

Appendix A

RONALD J. BROOKING

v.

DANIEL MOLONEY

* **IN THE**
* **COURT OF APPEALS**
* **OF MARYLAND**
* **Petition Docket No. 33**
* **September Term, 2022**
* **(No. 342, Sept. Term, 2021**
* **Court of Special Appeals)**
* **(No. CAL20-18849, Circuit Court**
* **for Prince George's County)**

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the Request for Waiver of Prepaid Appellate Costs filed thereto, in the above-captioned case, it is this 27th day of May, 2022

ORDERED, by the Court of Appeals of Maryland, that the filing fee in this Court be, and it is hereby, WAIVED; and it is further

ORDERED, that the petition be, and it is hereby, DENIED as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Matthew J. Fader
Chief Judge

Appendix A

Appendix B

Circuit Court for Prince George's County
Case No: CAL20-18849

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 342

September Term, 2021

RONALD J. BROOKING

v.

DANIEL MOLONEY

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 2, 2022

*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.

Appendix B

This appeal stems from a September 2016 incident in which pedestrian, Jadene B. Brooking, was struck and killed by a motorist in Prince George's County, Maryland. Following the incident, her father, Ronald J. Brooking, appellant, retained attorney Daniel Moloney, appellee, as counsel with respect to any wrongful death claim arising from the incident. During the course of Mr. Moloney's representation, he was able to secure a settlement from the negligent motorist's insurance carrier. The record does not reflect that Mr. Moloney pursued any other party for potential liability.

In 2019, Mr. Brooking filed a complaint for legal malpractice against Mr. Moloney in the Circuit Court for Prince George's County. The complaint alleged that Mr. Moloney had failed to disclose that additional tort claims, stemming from his daughter's death, could have been filed against Prince George's County, the Metro system, and the District of Columbia. In October 2020, Mr. Brooking's complaint was dismissed, without prejudice, for its failure to set forth "facts supporting any cognizable claim[]." The following month, Mr. Brooking filed a second complaint against Mr. Moloney, asserting claims of legal malpractice, negligence, wrongful death, and breach of contract. In the complaint, he alleged that Mr. Moloney failed to "make a timely Tort Claim Notice to the Maryland Treasurer to any potential liable governmental agency for failure to properly keep the intersection [in which his daughter was struck] safe for pedestrians," "file a suit against any potential liable government agency," and "conduct any investigations as to any potential liable government agency for intersection safety." As a result of these failures, Mr. Brooking alleged, the statute of limitations on these claims expired and he was unable to make claims against these entities in which "he would have prevailed."

In response, Mr. Moloney moved to dismiss the complaint, contending that Mr. Brooking had failed to plead facts sufficient to support the causes of action raised. Alternatively, Mr. Moloney requested the entry of summary judgment. Mr. Brooking filed a written opposition thereto, responding primarily to Mr. Moloney's request for summary judgment. Prior to a hearing on the motion to dismiss, Mr. Brooking made several additional filings, including: 1) a request for the entry of a default order, 2) a motion to strike Mr. Moloney's opposition to the entry of a default order, and 3) a motion for summary judgment. Upon hearing argument by the parties, the circuit court granted Mr. Moloney's motion and dismissed Mr. Brooking's complaint with prejudice. After seeking reconsideration, Mr. Brooking noted a timely appeal to this Court. ✓

On appeal, Mr. Brooking raises five questions for the Court's consideration, which we consolidate, reorder, and rephrase for clarity:

1. Did the circuit court err in dismissing with prejudice Mr. Brooking's complaint?
2. Did the circuit court err in failing to rule on Mr. Brooking's Motion to Strike, Motion for Summary Judgment, and Motion for Order of Default?

For the following reasons, we shall affirm. ✓

DISCUSSION

I. Motion to Dismiss

This Court reviews the grant of a motion to dismiss de novo. *See Unger v. Berger*, 214 Md. App. 426, 432 (2013). The Court, in reviewing the grant of a motion to dismiss, "must determine whether the Complaint, on its face, discloses a legally sufficient cause of

action.” *Scarbrough v. Transplant Res. Ctr. of Maryland*, 242 Md. App. 453, 472 (2019) (citation omitted). In doing so, we “presume the truth of all well-pleaded facts in the Complaint, along with any reasonable inferences derived therefrom in a light most favorable to the plaintiffs.” *Id.* The facts set forth in the complaint must be “pledged with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice.” *RRC Northeast, LLC v. BAA Maryland, Inc.*, 413 Md. 638, 644 (2010). We will hold that the grant of a motion to dismiss is proper where “the alleged facts and permissible inferences, so viewed, would, if proven, nonetheless fail to afford relief to the plaintiff.” *Id.*

On appeal, Mr. Brooking does not argue with particularity that his complaint, as filed, disclosed a legally sufficient cause of action. While he maintains in his brief that Mr. Moloney committed legal malpractice, it was necessary for Mr. Brooking to address whether his complaint sufficiently alleged facts that, when viewed in the most favorable light, would have supported a claim of legal malpractice. Because his brief does not address the sufficiency of his complaint, we decline to consider on appeal whether the court erred in dismissing the complaint with prejudice. *See Maryland Rule 8-504(a)(5)* (stating that an appellate brief shall contain “[a]rgument in support of the party's position.”); *Klauenberg v. State*, 355 Md. 528, 552 (1999) (stating that “arguments not presented in a brief or not presented with particularity will not be considered on appeal”).

Even were we to exercise review, we do not discern any error by the court in dismissing Mr. Brooking’s complaint for failure to state a claim upon which relief could

be granted. Firstly, his written opposition to Mr. Moloney's motion to dismiss,¹ which Mr. Brooking contends the court did not consider, did not raise argument addressing the sufficiency of his complaint. Instead, the opposition focused on whether there was a genuine dispute of material fact in response to Mr. Moloney's alternative request for summary judgment. As a result, Mr. Brooking failed to defend his complaint and argue that the facts set forth therein were sufficient to maintain the causes of action alleged. This failure is pertinent as it indicates that Mr. Brooking did not preserve any argument regarding the sufficiency of the complaint for appeal. *See Maryland Rule 8-131(a)* (“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.”).

Secondly, the facts set forth in the complaint, even when viewed in the light most favorable to Mr. Brooking, did not support the causes of action alleged in his complaint. With respect to the claim for legal malpractice, for instance, Mr. Brooking needed to set forth facts that, if true, established “(1) the attorney's employment, (2) the attorney's neglect of a reasonable duty, and (3) loss to the client proximately caused by that neglect of duty.” *Suder v. Whiteford, Taylor & Preston, LLP*, 413 Md. 230, 239 (2010). As to the “loss to the client” requirement, Mr. Brooking needed to set forth facts that he “probably would have prevailed in the underlying action, but for the lawyer's negligence.” *Berringer v. Steele*, 133 Md. App. 442, 473 (2000). However, Mr. Brooking's complaint did not sufficiently address that he would have prevailed in a negligence action against any

¹ Entitled: “Motion in Total Opposition of Defendant's Motion to Dismiss, or in the Alternative Motion for Summary Judgment.”

governmental entity. The complaint did not identify which governmental entity was responsible for maintaining the crosswalk in which his daughter was struck, nor did it state that there was any defect in the design or maintenance of the crosswalk which resulted in her death. As a result, Mr. Brooking's complaint failed to set forth a coherent claim of negligence against any governmental agency and, therefore, he did not sufficiently plead that he would have prevailed in such a claim but for Mr. Moloney's purported malpractice. ✓

II. Motions Not Ruled Upon

On appeal, Mr. Brooking contends that the court erred by failing to rule on several of his pending motions, filed after Mr. Moloney's motion to dismiss. However, upon the dismissal of Mr. Brooking's complaint with prejudice, there was no longer an existing controversy pending between the parties. Accordingly, Mr. Brooking's pending motions were rendered moot by the dismissal. *See Simms v. Maryland Dep't of Health*, 240 Md. App. 294, 314 (2019) (stating that a case is deemed moot when "there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide."). Because the "[c]ourts generally do not address moot controversies," *id.*, the court was not required to rule on Mr. Brooking's pending motions.

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

Appendix C

RONALD J. BROOKING,

Appellant,

v.

DANIEL MOLONEY,

Appellee.

IN THE
COURT OF SPECIAL APPEALS
OF MARYLAND
SEPTEMBER TERM, 2021
No. 342
(Cir. Ct. No. CAL2018849)

ORDER

Upon consideration of the appellee's "Motion to Dismiss Appeal" and the appellant's "Motion to Supplement," and no opposition to either motion having been filed, it is this 14th day of October 2021, by the Court of Special Appeals,

ORDERED that the "Informal Brief of the Appellant," submitted to this Court on September 13, 2021, is accepted as filed; and it is further

ORDERED that the appellee's "Motion to Dismiss Appeal" is denied; and it is further

ORDERED that the appellant's "Motion to Supplement" is granted; and it is further

ORDERED that the copy of the April 19, 2021 motions hearing transcript in the case of *Ronald J. Brooking v. Daniel Moloney*, Cir. Ct. No. CAL2018849, attached to the "Motion to Supplement" is accepted for filing; and it is further

ORDERED that the Clerk of the Circuit Court for Prince George's County shall transmit to this Court, forthwith, the original April 19, 2021 motions hearing transcript in

Appendix C

Appendix D

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IN THE COURT OF SPECIAL APPEALS OF MARYLAND

Ronald J. Brooking,

Appellant

v.

*

* No. 0342, September Term 2021

* CSA-REG-0342-2021

* Circuit Court No. CAL2018849

Daniel Moloney,

Appellee

*

*

*

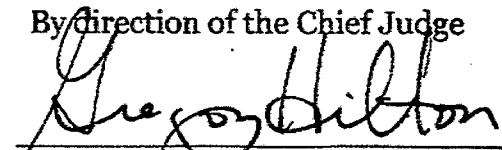
* * * * *

ORDER

Upon consideration of the appellant's Request for Waiver of Prepaid Appellate Costs, it is this 9th day of June, 2021 by the Court of Special Appeals,
ORDERED that Appellant's Request is GRANTED; and it is further
ORDERED that the prepayment of the filing fee required by Maryland Rule 8-201
to be paid to this Court is waived.¹



By direction of the Chief Judge



Gregory Hilton, Clerk

¹ The waiver of prepayment of the filing fee does not waive the requirement for the appellant to order and pay for any transcripts required for this appeal nor the costs of the production of briefs required by rules.

Appendix D

Appendix E

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

RONALD J BROOKING,

Appellant

v.

*

* No. 0342, September Term 2021

* CSA-REG-0342-2021

* Circuit Court No. CAL2018849

DANIEL MOLONEY,

Appellee

*

*

*

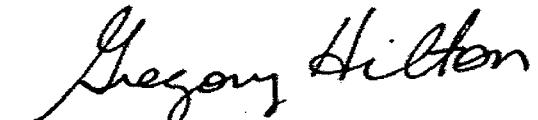
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ORDER

It is this the 24th day of May, 2021, by the Court of Special Appeals,

ORDERED that pursuant to Maryland Rule 8-206(c), the above-captioned appeal proceed without a Prehearing Conference or Alternative Dispute Resolution.

By direction of the Chief Judge



Gregory Hilton, Clerk

Dear Clerk: The date of this Order commences the 10-day period for the Appellant to order any transcript necessary for this appeal (Md. Rule 8-411(b)) and the 60-day period for the transmittal of the record (Md. Rule 8-412(a)).

Appendix E

Appendix F

Circuit Court Order

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

DAILY SHEET

Ronald Brooking
Plaintiff

Pro Se
Plaintiff's Attorney

-v-

Daniel Maloney
Defendant

Daniel Hodges
Defendant's Attorney

Case No: CAL20-18849

Judge Pearson

Date April 19, 2021

Court Clerk 587SM

J C Day

(J=Jury Sworn)

(C=Court Trial)

Deliberations Start Date:

Deliberations End Date:

DOCKET ENTRIES

Hearing on Plaintiff's Motion for Default and Motion to Strike Defendant's Untimely Filing and Defendant's Motion to Dismiss or for Summary Judgment.

Judge Pearson; CS-D2019

Plaintiff's Motions- Denied

Defendant's Motion to Dismiss Granted with Prejudice.

Case closed statistically.

ENTERED: 4-22-2021

Start: 9:08am
End: 9:17am

Appendix F



20

Appendix G

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

RONALD BROOKING

Plaintiff,

vs.

DANIEL MALONEY

Defendant.

Case No. **CAL20-18849**

ORDER

UPON CONSIDERATION of the Plaintiff's Motion to for Reconsideration, it is this

18 day of May, 2021, by the Circuit Court for Prince George's County, Maryland,

ORDERED, that the Motion for Reconsideration be, and hereby is, **DENIED**.

ENTERED: 6-8-21


MICHAEL R. PEARSON

Judge, Seventh Judicial Circuit

Appendix G

27e

Appendix H

OFFICE OF MAHASIN EL AMIN
CLERK OF THE CIRCUIT COURT
OF PRINCE GEORGE'S COUNTY
UPPER MARLBORO, MARYLAND 20772
TELEPHONE: (301) 952-4053
TTY: 565-0450

July 23, 2021

HONORABLE GREGORY HILTON, CLERK
COURT OF SPECIAL APPEALS OF MARYLAND
ANNAPOLIS, MARYLAND 21401

IN THE MATTER OF:

Ronald J. Brooking*
Vs
Daniel Moloney

CAL20-18849

No. 0342, September Term, 2021

DEAR MR. HILTON:

YOU WILL FIND ENCLOSED HEREWITH THE RECORD IN THE ABOVE-DESCRIBED CASE ALONG WITH A STAR-120.

I TRUST YOU WILL FIND SAME IN ORDER.

VERY TRULY YOURS,

Mahasin Elamin #618
MAHASIN EL AMIN,
CLERK OF THE CIRCUIT COURT

ENCLOSURES
MEA/nb

CC: Ronald Brooking (ProSe)
Daniel Hodges Esquire

Appendix H
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1 whether deciding on the request for order of default.
2 And we have Plaintiff's motion to strike Defendant's
3 untimely filing.

4 Since we have several pending motions, why
5 don't I just first hear from the Plaintiff all of your
6 arguments with respect to those motions, and then I will
7 turn my attention to the Defense and hear their arguments
8 with respect to those motions.

9 Starting with you, Mr. Brooking. Starting with
10 the Defendant's motion to dismiss or for summary
11 judgment; I'll hear your argument, sir.

12 MR. BROOKING: Well, for the motion of summary
13 -- motion for summary judgment, there was a lot of
14 material facts that wasn't -- you know, presented in the
15 case that should have been.

16 THE COURT: Specifically, what material facts?
17 Did you hear me, sir?

18 MR. BROOKING: Yes, sir.

19 THE COURT: Okay.

20 MR. BROOKING: Well, first of all, the
21 Defendant didn't file the tort claim timely. And he was
22 also under -- I was under contract with him, I was not
23 (inaudible), I was also a client, you know, and he didn't
24 -- he didn't represent me the way he should have.

25 THE COURT: Okay. I just need you to speak up

1 just a little bit so I can hear you a little bit better,
2 okay?

3 MR. BROOKING: Okay. I'm sorry.

4 THE COURT: Not to worry.

5 MR. BROOKING: The material facts in the
6 pending case, the Defendant did not file a tort claim,
7 you know, which was asked, he was under contract, you
8 know. I hired him to do a job and it wasn't complete.

9 THE COURT: Okay. Any other arguments with
10 respect to the motion to dismiss or summary judgment?

11 MR. BROOKING: No.

12 THE COURT: All right. Why don't we just
13 alternate back and forth. Mr. Hodges, I'll hear your
14 arguments with respect to that issue.

15 MR. HODGES: Certainly, Your Honor. Mr.
16 Moloney was -- as Mr. Brooking indicated, retained to
17 represent him in connection with a claim resulting,
18 unfortunately, from his daughter's death at a crosswalk.

19 Mr. Moloney, it's undisputed, received or
20 obtained a \$50,000 settlement which was the maximum
21 amount of the policy of the driver.

22 Plaintiff has brought this suit now, claiming
23 that some other tort suit should have been filed against
24 some unnamed government entity; be it Prince George's
25 County, be it the State of Maryland, be it the Metro

1 system, which to my understanding is sort of a quasi-
2 governmental agency.

3 In order to make any cause of action for legal
4 malpractice, which is what Mr. Brooking has alleged, you
5 need a duty breach causation and damages. It's
6 respectfully submitted that the complaint is devoid of
7 facts establishing breach of duty or proximate causation.
8 There are no facts in the complaint indicating what
9 entity should have been sued and under what theory of
10 relief. It's just not there.

11 As Your Honor is I'm sure aware, under Maryland
12 Rule 19-303.1 lawyers can't file frivolous lawsuits.
13 It's against the rules of professional conduct. There
14 has to be a basis to sue an entity or an individual.

15 In this case, Mr. Brooking has not identified a
16 single basis to bring suit against any Government entity.
17 It's unknown what theory of relief that could be brought.
18 And when you're suing a Government entity you have to
19 show that there's not Governmental immunity. None of
20 that's in the complaint. So the pleading fails in that
21 regard.

22 We filed for summary judgment because we've
23 also attached the affidavit of Mr. Moloney, who stated
24 that the driver of the vehicle that struck Jadene was not
25 an employee of Prince George's County, the State of

1 Maryland, or the D.C. Government. So there's no basis
2 for some sort of vicarious liability claim against a
3 Government entity.

4 Similarly, we've attached the police report
5 which indicated that the crosswalk in question was in
6 good working condition that day and there were no
7 defects.

8 Again, there's simply just no evidence that
9 there's a valid basis for a claim against the Government
10 entity.

11 Also note that this is I'll say a third bite of
12 the apple. Mr. Brooking previously filed suit against
13 Mr. Moloney, I believe Your Honor heard that and
14 dismissed it without prejudice after a complaint, amended
15 complaint, had been filed. This is now the third
16 complaint again we've gotten. There's simply nothing
17 there, Your Honor.

18 So we would ask at this point in time, since
19 this is the third complaint, that the case be dismissed
20 with prejudice for summary judgment in Mr. Moloney's
21 favor, Your Honor.

22 THE COURT: Mr. Brooking, would you like to be
23 heard with respect to your request for order of default?

24 MR. BROOKING: No, sir.

25 THE COURT: Would you like to be heard with

IN THE CIRCUIT COURT FOR
PRINCE GEORGE'S COUNTY, MARYLAND

RONALD J. BROOKING,)
Plaintiff,) Case No.
vs.) CAL20-18849
DANIEL MOLONEY,)
Defendant.)

OFFICIAL TRANSCRIPT OF PROCEEDINGS

Motions Hearing

Monday, April 19, 2021

Upper Marlboro, Maryland

BEFORE: THE HONORABLE MICHAEL PEARSON, JUDGE

APPEARANCES:

On Behalf of the Plaintiff:

RONALD J. BROOKING, PRO SE

On Behalf of the Defendant:

DANIEL HODGES, ESO.

25 Transcribed by: Kathy J. DeMent, CET

Appendix I

Second Proof of Service

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Ronald J. Brooking — PETITIONER
(Your Name)

VS.

Daniel Moloney — RESPONDENT(S)

PROOF OF SERVICE

I, Ronald J. Brooking, do swear or declare that on this date, October 22, 2022, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Daniel Hodges 7240 Parkway Drive 4th floor
Hanover, Maryland 21076

Solicitor General of The United States Department of Justice
950 Pennsylvania Avenue N.W. Room #564 Washington, DC 20530
I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 22, 2022

Ronald Brooking
(Signature)

Appendix I

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

August 29, 2022

Ronald J. Brooking
5954 South Hil Mar Cir.
District Heights, MD 20747

RE: Brooking v. Daniel Moloney
MDCA No. 33

Dear Mr. Brooking:

The above-entitled petition for writ of certiorari was postmarked August 25, 2022 and received August 29, 2022. The papers are returned for the following reason(s):

No motion for leave to proceed in forma pauperis, signed by the petitioner or by counsel, is attached. Rules 33.2 and 39. The motion must be signed.

Please be advised the motion to proceed in forma pauperis and the affidavit must precede the petition for a writ of certiorari.

The petition fails to comply with the content requirements of Rule 14. The petition must contain the following, in the following order: the questions presented for review must be followed by the list of parties (if all do not appear on the cover), corporate disclosure statement (if applicable), table of contents, table of authorities, citations of the official and unofficial reports of opinions and orders entered in the case, statement of the basis for jurisdiction, constitutional provisions, treaties, etc., statement of the case, reasons for granting the writ, and the appendix. Rule 14.1.

Please be advised the name of the court from which the action is brought shall appear on the cover of the petition (e.g. on petition for writ of certiorari to the Maryland Court of Appeals). Rule 34.1(d).

The appendix to the petition does not contain the following documents required by Rule 14.1(i):

The lower court opinion(s) must be appended from the Maryland Court of Special Appeals.

You must provide an original and 10 copies of your petition for a writ of certiorari and motion for leave to proceed in forma pauperis. Rule 12.2.

In Forma Pauperis petitions must be on 8 1/2 x 11 paper pursuant to Rule 33.2. Petitions should be stapled in the upper left-hand corner and not bound. Rule 33.2. Please be advised the use of spiral binding is prohibited in this Court. Rule 33.1(c).

- Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

Sincerely,
Scott S. Harris, Clerk

By:

Susan Frimpong
(202) 479-3039

Enclosures