

Circuit Court for Caroline County
Case No. C-05-CR-17-000271

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1563

September Term, 2017

DEANDRE SYKES

v.

STATE OF MARYLAND

Woodward, C.J.,
Friedman,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 3, 2018

*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 August 2017, Deandre Sykes, appellant, was indicted in the Circuit Court for Caroline County for a series of sex offenses and violations of *ex parte* protective orders. Sykes subsequently filed a motion requesting disclosure of the grand jury testimony of the alleged victims. The State filed a response stating that it could not give Sykes the grand jury records that he requested because the grand jury proceedings had not been recorded. The court denied Sykes’s motion without a hearing, finding that it was “moot per the State’s response[.]” Sykes filed a notice of appeal from that order.

After the parties filed their briefs, we directed supplemental briefing on the issue of whether the appeal should be dismissed as having been taken from a non-final order because Sykes had not been convicted and his criminal charges remain pending in the circuit court. In his supplemental brief, Sykes contends that denial of his motion for of the grand jury records is appealable under the collateral order doctrine. For the reasons that follow, we dismiss the appeal.

Generally, appellate jurisdiction may arise only after the entry of a final judgment. *See* Md. Code (2013 Repl. Vol.), Courts and Judicial Proceedings Article (CJP) § 12-301. And no final judgment has been entered in this case because, in criminal cases, “no final judgment exists until after conviction and sentence has been determined, or in other words, when only the execution of the judgment remains.” *Sigma Repro. Health Cen. v. State*, 297 Md. 660, 665 (1983) (citation omitted).¹

¹ We note that in *Causion v. State*, 209 Md. App. 391 (2013), this Court determined that the denial of a motion seeking disclosure of grand jury testimony was appealable as a final judgment where the motion was filed thirteen years after the appellant had been

(continued)

“There are . . . three well-identified, but infrequently sanctioned, limited exceptions to the final judgment rule which permit appellate review before a final judgment has been rendered.” *Falik v. Hornage*, 413 Md. 163, 175 (2010) (citation omitted). Those exceptions are: “appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory orders allowed under the common law collateral order doctrine.” *Id.* at 175-76 (internal quotation marks and citation omitted). But Sykes does not cite any statute or rule permitting this appeal and we are not aware of any. And we are not convinced that his appeal would be permitted under the collateral order doctrine, which “is limited in scope” and must “be tightly construed.” *Norman v. Sinai Hospital*, 225 Md. App. 390, 394 (2015) (quotation omitted).

To come within the collateral order doctrine, the order sought to be reviewed must be one that: “(1) conclusively determines the disputed question, (2) resolves an important issue, (3) resolves an issue that is completely separate from the merits of the action, and (4) would be effectively unreviewable if the appeal had to await the entry of a final judgment.” *Stephens v. State*, 420 Md. 495, 502 (2011) (citation omitted) (emphasis in original). But Sykes’s claim that the circuit court erred in denying his motion to disclose

convicted and sentenced. We indicated that, under those circumstances, the denial of the motion “settled the rights of the parties and terminated the cause” because there was nothing left to be done in the case. *Id.* at 402. But, in so holding, we noted that the appellant’s “request for disclosure was not made in conjunction with other pending litigation.” Therefore, we expressed “no opinion as to whether the denial of a motion for disclosure made in conjunction with other litigation would be appealable on an interlocutory basis.” Because Sykes’s motion for grand jury records was filed in conjunction with his pending criminal case, *Causion* is distinguishable from the case at bar.

the grand jury records can be reviewed on direct appeal if he is, in fact, tried and convicted. *See, e.g. Jones v. State*, 297 Md. 7 (1983) (reversing the defendant’s conviction following an appeal from a final judgment based on finding that the trial court had erred in denying his request to inspect the grand jury records). And we perceive no “serious risk of irreparable loss of the claimed right” in this case if appellate review is deferred. *See Parrot v. State*, 301 Md. 411, 424-25 (1984) (per curiam). Because Sykes cannot satisfy the fourth element of the collateral order doctrine’s conjunctive test, which can only be met in “very few [and] extraordinary situations,” *Stephens*, 420 Md. at 505 (citation omitted), his appeal must be dismissed.

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