

Circuit Court for Baltimore County
Case No. 03-K-07-001208

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 297

September Term, 2022

MICHAEL ANTHONY BANKS

v.

STATE OF MARYLAND

Wells, C.J.,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 2, 2022

*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.

Michael Anthony Banks, appellant, challenges the denial, by the Circuit Court for Baltimore County, of his request for “resentencing.” For the reasons that follow, we shall dismiss the appeal.

In November 2007, Mr. Banks was convicted of first-degree felony murder and related offenses. For the felony murder, Mr. Banks was sentenced to a term of life imprisonment. On January 28, 2022, Mr. Banks filed a request “for resentencing [pursuant] to . . . Rule 4-345,” in which he contended that because he “was not said to be the principal of” the “underlying felony,” the verdict was “defective.” Mr. Banks requested that the court “vacate [his] conviction and grant a new trial.” On February 8, 2022, the court denied the request. The following day, the clerk entered the judgment. On April 19, 2022, Mr. Banks filed an “[a]ppealing” of the request, which the court treated as a notice of appeal.

Mr. Banks contends that, for numerous reasons, the court erred in denying the request. The State moves to dismiss the appeal, on the ground that Mr. Banks’s “appealing” was untimely. Alternatively, the State requests affirmance of the court’s judgment.

We agree with the State that dismissal is warranted. Rule 8-202(a) states that generally, a “notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” Mr. Banks failed to file a notice of appeal in the circuit court within 30 days of the entry of the court’s February 8, 2022 judgment, and hence, the notice was untimely. Also, Rule 4-345 gives a court revisory power over a sentence under specific circumstances, including illegality, fraud, mistake, or irregularity. The Rule does not authorize a court to vacate a conviction, nor authorize a defendant to

move for a new trial, due to an error alleged to have occurred during trial. Accordingly, we grant the State's motion and dismiss the appeal.

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