

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 24th day of October, 2024.

Present: All the Justices

WINDSET CAPITAL CORPORATION,

APPELLANT,

against

Record No. 230733

Court of Appeals No. 1216-22-4

THOMAS DEBOSKY, ET AL.,

APPELLEES.

FROM THE COURT OF APPEALS OF VIRGINIA

We have considered the record, briefs, and arguments of counsel, and the Court is of the opinion that there is no reversible error in the judgment of the Court of Appeals. For the reasons stated in the unpublished opinion of the Court of Appeals, *see Windset Capital Corp. v. Debosky*, Record No. 1216-22-4, 2023 Va. App. LEXIS 610 (Sept. 12, 2023), we will affirm the judgment.* *See also Aguilera v. Christian*, 280 Va. 486, 489 (2010) (deeming an unauthorized signature on a complaint “invalid and a nullity because it was not signed” by *either* the claimant or a licensed attorney); *Braun v. QuantaDyn Corp.*, Record No. 190974, 2020 Va. Unpub. LEXIS 15, at *4 (May 28, 2020) (unpublished) (holding that an otherwise valid signature added without “leave of court” to a previously unsigned complaint is “ineffectual”).

This order shall be certified to the Court of Appeals of Virginia and the Circuit Court of Loudoun County.

JUSTICE POWELL, with whom CHIEF JUSTICE GOODWYN joins, dissenting.

By definition, a nullity cannot be cured because it does not exist. However, the plain language of Code § 8.01-271.1, as it existed in 2016, provided a cure for an unsigned pleading: it permitted such a pleading to be “signed promptly after the omission is called to the attention of the pleader.” Given the existence of a statutory cure, it is apparent to me that the General

* We offer no interpretation or opinion regarding the 2020 amendments to Code § 8.01-271.1, *see* 2020 Acts ch. 74, at 104, because those amendments are not implicated by the facts of this case.

Assembly did not intend for all unsigned pleadings, and more specifically, those filed by properly authorized counsel or an unrepresented party, to be considered a nullity. I agree that


[w]hile we have considered signature defects in previous cases, none of those cases addressed this precise situation. In each of those cases, the complaint was defective at the time of filing not because it was unsigned, but because it had been signed by an improper person. *Shipe v. Hunter*, 280 Va. 480, 482 (2010) (complaint signed by attorney licensed outside of Virginia on behalf of a Virginia lawyer); *Aguilera v. Christian*, 280 Va. 486, 487 (2010) (complaint signed by attorney licensed outside of Virginia on behalf of pro se plaintiff); *Kone v. Wilson*, 272 Va. 59, 61 (2006) (wrongful death suit signed by non-lawyer estate representative who could not proceed pro se); *Nerri v. Adu-Gyamfi*, 270 Va. 28, 29 (2005) (motion for judgment signed by attorney with suspended license); *Wellmore Coal Corp. v. Harman Mining Corp.*, 264 Va. 279, 281 (2002) (notice of appeal signed by a foreign attorney).

Braun v. QuantaDyn Corp., Record No. 190974, 2020 Va. Unpub. LEXIS 15, at *4 (May 28, 2020) (unpublished).

As the Court of Appeals’ decision is entirely premised on the notion that the unsigned pleading, filed by properly licensed counsel, is a nullity, I cannot join with the majority in affirming the decision below. Instead, I believe the pleading was merely voidable and, therefore, “it is not subject to collateral attack and is subject to the limitations of Rule 1:1.” *Singh v. Mooney*, 261 Va. 48, 51 (2001).

A Copy,

Teste:

A handwritten signature in blue ink, appearing to read "M. K. P. S. P. S.", written in a cursive style.

Clerk