitted to the fact finder at all." *Hresko v. Hresko*, 83 Md. App. 228, 232 (1990). "Fraud prevents an adversarial trial when it keeps [parties] ignorant of the action and prevents them from presenting their case," when it "prevents the actual dispute from being submitted to the fact finder at all." *Facey v. Facey*, 249 Md. App. 584, 632 (2021). In *Schwartz v. Merchants Mortgage Co.*, 272 Md. at 309, the Court, quoting *United States v. Throckmorton*, 98 U.S. 61, 65-66 (1878), provided examples of extrinsic fraud:

> "Where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side,—these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and a fair hearing."

Accord Hresko v. Hresko, 83 Md. App. at 233.

By contrast, "[i]ntrinsic fraud *relates to facts that were before the court in the original suit and could have been raised or exposed at the trial level*." *Facey v. Facey*, 249 Md. App. at 633 (emphasis in original). "[I]ntrinsic" fraud includes "the use of forged documents, perjured testimony, or any other frauds which are '*intrinsic*' to the trial of the case itself." *Id.* (Emphasis in original.) Because of the strong policy favoring the finality and conclusiveness of enrolled judgments, a showing of intrinsic fraud alone will not justify the grant of a revisory motion under Rule 2-535(b). *See Schwartz v. Merchants Mortg. Co.*, 272 Md. at 309; *Manigan v. Burson*, 160 Md. App. 114, 120-21 (2004).

Although Mr. Henderson claims to have alleged extrinsic fraud, he is incorrect. He alleges nothing more than intrinsic fraud—fraud that relates to facts that were before the circuit court.

In his informal brief, Mr. Henderson asserts that, at the hearing concerning the final protective order, his wife and her attorney failed to disclose that his wife was no longer pregnant and, thus, that her fear of miscarriage could no longer serve as a basis for a protective order. In other words, he asserts that his wife and her attorney suppressed important evidence and misled the finder of fact. "This silence," he argues, "allowed the Court to issue a Final Protective Order based on a 'fear of imminent bodily harm' related to a pregnancy that no longer existed."[1]

Much like allegations of perjured testimony, Mr. Henderson's allegation of fraud in this case is intrinsic to the trial. Assuming solely for the sake of argument that Mr. Henderson's factual assertions are correct, therefore, the circuit court did not abuse its discretion in declining to revise the protective order. Mr. Henderson's assertions, if true, might establish that his wife and her attorney persuaded the court to enter a judgment that was based on a false factual premise, but they do not establish the kind of extrinsic fraud that is required before a court may revise an enrolled judgment.

We turn now to the issue of irregularity. "'Irregularity' has a narrow judicial definition in Rule 2 535(b) jurisprudence." *Thacker v. Hale*, 146 Md. App. 203, 219 (2002). "It means 'a failure to follow required process or procedure.'" *Id.* (quoting *Early v. Early*, 338 Md. at 652).

"Irregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court, including, for example, failures to send notice of a default judgment, to send notice of an

[1] Of course, even if the court knew that Ms. Henderson had terminated the pregnancy at the time of the hearing on the final protective order, Mr. Henderson's alleged attempt to induce a miscarriage might still bear on his propensity to injure her.

order dismissing an action, to mail a notice to the proper address, and to provide for required publication." *Id.* at 219-20 (collecting authorities). "[I]rregularity, in the contemplation of the Rule, usually means irregularity of process or procedure, . . . not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged[.]" *Weitz v. MacKenzie*, 273 Md. 628, 631 (1975) (citations omitted).

Mr. Henderson identifies two alleged irregularities. First, he says that the court designated the case as one involving "domestic violence" or "child abuse" despite the absence of any finding of child abuse.[2] Second, he says that his wife's attorney advocated on her behalf at the hearing on the temporary protective order without entering an appearance and that the attorney said that she would represent his wife only "if the Court grants a Temporary Protective Order."

Neither of Mr. Henderson's examples are "irregularities" within the narrow meaning of that term in Rule 2-535(b). Mr. Henderson had notice of both alleged irregularities and could have challenged them. He had the full opportunity to raise those issues in the proceedings involving the protective order, including the proceedings involving his direct appeal of the protective order before the in banc panel. His case could not be more different from cases involving true "irregularities," which typically occur when the court takes some action without informing the party affected, as when the

[2] It did, however, involve domestic violence.

court dismisses a party's claim or enters judgment against a party without giving proper notice.

In a final argument, Mr. Henderson asserts that he supported his motion with detailed exhibits. He complains that the court erred because it did not conduct an evidentiary hearing. He is incorrect.

Maryland Rule 2-311(f) concerns hearings on motions other than revisory motions under Rules 2-532, 2-533, and 2-534. In pertinent part, it states:

> Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

No rule expressly provides for a hearing on motions to revise enrolled judgments under Rule 2-535(b). Thus, as long as the court did not "render a decision that is dispositive of a claim or defense"—i.e., as long as the court did not grant Mr. Henderson's motion and revise the judgment—the court could determine for itself whether to hold a hearing. "Nothing in the Maryland Rules requires a hearing when a motion to revise a judgment based on 'fraud, mistake, or irregularity' is denied." *Li v. Lee*, 210 Md. App. 73, 116 (2013), *aff'd*, 437 Md. 47 (2014).

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; APPELLANT SHALL PAY ALL COSTS.