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RECENT DEVELOPMENT

MURPHY V. LIBERTY MUT. INS. CO.: THE CHIEF JUDGE OF THE COURT OF APPEALS OF MARYLAND ACTED WITHIN HER CONSTITUTIONAL AND STATUTORY AUTHORITY IN ISSUING AN ORDER TOLLING THE STATUTE OF LIMITATIONS IN RESPONSE TO THE PANDEMIC.

By: Alexandra Mitchell

The Court of Appeals of Maryland held that the Chief Judge's administrative tolling order was within the Maryland Judiciary Branch's state constitutional and statutory authority. *Murphy v. Liberty Mut. Ins. Co.*, 478 Md. 333, 381, 274 A.3d 412, 440 (2022). Specifically, the court held that the tolling order did not usurp the functions of another branch of government. *Id.* at 380, 274 A.3d at 439. Instead, the order operated in conjunction with the Governor's directives and fulfilled the statute of limitation's statutory purposes, harmonizing with the functions of the Executive and Legislative branches. *Id.* Therefore, the Chief Judge was within her authority in issuing the tolling order under the pandemic's emergency circumstances. *Id.* at 381, 274 A.3d at 440.

On March 5, 2020, to avoid the spread of COVID-19, the Governor of Maryland declared a state of emergency. On March 12th, the Governor restricted the use of government buildings and authorized leaders of state government to suspend procedural deadlines. On March 13th, the Chief Judge of the Court of Appeals of Maryland issued an order closing all Maryland courthouses. That same day, the Court of Appeals of Maryland's Standing Committee on Rules of Practice and Procedure ("Rules Committee") considered a set of proposed rules regarding the Chief Judge's authority during emergencies. The proposed rules permitted the Chief Judge to suspend deadlines consistent with the Governor's directives. On March 16th, the proposed rules were adopted and codified by the Court of Appeals of Maryland.

Subsequently, on April 24, 2020, the Chief Judge issued an administrative order. The order recognized that the Governor's statewide closures hindered the functionality of the judicial system, which made obeying certain deadlines an insurmountable task and thus restricted the administration of justice. Consequently, the Chief Judge's order tolled the statute of limitations in civil actions while the courts remained closed.

Just over two months after the tolling order was issued, on July 2, 2020, Liberty Mutual Insurance Company ("Liberty Mutual") sued Murphy Enterprises ("Murphy") for breach of contract in the United States District

Court for the District of Maryland. Murphy moved to dismiss, arguing that several of the claims Liberty Mutual aggregated accrued outside the statute of limitations. Further, those claims should be barred from the computed damages, thus reducing the amount in controversy below the federal jurisdiction threshold. Liberty Mutual contended that its claims could be aggregated because of the April 24, 2020, administrative order that tolled the statute of limitations.

The district court found the April 24, 2020, tolling order was substantive law and, therefore, applicable to the claims Liberty Mutual aggregated to fulfill the amount in controversy and obtain federal jurisdiction. Nevertheless, Liberty Mutual's ability to secure federal jurisdiction was dependent on the Chief Judge's authority to issue a tolling order and the validity of the tolling order itself. Consequently, the district court delivered its certified question of law to the Court of Appeals of Maryland. The certified question inquired whether the Chief Judge of the Court of Appeals of Maryland acted within her power when she issued administrative tolling orders in response to the COVID-19 pandemic. The court answered the certified question with two steps: (1) whether the Chief Judge had the authority to issue the tolling order, and (2) whether the tolling order violated the separation of powers under the Maryland Declaration of Rights.

Resolving the first step to the certified question, the court answered affirmatively for two reasons. *See Murphy*, 478 Md. at 369, 274 A.3d at 433. First, the court concluded that the Maryland Rules permit the Chief Judge to toll statutorily imposed deadlines after the Governor declares a state of emergency. *Id.* at 368, 274 A.3d at 432 (citing Md. Rule 16-1001 et seq.). Additionally, the rules require that the Chief Judges' authoritative acts harmonize with the Governor's emergency directives. *Id.* at 348-349, 274 A.3d at 421 (citing Md. Rule 16-1001(c)). In March 2020, when the Governor declared a state of emergency, he also authorized the leaders of the state government to suspend procedural deadlines. *Id.* at 353-54, 274 A.3d at 424. As a result, the Chief Judge was permitted to issue the tolling order under the Maryland Rules and in compliance with the Governor's directives. *Id.* at 368, 274 A.3d at 432. Therefore, the rules gave the Chief Judge express authority to issue the tolling order. *Id.* at 369, 274 A.3d at 433.

Second, the court concluded that Article IV, § 18 of the Maryland Constitution grants administrative authority to the Chief Judge, and rulemaking authority to the Court of Appeals of Maryland. *Murphy*, 478 Md. at 341, 274 A.3d at 416. The Chief Judge's administrative authority is governed by the rules and limitations implemented by the Court of Appeals of Maryland. *Id.* at 341, 274 A.3d at 416 (citing Md. Const. Art. IV § 18(b)(5)). The Court of Appeals of Maryland's rulemaking authority solely applies to the administration of the courts and its practices and procedures.

Id. at 342, 274 A.3d at 417 (defining practices and procedures as, *inter alia*, pleadings, motions, and trials).

In the April 24, 2020, tolling order, the Chief Judge expressly invoked Article IV, § 18(b)(1) of the Maryland Constitution—triggering her role as the administrative head of the judiciary system. *Murphy*, 478 Md. at 368, 274 A.3d at 432. Likewise, the Court of Appeals of Maryland asserted its constitutional rulemaking authority by adopting the proposed rules that granted the Chief Judge the authority to suspend deadlines consistent with the Governor’s directives. *Id.* at 357, 274 A.3d at 426. Therefore, the Chief Judge had authority to toll deadlines based on the Maryland Rules that the Court of Appeals of Maryland adopted pursuant to its constitutional rulemaking authority. *Id.* at 368, 274 A.3d at 432.

Resolving the second step to the certified question, the court answered whether the tolling order violated the separation of powers under the Maryland Declaration of Rights. *Murphy*, 478 Md. at 370, 274 A.3d at 433-34. The court held that the Chief Judge’s tolling order did not seize functions bestowed to another branch of government. *Id.* at 380, 274 A.3d at 439. Each branch has express functions conferred by the state constitution. *Id.* at 371-72, 274 A.3d at 434-35. However, the branches also have implied powers that allow elasticity regarding which branch governs certain issues. *Id.* (citing *Attorney General v. Waldron*, 289 Md. 683, 689, 426 A.2d 929, 933 (1981)).

The court held that the order tolling the statute of limitations did not seize legislative functions because the rules it was based on derived from the Court of Appeals of Maryland’s constitutional rulemaking authority regarding the court’s practices and procedures. *Murphy*, 478 Md. at 382, 274 A.3d at 440-41. The statute of limitations does not produce a legal claim or concern the merits of a legal claim. *Id.* at 375, 274 A.3d at 437 (citing *Park Plus, Inc. v. Palisades of Towson, LLC*, 478 Md. 35, 54, 272 A.3d 309, 320 (2022)). Therefore, the tolling of the statute of limitations is considered a procedural matter. *Id.* at 376, 274 A.3d at 437.

The COVID-19 pandemic forced unprecedented state-wide closures that hindered the functionality of the judicial system and the administration of justice. In holding that the Chief Judge was responsible for the judicial system’s function amid an emergency, the court reinforced an elastic interpretation of express and implied authority. Furthermore, the court hinted that the separation of powers contemplates implied authority equally as much as it considers express authority. As a result, the court gives deference to administrative leaders in making authoritative decisions pertaining to their branch of government, notwithstanding whether authority is express or implied.