Circuit Court for Prince George's County
Case No. CAL21-08318

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 655

September Term, 2024

EVEREEN HELENA DALEY

v.

DELMI MALDONADO CARRANZA

Nazarian,
Arthur,
Zic,

JJ.

PER CURIAM

Filed: February 10, 2025

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

In July 2021, appellant Evereen Helena Daley filed suit against appellee Delmi Maldonado Carranza in the Circuit Court for Prince George's County, alleging that Carranza's negligence caused a motor vehicle accident. The parties agreed to arbitrate their dispute and, in November 2022, stipulated to a dismissal, without prejudice. In July 2023 the arbitrator issued a written decision awarding Daley $21,733.82 in damages.

Daley moved to vacate or modify the arbitration award. Carranza opposed the motion.

On January 8, 2024, the circuit court denied Daley's motion to vacate or modify and confirmed the arbitration award. Daley noted an appeal on February 8, 2024, 31 days after the court denied her motion. The circuit court struck the notice of appeal, as it is empowered to do. Md. Rule 8-203(a)(1).

On March 7, 2024, Daley filed what she called a "Motion for Order of Interpleader." Despite its caption, the motion did not seek to initiate an action for interpleader—i.e., a "suit pleaded between two parties to determine a matter of claim or right to property held by a usu[ally] disinterested third party . . . who is in doubt about which claimant should have the property." Bryan A. Garner, *Garner's Dictionary of Modern Legal Usage* 311 (3d ed. 2011). Instead, the motion sought, in essence, to vacate the arbitration award and to allow Daley to recover additional damages.

Carranza opposed the motion, and the court denied it on May 29, 2024. This appeal followed.

In general, a party can appeal only from a final judgment. *See, e.g.*, *McLaughlin v. Ward*, 240 Md. App. 76, 82 (2019). The order denying Daley's "Motion for Order of

Interpleader" does not appear to be the final judgment in this case; the final judgment was the order of January 8, 2024, which denied Daley's motion to vacate or modify the arbitration award and confirmed the arbitration award.

Nonetheless, under Maryland Rule 2-535(b), a party may move to revise a judgment more than 30 days after its entry. And the denial of a revisory motion under Rule 2-535(b) "is considered a final judgment, and is, therefore, appealable[,]" *Pickett v. Noba, Inc.*, 114 Md. App. 552, 559 (1997), on the tacit theory that the denial is final as to any post-judgment matters. *See First Federated Commodity Trust Corp. v. Comm'r of Secs.*, 272 Md. 329, 333 (1974) (noting that "an appeal from the denial of a motion to vacate an enrolled judgment is limited in scope it does not serve the normal functions of an appeal from the original judgment"); *see also Pickett*, 114 Md. App. at 560 (stating that the denial of a "second motion to revise [under Rule 2-535(b)] is not appealable because it is not a final judgment"). We shall treat Daley's "Motion for Order of Interpleader" as a revisory motion under Rule 2-535(b).

Under Rule 2-535(b), a circuit court, "[o]n motion of any party filed at any time," "may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity[,]" as those terms are "'narrowly defined and strictly applied'" in the case law. *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (quoting *Thacker v. Hale*, 146 Md. App. 203, 217 (2002)); *accord Early v. Early*, 338 Md. 639, 652 (1995). "'We review the circuit court's decision to deny a request to revise its final judgment under the abuse of discretion standard.'" *Pelletier*, 213 Md. App. at 289 (quoting *Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008)).

The term "fraud," as used in Rule 2-535(b), means "extrinsic fraud" of the type that prevents an adversarial trial (*see, e.g.*, *Pelletier*, 213 Md. App. at 290-91), for example, by bribing the judge or paying opposing counsel to throw the client's case. "A 'mistake' under [Rule 2-535(b)] refers only to a 'jurisdictional mistake'" (*Peay v. Barnett*, 236 Md. App. 306, 322 (2018) (quoting *Chapman v. Kamara*, 356 Md. 426, 436 (1999)), such as the kind of mistake that occurs "when a judgment has been entered in the absence of valid service of process[.]" *Tandra S. v. Tyrone W.*, 336 Md. 303, 317 (1994); *accord Peay*, 236 Md. App. at 322. "Irregularity" typically involves "a failure to provide required notice to a party[.]" *Mercy Med. Ctr., Inc. v. United Healthcare of the Mid-Atlantic, Inc.*, 149 Md. App. 336, 375-76 (2003) (internal citations and quotation marks omitted).

In her "Motion for Order of Interpleader," Daley did not establish fraud, mistake, or irregularity, as those terms are used in Rule 2-535(b). Daley, therefore, did not establish any ground for setting aside the judgment. It follows that the court did not abuse its discretion in denying her motion.

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