

Circuit Court for Howard County
Case Nos.: 13-C-16-109898 &
13-C-17-111881

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

Nos. 145 & 146

September Term, 2024

JOHN LICCIONE

v.

MOEA GORON-FUTCHER

Arthur,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned)
JJ.

PER CURIAM

Filed: December 5, 2024

* This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

This consolidated appeal involves requests by appellant, John Liccione, to shield two separate protective orders entered in favor of appellee, Moea Goron-Futcher, Mr. Liccione’s former wife, in the Circuit Court for Howard County.¹ The relevant factual and procedural background is as follows:

BACKGROUND

I. Case No. 13-C-16-109898

In October of 2016, following a petition for a protective order filed by Ms. Goron-Futcher, the District Court of Maryland for Howard County entered a modified final protective order against Mr. Liccione. Less than a month later, Ms. Goron-Futcher filed a petition to rescind the protective order, noting that Mr. Liccione was living in New York and that accordingly, she was “no longer frightened” for her safety. The district court denied her request to rescind the protective order and Ms. Goron-Futcher noted an appeal to the Circuit Court for Howard County. After a hearing, in January of 2017, the Circuit Court for Howard County granted Ms. Goron-Futcher’s request and rescinded the protective order.

The case then lay dormant for over four years, until August of 2021, when Mr. Liccione filed a “Request to Shield Denied or Dismissed Protective Order Records[,]” seeking to shield records relating to the October 2016 protective order. The circuit court denied the request, noting that:

¹ At the time both protective orders were entered, the parties were still married. In separate proceedings, the Circuit Court for Howard County entered a judgment of absolute divorce between the parties in January of 2019.

[T]he Court finds that [Mr. Liccione is] [] not entitled to such a shielding under Family Law § 4-512(b)(1). That rule provides in pertinent part that “[i]f a petition filed under this subtitle is denied or dismissed at the interim, temporary, or final protective order stage of a proceeding under this subtitle, the respondent may file a written request to shield all court records relating to the proceeding.” The protective order which [Mr. Liccione] request to be shield was not denied or dismissed at the interim, temporary, or final protective order stage of the proceeding. Rather, the final protective order was granted, and [Ms. Goron-Fletcher] subsequently petitioned to rescind the order.

Mr. Liccione thereafter noted an appeal to this Court, captioned Case No. CSA-REG-1873-2021 (“Case No. 1873”). In that appeal, Mr. Liccione challenged the court’s determination that he was not entitled to shielding under Md. Code Ann., Family Law § 4-512(b)(1) and sought “reversal of the lower court’s ruling that this Protective Order case is not eligible for shielding[.]” Ms. Goron-Fletcher sought an affirmance of the trial court’s ruling. However, in October of 2022, the appeal was dismissed after Mr. Liccione filed a notice of voluntary dismissal with prejudice, stating in full, “Appellant, John Liccione, hereby dismisses his Appeal in the above-captioned case, WITH PREJUDICE.”

On January 7, 2024, Mr. Liccione filed a second request to shield all court records relating to the October 2016 protective order. On February 15, 2024, the circuit court denied the request. The court thereafter denied Mr. Liccione’s motion to alter or amend the judgment, and Mr. Liccione noted an appeal, captioned Case No. ACM-REG-146-2024 (“Case No. 146”).

II. Case No. 13-C-17-111881

In separate proceedings, on May 26, 2017, the District Court of Maryland for Howard County entered a temporary protective order in favor of Ms. Goron-Fletcher

against Mr. Liccione. The following month, the district court transferred the matter to the Circuit Court for Howard County pursuant to Md. Rule 3-326(c), noting that there was an existing request for relief pending before the circuit court “similar to that being sought in these proceedings[.]” In December of 2017, with the consent of Mr. Liccione, the circuit court entered a final protective order against Mr. Liccione.

Several years later, in February of 2024, Mr. Liccione filed a petition to shield the December 2017 protective order. On March 12, 2024, the court denied the request, noting, in part, that “[A] prior protective order was issued and rescinded and [Ms. Goron-Futcher] objects to shielding. It’s not in the interests of justice to grant shielding.” The following week, Mr. Liccione noted an appeal, Case No. ACM-REG-145-2024 (“Case No. 145”).

After Mr. Liccione failed to file an appellate brief in Case No. 145, this Court dismissed the appeal. Mr. Liccione filed a motion for reconsideration of the dismissal, noting that he “[w]ish[ed] to combine both appeals into one case for purposes of efficiency[.]” On September 9, 2024, the court granted Mr. Liccione’s request and consolidated Case Nos. 145 and 146 into the instant appeal.²

DISCUSSION

On appeal, Mr. Liccione contends that the circuit court rulings are “in direct conflict with each other” and requests that we reverse both “shielding denial orders and order the

² On September 15, 2024, Mr. Liccione filed a petition for writ of certiorari in the Supreme Court of Maryland challenging, among other things, whether this court erred “in failing to allow [him] to file a merged appellant brief after having issued an order to merge his two appeals having only received one of the two appellant briefs when the questions raised in each were different?” On October 29, 2024, his petition for certiorari was denied.

two cases and these two appeals to be shielded permanently.” He contends that by setting his request to shield the October 2016 protective order in for a hearing, that the circuit court found the protective order “eligible for shielding” and accordingly, that the court thereafter erred in denying his request to shield. Further, he makes several unsupported claims regarding judicial bias from the judge who denied his request to shield the October 2017 protective order, Judge Stephanie Porter, including that she discriminated against him “because he is a male domestic violence survivor on disability for PTSD that stems directly from his ex-wife’s physical attacks on him and her poisoning of him in 2013[.]” Finally, Mr. Liccione presents several questions that are nearly identical to the questions he presented in Case No. 1873, such as whether the court erred in denying his request to shield the October 2016 protective order or whether the court erred in concluding that he was not entitled to shielding of the rescinded protective order under Family Law § 4-512(b)(1).

As an initial matter, we note that “[r]es judicata restrains a party from litigating the same claim repeatedly and ensures that courts do not waste time adjudicating matters which have been decided or could have been decided fully and fairly.” *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 107 (2005). Indeed, it applies when “(1) that the parties in the present litigation are the same or in privity with the parties to the earlier dispute; (2) that the claim presented in the current action is identical to the one determined in the prior adjudication; and, (3) that there has been a final judgment on the merits.” *Id.* Further, the preclusive effect of res judicata “extends to any theory arising out of the same claim.” *Id.* at 108.

Here, the parties are the same as Case No. 1873. Further, the issue presented is, in substance, identical to that presented in Case No. 1873: whether the court erred in denying Mr. Liccione’s request to shield documents relating to the October 2016 protective order.³ Finally, Mr. Liccione’s voluntary dismissal with prejudice in Case No. 1873 precludes further litigation on his claims.⁴ *Bryan v. State Farm Mut. Auto. Ins. Co.*, 205 Md. App. 587, 603 (2012) (“Under Maryland law, a docket entry recording a voluntary dismissal with prejudice, previously called an ‘order of satisfaction,’ constitutes a judgment which operates, at a minimum, as a bar to a further action on the same claim.”). Simply put, because the matter presently before us is an attempt to, in part, re-litigate the matter previously litigated in Case No. 1873, Mr. Liccione’s claims are barred by the doctrine of res judicata.⁵

³ Both requests to shield were filed on trial court standard form CC-DC-DV-021A and are identical in substance.

⁴ We note that in the context of considering a request for a protective order or a request to modify child custody, the trial court is not precluded from considering allegations of abuse asserted in past litigation. *Hripunovs v. Maximova*, 263 Md. App. 244, 268 (2024) (holding that the trial court was not “precluded from considering Wife’s allegations of past abuse by Husband” asserted in a prior protective order proceedings); *Augustine v. Wolf*, __ Md. App. __, No. 2322, Sept. Term, 2023, *3 (filed Nov. 22, 2024) (holding that the trial court incorrectly “precluded the admission of evidence related to claims of child sexual abuse in subsequent custody litigation”). Here, Father sought neither a protective order nor a child custody modification, but to re-litigate a request to shield a protective order entered against him – a request which had both been previously denied by the circuit court and voluntarily dismissed by Father, with prejudice, on appeal.

⁵ Although the trial court’s ruling does not appear to be on the basis of res judicata, “where the record in a case adequately demonstrates that the decision of the trial court was correct, although on a ground not relied upon by the trial court and perhaps not even raised by the parties, an appellate court will affirm.” *Elliott v. State*, 417 Md. 413, 435 (2010)

(continued)

Assuming, *arguendo*, that Mr. Liccione’s claims were not barred, we see no error based upon the facts before us. Requests to shield court records are limited to circumstances when a petition was denied or dismissed at an interim, temporary, or final protective order stage of a proceeding, or when the respondent consented to the entry of a protective order. Family Law §§ 4-512(b) (1) and (2). Neither circumstance applies to the October 2016 protective order. Although Mr. Liccione takes the position that the circuit court’s rescission of the protective order is the “legal equivalent” of a denial or dismissal of a petition, he cites no support for his assertion, and this Court is not aware of any.

Nor are we persuaded that the circuit court’s rulings are somehow in conflict with one another. Contrary to Mr. Liccione’s assertions, the circuit court did not find either protective order “eligible for shielding[.]” Finally, we see no error with respect to the court’s denial of Mr. Liccione’s request to shield the December 2017 protective order. Where the respondent consents to entry of a protective order, the court is permitted to order shielding after making several findings, including that the petitioner “consents to the shielding[.]” Family Law § 4-512(e)(1)(iv)(1). As the circuit court correctly noted, the petitioner, Ms. Goron-Futcher, did not consent to shielding. Accordingly, both requests were properly denied.

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

(quotation marks and citation omitted). “In other words, a trial court’s decision may be correct although for a different reason than relied on by that court.” *Id.* (quotation marks and citation omitted).