

Circuit Court for Carroll County  
Case No. 06-K-18-048844

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 3110

September Term, 2018

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DAVID JOHN FIELDS

v.

STATE OF MARYLAND

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Kehoe,  
Gould,  
Kenney, James A., III  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: January 2, 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.

Following a jury trial in the Circuit Court for Carroll County, David John Fields, appellant, was convicted of constructive criminal contempt and criminal non-support. Both convictions were based on his failure to pay child support as required by a judgment of absolute divorce that was entered by the circuit court in 2015 (support order). His sole contention on appeal is that the circuit court erred in denying his motion to dismiss the charges because, he claims, the support order was invalid. Specifically, he asserts that the “support order had no legal effect” because his ex-wife was not a resident of Carroll County when she filed the complaint for absolute divorce. For the reasons that follow, we shall affirm.

It is “a settled principle of Maryland law that, when a tribunal having jurisdiction issues to a person an order, that person may not refuse to obey the order on the theory that it is unlawful or unwarranted and, in a later collateral proceeding such as a contempt action or other disciplinary action . . . defend by attacking the earlier order. Instead, that person is required to challenge the order directly.” *Maryland State Bd. of Physicians v. Eist*, 417 Md. 545, 567 n.14 (2010) (citations omitted). *Cf. Early v. Early*, 338 Md. 639, 656 (1995) (whether a father should have been held in contempt for violation of the child support order is distinct and separate from the question of whether that order was valid); *Save-Mor Drugs, Bethesda, Inc. v. Upjohn Co.*, 225 Md. 187, 190-91 (1961) (a contemnor who is prosecuted for criminal contempt may not attack the order collaterally in a contempt proceeding). Here, Mr. Fields was a party to the divorce action and filed a motion to dismiss for lack of venue. The circuit court denied the motion and ultimately entered the

support order. Mr. Fields did not appeal from that order. Therefore, he could not attack the validity of that order in his criminal case.

Moreover, even if Mr. Fields could have challenged the validity of the support order in this case, such a collateral attack would be “permitted only [if] the court that rendered the judgment had no *jurisdiction* to do so.” *LVNV Funding LLC v. Finch*, 463 Md. 586, 608 (2019). However, Mr. Fields’s sole contention was that venue in the divorce action was improper, which would not have affected the circuit court’s jurisdiction to enter the support order. *See Guarnera v. State*, 23 Md. App. 525, 528-29 (1974) (explaining that venue, refers to a “particular place or county in which a court of appropriate jurisdiction may properly hear and determine the case in the first instance” whereas jurisdiction refers to “the right to hear and determine a cause . . . in the sen[s]e of power rather than in the sense of selection of place.”) (quotation marks and citation omitted). Consequently, the court did not err in denying Mr. Fields’s motion to dismiss.

**JUDGMENTS OF THE CIRCUIT  
COURT FOR CARROLL COUNTY  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**