

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Solita Harrington

In re Solita Harrington · No. No. 21-CV-0099 · Decided October 6, 2022

SUMMARY

The District of Columbia Court of Appeals affirmed the Superior Court’s denial of Solita Harrington’s motion for leave to file new claims related to prior medical procedures. The court held that Harrington failed to provide the certification required by an existing filing injunction and declined to dismiss the appeal as untimely because the appellee forfeited its timeliness objection by raising it too late. The court also denied the appellee’s request for Rule 38 sanctions.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Easterly, Associate Judge; Beckwith, Associate Judge; Deahl, Associate Judge
JURISDICTION	District of Columbia
DECIDED	October 6, 2022
DOCKET	No. 21-CV-0099
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court of the District of Columbia's denial of Harrington's motion for leave to file new complaints subject to a prefiling injunction; appellee MedStar also challenged the timeliness of the appeal and requested sanctions.
STANDARD OF REVIEW	The court assumed without deciding that review was de novo because the order presented a mixed question of law and fact, while noting that dismissal for failure to comply with a court order may be reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Solita Harrington v. Laura A. Cordero, MedStar Washington Hospital Center, Washington Area Plastic Surgery/Consultation

TOPICS

- appellate procedure
- sanctions
- injunctions
- civil procedure
- health law

PRACTICE AREAS

civil procedure

appellate procedure

health law

remedies

QUESTIONS PRESENTED

1. Whether MedStar forfeited its challenge to the timeliness of Harrington's notice of appeal by raising it for the first time in a supplemental brief after briefing and calendaring.
2. Whether the Superior Court properly denied Harrington's motion for leave to file new claims subject to the Jackson & Campbell prefiling injunction.
3. Whether Harrington's appeal warranted sanctions under D.C. App. R. 38, including attorneys' fees, costs, or a preemptive restriction on proceeding in forma pauperis in future appeals.

HOLDINGS

1. An appellee forfeits the right to dismissal under D.C. App. R. 4 when it fails to properly and promptly invoke the rule and instead raises the timeliness objection for the first time after briefing, calendaring, and submission of the appeal.
2. The Superior Court properly denied Harrington's motion for leave to file because the prefiling injunction made the specified certification mandatory and Harrington did not provide it.
3. The court declined to impose attorneys' fees, costs, or a preemptive injunction barring Harrington from proceeding in forma pauperis in future appeals.

KEY QUOTATIONS

“Rule 4 is not a jurisdictional rule but rather a “mandatory claim-processing rule.”” (8)

“By its plain language, the certification requirement was mandatory.” (11-12)

“It would be unfair to hold Ms. Harrington to the same standard.” (15)

FACTUAL BACKGROUND

Harrington underwent abdominal surgeries at MedStar Washington Hospital Center in 2016 and 2017 and later alleged that the procedures were unauthorized, unnecessary, and unsuccessful. She pursued several related lawsuits, including a medical-malpractice action against MedStar and an action against Jackson & Campbell, P.C., arising from an attorneys' fee award in the MedStar case. The Superior Court enjoined her from filing further related claims without leave and a certification that the claims were made in good faith, were not frivolous, and had not previously been disposed of on the merits. Harrington sought leave to file new complaints against MedStar and Washington Area Plastic Surgery/Consultation but did not provide the required certification.

PROCEDURAL HISTORY

Harrington's medical-malpractice action against MedStar was dismissed with prejudice, and related litigation led the Superior Court to enjoin her from filing further claims arising from the MedStar matter without leave of court and a specified certification. She later sought leave to file two additional complaints, but the Superior

Court denied the motion because she did not provide the required certification, her substantive claims had previously been dismissed, and she had not served the statutory ninety-day notice. The Court of Appeals declined to dismiss the appeal as untimely, affirmed the denial of leave, and denied MedStar's request for Rule 38 sanctions.

DISPOSITION

affirmed

CASES CITED

- Harrington v. MedStar Wash. Hosp. Ctr., No. 2017 CA 006993 M (D.C. Super. Ct. May 21, 2018)
- Harrington v. MedStar Wash. Hosp. Ctr., No. 19-CV-0207 (D.C. Apr. 24, 2019)
- Harrington v. Wash. Area Plastic Surgery/Consultation, No. 2018 CA 004055 M (D.C. Super. Ct. Jan. 8, 2019)
- Harrington v. Jackson & Campbell Law Firm, No. 2018 CA 007176 M (D.C. Super. Ct. Jan. 8, 2019)
- Harrington v. Jackson & Campbell Law Firm, No. 19-CV-0090 (D.C. Dec. 11, 2019)
- Deloatch v. Sessoms-Deloatch, 229 A.3d 486, 490-93 (D.C. 2020)
- Smith v. United States, 454 A.2d 822, 824 n.4 (D.C. 1983)
- Singer v. Singer, 583 A.2d 689, 690-91 (D.C. 1990)
- Clark v. Bridges, 75 A.3d 149, 151-53 (D.C. 2013)
- Garces v. Bradley, 299 A.2d 142, 144 (D.C. 1973)
- In re Public Defender Service, 831 A.2d 890, 898 (D.C. 2003)
- District of Columbia v. Serafin, 617 A.2d 516, 519 (D.C. 1992)
- Williams v. United States, 33 A.3d 358, 360 (D.C. 2011)
- Slater v. Biehl, 793 A.2d 1268, 1278-79 (D.C. 2002)
- Tupling v. Britton, 411 A.2d 349, 352 (D.C. 1980)
- Comford v. United States, 947 A.2d 1181, 1188 (D.C. 2008)
- Morowitz v. Marvel, 423 A.2d 196, 197 (D.C. 1980)
- In re Anderson, 511 U.S. 364, 365 (1994) (per curiam)