

Circuit Court for Baltimore County
Case No. C-03-FM-19-002227

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0756

September Term, 2024

PATRICK V. REDGATE

v.

AMY E. REDGATE

Friedman,
Kehoe, S.,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: February 6, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This matter is an appeal arising from a child custody dispute in the Circuit Court for Baltimore County. Patrick V. Redgate (“Appellant”) contends that the circuit court erred in denying his Motion to Extend Time to File Exceptions (“motion to extend time”) because the circuit court failed to serve the Magistrate’s Report and Recommendations (“Recommendations”) electronically through MDEC. For reasons that we will outline, we reverse the judgment of the circuit court and remand for further proceedings consistent with this opinion.

I. FACTUAL BACKGROUND

On October 30, 2020, the circuit court entered a Judgment of Absolute Divorce for Appellant and Amy E. Redgate (“Appellee”), awarding joint legal custody and shared physical custody of their children. On March 30, 2023, Appellant filed a motion for Modification of Custody. On June 1, 2023, the Appellee filed a Complaint to Modify Custody and Child Support. The parties entered settlement negotiations in 2023. On August 9, 2023, Appellant’s counsel moved to withdraw his appearance. On August 30, 2023, the court granted counsel’s motion to withdraw with Appellant’s consent to proceed pro se and the clerk served Appellant with a Notice to Employ New Counsel, warning him that without legal counsel, he faces the risks of dismissal, judgment by default, and assessment of court costs against him. The notice stated that Appellant must “inform the clerk of any change of his address” but did not advise him on the appropriate method to notify the clerk. Appellant proceeded pro se and did not file an address change request with the court until May 30, 2024. However, Appellant attempted to submit an address

change request on May 10, 2024, but contends that he encountered technical difficulties on MDEC.

On April 9 and 10, 2024, Appellant and Appellee, appeared before Magistrate Carrie Polley (“Magistrate”) for a custody and child support modification hearing. On April 30,¹ the Magistrate issued her Recommendations by certified mail to Appellant, Appellee, and Appellee’s counsel. The Magistrate did not serve the Recommendations to either party through MDEC, however, the clerk E-filed the document on April 30, 2024.

Appellant filed exceptions to the Recommendations through MDEC on May 15, 2024, at 12:03 a.m. At 9:47 a.m. on May 15, 2024, the circuit court entered an order modifying the October 2020 Judgment. At 11:58 p.m. on May 16, 2024, Appellant filed a motion titled “Motion to Extend Time to File Exceptions.”

On May 17, 2024, the circuit court issued an order denying Appellant’s motion to extend “as untimely filed. An Order has already been signed, 16 days after the Magistrate’s recommendations were issued, and the Motion is therefore untimely.” Appellant timely appealed and both parties submitted informal briefs to this Court.

¹ The parties disagree on the date that the Recommendations were mailed. Appellant asserts that the Recommendations were issued on April 30. Appellee contends that the Recommendations were issued on April 29. The Magistrate noted in the certificate of service that the Recommendations were issued on April 29 and mailed via third-class, postage to the parties and counsel’s addresses on file. However, the clerk of the court entered the Recommendations on April 30. Entry of a court's order occurs when the circuit court “enters a record on the docket of the electronic case management system used by that court.” Md. Rule 8-202(f); *Won Sun Lee v. Won Bok Lee*, 240 Md. App. 47, 65 (2019). Therefore, the service date is on the day that the clerk docketed the Recommendations, April 30, 2024, and the deadline for filing exceptions was on May 13, 2024.

II. QUESTIONS PRESENTED

Appellant presents the following issues which we rephrase as follows:²

1. Whether the circuit court abused its discretion in denying Appellant's Motion to Extend Time to File Exceptions because the court served the Recommendations by mail.

III. STANDARD OF REVIEW

We review a trial court's discretionary rulings for abuse of discretion. An abuse of discretion occurs where "no reasonable person would take the view adopted by the [circuit] court" or the circuit court "acts without any guiding rules or principles." *Das v. Das*, 133 Md. App. 1, 15-16 (2000) (citing *North v. North*, 102 Md. App. 1, 13-14 (1994)).

IV. DISCUSSION

A. Appellant's Motion to Extend Time

A motion to extend time is governed by Rule 1-204(a)(3). The court may, "on motion filed after the expiration of the specified period, permit the act to be done if the failure to act was the result of excusable neglect." Md. Rule 1-204(a)(3). The court may extend the time prescribed to a party for doing an act required by court rules or an order of court, if the motion to do so is filed within the period prescribed for doing the act. *In re Timothy C.*, 376 Md. 414, 428 (2003). However, this Court liberally construes pleadings

² In his brief, Appellant framed the question as follows:

1. Did the circuit court err in denying Appellant's Motion to Extend Time to File Exceptions, where the court failed to serve the Magistrate's Report and Recommendations electronically on Appellant, a registered MDEC user, as required by Title 20 of the Maryland Rules?

filed by pro se litigants. *See Mitchell v. Yacko*, 232 Md. App. 624, 643 (2017); *Huertas v. Ward*, 248 Md. App. 187, 207 (2020).

Here, the actions within the specified time frame under Rule 1-204(a) required that Appellant submit exceptions to the Magistrate's recommendations. Appellant was required to file exceptions by May 13, 2024, before the court entered judgment on the matter. Once the trial court signs and docketed an order, parties may contest the judgment by filing a motion for a new trial under Rule 2-533; a motion to alter or amend a judgment under Rule 2-534; or a motion to revise a judgment under Rule 2-535(a); to revise a judgment based on fraud, mistake, irregularity under Rule 2-535(b); or revise based on clerical mistakes under Rule 2-535(d).

Appellant should have submitted a motion under Rule 2-535(b) requesting that the court exercise revisory power and control over the judgment in the case of irregularity. "Despite whatever deficiencies the motion might have had, the motion did enough to communicate to the court" and to the opposing party, the remedy being requested. *See Huertas*, 248 Md. App. at 207. In this case, the substance of the Appellant's motion to extend time was an irregularity in the service of the Magistrate's report and recommendations. Accordingly, his motion to extend time should properly be considered a motion pursuant to Rule 2-535(b).

B. Irregularity

"An 'irregularity' within the context of the rule at issue, 'is a failure to follow required process or procedure.'" *Mercy Med. Ctr., Inc. v. United Healthcare of the Mid-*

Atlantic, Inc., 149 Md. App. 336, 375 (2003). “Irregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court, including, for example, failures to send notice of a default judgment, to send notice of an order dismissing an action, to mail a notice to the proper address, and to provide for required publication.” *Thacker v. Hale*, 146 Md. App. 203, 219-20 (2002).

In this case, the time frame under Rule 1-204(a) would have been to file his motion prior to his filing of his exceptions to the Magistrate’s recommendations. Appellant was required to file exceptions by May 13, 2024. However, the clerk did not serve the Magistrate’s recommendations through MDEC. Instead, the clerk served the Recommendations by certified mail that were sent to Appellant’s former address. Appellant alleges that he did not receive the mailed copy of the Recommendations and, consequently, filed his exceptions on May 15, 2024, at 12:03 a.m.

C. Service of Process in MDEC Counties

Our analysis of whether there was an irregularity brings us to review whether Maryland Rule 20-205 requires the clerk to serve a magistrate’s recommendations through MDEC and whether the clerk’s error constitutes an irregularity.

The Appellant’s arguments are centered on the delivery of the Magistrate’s recommendations to the parties. With that in mind, an analysis of the proper procedure is in order. Circuit courts may refer matters to a standing magistrate and the magistrate will draft a report and recommendations to guide the circuit court’s final judgment. *See Barrett*

v. Barrett, 240 Md. App. 581, 586 (2019); Md. Rule 9-208(a)(1)(G).³ Following a hearing and upon the development of a magistrate’s findings, the magistrate must “prepare written recommendations, which shall include a brief statement of the magistrate’s findings and shall be accompanied by a proposed order.” Md. Rule 9-208(e)(1). The magistrate must notify the parties of their recommendations “either on the record at the conclusion of the hearing” or, as in this case, “by filing the written recommendations and proposed order with the clerk, who promptly shall serve the recommendations and proposed order on each party as provided by Rule 20-205 in MDEC counties or Rule 1-321 in Baltimore City until it becomes an MDEC county.”⁴ *Id.* The Committee note also states that “Rule 20-205 (c) requires that the clerk in a MDEC county serve certain individuals, including persons entitled to service who are not registered users of MDEC, in the manner set forth in Rule 1-321.”

³ “If a court has a full-time or part-time standing magistrate for domestic relations matters and a hearing has been requested or is required by law,” modification of an existing order or judgment as to custody and child access disputes “shall be referred to the standing magistrate.” Md. Rule 9-208(a)(1)(G).

⁴ “‘MDEC County’ means a county in which, pursuant to an administrative order of the Chief Justice of the Supreme Court posted on the Judiciary website, MDEC has been implemented.” Md. Rule 20-101(n) (2024). Baltimore City was the last jurisdiction to implement MDEC and adopted the case management system on May 6, 2024. *See* Administrative Order on Expansion of Maryland Electronic Courts (Oct. 31, 2024) (noting that “[a]ll appellate and trial courts shall utilize MDEC as their integrated case management system”). All circuit courts in Maryland utilize MDEC and Rule 9-208(e)(1) (2025) reflects this change by removing the text stating “. . . in MDEC counties or Rule 1-321 in Baltimore City until it becomes an MDEC county.” Additionally, Rule 20-101(n) now states that the “‘MDEC Start Date’” means the date specified in an administrative order of the Chief Justice of the Supreme Court posted on the Judiciary website from and after which a county first implements MDEC.”

Generally, the clerk must send a copy of any order, ruling, or notice made outside a trial or hearing to all parties entitled to service under Rule 1-321. Md. Rule 1-321(a). Service by mail may apply “[e]xcept as otherwise provided in the Maryland rules or by order of the court.” *Id.* “Service upon the attorney or upon a party shall be made by delivery of a copy or by mailing it to the address *most recently stated in a pleading* or paper filed by the attorney or party, or if not stated, to the last known address.” *Id.* (emphasis added).

Accordingly, Title 20 of the Maryland Rules governs electronic filing in jurisdictions where MDEC is implemented. *See* Md. Rule 20-102(a)(1). All Maryland Rules remain applicable to MDEC Counties, however, “[t]o the extent there is any inconsistency, *the Rules in [Title 20] prevail.*” Md. Rule 20-102(c) (emphasis added). “[J]udges, judicial appointees, clerks, and judicial personnel, shall file electronically all submissions in an MDEC action,” Md. Rule 20-106(a)(2), unless “the State Court Administrator exempts [magistrate’s reports and recommendations] from the requirements of electronic filing,” Md. Rule 20-106(c)(2)(E), users encounter an MDEC system outage, unexpected events such as loss of power or computer failure, or for other good cause shown. Md. Rule 20-106(b)(1)-(3). Title 20 also permits MDEC counties to serve parties by mail under specific circumstances:

The clerk is responsible for serving writs, notices, official communications, court orders, and other dispositions, in the manner set forth in Rule 1-321, on persons entitled to receive service of the submission who (A) are not registered users, (B) are registered users but have not entered an appearance in the MDEC action, and (C) are persons entitled to receive service of copies or tangible items that are in paper form.

Md. Rule 20-205(c).

If a party wishes to contest the magistrate’s findings or recommendations, they may file exceptions with the clerk within 10 days after recommendations are placed on the record or served. Md. Rule 9-208(f). Three additional days are added to the 10-day period if service is made by mail to the parties’ addresses on file. *See* Md. Rule 1-203(c). “[I]f exceptions are not timely filed, the court may direct the entry of the order or judgment as recommended by the magistrate.” Md. Rule 9-208(i)(1)(B).

Appellant asserts that the circuit court abused its discretion in denying his motion because the court failed to comply with the electronic service requirements under Title 20 of the Maryland Rules. Appellee contends that the Baltimore County Circuit Court practice requires magistrates to mail their recommendations to the parties and properly denied Appellant’s motion because he filed his request outside of the 10-day window under Maryland Rule 9-208(f) (2024).⁵

Determining “[w]hether a person has been served with process is essentially a question of fact.” *Wilson v. Md. Dep’t of Env’t*, 217 Md. App. 271, 286 (2014). However, when the issue presented involves the interpretation and application of the Maryland Rules, we review the issue *de novo*. *See Shealer v. Straka*, 459 Md. 68, 80 (2018). We apply the same principles used in statutory construction to interpret the rules. *Pickett v. Sears*,

⁵ Rule 9-208 has been revised and went into effect on January 1, 2025. However, we note that several rules in Titles 1, 9 and 20 were revised and went into effect on January 1, 2025. Because the issue presented in this case occurred in April and May 2024, we refer to the rules effective until December 31, 2024.

Roebuck & Co., 365 Md. 67, 78 (2001). “The principal aim of interpreting the Maryland Rules is to ascertain . . . [the Rules Committee’s and the Supreme Court’s] intent from the statutory language, reading pertinent parts of the [rule’s] language together, giving effect to all of those parts if we can, and rendering no part of the [rule] surplusage.” *Id.* at 78-79 (citations omitted). If the rule’s plain language “is unambiguous and clearly consistent with the rule’s apparent purpose, our inquiry’ ordinarily ends and we apply the rule ‘as written without resort to other rules of construction.”” *Zadeh v. State*, 258 Md. App. 547, 574 (2023) (quoting *State v. Bey*, 452 Md. 255, 265 (2017)) (cleaned up).

Appellant argues that Maryland Rules 20-201(f) and 20-205(d)(1)⁶ required the Magistrate to serve the Recommendations electronically because Baltimore County is an MDEC County and Appellant is an MDEC user. Appellee does not raise any ambiguity in the language of the rules but contends that “[w]hile Baltimore County is an MDEC jurisdiction, the Baltimore County Circuit Court practice requires magistrates to mail their recommendations to the parties.” This practice is inconsistent with the Maryland Rules.

⁶ Appellant is representing himself pro se and made a good faith effort in drafting his legal argument. However, he cites to the wrong subsection of Rule 20-205 in support of his position that Title 20 required the clerk to serve the Recommendations electronically on MDEC. Appellant cites to Rule 20-205(d)(1) which states that “[o]n the effective date of filing, the MDEC system shall electronically serve on registered users entitled to service all other submissions filed electronically. . .” Because Subsection (d)(2) states that “[t]he filer is responsible for serving. . .” and Subsection (c) states that “[t]he clerk is responsible for serving. . .” we find that Rule 20-205(c) is the rule that requires the clerk to file court orders and communications through MDEC.

First, Appellant's reliance on Rule 20-201(f) is misplaced. Very few sections of this rule apply to all MDEC users. The plain language of Rule 20-201(a)⁷ specifically precludes the application of section (f) to judges, judicial appointees, clerks, and judicial personnel.

Second, we do not find any ambiguity in the language of the rules nor does Appellee contest the language in Rule 9-208(e)(1), Rule 20-205, or any other relevant provisions. Rule 9-208(e)(1) clearly states that the clerk "shall serve the recommendations and proposed order on each party as provided by Rule 20-205 in MDEC counties." Title 20 governs electronic filing which applies to new actions filed in an MDEC county, Md. Rule 20-102(a), unless "persons entitled to receive service of the submission are not registered users, are registered users but have not entered an appearance in the action, or are persons entitled to receive service of copies of tangible items that are in paper form." Md. Rule 20-205(c). If a party falls under one of the above exceptions, the clerk in a MDEC county must serve the party in the manner set forth in Rule 1-321. *See id.* Under Rule 1-321(a), service upon a party "shall be made by delivery of a copy or *by mailing it to the address most recently stated in a pleading* or paper filed by the [] party, or if not stated, to the last known address."

The plain language of Rule 20-205(c) is consistent with the apparent purpose of Title 20, which is to guide counties in the administration and statewide implementation of

⁷ Rule 20-201(a) states "[s]ubject to section (l) of this Rule, sections (b), (c), and (e) of this Rule apply to all filers. Sections (d), (f), (g), (h), (j), (k), and (l) of this Rule do not apply to judges, judicial appointees, clerks, and judicial personnel."

MDEC. In 2014, Maryland launched a successful pilot implementation of MDEC which counties across the State adopted in phases. *See* Honorable Matthew J. Fader, Chief Justice, *Administrative Order on the Administration and Expansion of Maryland Electronic Courts Statewide*, Supreme Court of Maryland (Oct. 31, 2024). “The statewide implementation of MDEC is complete with the adoption of MDEC in Baltimore City on May 6, 2024.” *Id.* “MDEC drives efficiencies in monitoring, managing, and maintaining” centralized and unified systems that are essential to the Judiciary for “short- and long-term reliability, responsiveness, communication, uniformity of processes, and data compilation.” *Id.* On February 19, 2019, Baltimore County adopted MDEC as the circuit court’s case management system. *See* Honorable Matthew J. Fader, Chief Justice, *Administrative Order on the Administration and Expansion of Maryland Electronic Courts Statewide*, Supreme Court of Maryland (Oct. 22, 2022).

Moreover, Appellant cites to *Barrett* in support of his argument which Appellee contends is factually inapplicable. 240 Md. App. 581. We disagree with Appellee. In *Barrett*, the clerk’s office placed paper copies of the magistrate’s report and recommendations, notice regarding filing exceptions, and the certificate of service in the courthouse mailboxes assigned to the party’s attorneys. *Id.* at 584-85. The circuit court entered judgment on February 6. *Id.* at 585. The next day, appellant filed his exceptions, a motion for leave to file exceptions, and a motion to alter, amend, or revise the court’s judgment as an abuse of discretion because the court’s service of the report and recommendations was an improper method of service under Rule 20-106(b) or Rule 1-

321(a). *Id.* at 585-86. Appellant contended that “the rules required the magistrate to serve him electronically; by hand-delivery to his counsel; by leaving a copy at his counsel’s office or home; or by mailing a copy to his counsel’s office.” *Id.* at 586. The appellee filed for divorce two months after Wicomico County transitioned to MDEC. *Id.* at 590. The Court found that the circuit court clerk “uploaded the Report to MDEC but did not ‘E-file’ the report pursuant to Rule 20-205(d)(1), which requires ‘judges, judicial appointees, clerks, and judicial personnel’ to ‘file electronically all submissions in an MDEC action.’” *Id.* The Court held that “because this was an MDEC action and [appellant’s] attorney was a registered MDEC user, it is unclear why the Report was not served electronically through the MDEC system.” *Id.*

The Court in *Barrett* directly addressed the issue before us—whether the circuit court, sitting in an MDEC County, was required to serve the Magistrate’s recommendations through MDEC. Despite Appellee’s contentions, a minor factual difference in the method of service does not diminish the analysis and holding in *Barrett*. Like *Barrett*, Baltimore County adopted MDEC as the court’s case management system effective February 19, 2019. Appellant and Appellee’s initial divorce proceeding commenced on May 29, 2019, nearly three months after Baltimore County transitioned to MDEC. Furthermore, the issue before us arose following the Magistrate’s hearing on April 10, 2024. Pursuant to Rule 9-208(e)(1) and the provisions in Title 20, the circuit court was required to file the Recommendations through MDEC. Title 20 contains several exceptions when service may be proper by delivery or certified mail. However, Appellee’s contentions that the

Baltimore County Circuit Court practice requires magistrates to mail their recommendations to the parties is unpersuasive. The court may supplement MDEC service with certified mailings, but the court may not substitute MDEC service unless an exception unequivocally applies.

Moreover, the record is unclear whether an exception applied to the MDEC service requirements. Regardless, the clerk failed to mail the Recommendations in accordance with Rule 1-321(a). Appellant put the clerk on notice of his new address in his most recently stated pleading on October 14, 2023. Therefore, we hold that Rule 20-205(c) required the clerk to serve court communications through MDEC.

V. CONCLUSION

We find that the circuit court abused its discretion to deny Appellant's motion to extend time. The motion alleged an irregularity on the part of the clerk by serving the Appellant by mail instead of through MDEC. The motion should have been treated as a motion to revise under Rule 2-535(a) because it alleged an irregularity in the service of the magistrate's report and recommendations. The clerk's failure to serve the Magistrate's recommendations on MDEC and mail the Recommendations to Appellant's address most recently stated in his October pleading constituted an irregularity. Appellant is entitled to be heard on his exceptions. For those reasons, we vacate the court's order denying the motion to extend time and the Order of May 15, 2024. We remand to the circuit court with instructions to hold a hearing on the Appellant's exceptions to the Magistrate's Report and Recommendations filed with the clerk on April 30, 2024.

**JUDGMENT REVERSED. CASE
REMANDED TO THE CIRCUIT
COURT FOR BALTIMORE
COUNTY FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY APPELLEE.**