

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1985

September Term, 2014

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WILLIAM ANTHONY KNIGHT

v.

STATE OF MARYLAND

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Eyler, Deborah S.,  
Nazarian,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Eyler, Deborah S., J.

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Filed: September 19, 2016

\*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

A jury in the Circuit Court for Prince George’s County convicted William Anthony Knight of robbery, theft of property with a value of at least \$1,000 but less than \$10,000, unauthorized use of a motor vehicle, transporting a handgun in a vehicle, and possession of a regulated firearm after being convicted of a disqualifying crime. The verdict was returned on January 17, 2014. On March 20, 2014, the court sentenced the appellant to an aggregate term of 33 years in prison with all but 23 years suspended, and five years’ supervised probation upon release.

The appellant filed a notice of appeal on June 17, 2014, almost three months after the judgments of conviction were entered (“The First Appeal”).

On August 27, 2014, the State filed a motion to correct inaccurate sentence in the court’s docket entries, the commitment order to the Department of Corrections, and the probation order. Each document stated that the court had imposed 18 years of unsuspended imprisonment. In fact, as the transcript of the sentencing hearing made clear, the court had imposed 23 years of unsuspended imprisonment. At a hearing on October 21, 2014, the court granted the State’s motion. Its order was entered on October 21, 2014, and was docketed on October 27, 2014. On October 24, 2014, the appellant filed a timely notice of appeal. (“The Second Appeal”).<sup>1</sup>

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<sup>1</sup> “A notice of appeal filed after the announcement or signing by the trial court of a ruling, decision, order, or judgment but before entry of the ruling, decision, order, or judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.” Md. Rule 8-602(d).

On December 8, 2014, this Court, on its own motion, dismissed The First Appeal because the notice of appeal was not filed within 30 days of the entry of the judgments of conviction, as required by Rule 8-202(a), and, consequently, we lacked jurisdiction over the appeal. *In re Nicole B.*, 410 Md. 33, 62 (2009) (“[A] party in the trial court must file a timely notice of appeal, from an appealable judgment, in order to confer upon an appellate court subject matter jurisdiction over that party’s appeal.”).

The Second Appeal is before this panel to decide. The appellant presents four questions for review, which we quote:

- I. Did the court err in failing to enter a judgment of acquittal on the counts of robbery and unauthorized use of a vehicle, because there was insufficient evidence to support either conviction?
- II. Did the court err in refusing to give the “Witness Promised Benefit” jury instruction?
- III. Did the court err in refusing to grant a mistrial at several points during trial?
- IV. Did the court err by improperly limiting cross-examination of the State’s key witness?

The State has moved to dismiss The Second Appeal.<sup>2</sup> For the following reasons, we shall grant its motion.

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<sup>2</sup> On September 9, 2016, the appellant filed a Consent Motion to Late File Opposition to Motion to Dismiss, along with an Opposition to Appellee’s Motion to Dismiss. We have granted the consent motion and have considered the opposition.

## DISCUSSION

The questions presented by the appellant, and the arguments in support, challenge the final judgments of conviction entered on March 20, 2014, upon the court's imposing sentence on the appellant. These are questions the appellant could have posed in The First Appeal, which was taken from those judgments. The First Appeal was not timely noted, however, and as a consequence it was dismissed by this Court for lack of jurisdiction.

The Second Appeal was noted within 30 days from the entry of the court's October 21, 2014 order directing that the docket entries, commitment record, and probation order be corrected to accurately reflect the sentence imposed by the court. It was timely noted with respect to that order, and therefore we have jurisdiction over it. In The Second Appeal, the appellant can challenge the court's ruling as embodied in its October 21, 2014 order. The appellant's brief does not pose any question or advance any argument regarding that order, however. It consists entirely of contentions concerning the judgments of conviction. We do not have jurisdiction to decide those contentions because 1) the October 24, 2014 notice of appeal was not filed within 30 days of the entry of the judgments of conviction, which were final judgments (just as the notice of appeal in The First Appeal was not timely filed); and 2) the October 21, 2014 order, which the appellant timely appealed, did not decide any of the issues on which the appellant's contentions are based.

Because the questions presented and arguments advanced in the appellant's brief do not concern the ruling embodied in the October 21, 2014 order, the brief does not comply with Rule 8-504(a)(3) and (a)(6), and therefore is subject to dismissal under Rule 8-602(a)(8). Accordingly we shall grant the State's motion to dismiss this appeal.

To the extent the appellant contends the late filing of his notice of appeal from the judgments of conviction was due to ineffective assistance of counsel, that issue must be addressed in a post-conviction proceeding under Maryland's Uniform Post Conviction Procedure Act. Indeed, the appellant already has filed a petition for post-conviction relief raising that issue and others, which is pending in the circuit court.

**APPEAL DISMISSED. COSTS TO  
BE PAID BY THE APPELLANT.**