

Circuit Court for Baltimore County  
Case No. 03-K-07-002978

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1379

September Term, 2022

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STEPHEN NIVENS

v.

STATE OF MARYLAND

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Nazarian,  
Tang,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 27, 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.

In 2011, Stephen Nivens, appellant, pleaded guilty to one count of second-degree sex offense and one count of first-degree burglary in the Circuit Court for Baltimore County. The court sentenced him to a total term of 40 years’ imprisonment.

In September 2022, appellant filed a “Request for Production of Documents” in his criminal case, wherein he requested the State to provide or make available for copying certain documents, “pursuant to Rules of Civil Procedure[.]” Specifically, he requested prison institutional records, documentation of institutional credits, certain medical documentation, and “writings and/or notes made in any manner relating to the occurrence, including any diaries maintained by the Respondents.” The court denied the motion without a hearing. This appeal followed.

As an initial matter, the State has filed a motion to dismiss on the ground that orders denying discovery requests are generally non-appealable interlocutory orders, not final judgments. To constitute a final judgment, an order “must be ‘so final as either to determine *and conclude* the rights involved or to deny the appellant the means of further prosecuting or defending his or her rights and interests in the subject matter of the proceeding.’” *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. 289, 299 (2015) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)). In other words, the order “must be a complete adjudication of the matter in controversy, except as to collateral matters, meaning that there is nothing more to be done to effectuate the court’s disposition.” *Id.*, 442. Md. at 299. “Such an order has been described as one that has the

effect of put[ting] the [party] out of court.” *Id.* (internal quotation marks and citation omitted).

It is true that in most instances, orders addressing discovery are not immediately appealable because their merits can be addressed after a final judgment has been entered. Here, however, appellant’s motion was not filed prior to the conviction and sentence being imposed. As such, there was nothing left for the court to do after it denied appellant’s post-trial motion for production of documents. Moreover, the court’s order was a complete adjudication of appellant’s claim that he was entitled to those documents in his criminal case. We are therefore persuaded that the order denying appellant’s motion was a final judgment for the purposes of appeal and shall deny the State’s motion to dismiss.

As to the merits, however, we conclude that the court did not err in denying appellant’s motion. First, the discovery rules set forth in the Maryland Rules of Civil Procedure, which appellant relied on in his motion, govern discovery in pending civil actions. They do not apply in criminal cases. Moreover, although not cited by appellant, Maryland Rule 4-263(i)(1), which governs discovery in criminal cases, requires that a motion for discovery be filed within 10 days after discovery is due. And because the State was required to provide appellant with discovery prior to his 2011 *Alford* plea, that Rule would also not allow disclosure of the documents requested by appellant.

Consequently, the court did not err in denying appellant’s post-trial request for production of documents.<sup>1</sup>

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

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<sup>1</sup> We note that our holding is without prejudice to appellant filing a request for those documents pursuant to the Maryland Public Information Act.