

Circuit Court for Prince George's County
Case No. CAE18-00584

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2535

September Term, 2018

VIRGIL MCDONALD

v.

HILLCREST TOWNE HOMEOWNER'S
ASSOCIATION, INC.

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

JJ.

PER CURIAM

Filed: February 10, 2020

*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.

Virgil McDonald, appellant, previously owned a home in the Hillcrest Towne community. On January 5, 2018, the Hillcrest Towne Homeowner’s Association, Inc., appellee, filed a complaint in the Circuit Court for Prince George’s County claiming that Mr. McDonald had threatened several members of appellee’s Board of Directors (the Board) and posted “disturbing and threatening signs” in the community. As relief, appellee sought a temporary restraining order (TRO) and permanent injunctive relief enjoining Mr. McDonald from (1) having any contact with any members of the Board, their families, or the Board’s agents; (2) coming within 100 feet of any members of the Board, their families, or the Board’s agents; (3) coming within 100 feet of any property owned by any members of the Board, their families, or the Board’s agents; and (4) from posting threatening correspondence in the community. The court granted appellee’s motion for a TRO the same day.

On February 2, 2018, Mr. McDonald filed a pleading in the circuit court that stated “Concerning Case CAE18-000584 . . . I Yahweh [] agree to the terms of the restraint order.” He did not file any other answer to appellee’s complaint. On March 20, 2018, the court held a hearing on appellee’s request for a permanent injunction. Because Mr. McDonald was incarcerated, he was not present at that hearing.¹ The court found that,

¹ At the hearing, the court indicated that Mr. McDonald’s wife had “tracked down my Clerk’s information and sent her an email [the same morning] saying that [Mr. McDonald] . . . [i]s currently detained in Montgomery County Detention Center at Clarksburg and has been so since March 16th.” In issuing its ruling, the court also stated that Mr. McDonald’s wife did “not indicate that he [was] requesting a continuance [.]” On appeal, Mr. McDonald does not contend the court erred in finding that he had not requested
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based on his February 2 pleading, Mr. McDonald had consented to the injunctive relief requested by appellee. It therefore issued an order granting the permanent injunction and closing the case statistically.

On July 31, 2018, Mr. McDonald filed a petition “to vacate order and request for a new hearing.” In that petition, he claimed that he had not consented to the permanent injunction, and that the injunction issued by the court was overbroad. He therefore requested the court to vacate the permanent injunction and to hold a new hearing. In his prayer for relief, he also requested the court to “void Plaintiff’s attorney’s fees.” The court denied Mr. McDonald’s petition without a hearing. On appeal, Mr. McDonald presents six questions² for our review, which we rephrase and reorder for clarity:

- (1) Did the circuit court err in issuing the TRO on January 5, 2018, because he had not been properly served with the complaint?
- (2) Did the circuit court err in refusing to dismiss the complaint because he had not been properly served?
- (3) Did the circuit court err in issuing the permanent injunction because its terms violated Section 11-113 of the Real Property Article?
- (4) Did the circuit court err in failing to rule on his request to void appellee’s attorney’s fees when it denied his petition to vacate the injunction?
- (5) Did the circuit court err in finding that he had consented to the permanent injunction based on his February 2 pleading indicating that he “agree[d] to the terms of the restraint order”?

a continuance or in holding the hearing and entering the permanent injunction in his absence.

² Although Mr. McDonald sets forth seven “questions presented” in his brief, his questions 3 and 5 raise the same issue.

- (6) Did the circuit court err in issuing an overly broad permanent injunction because it does not specify a specific person or place to stay away from and does not have an end date?

Because Mr. McDonald has not demonstrated that the trial court abused its discretion in denying his petition to vacate the permanent injunction, we shall affirm.

As an initial matter, the first three questions presented by Mr. McDonald were not raised in his petition to vacate the permanent injunction in the circuit court. Consequently, they are not preserved for appellate review. *See* Maryland Rule 8-131 (“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”). Moreover, we decline to address the merits of the fourth question because Mr. McDonald does not address that claim with particularity. In fact, he does not mention that contention at any point in the argument section of his brief. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (citation omitted)).³

In the final two questions presented, Mr. McDonald attacks the court’s March 20 order, claiming that the court improperly found that he had consented to the permanent injunction and that the terms of the permanent injunction are overly broad. However, because Mr. McDonald did not file a notice of appeal from the March 20 order, its validity

³ We note that, based on the record before us, this claim appears to lack merit as there is no indication that the court ordered Mr. McDonald to pay appellee’s attorney’s fees when it entered the TRO or the permanent injunction.

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is not properly before us.⁴ Rather, the only issue we could consider in this appeal is whether the court’s refusal to vacate the permanent injunction constituted an abuse of discretion.

However, outside of the issue regarding attorney’s fees, Mr. McDonald does not specifically contend in his brief that the court abused its discretion in denying his motion to vacate. Instead, all his claims address the March 20 order. More importantly, he does not articulate why the alleged errors in the March 20 order would have required the judge to vacate that order approximately three months after it became an enrolled judgment. And although we are mindful that Mr. McDonald is proceeding *pro se*, it is not this Court’s responsibility to “attempt to fashion coherent legal theories to support [his] [] claims” of error. *See Konover Property Trust, Inc. v. WHE Assocs., Inc.*, 142 Md. App. 476, 494 (2002).

But even if Mr. McDonald had raised these issues with particularity, we would find no error. To be sure, “the ‘finality’ of a judgment containing a permanent injunction does not mean that the trial court, in a later separate proceeding, is precluded from entering another judgment modifying or dissolving the injunction *when circumstances have changed.*” *Burch v. United Cable Television of Baltimore Ltd. Partnership*, 391 Md. 687, 696-97 (2006) (emphasis added); *see also Evans v. Stinchcomb*, 180 Md. 482, 485 (1942) (“[A]n injunction . . . is . . . necessarily open to some change to meet intervening circumstances.”). But Mr. McDonald’s claims that he did not intend to consent to the

⁴ Mr. McDonald did not claim in his petition to vacate the permanent injunction that he was unaware of the injunction or that he was unable to file a timely appeal from that order because of his incarceration.

injunction and that the injunction is overly broad, even if true, do not establish that there has been a change of circumstances since the injunction has been entered. Rather, both of those issues could have been raised in either his answer to appellee’s complaint or in a timely appeal from the March 20 order. Moreover, neither claim alleges that the judgment was procured by fraud, mistake, or irregularity pursuant to Maryland Rule 2-535(b). Consequently, we are not persuaded that the court abused its discretion in denying Mr. McDonald’s petition to vacate the permanent injunction.⁵

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

⁵ We note that our decision in this case is without prejudice to Mr. McDonald being able to file another motion to modify or vacate the permanent injunction if he can demonstrate that a change in circumstances has occurred that “render[s] its further operation unreasonable, unjust, oppressive or inequitable[.]” *Emergency Hospital v. Stevens*, 146 Md. 159, 166 (1924).