

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2893

September Term, 2015

RAY ANTHONY BLANCHARD, JR.

v.

STATE OF MARYLAND

Krauser, C. J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 7, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 2002, Ray Anthony Blanchard, Jr., appellant, entered an *Alford* plea, in the Circuit Court for Prince George’s County, to first degree assault and reckless endangerment. He was thereafter sentenced to a total term of twenty years’ imprisonment, with all but six years suspended, to be followed by a five-year term of supervised probation upon his release. While serving that term of probation, Blanchard was accused of violating its terms and, after a hearing on October 9, 2015, the circuit court revoked his probation and ordered that he serve the remainder of his previously suspended sentence.

Thirty-nine days later, on November 17, 2015, Blanchard filed an application for review of his sentence by a three-judge panel pursuant to Maryland Rule 4-344(a). That application was denied as untimely on January 6, 2016. Blanchard then filed a notice of appeal on February 3, 2016. Appellant raises numerous issues on appeal but only one is properly before this Court: whether the circuit court erred in denying his application for review of sentence by a three-judge panel as untimely. For the reasons that follow, we affirm.

On appeal, Blanchard raises numerous challenges to the circuit court’s order revoking his probation. However, “[r]eview of an order of a circuit court revoking probation shall be sought by application for leave to appeal.” *See* Md. Code Ann., Cts. & Jud. Proc. Art. § 12-302. In this case, Blanchard did not file an application for leave to appeal and, therefore, his claims regarding the revocation of his probation are not properly before us. In any event, we lack jurisdiction to consider those claims because Blanchard’s notice of appeal was filed more than thirty days after the circuit court’s October 9, 2015,

order. *See* Md. Rule 8-204(b)(2)(A) (stating that an application for leave to appeal must be filed “within 30 days after entry of the judgment or order from which the appeal is sought”).

As to whether the circuit court erred in denying appellant’s application for review of sentence by a three-judge panel as untimely, which is properly before us, we hold that the court did not err in so ruling. Pursuant to Maryland Rule 4-344(a) an application for review of sentence must be “filed in the sentencing court within 30 days after the imposition of the sentence.” Because Blanchard did not file his application for review of sentence until November 17, 2015, thirty-nine days after the imposition of his sentence, it was untimely.

Although Blanchard essentially concedes that his application for review of sentence was untimely, he nevertheless claims that this was the result of ineffective defense counsel. But this Court only reviews ineffective assistance of counsel claims on direct appeal when “[t]he trial record is developed sufficiently to permit review and evaluation of the merits of the claim, and none of the critical facts surrounding counsel’s conduct is in dispute.” *In re Parris W.*, 363 Md. 717, 727 (2001). Otherwise, “the adversarial process found in a post-conviction proceeding generally is the preferable method in order to evaluate counsel’s performance, as it reveals facts, evidence, and testimony that may be unavailable to an appellate court using only the original trial record.” *Mosley v. State*, 378 Md. 548,

562 (2003). Because the record in this case is not sufficiently developed to permit a fair evaluation of Blanchard's ineffective assistance of counsel claim, we decline to address it.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT**