

Circuit Court for Frederick County
Case Nos. 10-CV-20-000351

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 491

September Term, 2020

JANE LOEFFLER

v.

LISA LOEFFLER

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

JJ.

PER CURIAM

Filed: June 10, 2021

*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.

In December 2019, Jane Loeffler, appellant, filed a complaint in the Circuit Court for Montgomery County raising various claims against Lisa Loeffler, appellee. Appellee filed a motion to transfer venue to Frederick County pursuant to Maryland Rule 2-327(c). The court granted the motion on June 2, 2020, and the case was received and docketed in Circuit Court for Frederick County on June 23, 2020.

On July 14, 2020, appellant filed a notice of appeal in the Frederick County circuit court. In the notice of appeal, appellant stated that she was filing “an interlocutory appeal” from the transfer order. Approximately two weeks after the notice of appeal was filed, the circuit court granted appellee’s motion to dismiss the complaint, finding that appellant had failed to state a claim upon which relief could be granted. Appellant did not file a new notice of appeal after the court entered the dismissal order.

On appeal, appellant raises three issues, which reduce to two: (1) whether the Frederick County motions judge who dismissed her case, and who had previously been “assigned to a family law settlement and custody matter” involving the parties, should have been removed from the case because he was biased against her, and (2) whether the Montgomery County motions judge abused his discretion in granting appellee’s motion to transfer venue to Frederick County. For the reasons that follow, we shall dismiss the appeal.

This Court only has jurisdiction over an appeal when the appeal is taken from a final judgment or is otherwise permitted by law, and a timely notice of appeal was filed. *See Shofer v. Stuart Hack Co.*, 107 Md. App. 585, 592 (1996). When appellant filed the notice of appeal, the Circuit Court for Frederick County had not entered an appealable

interlocutory order or final judgment in this case. In fact, the court had not entered any orders at all. And although the court subsequently dismissed appellant’s complaint, the notice of appeal was premature as to that order. *See Jenkins v. Jenkins*, 112 Md. App. 390, 408 (1996) (noting that “[p]remature notices of appeal are generally of no force and effect,” because a premature appeal is a “jurisdictional defect”) *superseded by rule as stated in Bussell v. Bussell*, 194 Md. App. 137, 152–54 (2010). Therefore, we lack jurisdiction to consider appellant’s claims regarding any orders issued by the court in Frederick County.

Appellant also claims that there was “no basis” to transfer the case to Frederick County. However, appellant did not seek a stay after she filed her notice of appeal from the transfer order, which meant that the transferee court could still consider appellee’s motion to dismiss. Then, after the transferee court granted the motion to dismiss, appellant did not file a new notice of appeal from that order. Thus, the judgment dismissing her complaint is *res judicata* and there is no longer an existing controversy for which we can fashion an effective remedy. Consequently, we must dismiss the case as moot. *See La Valle v. La Valle*, 432 Md. 343, 351 (2013) (noting that a case is considered moot when “past facts and occurrences have produced a situation in which, without any future action, any judgment or decree the court might enter would be without effect”).¹

¹ We note that even if this claim were not moot, we would still dismiss the appeal. In Maryland, circuit courts are separate courts. Thus, when a particular circuit court grants a motion seeking a change of venue, the proceedings in the original court are terminated and the proceedings in the receiving court are commenced. It is for this reason that an order transferring an action from one circuit court to another on a *forum non conveniens* theory is considered a final judgment with respect to the transferor court. *Brewster v. Woodhaven Bldg. & Dev. Inc.*, 360 Md. 602, 611-12 (2000) (noting that

**APPEAL DISMISSED. COSTS TO BE
PAID BY APPELLANT.**

a motion granting a change of venue is final because it “terminates the litigation in a particular court”). However, appellant did not file her notice of appeal in the Circuit Court for Montgomery County where the transfer order was entered. And the Circuit Court for Frederick County was not the proper place to file a notice of appeal from that order because no final judgment had been entered by that court in the new proceeding. Consequently, appellant’s notice of appeal was ineffective as to the transfer order. Rather, to properly appeal from the transfer order appellant should have filed a timely notice of appeal in the transferor court, the Circuit Court for Montgomery County.