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RECENT DEVELOPMENT

WATERKEEPER ALLIANCE, INC. V. MARYLAND DEP'T OF AGRIC.: A JUDICIAL DECISION IS APPEALABLE ONLY IF IT CONSTITUTES A FINAL JUDGMENT OR IF THE DECISION FALLS WITHIN ONE OF THE THREE CATEGORICAL EXCEPTIONS PERMITTING INTERLOCUTORY APPEALS.

By: Brianne Lansinger

The Court of Appeals of Maryland held that the consolidation of two actions requires a joint disposition to achieve finality of judgment. *Waterkeeper Alliance, Inc. v. Maryland Dep't of Agric.*, 439 Md. 262, 96 A.3d 105 (2014). The court further held that a judgment failing to adjudicate all claims in a joint disposition is not considered final, thereby barring the parties from appealing the decision unless it meets one of the three interlocutory appeal exceptions. *Id.* at 289, 96 A.3d at 121.

In 2007, Waterkeeper Alliance, Inc. (“WKA”) submitted requests to the Maryland Department of Agriculture (the “MDA”) pursuant to the Maryland Public Information Act. In its requests WKA sought the disclosure of the specific nutrient management plans of private farmers on Maryland’s Eastern Shore, and any supporting documents related to the plans. The MDA denied WKA’s request. In 2008, WKA filed a complaint against the MDA in the Circuit Court for Anne Arundel County to obtain the records. The complaint asserted multiple claims, including two constitutional violations.

Subsequently, Maryland Farm Bureau, Inc. (“MFB”) filed a separate action against the MDA seeking a permanent injunction preventing disclosure of the requested records, pursuant to the Water Quality Improvement Act. The MFB action was transferred to the Circuit Court for Anne Arundel County and consolidated with the WKA action. MFB and WKA filed separate motions for summary judgment. The court denied WKA’s motion and granted MFB’s motion, issuing an order (the “2009 Order”), which sought to clarify the application of the Public Information Act and the Water Quality Improvement Act. However, the 2009 Order did not resolve one of the constitutional claims.

In 2010, Assateague Coastkeeper (“Coastkeeper”) requested records from the MDA, which were almost identical to those originally requested by WKA. Upon learning of this request, MFB filed a complaint and a motion for a temporary restraining order and preliminary injunction in the Circuit Court for Worcester County seeking to prevent the MDA from disclosing the requested information to Coastkeeper. This action was transferred to the Circuit Court for Anne Arundel County and assigned to the trial judge who issued the 2009 Order. The MFB action was ultimately dismissed with prejudice in 2011. MFB then filed a motion for clarification of memorandum opinion, asking the judge to clarify the 2009 Order. Accordingly, the court issued an order (the “2011 Order”) declaring that Coastkeeper’s request was controlled by the

2009 Order. A supplemental order was issued in 2011 stating no further proceedings were necessary in the consolidated case and the matter should be considered closed.

WKA appealed the 2011 Order to the Court of Special Appeals of Maryland, which affirmed. WKA then filed a petition for writ of certiorari to the Court of Appeals of Maryland, which was granted.

The court laid the framework for its analysis by deciding whether to analyze the “appealability” of each claim separately or together as a joint resolution. *Waterkeeper*, 439 Md. at 278, 96 A.3d at 114. When multiple actions are consolidated, the circuit court has discretion in determining whether to enter joint or separate judgments. *Id.* at 279, 96 A.3d at 115. For purposes of appealability, consolidated cases are only to be treated as a single action if the circuit court clearly intends to dispose of all cases simultaneously in a joint resolution. *Id.* at 279, 96 A.3d at 116 (citing *Yarema v. Exxon Corp.*, 305 Md. 219, 236, 503 A.2d 239, 248 (1986)).

In the case sub judice, the circuit court did not explicitly state whether it intended to treat the consolidated case as one action or multiple actions for dispositive purposes. *Waterkeeper*, 439 Md. at 279, 96 A.3d at 115. However, the court of appeals ascertained that the circuit court recognized the outcomes of the consolidated actions were interdependent—the outcome of one would directly affect the outcome of the other. *Id.* at 281, 96 A.3d at 117. Moreover, the court of appeals acknowledged the circuit court’s awareness of the plaintiffs’ countervailing requests. *Id.* at 283-84, 96 A.3d at 117. The court concluded that the circuit court intended to resolve both actions in a joint resolution. *Id.*

The court continued its analysis by determining whether the 2009 Order was a final judgment. For a judgment to be final, three conditions must be satisfied: (1) the court intended the decision to serve as a final disposition of the matter in controversy; (2) the judgment must adjudicate all claims against all parties; and (3) the judgment must be properly recorded. *Waterkeeper*, 439 Md. at 278, 96 A.3d at 114 (referencing Md. Rule 2-601). Because the two actions required a joint disposition, the finality of that disposition is contingent “upon a complete adjudication of all the claims presented by both actions.” *Id.* at 284, 96 A.3d at 118.

The 2009 Order resolved the claim from MFB’s complaint, however, it failed to address the constitutional claim asserted in WKA’s complaint. *Waterkeeper*, 439 Md. at 284, 96 A.3d at 118. Consequently, the 2009 Order was not a final judgment because it did not adjudicate every claim. *Id.* at 284-85, 96 A.3d at 118. Because the 2009 Order was not a final judgment, the circuit court retained the authority to revise that order in its 2011 Order. *Id.* at 285, 96 A.3d at 119 (referencing Md. Rule 2-602).

The court then addressed whether the 2011 Order was an appealable final judgment. *Waterkeeper*, 439 Md. at 285, 96 A.3d at 119. The 2011 Order had essentially the same language as the 2009 Order, and also failed to address the constitutional claim raised in WKA’s complaint. *Id.* Therefore, the 2011

Order was not a final judgment as it failed to adjudicate the unresolved claim. *Id.* at 285-86, 96 A.3d at 119.

Having determined the 2011 Order was not a final judgment, the court examined whether the order fell within one of the three noted exceptions: “(1) interlocutory orders that are appealable by statute; (2) orders that are appealable by the common law collateral order doctrine; and (3) orders that adjudicate completely one of multiple claims in an action and are certified (and certifiable) under Rule 2-602(b), or, alternatively, Rule 8-602(e)(1)(C).” *Waterkeeper*, 439 Md. at 286, 96 A.3d at 119 (citing *Salvagno v. Frew*, 388 Md. 605, 615, 881 A.2d 660, 666 (2005)). The court determined that none of these exceptions applied to the 2011 Order. *Waterkeeper*, 439 Md. at 286-88, 96 A.3d at 119-21.

Because the 2011 Order was not a final judgment and did not fall within one of the categorical exceptions, it was not appealable. *Waterkeeper*, 439 Md. at 289, 96 A.3d at 121. Therefore, the court of appeals and the court of special appeals lacked jurisdiction to review the merits of the case. *Id.* Accordingly, the court dismissed the appeal to allow the circuit court to address the unresolved claim. *Id.*

In *Waterkeeper*, the Court of Appeals of Maryland held that the consolidation of two actions requires a joint disposition adjudicating all claims to achieve finality of judgment. The consolidation of cases promotes judicial efficiency by allowing courts to quickly resolve claims with similar factual bases. However, the potential efficiency in consolidation can alter the maxim that the plaintiff is the master of their action. If a court consolidates multiple cases, a party may be more concerned with a consolidated party than the original defendant. Therefore, it is likely to present a more challenging case for practitioners. While this may seem unfavorable to practitioners and their clients, consolidation can benefit the judicial system. In addition to allowing for more well-prepared cases, the possibility of consolidation may discourage frivolous claims. The consolidation of cases may seem necessary to the judicial system, however, consolidation can prove detrimental to those being consolidated.