

Circuit Court for Anne Arundel County
Case Nos.: 02-K-97-001848 & 02-K-97-001684

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

Nos. 1351 & 1352
September Term, 2022

LYE H. ONG

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.,
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 4, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 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.

On June 1, 2022, the Circuit Court for Anne Arundel County docketed an Application for Leave to Appeal filed by Lye H. Ong, appellant. Because his application may have been untimely and was unaccompanied by a filing fee, the court ordered Ong to show cause why it should not strike the ALA. When Ong failed to respond by July 21, the court struck the ALA. On August 5, Ong sent a letter to the circuit court claiming not to have received the Show Cause Order at Roxbury Correctional Institution, where he was incarcerated, and asked the court to reinstate his ALA. On August 31, the court denied his request. On September 27, Ong noted this appeal from the circuit court’s July 21 and August 31 Orders.

We must first define the scope of our review. Under Maryland Rule 8-202(a), Ong was required to file his notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” Here, the deadline for appealing from the July 21 Order was August 21; for the August 31 Order, it was September 30. Because Ong did not file his notice of appeal until September 27, it was untimely as to the July 21 Order. *See* Md. Rule 8-202(a). Consequently, our review is limited to whether the circuit court erred in denying Ong’s request to reinstate his ALA.

Our review is further limited in terms of the evidence we consider. Ong attaches to his briefs several communications between himself and prison officials regarding any mail he received—or did not receive—during the time between the circuit court issuing the Show Cause Order and dismissing Ong’s ALA. But none of this correspondence was presented to the circuit court. And Ong is “not entitled to supplement the record” on appeal. *Franklin Credit Mgmt. Corp. v. Nefflen*, 208 Md. App. 712, 724 (2012) (cleaned up). As

we have noted, our review is confined “to the evidence actually before the [circuit] court when it reached its decision.” *Id.* (cleaned up). Accordingly, we do not consider these communications in reaching our decision.

All that the circuit court had before it when considering Ong’s request to reinstate his ALA was his unsupported claim that he never received the court’s Show Cause Order and so could not have responded to it within its prescribed deadline. The court confirmed with the clerk’s office that the Show Cause Order had been mailed to the correct address. This created a rebuttable presumption that the Order “reached its destination at the regular time” and that Ong received it. *Rockwood Cas. Ins. Co. v. Uninsured Employers’ Fund*, 385 Md. 99, 115 (2005) (cleaned up). Ong’s assertion that the letter was not delivered, without more, was insufficient to rebut that presumption. *See Bland v. Larsen*, 97 Md. App. 125, 137–38 (1993). Therefore, the circuit court did not err in declining to reinstate Ong’s ALA.¹

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

¹ Nothing in this opinion should be construed as preventing Ong from filing a motion along with the evidence attached to his briefs in the circuit court under Maryland Rule 2-535(b).