

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2348

September Term, 2025

IN RE: J.B. & B.B.

Ripken,
Kehoe, S.,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: July 10, 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 Maryland Rule 1-104(a)(2)(B).

In March 2025, the Department of Social Services of Baltimore City (“Department” or “DSS”), appellee, filed in the Circuit Court for Baltimore City petitions for guardianship of two minor siblings, J.B. and B.B., with the right to consent to adoption or long term care short of adoption.¹ After Eric B. (“Father”), appellant, failed to file exceptions, the circuit court issued an order, declaring, “Father is no longer a party in this matter.” The court subsequently denied Father’s motion for reconsideration of that order. Father noted this appeal, challenging those rulings.²

The Department included in its brief a motion to dismiss, asserting that the order from which Father appeals is interlocutory and that no appeal lies from it. We agree and shall dismiss the appeal. We shall also take the Department’s suggestion and briefly state our views on the procedural question at issue in contemplation of potential continuing litigation in these cases.

BACKGROUND

The underlying facts are not relevant to the procedural issue raised in this appeal, and we therefore shall not present a lengthy recitation of them. Our focus will be on the relevant procedural facts.

¹ As the Department acknowledges in its brief, the effect of granting those orders would be to terminate the parental rights of the children’s biological parents. Md. Code (1984, 2019 Repl. Vol.), Family Law Article (“FL”), § 5-325(a).

² Father raises two claims in his brief. First, he asserts that the juvenile court erred in finding that he was deemed to have consented to the petitions because service was defective, thereby depriving the court of personal jurisdiction over him. Second, Father asserts that the CINA attorney rendered ineffective assistance of counsel.

On January 24, 2023, J.B. and B.B. were placed in foster care, where they have remained until now. Three months later, they were declared to be children in need of assistance (“CINA”). During the prior proceedings, Father had been represented by Daniel Gross, Esq.

On March 13, 2025, the Department filed in the circuit court petitions for guardianship with the right to consent to adoption or long term care short of adoption, which, if granted, would result in the termination of Father’s (and Mother’s)³ parental rights (“TPR”). On the same date, show-cause orders were issued to both parents, advising that their parental rights could be terminated, directing them to file timely notices of objection, and advising them of their rights to counsel. Also on the same date, summonses were issued to the parties and counsel, including Mr. Gross, directing them to appear at a scheduled Zoom hearing on May 5, 2025.

On May 5, the virtual hearing was held before Magistrate Neeta Kataria. Father did not appear, but Mr. Gross did. After counsel for the Department informed the court that “there have been no entry of appearances or objections filed in this case[.]” Mr. Gross explained that he would not “object to a postponement” and “would like to speak with [his] client[.]” Department counsel averred (not entirely correctly) that “[M]other was personally served on April 23rd” and that Father had been served by the sheriff, who had

³ Mother is not a party to this appeal.

not yet filed an affidavit of service.⁴ The court set a new hearing date of June 11, 2025. Mr. Gross assured the court that by then he would know whether he was going to represent Father in these cases, and Department counsel assured the court that by then both parents' thirty-day periods for filing notices of objection would have expired.

On June 11, a Zoom hearing was held before Magistrate William Gyauch. Mr. Gross was not present, nor had he entered an appearance in these cases. Department counsel informed the court that the sheriff had, indeed, served Father in Case No. 590 but that it was still “in the process of having [F]ather served for [B.]B.’s case [Case No. 591].”⁵ Father joined the hearing and was informed by the court “that he will need to contact the Public Defender’s Office regarding counsel.”⁶ The court scheduled a pretrial Zoom hearing date of July 16, 2025.

The following day, on June 12, 2025, Father was served in person with the petition and show-cause order in Case No. 591. The affidavit of service was filed several weeks later.

⁴ In Case No. 590 (J.B.’s case), the Department submitted a Civil Intake Data sheet appearing to state that Father had been served in person on April 10, 2025. On November 19, 2025, the Department filed an affidavit of service attesting to that fact. In Case No. 591 (B.B.’s case), Father was served in person on June 12, 2025, more than five weeks after the May 5th hearing.

⁵ Department counsel further explained that the Department was forced to rely upon the sheriff to serve the parents rather than its usual process server “because there was a safety issue.”

⁶ The court also confirmed Father’s correct contact information, including his phone number, address, and email address.

On July 16, a scheduling hearing was held via Zoom before Magistrate Gyauch. Mr. Gross was present but had not yet entered his appearance in the cases. Father was not present. Mr. Gross informed the court, mistakenly, that he was present “on behalf of [I.F.,]” who is not a party in either case. The court, in consultation with the attorneys, set dates for the status conference, the settlement conference, production of records, and a guardianship merits hearing.

On July 28, 2025, the Department attempted to serve the petitions and show-cause orders on Mr. Gross by certified mail, return receipt requested, as provided under Maryland Code (1984, 2019 Repl. Vol.), Family Law Article (“FL”), § 5-316(c)(2)(ii). Two weeks later, the Department filed an affidavit of service, but the return receipt was unsigned.

On August 25, 2025, the court convened a status hearing before Judge Robert Taylor. Mr. Gross was present; Father was not. Department counsel noted that Mr. Gross “has actually not filed an entry of appearance” and that “Father likewise has not filed an objection.” Department counsel further declared that, “[F]ather is not a party[,]” “[h]e hasn’t filed an objection[,]” and “his time has run.” The court asked Mr. Gross whether he agreed, and Mr. Gross replied, “I have no representations, Your Honor.”⁷ The court declared its agreement with Department counsel, stating, “Time for an objection has long past due. Absent some extenuating circumstances [Father] has consented [to guardianship

⁷ As the Department points out in its brief, “only 28 days had passed since the Department had mailed the show[-]cause orders and petitions to Mr. Gross,” but “Mr. Gross did not correct the Department or inform the court he had not been served with copies of the show cause orders and petitions.”

and termination of his parental rights] by operation of law.” The court excused Mr. Gross from the hearing, and it subsequently issued an order, stating,

Father’s CINA attorney Daniel Gross was present. Father has not filed an objection, and his counsel has not made an entry of appearance under these TPR matters.

The time for [F]ather to object has expired. Father is no longer a party in this matter.

Two more Zoom hearings were held before Judge Charles Blomquist without Father’s participation. Then, on October 29, 2025, Jeffrey Dier, Esq., entered his appearance in the cases. A few weeks later, on November 15, 2025, Mr. Dier filed notices of objection on Father’s behalf. In response, the Department promptly filed motions to strike what it deemed late objections. Attached to the motions to strike were affidavits of service on Father, prior court orders (including the August 25th order declaring that Father’s time for filing notices of objection had expired and that he was no longer a party to the cases), and affidavits of service on Mr. Gross, including the unsigned delivery receipts.

On November 19, 2025, at a Zoom hearing before Judge Blomquist, the following colloquy took place:

THE COURT: So just help me understand. I think there was an order issued by Judge Taylor in the case that already recognized that no objection had been filed by [Father], so why am I even hearing this?

MR. DIER: Well, Your Honor, do you want me to -- you want me to chime in? I mean I am filing a response to that motion which I just received the other day. But generally speaking there was -- there’s several issues involved here. One is that [Father] -- there’s no proof of service for [Father] for J.[B.]’s case. There’s no required affidavit of service by the private process server. The Department -- I’m not sure exactly who filled it out, but

there's a data entry sheet of some kind, but no required affidavit of service on him for that child.

Additionally, the Juvenile Court attorney at that time for the -- for [Father], he was not actually served with the -- with the petition show cause order and notice of objection is required under the law. There was apparently delivery to his -- the lobby of his -- the large building that he works in. He never -- he's advised me he never received the documents. He didn't sign for them as required under the law.

THE COURT: So, Mr. Dier, I mean I appreciate all that recitation, but I am looking at an order that's dated 8/25/2025 signed by Judge Taylor in which he says in the order the time for [F]ather to object has expired. Father is no longer a party in this matter.

* * *

MR. DIER: . . . The issue of service of actual jurisdiction of the court is called -- is under -- falls under fraud, mistake or irregularity can be raised at anytime. So this issue can be raised even on appeal for the first time. So, you know, I'm raising it now. But the lack -- the lack of notice and due process falls under mistake or irregularity so I'm raising it now.

I mean if -- if Ms. Witlen^[8] wants to go ahead with this case and have an appeal that could take, you know, very long, she's welcome to do that, but -- but that's the basis. I can raise this before the Circuit Court at anytime. That's the law.

* * *

MS. WITLEN: Thank you. Your Honor, in my motion to dismiss obviously I attached nine different exhibits. Father personally appeared at a hearing. He was served by the sheriff. It wasn't private process service. It was the sheriff's department. The sheriff's department filed a civil intake data sheet in which it states that they served [F]ather.

After Mr. Dier objected and raised this issue the Department was able to coordinate with the Department of Safety and Corrections to obtain an affidavit of service which I uploaded today which verifies that Mr. -- or

⁸ Sarah Witlen, Esq., was counsel for the Department.

Sergeant McCaskill actually did serve [F]ather on the date that the civil intake sheet is dated.

Additionally, Your Honor, Mr. Gross who was the CINA attorney appeared at -- personally appeared at three different TPR hearings. At no point in time did he raise that there was a mail issue. The Department does not believe that Mr. Dier has standing to raise a mail issue with Mr. Gross's office with no affidavit attached.

I am prepared to move forward with this case. The court also has to look at the best interest of the child and this case has now been dragging on because [F]ather has not objected and there are court orders in which he has been deemed to be not a party for lack of objection. There is no affidavit supporting, Your Honor. There's been no tendering of an individual saying that there was fraud, mistake or irregularity. Mr. Dier doesn't have standing to do that.

THE COURT: Well, again, help me understand the [e]ffect of the August 25th order. Why am I being asked to review Judge Taylor's order? This is not a recommendation from a magistrate. This is an order from a sister judge. I'm not an Appellate Court.

I mean I guess, you know if he wants to he could take an interlocutory appeal or he's going to have to wait until the conclusion of the -- the termination of parental rights. I'm not sure that's in the best interest of -- of the children or the parents, but that would be -- I'm not sure I have the ability to hear this matter. Am I wrong?

MS. WITLEN: Are you asking me, Your Honor?

THE COURT: Yes.

MS. WITLEN: I believe that the -- I believe that no appeal was filed to Judge Taylor's order from August 25th.

THE COURT: Wouldn't it be more appropriate to go back to Judge Taylor for a motion to reconsider?

MS. WITLEN: I don't have any issue with that, Your Honor.

THE COURT: Yeah. I mean I -- I mean I'm not sure how it got in front of me except I'm the termination of parental rights judge. So at this point I'm going to go ahead and dismiss Mr. Dier's -- Mr. -- I'm dismissing

his objection. I’m not sure I have the ability to do that because you can’t object to something -- he’s not a party, so.

Later that same day, Judge Blomquist issued an order, declaring:

Judge R. Taylor’s 8/25/25 order ruled [F]ather had not filed a timely objection and was not a party to the matter. The Motion to Strike the late objection filed by Jeffrey Dier, Esq., submitted by the Baltimore City Department of Social Services (BCDSS), is hereby deemed MOOT, as the Court lacks jurisdiction to rule on the matter.

On December 9, 2025, Mr. Dier filed (on Father’s behalf) a motion for reconsideration of Judge Taylor’s August 25th order. Attached to that motion were the Department’s affidavit of service on Mr. Gross, including a copy of the unsigned mail receipt; a copy of the court’s August 25th order; and an affidavit from Mr. Gross, averring, among other things, that his office is located in “a large multi-story office building comprised of hundreds of virtual work spaces”; that “the lobby receives hundreds of pieces of mail a day”; that he has “experienced serious challenges receiving mail that is addressed to [him]”; that he “never received or signed for” the petitions, show-cause orders, or notice of objection forms in this case; that he “never received” information regarding “deadlines for filing objections to the petitions”; and that he “did not intend to or enter” his appearances on Father’s behalf “[f]or purposes of any” TPR proceeding “involving his children.”

After the Department filed a response to Father’s motion for reconsideration, requesting that it be denied, the court, on December 22, 2025, issued a memorandum opinion and order denying Father’s motion for reconsideration. In part, the court stated:

In [Father’s] motion to reconsider, he does not dispute that Mr. Gross was in fact served with the show cause order via certified mail. Mr. Gross

claims that he did not personally see the document because of problems with the internal distribution of mail in his office building. This is not the Department’s problem. Nothing in Section 5-316 requires the Department to ensure that the properly served attorney actually reads his mail. Such a burden would be impossible to meet. More to the point, nothing about the failure of Mr. Gross to promptly read his mail prevented [Father] from filing a timely objection to the TPR action. It may well be that Mr. Gross did not see the show cause order in this case, as he attests in his affidavit. Nonetheless, service was effectuated when it was delivered to his address of record via certified mail, return receipt requested. It is obvious, moreover, that Mr. Gross was well aware of the TPR action before he was actually served with the show cause order.

Father then noted this appeal.

DISCUSSION

Motion to Dismiss

With narrow exceptions, an appeal may be taken only from a final judgment. Md. Code (1974, 2020 Repl. Vol.), Courts and Judicial Proceedings Article (“CJP”), § 12-301. Section 12-301 “does not define finality, but instead leaves it to [the Supreme] Court to determine what makes a judgment ‘final.’” *Metro Maint. Sys. S., Inc. v. Milburn*, 442 Md. 289, 297 (2015). To be a final judgment, “a ruling must ordinarily have the following three attributes”:

(1) it must be intended by the court as an unqualified, final disposition of the matter in controversy[;] (2) unless the court acts pursuant to Maryland Rule 2-602(b) to direct the entry of a final judgment as to less than all of the claims or all of the parties, it must adjudicate or complete the adjudication of all claims against all parties; (3) it must be set forth and recorded in accordance with Rule 2-601.

Id. at 298.

Initially, we note that the only order at issue in this appeal is the December 22nd order⁹ denying the motion for reconsideration of the prior August 25th order because the notices of appeal were filed on January 5, 2026, well beyond thirty days after August 25, 2025. Md. Rule 8-202(a) (requiring that a notice of appeal “be filed within 30 days after entry of the judgment or order from which the appeal is taken”). In any event, neither the August 25th order nor the December 22nd order has any of the attributes of a final judgment because neither order is, in fact, a final judgment.

As the Department points out, the December 22nd order did not finally adjudicate the grant of guardianship of the minor children and, therefore, “was an order ‘that adjudicates the rights and liabilities of fewer than all the parties to the action’ and ‘not a final judgment.’” (Quoting Md. Rule 2-602(a)(1).) Nor did the order invoke Rule 2-602, which requires that the court “expressly determine[] in a written order that there is no just reason for delay” before it may certify an otherwise non-final judgment for appeal. Md. Rule 2-602(b). Nor did the order comply with Rule 2-601, which requires, among other things, that the clerk “enter a judgment by making an entry of it on the docket of the electronic case management system used by that court along with such description of the judgment as the clerk deems appropriate.” Md. Rule 2-601(b)(2).

⁹ The order was issued December 17, 2025, but was not docketed until December 22, 2025. The memorandum opinion and order are not docketed in Case No. 591, even though its caption contains both case numbers; and furthermore, notices of appeal are docketed in both cases. The Department refers to this order as the “December 17, 2025, Order.”

The Supreme Court of Maryland has set forth “only three exceptions” to the final judgment rule. *Salvagno v. Frew*, 388 Md. 605, 615 (2005). Those are: “appeals from interlocutory orders specifically allowed by statute;” “immediate appeals permitted under Maryland Rule 2-602” (which we already have ruled out); and “appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *In re C.E.*, 456 Md. 209, 221 (2017) (cleaned up).

There is no statutory right of appeal from the December 22nd order. Although CJP § 12-303(3)(x) permits an interlocutory appeal from an order “[d]epriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order[,]” application of that provision is ruled out because that exception has been narrowly interpreted as to not apply to an order, such as that in this case, that neither alters immediate custody of a child nor materially changes a permanency plan. *See C.E.*, 456 Md. at 224, 226-27 (holding that “a juvenile court’s order waiving a department’s obligation to provide reasonable reunification efforts, while leaving a custody order and permanency plan unchanged, does not deprive a parent of care or custody of a child” and is therefore not immediately appealable).

The collateral order doctrine is a “legal fiction” that permits immediate appeals from “orders that would otherwise not be appealable at the time they are entered.” *Md. Bd. of Physicians v. Geier*, 451 Md. 526, 554 (2017). There are four requirements that an interlocutory order must satisfy for the collateral order doctrine to apply:

(1) the order must conclusively determine the disputed question; (2) the order must resolve an important issue; (3) the order must resolve an issue that is completely separate from the merits of the action; and (4) the issue would be

effectively unreviewable if the appeal had to await the entry of a final judgment.

Id. at 546. At minimum, the December 22nd order does not satisfy the fourth requirement. The issue (whether the circuit court properly determined that Father had waived his objections) would be reviewable after the circuit court’s final disposition of the Department’s guardianship petitions. Because “[e]ach of the four elements . . . must be satisfied” for the collateral order doctrine to apply, *Spivery-Jones v. Receivership Est. of Trans Healthcare, Inc.*, 438 Md. 330, 360 (2014), we conclude that the December 22nd order does not qualify as a collateral order. In sum, no immediate appeal lies from the December 22nd order, and we therefore grant the Department’s motion to dismiss.

Additional Guidance on Remand

We shall up take the Department’s suggestion¹⁰ and briefly discuss the merits of the circuit court’s ruling, to provide guidance following remand to that court as these cases proceed. In doing so, we recognize that what we say here is only dictum. *See* Md. Rule 8-131(a) (stating that an appellate court “may decide” an issue not properly before it “if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal”); *see also Chertkov v. State*, 335 Md. 161, 170 (1994) (discussing merits of important issue despite dismissing the appeal).

“Promptly after a petition for guardianship is filed under this Part II of this subtitle, a juvenile court shall issue a show-cause order that requires the party to whom it is issued

¹⁰ We commend the Department for adopting a position on appeal contrary to that taken in the circuit court. As we explain, we agree with the Department’s new position.

to respond as required under the Maryland Rules.” FL § 5-316(a). “On issuance of a show-cause order as to guardianship of a child, a petitioner shall serve the order on . . . each living parent’s last attorney of record in the CINA case[.]” FL § 5-316(b)(2). Service on an attorney under FL § 5-316 “shall be” either by “personal service” or “certified mail, . . . return receipt requested[.]” FL § 5-316(c)(2).

In the instant case, the only evidence that service was made on Father’s last attorney of record in the CINA case was a return receipt. Conspicuously missing from that return receipt was the attorney’s signature, thereby rebutting the presumption that he was served. (In addition, the attorney filed an affidavit in the circuit court, declaring among other things that he “never received or signed for” the show-cause orders or related documents in the cases; that he “never received the information contained in the petitions”; and that he “did not intend to [nor did he] enter [his] appearances on behalf of” Father in the TPR proceedings and therefore “did not have access to the MDEC information” on the cases.)

We have held that the failure to serve notice on the last attorney of record in a CINA case, in strict compliance with the requirements of statute and rule, tolls the thirty-day period for a parent to file a notice of objection in an ensuing guardianship case. *In re Adoption/Guardianship of Genara A.*, 152 Md. App. 725, 736 (2003). Applying that holding here, we are constrained to agree with the Department that the circuit court erred in its ruling that Father’s notices of objections, filed November 15, 2025, were untimely.

APPEAL DISMISSED. CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE CITY FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS ASSESSED TO APPELLANT.