Circuit Court for Prince George's County
Case No. CAL17-07368

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2288

September Term, 2018

BARRY E. HILL

v.

NICHOLA MARTIN LANE

Graeff,
Reed,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: February 18, 2020

Barry E. Hill ("Appellant") appeals from the Circuit Court for Prince George's County's ruling, dismissing Appellant's tort claims against Nichola Martin Lane ("Appellee") *sua sponte*. Appellant presents two questions for our review, which we have rephrased for clarity:[1]

> I. Did the trial court err in addressing Appellee's motion for summary judgment when it had previously denied the motion and no new motion had been filed?
>
> II. Did the trial court err when it found that Appellant's tort claims were barred by waiver and release?

For the stated reasons, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

During the parties' divorce proceedings, Appellee filed an Application for Charges against Appellant for alleged electronic mail harassment. Appellant lived in Puerto Rico at this time and did not become aware of the charges until he appeared for the divorce trial in October of 2016. The divorce proceeding was postponed, for Appellant to address the charge, and the parties were divorced following a two-day trial in January of 2017.

[1] Appellant presents the following question:

1. Did the Trial Court exceed its authority and erroneously grant Lane summary judgment after conducting an evidentiary hearing during a jury trial but outside of the jury's presence, when summary judgment had previously been denied and no new Motion had been filed?

2. Did the Trial Court err when it found as a matter of law that Hill's claims were barred by Waiver and Release?

On March 10, 2017, the District Court for Prince George's County dismissed the criminal charge against Appellant. Immediately following the dismissal, Appellant filed a Petition of Expungement of Record, pursuant to Md. Anno. Code. Crim. Proc. ("CP") § 10-105(c)(1). As mandated by CP § 10-105(c)(1), Appellant also signed Form 4-503-2, General Waiver and Release, which released Appellee from "any and all claims . . . for wrongful conduct." Within a week, on March 17, 2017, Appellant filed a Verified Complaint for Money Damages, asserting several tort claims against Appellee. In response to the petition, on April 21, 2017, the District Court ordered the expungement of police and court records. Certificates of Compliance were filed with the court on May 17, 2017, May 27, 2017 and May 25, 2017.[2] On May 18, 2017, Appellee filed a Motion to Dismiss Complaint on the basis that some of the claims alleged were barred by the waiver and release. Four days later, on May 22, 2017, Appellant filed a Motion to Reopen his case, requesting that the expungement be granted for good cause, pursuant to CP § 10-105(c)(9)[3], which did not require a waiver, as CP § 10-105(c)(1) did. When the District Court did not respond, Appellant filed a second Motion to Expunge Record for Good Cause on July 3, 2017, which was granted on August 22, 2017.

[2] The certificates were filed by the State's Attorney's Office, the Sheriff's Department and the Criminal Justice Information System, respectively.

[3] *See infra*, n. 8.

Meanwhile, Appellant had amended his complaint twice and Appellee had filed a motion to dismiss and an answer,[4] pleading as an affirmative defense that Appellant's claims were barred by waiver and release . On March 6, 2018, Appellee filed a motion for summary judgment, reasserting that the claims alleged in the Complaint were barred by the Appellant's waiver and release, among other things. On April 5, 2018, the circuit court denied the motion for summary judgment.

The jury trial for Appellant's complaint was commenced on July 23, 2018. After the jury was selected and sworn in, the jury was excused while the Court heard arguments on the pending motions. Appellee's counsel informed the court that they intended to raise the waiver issue again on a motion for judgment after Appellant's case-in-chief. The court responded that Appellee's counsel was free to do that, and if it was denied, they could then present their case. However, after further findings regarding the marital property and breach of contract claim, the only claims remaining were claims for defamation and malicious prosecution, which stemmed from the Appellee's application for statement of charges. This prompted the judge to circle back to the wavier issue and he stated, "I didn't really understand that." The parties' counsels explained the waiver issue and the previous summary judgment decision, as well as provided the circuit court judge with evidence regarding the timeline between the first expungement and the second expungement. After a brief recess, the circuit court judge decided to handle the waiver matter, stating:

[4] On June 26, 2017, Appellant filed an Amended Complaint. On July 18, 2017, Appellee filed a second Motion to Dismiss. Appellant sought leave to file a second Amended Complaint on September 5, 2017. On September 26, 2017, Appellee filed their answer.

> [The Court]: This is what we're going to do, I'm going to call the jury back in, then I'm going to send them home for today.
>
> And then we're going to spend however long it takes, well not however long it takes, on this issue of the release, because whatever proof you have that there's – that this case has been, these claims have been released, you'll present them after I let the jury go home, all right.
>
> [Appellee's Trial Counsel]: Okay, yes, yes.
>
> [The Court]: There's no point having a trial on claims that are going to be released. If you say it does no one any good, I don't understand it, I don't understand how you can have a case expunged, then have it unexpunged, and then have it expunged again if that's what happened. I don't understand how that happens.
>
> ***
>
> [The Court]: If there is a waiver, like I said, if I'm going to – why wait on a motion for judgment if I'm going to rule on it ultimately, and then I'm wasting their time, I'm wasting your time and if you want to appeal that you can appeal that, you have an issue we can appeal.

At this time, Appellee's counsel put on evidence and called Appellant to testify about the waiver matter. Appellant testified as to his educational background, as well as the chronology of events surrounding the filing of his first and second expungements. Appellant explained that he was instructed by the clerk on how to fill out the paperwork for the first expungement and did as he was told. Appellant stated that he did not intend to waive his right to file any tort claims. Appellant then outlined that the District Court granted the second expungement, which did not require a waiver. After the court heard all the evidence, the parties gave brief summaries. Appellant's counsel reiterated that he was not expecting to have a hearing on the waiver issue at this point in the trial, and that the subsequent expungement for good cause voided the earlier order for expungement and

waiver. Appellee's attorney declared that the criminal charge was no longer available on case search before Appellant filed his Motion to Reopen, and that there was no indication that the judge who granted the expungement for good cause vacated the waiver attached to the first order for expungement. The next day, on July 24, 2018, the trial court ruled, rejecting Appellant's contention that the subsequent expungement vacated the previous one, and found that Appellant:

> knowingly and voluntarily signed the waiver form releasing all tort claims, in order to receive a speedy expungement, and only filed his motion to reopen the case after the [Appellee] had filed a motion for summary judgment[5] based on waiver in a civil case.

The trial judge upheld the waiver and release pursuant to the first expungement and granted Appellee's motion for summary judgment[6] on all counts. This timely appeal followed.

DISCUSSION

A. Parties' Contentions

Appellant argues that the court erroneously acted on its own accord to address and grant summary judgment when a previous motion for summary judgment had already been decided, and no new motion was made. Appellant submits that even if the trial judge had

[5] The court was incorrect in stating that Appellee filed a motion for summary judgment; it was a motion to dismiss that the court is referencing that triggered Appellant to file a motion to reopen.

[6] As discussed *infra*, there never was a second motion for summary judgment. The court ruled on a motion for summary judgment that was previously filed and decided on April 5, 2018, three months prior to the July 24, 2018 proceeding. It goes then, that the court, *sua sponte*, decided to readdress the previous motion for summary judgment and ultimately grant it.

the power to revisit the summary judgment motion, the trial judge had no authority to conduct an evidentiary hearing on the waiver issue and make factual findings, when there were potential genuine issues of material fact that should have been heard by the jury. Further, Appellant contends that the trial court erred when they found that his claims were barred by a waiver and release. Appellant claims that when he filed his second petition for expungement for good cause, (1) the conditions for his first expungement had not been met, and (2) the original petition and waiver was, in essence, "withdrawn".

Appellee asserts that the trial court was within its authority when it exercised its discretion to revisit a prior ruling for the sake of "judicial economy". Appellee notes that because waiver is a legal question, the evidentiary hearing was appropriate. Appellee additionally maintains that the conditions for Appellant's first petition for expungement were met before he filed the second expungement for good cause, and therefore, his second expungement petition did not supersede the original petition.

B. Standard of Review

The standard of review used by appellate courts to examine a trial court's grant of a motion for summary judgment is *de novo*. *Chesek v. Jones*, 406 Md. 446, 458 (2008) (citing *Dashiell v. Meeks*, 396 Md. 149, 163 (2006)).

> In reviewing a grant of summary judgment … we independently review the record to determine whether the parties properly generated a dispute of material fact, and, if not, whether the moving party is entitled to judgment as a matter of law. We review the record in the light most favorable to the nonmoving party and construe any reasonable inferences that may be drawn from the facts against the moving party.

Chateau Foghorn LP v. Hosford, 455 Md. 462, 482 (2017), *cert. denied*, 138 S. Ct. 1263 (2018) (quoting *Boland v. Boland*, 423 Md. 296, 366 (2011)) (internal citations omitted).

C. Analysis

Summary Judgment Hearing Sua Sponte

Maryland Rule § 2-501 outlines that:

> **(a) Motion.** Any party may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law.

Md. Rule § 2-501(a). "The purpose of Rule 2–501 is to prevent the unnecessary expenditure of time and money in preparing for trial when there is no genuine dispute of material facts, and the moving party is entitled to judgment as a matter of law." *Cheney v. Bell Nat. Life Ins. Co*., 70 Md. App. 163, 166–67 (1987), *aff'd*, 315 Md. 761 (1989) (citing *Whitcomb v. Horman*, 244 Md. 431 (1966)). Here, Appellee informed the judge that they would be renewing their motion for judgment regarding waiver at the end of Appellant's case-in-chief. After consideration of other issues, the judge revisited the wavier issue and, addressing Appellee's previously denied motion for summary judgment, determined:

> [The Court]: I initially said that I would take that matter under advisement and let the Defendant's [sic] put on – Plaintiff put on their case and then make the determination based on the evidence.
>
> I've since reconsidered that decision[7] in the interest of judicial economy.
>
> If the court is going to rule that the waiver is of legal effect, then having a trial would be a waste of everyone's time and resources. So what I ask to do

[7] Throughout this hearing, there were two recesses – one before the Judge intended to bring the jury back in, where the court decided to send the jury home in order to address the waiver issue and the second shortly after the first one, where the court researched and considered the marital property claim.

> is it was the Defense's motion on waiver and you have the burden of proof, of persuasion on this, on this motion, so you may proceed.

Given that the Appellee had not submitted a new motion for summary judgment for the court's consideration, the court's discussion and findings on the waiver were in fact *sua sponte*.

Appellant cites *Harford Insurance Company v. Manor Inn of Bethesda, Inc* in support of his contention that the trial judge erred in addressing the waiver matter when Appellee had neither refiled nor renewed their motion for summary judgment. In *Harford Insurance Company v. Manor Inn of Bethesda, Inc,* the trial court granted summary judgment against a defendant when that defendant had not filed a motion for summary judgment under Md. Rule § 2-501. *Harford Insurance Company v. Manor Inn of Bethesda, Inc.,* 335 Md. 135, 147 (1994). The Court of Appeals acknowledged that the rules committee notes on Md. Rule § 2-501 "do[] not contemplate . . . a court[] acting entirely on its own motion . . . where none of the parties have moved for summary judgment" and pursuant to the committee notes, upheld the approach that "a court may not grant a summary judgment upon its own initiative." *Id.* at 146. However, the facts here are clearly distinguishable from *Harford* because Appellee had filed a Motion for Summary Judgment, on March 6, 2018.

This court has held that a circuit court judge is "free at any time during the trial to reconsider *any* prior ruling in the case, whether made by him or by another judge." *See Placido v. Citizens Bank & Trust Co. of Maryland* 38 Md. App. 33, 45 (1977) (emphasis added) (citations omitted). Appellant notes that a previous judge had already denied the

motion for summary judgment on April 5, 2018. However, "'[a]s a general principle, one judge of a trial court ruling on a matter is not bound by the prior ruling in the same case by another judge of the court.'" *Scott v. State,* 379 Md. 170, 184 (2004) (quoting *Gertz v. Anne Arundel County,* 339 Md. 261, 273 (1995)) (internal citations omitted). Furthermore, "a denial of a motion for summary judgment does not "finally dispose" of any matter—it merely permits the case to proceed based on the finding that a dispute concerning a material fact exists. The denial neither decides any issues of law nor precludes a subsequent finding that no factual disputes exist." *Ralkey v. Minnesota Min. & Mfg. Co*., 63 Md. App. 515, 523 (1985) (citing *Placido*, Md. App. at 45).

Even if we were to agree with Appellant that Appellee had not "effectively" renewed her motion for summary judgment, the authority of the judge to address a prior ruling in a case is not dependent on whether a party renews their motion, as argued by Appellant. The rule outlined in *Hartford* only prohibits the court from acting on its *own* motion, which was not the case here, since Appellee had indeed filed a motion for summary judgment. *Harford,* 335 Md. at 146. The circuit court judge was very clear that "if the court is going to rule that the waiver is of legal effect, then having a trial would be a waste of everyone's time and resources," and so the circuit court judge decided to hear arguments on the previously decided motion for summary judgment. Therefore, we see no error in the trial court addressing the previously denied summary judgment motion, *sua sponte,* in the interest of judicial economy.

Appellant also argues that the trial court improperly held an evidentiary hearing, where they made factual findings that Appellant's claims were barred by the signed waiver

and release. As defined in Black's Law Dictionary, an evidentiary hearing is a "hearing at which evidence is presented, as opposed to a hearing at which only legal argument is presented." HEARING, Black's Law Dictionary (11th ed. 2019). The Court of Appeals has held that:

> Although a summary judgment motion may be an appropriate vehicle to facilitate the efficient disposition of litigation, we also recognize that 'the function of a summary judgment proceeding is not to try the case or to attempt to resolve factual issues, but to ascertain whether there is a dispute as to a material fact sufficient to provide an issue to be tried.'

Charles Cty. Comm'rs v. Johnson, 393 Md. 248, 263 (2006) (quoting *Baltimore County v. Kelly*, 391 Md. 64, 73 (2006)) (internal citations omitted); *See also Rite Aid Corp v. Hagley*, 374 Md. 665, 684-685 (2003). We held in *Wood v. Palmer Ford* that the "[f]acts necessary to the determination of a motion [for summary judgment] may be placed before the court by pleadings, affidavit, deposition, answers to interrogatories, admissions of facts, stipulations, and concessions." *Thacker v. City of Hyattsville*, 135 Md. App. 268, 285 (2000) (citing *Wood v. Palmer Ford, Inc.*, 47 Md. App. 692, 694 (1981)).

The essential facts came before the trial court in the form of counsel's arguments, exhibits submitted by both parties and testimony by the Appellant. Given the remaining counts in the complaint, in order for the trial court to determine whether there was a genuine dispute as to a material fact, the court properly heard arguments and admissible evidence that ultimately led to its determination that the Appellant had in fact waived his right to bring tort claims against Appellee, as discussed *infra*. For that reason, we hold that the evidentiary hearing was appropriate.

Waiver and Release

In order to determine if a trial court properly granted summary judgment, appellate courts must determine if there is a genuine dispute as to a material fact, and "[i]n the absence of a genuine dispute as to material fact, we must decide if the trial court reached the correct legal conclusion." *Tall v. Bd. of Sch. Comm'rs of Baltimore City*, 120 Md. App. 236, 247, (1998) (citing *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 737 (1993)). Through this evaluation, this Court reviews the record "in the light most favorable to the non-moving party and construes any reasonable inferences that may be drawn from the facts against the moving party." *Myers*, 391 Md. at 203. However, "the party opposing a motion for summary judgment must produce admissible evidence to show a genuine dispute of material fact, i.e., one 'the resolution of which will somehow affect the outcome of the case' does exist." *Hagley*, 374 Md. at 684 (quoting *King v. Bankerd*, 303 Md. 98, 111 (1985)).

Because summary judgment does not substitute for the trial process, evidentiary issues, credibility concerns or essential facts that are in dispute "cannot properly be disposed of by summary judgment." *Boland*, 423 Md. at 366. Moreover, "[e]ven where the underlying facts are undisputed, if those facts are susceptible of more than one permissible inference, the choice between those inferences should not be made as a matter of law but should be submitted to the trier of fact." *King v. Bankerd*, 303 Md. at 111 (quoting *Porter v. General Boiler Casing Co.*, 284 Md. 402, 413 (1979)) (internal citations omitted). This Court acknowledges that:

> Summary judgment is generally inappropriate in cases involving abuse of process, defamation, false imprisonment, and malicious prosecution; however, this disposition may properly obtain if the prerequisites for summary judgment are satisfied, to wit: the absence of a disputed issue of material fact, and the presence of a legal basis for the entry of judgment.

Carter v. Aramark Sports & Entm't Servs., Inc., 153 Md. App. 210, 226 (2003). *See also Hagley*, 374 Md. at 684-685; *Laws v. Thompson*, 78 Md. App. 665, 669-687 (1989). Considering these guidelines, we first examine whether there are genuine disputes of material fact and if there are none, we then assess whether the trial court was legally correct in granting summary judgment.

We adopt the undisputed facts as summarized by the trial court, and they are, in relevant part:

> [The Court]: On March 10, 2017, the criminal charge of electronic mail harassment against the [Appellant] was dismissed in Prince George's County District Court for lack of jurisdiction.
>
> On that same day, [Appellant] signed a general waiver and release form, releasing and forever discharging [Appellee], the Sheriff's Department and all the officers, agents, employees and any and all of the persons for any and all claims which [Appellant] may have for wrongful conduct by reason of the criminal charges he was requesting expungement for.
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> On April 21, 2017, an order of expungement of police and court records was signed by a Judge and filed in the court.
>
> On May 17, 2017, a certificate of compliance with the order for expungement of records was signed and filed by Stacey Phillips, custodian of records.
>
> On May 22, 2017, [Appellant] filed a motion with the Clerk's office to reopen his case so that a Judge may issue an order to expunge the police and Court records, which can be granted at any time on a showing of good cause. No order was issued in response to that motion.

> On May 27, 2017, a certificate of compliance was signed by the Prince George's County Office of the Sheriff, stating the case was expunged from the file of the Office of Sheriff.
>
> On May 25 . . . 2017, a certificate of compliance was signed by the Department of Public Safety and Correctional Services.
>
> [Appellant] then wrote a letter to the Court dated July 21, 2017, that stated that he had filed a subsequent motion to expunge records for good cause, that he had sent by mail to the Clerk's Office on July 3, 2017. The letter also stated, "I already have an expungement. All I am asking is for the reason given in the expungement is changed." The motion was enclosed with the letter.
>
> A hearing on that motion was held before Judge Wright on August 22, 2017. Judge Wright signed a docket sheet and wrote -- he wrote to . . . grant expungement for good cause.
>
> There is no indication of the previous expungement and waiver form being vacated by Judge Wright, nor has [Appellant] presented any evidence of either of those being vacated.

Appellant presents two disputes as to why his original waiver and release was not valid, both of which we find to be ungenuine and unpersuasive. Foremost, Appellant alleges he was under duress when he signed the first waiver, as he was "nervous", and this was a factual finding that should have gone to the jury. In Maryland, releases are interpreted and applied "according to the rules of contract law." *Pantazes v. Pantazes*, 77 Md. App. 712, 718 (1989) (citing *Bernstein v. Kapneck*, 290 Md. 452, 458 (1981)). *See also Ralkey*, 63 Md. App. at 530. From this perspective, duress, for contract purposes, is defined as "a state of mind in which the complaining party was overwhelmed by fear and precluded from using free will or judgment." *Meredith v. Talbot Cty*., 80 Md. App. 174, 183 (1989) (quoting *Food Fair Stores, Inc. v. Joy*, 283 Md. 205, 217 (1978)). At the summary judgment hearing, Appellant never stated on the record or produced any evidence that he

was under duress, and only testified that he filled out the petition for the expungement and the waiver "under the direction of the clerk" and that while doing so, he was "nervous". This does not come close to being "overwhelmed by fear" or being "precluded from using free will and judgment". Additionally, when Appellant filed his motion to expunge his records for good cause, he stated his reason was because he "mistakenly" submitted the general waiver and release. Appellant does not attribute this "mistake" to duress. Therefore, Appellant has failed to demonstrate a genuine dispute as to the waiver's validity on the notion that he was under duress.

Appellant also raises the point that the first waiver and release were not valid because when he filed his motion to reopen the case on May 22, 2017, all of the conditions for the first expungement were not met; subsequently, the first expungement was superceded when the district court judge granted the second expungement for good cause on August 22, 2017, pursuant to CP § 10-105(c)(9)[8]. Appellant cites Md. Rule 4-506, which states, in reference to expungement of records, that:

[8] Prior to 2001, CP § 10-105(c)(9) existed in Article 27, § 737. The "good cause" section of this article was added as new language by Acts 1988, Chapter 592, through Senate Bill 429. The legislative bill file for S.B. 429 (1988) outlined that the intent of the bill, in adding the language that the court be permitted to grant a petition for expungement at any time for good cause shown, was to "provide the court with some discretion to grant an earlier expungement in appropriate cases." Legislative Bill File, S.B. 429 at 1. For instance, in his letter to the chairman of the House Judicial Committee, the Deputy State's Attorney Alexander J. Palenscar "urged the committee to render a favorable report" on S.B. 429, presenting the committee with the following scenario:

> There have been several cases of genuine hardship that we have been unable to resolve. In a typical case a person is arrested and charged with a serious crime based upon a misidentification. When the error is discovered, the State

> The application, petition, or answer may be amended in the manner prescribed by Rule 2-341.

We agree with Appellee that the motion to reopen did not operate as an amendment to the order for expungement under Md Rule 2-341, considering the district court had already

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> enters a Nol Pros. The individual so charged must wait three years to have that arrest expunged. While a confession of Not Guilty by the State could bring about an immediate expungement, most State's Attorneys are unwilling to so confess, just in case the Nol Pros was in error and a new charge based upon new evidence is warranted. A confession of Not Guilty is tantamount to an acquittal with jeopardy attaching.
> I believe that in the interests of justice, a court should have the power to grant immediate expungement to alleviate unwarranted hardship as in the instance cited above.

Legislative Bill File, S.B. 429 at 5. Other concerns cited by the committee include pardons by the Governor and delayed entry into the Armed Forces due to criminal records that could not be expunged before the three-year restraint in the statute. Legislative Bill File, S.B. 429 at 6. In discussing the limitations of the bill, the committee acknowledged that "this bill does not intend to make it easier for a criminal to expunge the criminal's record, but it is intended to allow the court some latitude by placing within the court's discretion the authority to expunge a record when a sufficiently good reason for doing so is presented." After hearing two witnesses testify in support of the bill, Article 27, § 737(c) was amended to include the language that the court could grant a petition for expungement at any time for good cause shown. Legislative Bill File, S.B. 429 at 6, 14-15.

Notwithstanding this legislative history, for a discussion of CP § 10-105(c)(9) to be relevant in regard to whether the subsequent filing of the CP § 10-105(c)(9) was in fact operative, this Court would first have to accept Appellant's contention that either (a) all the conditions from the CP § 10-105 (c)(1) had not been met when Appellant filed his second petition pursuant to CP § 10-105(c)(9), or (b) when Appellant filed the CP § 10-105(c)(9), it voided the first petition filed under CP § 10-105(c)(1). We reject both contentions, and therefore, see no need to further discuss CP § 10-105(c)(9)'s relevance or whether Appellant's situation falls within the circumstances the legislature intended CP § 10-105(c)(9) to be applicable to.

Also, we take judicial note regarding the recent changes in expungement law but find the developments unrelated to this case. (The October 1, 2017 changes expanded the list of criminal offenses that are eligible for expungement.)

issued its Order of Expungement, dated April 21, 2017. To amend the district court's judgment on April 21, 2017, Appellant should have filed a motion pursuant to Md. Rule 2-534, which outlines:

> In an action decided by the court, on motion of any party filed *within ten days after entry of judgment*, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment.

(emphasis added). Even if we were to accept that the motion to reopen could have had some legal effect on the April 21, 2017 judgment, Appellant did not file the motion to reopen until 31 days after the Order for Expungement, on May 22, 2017, which was 21 days past the deadline stated in Md. Rule 2-534.

Appellant did not file his second petition for expungement for good cause until July 3, 2017. With that said, the conditions for Appellant's first petition for expungement had been met, as of May 27, 2017, when all the certificates of compliance had been filed by the State's Attorney's Office, the Sheriff's Department and the Criminal Justice Information System, respectively. We do not give credence to Appellant's argument that "true test" copies of the Court records were available to Appellant on August 22, 2017 because by his own admission, when Appellant supplemented his motion on July 21, 2017, he stated, "I already have an expungement. All I am asking is for the reason given in the expungement is changed." The certified compliances are proof of this affirmation.

Appellant also wants this Court to accept that when the district court granted his second petition for expungement for good cause, his prior petition and waiver were voided

affirmatively and vacated by operation of law. We agree with the trial court's determinations on the record:

> Essentially, [appellant] is asking the Court to read into Judge Wright's notations on the docket sheet and presume his intent to vacate a voluntary release and waiver form. Even assuming he had the power to do that, the Court will not read such language into that docket entry.

This Court will follow suit and not make factual findings about whether Judge Wright intended to vacate the prior expungement because practically speaking, on August 22, 2017, there was no record to expunge - Appellant had already received an expungement. The original petition was not "withdrawn", as the conditions for its execution had already been met, before Appellant filed a second petition. Additionally, Appellant has provided no law that his first duly executed petition and waiver can be superceded or vacated by operation of law, especially when his criminal record is ultimately vacated based on the first petition, well in advance of Appellant's attempts to substitute that petition with a second one.

CONCLUSION

"Where contract language is plain and unambiguous, its meaning should be determined without reference to extrinsic facts or aids." *Pantazes*, 77 Md. App. at 720 *(*citing *Goldberg v. Goldberg*, 290 Md. 204, 212 (1981)) The waiver form that Appellant signed along with his petition for expungement dated March 10, 2017 released Appellee from any and all tort claims, provided that Appellant's criminal record was immediately expunged. This release was fulfilled on May 27, 2017, when all three certificates of compliance had been filed and Appellant's record was in fact expunged. Appellant's intent

and untimely motions are inconsequential, "extrinsic facts" that do not generate a dispute that a trier of fact would be required to resolve. In applying the law to these undisputed facts, we hold that the trial court did not err in granting summary judgment to Appellee and dismissing Appellant's claims as barred by waiver and release.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.