Circuit Court for Baltimore City
Case No. 24-O-18-000982

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1964

September Term, 2023

JAMES EDWARD COLLINS, II

v.

MITCHELL PEISER

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

JJ.

PER CURIAM

Filed: December 9, 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.

In 2018, Mitchell Peiser, acting as personal representative of the Estate of Marsha D. Collins, appellee,[1] filed an Order to Docket seeking to foreclose on real property owned by James Edward Collins II, appellant. The property was sold at a foreclosure auction, and the court entered an order ratifying the sale on April 18, 2022. The auditor subsequently filed a report indicating that, after the sale, there was still a balance due on the mortgage in the amount of $33,286.01. The court ratified the auditor's report on November 17, 2022.

On December 1, 2022, appellee filed a motion for a deficiency judgment pursuant to Maryland Rule 14-216, seeking to recover the $33,286.01 from appellant. An affidavit of service was subsequently entered, wherein an independent process server stated under oath that she had personally served the motion on appellant on March 18, 2023. Appellant did not file a response to the motion, and the court entered an order of deficiency judgment against appellant, and in favor or appellee, on September 20, 2023.

On October 2, 2023, appellant sent a letter, which the court treated as a motion to revise the judgment, claiming that he "was never served notice to appear or summoned to defend myself or my interest" and that he wanted "to have the opportunity to avail [himself] of legal representation to defend [his] interests[.]" The court denied the motion without a hearing. This appeal followed.

Appellant's sole claim on appeal is that the court erred in not vacating the deficiency judgment because he was not "summoned to court to defend myself or allowed to obtain counsel to defend me." We disagree. A process server's affidavit of service is prima facie

[1] Robert Collins was later appointed as successor personal representative of the Estate and substituted for Mr. Peiser.

evidence of proper service. *Weinreich v. Walker*, 236 Md. 290, 296 (1964) ("[A] proper official return of service is presumed to be true and accurate until the presumption is overcome by proof[.]"); *accord Wilson v. Md. Dep't of Evn't*, 217 Md. App. 271, 285 (2014) ("A proper return of service is prima facie evidence of valid service of process[.]"). Although this presumption may be rebutted, "the mere denial of personal service by him who was summoned will not avail to defeat the sworn return of the official process server." *Weinreich*, 236 Md. at 296. Rather, a denial of service will only stand if supported by strong and unrefuted "corroborative evidence by independent, disinterested witnesses[.]" *Wilson*, 217 Md. App. at 285 (quotation marks and citation omitted). Here, appellant's motion contained a conclusory denial of service that was not made under oath. And the motion included no corroborative evidence to undermine the process server's affidavit to the contrary. It was, therefore, insufficient to overcome the presumption, established by the affidavit of the process server, that he had been served with the motion for a deficiency judgment. In light of that fact, we cannot say that the court abused its discretion in denying appellant's motion to revise the judgment.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.