

Circuit Court for Montgomery County
Case Nos.: 122557C & 123131C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2338

September Term, 2022

DAQUAN LEE TYLER

v.

STATE OF MARYLAND

Wells, C.J.,
Zic,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 7, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

In 2013, a jury in the Circuit Court for Montgomery County convicted Daquan Lee Tyler, appellant, of three counts of armed robbery and related offenses. We affirmed previously Tyler’s convictions. *Tyler v. State*, No. 1305, Sept. Term 2013 (filed Sept. 17, 2014). Then, in 2016, Tyler filed a petition for writ of actual innocence. After a response from the State and a hearing, the circuit court denied Tyler’s petition. He appealed.

Four months later, Tyler requested an additional 90 days to file his brief. We granted his request but advised that we would “be reluctant to grant any further extensions of time.” A month later, Tyler requested another extension, citing the necessity to obtain transcripts to prepare his brief. We granted Tyler an extra month to file his brief, but we warned that we “w[ould] not grant any further extensions of time.” Still, 3 days before the deadline—which was now nearly 8 months after he first noted his appeal—Tyler requested another 90 days to file his brief. We dismissed the appeal for Tyler’s “failure to file the relevant transcript(s)” and his “failure to file briefs.” We then denied Tyler’s untimely motion for reconsideration as such in September 2018.

Finally, more than four years after we dismissed his appeal, Tyler filed a “Motion for Appropriate Relief” in the circuit court asking it to reconsider its denial of his 2016 petition. Tyler’s sole argument was that his failure to order the transcripts during his prior appeal was caused by errors of prison officials. He included a notarized letter from the prison to that effect, which was dated November 8, 2018. Tyler did not, however, argue any issue with the merits of the court’s prior decision. The circuit court denied Tyler’s motion, and this appeal followed.

In his brief, Tyler focuses primarily on the merits of the circuit court’s order denying his 2016 petition. But our review in this appeal is confined to whether the circuit court erred in denying his “Motion for Appropriate Relief.” We cannot address the merits of an order from more than half a decade ago.¹ *See* Md. Rules 8-202(a) (requiring that a notice of appeal “be filed within 30 days after entry of the judgment or order from which the appeal is taken”) & 8-602(b)(2) (requiring dismissal of an appeal if “the notice of appeal was not filed with the [circuit] court within the time prescribed by Rule 8-202”). And Tyler cannot resurrect the appealability of that prior order years later by filing a motion to reconsider. *See Griffin v. Lindsey*, 444 Md. 278, 290 (2015); *Chmurny v. State*, 392 Md. 159, 166 (2006).

In essence, Tyler’s motion asked the circuit court to reconsider the merits of its decision to deny his 2016 petition solely because his prior appeal was dismissed due to the prison administration’s error. But that third-party error has no bearing on the merits of the circuit court’s prior decision. Consequently, the court did not err in denying Tyler’s motion.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

¹ Even if we could review the merits of Tyler’s 2016 petition, we would be unable to do so because he still has not ordered the required transcripts.