

Circuit Court for Anne Arundel County
Case No.: C-02-CV-21-000256

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 214

September Term, 2023

LARRY DERR

v.

RYAN JOHN JAKOBY, *et al.*

Graeff,
Berger,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 1, 2023

*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.

Larry Derr, appellant, sued Ryan John Jakoby, appellee, for negligence following a July 2020 motor vehicle accident.¹ After a two-day trial, a jury in the Circuit Court for Anne Arundel County awarded Derr \$25,000 for past medical expenses and \$10,000 in non-economic damages, but did not award him anything for future medical expenses. The judgment was entered on February 7, 2023.

Three days later, Derr filed a Motion for New Trial, which the court denied on February 17. Then, on February 21, Derr filed a Motion to Alter or Amend the Judgment. The court denied this motion on March 14. Derr filed his Notice of Appeal on April 4.

We must first address the scope of our review. The judgment in this case was entered on February 7. Under Maryland Rule 8-202(a), a notice of appeal must “be filed within 30 days after entry of the judgment or order from which the appeal is taken.” That said, because Derr’s Rule 2-533 Motion for New Trial was filed within ten days of the judgment, it tolled the time to file his appeal until after the motion was decided. *Pickett v. Noba, Inc.*, 122 Md. App. 566, 570 (1998). The circuit court denied Derr’s motion on February 17, so, to appeal from the merits of the judgment, he had until March 20 to file his notice of appeal.² He did not do so. Because his notice of appeal was filed more than 30 days after the circuit court denied his motion for new trial, we cannot consider the merits of the underlying judgment.

¹ Derr also sued Jakoby’s father, the owner of the vehicle, for negligent entrustment but abandoned that claim prior to trial.

² Thirty days from February 17, 2023, was March 19, 2023—a Sunday. When a filing deadline falls on a Sunday, it is extended automatically to the next non-holiday weekday. Md. Rule 1-203(a)(1). Here, that was Monday, March 20.

Derr did, however, file his notice of appeal within 30 days of the circuit court’s denial of his revisory motion. To be sure, this is still an appealable order. *See Estate of Vess*, 234 Md. App. 173, 204 (2017). But “an appeal from the denial of a motion asking the court to exercise its revisory power is not necessarily the same as an appeal from the judgment itself.” *Id.* (cleaned up). In such cases, the scope of our review is “limited to whether the trial judge abused [their] discretion in declining to reconsider the judgment.” *Id.* at 205 (cleaned up). “It is hard to imagine a more deferential standard than this one.” *Id.* *See also Stuples v. Baltimore City Police Dep’t*, 119 Md. App. 221, 232 (1998) (explaining that the denial of a motion to revise a judgment should be reversed only if the decision “*was so far wrong—to wit, so egregiously wrong—as to constitute a clear abuse of discretion*”).

Here, Derr’s arguments all concern issues that were within his control at the time of trial. He argues that the jury should not have been permitted to consider certain photographs. But he was the one that offered them into evidence. He then argues the jury erred in not awarding him any compensation for future medical expenses. But he failed to offer any expert testimony or other evidence on this issue at trial. Finally, Derr argues that the responding police officer and Jakoby’s father were not present at trial. But Derr served the officer only one day before trial and neither called him as a witness, nor requested a body attachment, nor asked that he be held in contempt. And because this is a civil case and Derr did not subpoena him, Jakoby’s father, though a co-defendant, was not required

to attend trial. The circuit court, therefore, did not abuse its discretion in denying Derr’s
revisory motion.

**JUDGMENT OF THE CIRCUIT
COURT FOR ANNE ARUNDEL
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**