

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1704

September Term, 2022

TAIWO O. FAKUNLE

v.

BRIAN T. GALLAGHER

Arthur,
Tang,
Kenney, James A., III.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 27, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

On December 21, 2021, Brian Gallagher, appellee, acting as substitute trustee, filed an Order to Docket in the Circuit Court for Anne Arundel County, seeking to foreclose on real property owned by Taiwo Fakunle, appellant. Appellee filed the final loss mitigation affidavit on May 2, 2022. Appellant did not file a motion to stay or dismiss pursuant to Maryland Rule 14-211, and the property was sold at a foreclosure auction to the secured party for \$87,417.00. The clerk issued the Notice of Sale on August 22, 2022.

On October 21, 2022, appellant filed a “Counter Complaint and Objection to Ratification,” wherein he claimed that the lender should not have been allowed to foreclose on the property because it was not a licensed debt collector and the underlying mortgage debt had been “charged off.” Appellee filed a response asserting that: (1) the objection was untimely pursuant to Maryland Rule 14-305(e); (2) the issues raised by appellant were required to be raised prior to the foreclosure sale; (3) pursuant to the Maryland Supreme Court’s decision in *Blackstone v. Sharma*, 461 Md. 87 (2018), the lender, as an assignee of the Note, was not required to be licensed as a collection agency to foreclose on the debt; and (4) even if the debt had been “charged off,” that only meant that it had been treated for accounting purposes as a “loss or expense because payment [was] unlikely,” not that the debt was no longer collectible or due. On October 27, 2022, the court entered an order denying appellant’s objection as untimely and ratifying the foreclosure sale. Appellant filed a timely motion for reconsideration which was also denied. This appeal followed.

On appeal, appellant summarily asserts that the claims raised in his motion were meritorious and asks us to review the “copy of [that] motion,” which he attached to his brief. But the circuit court did not address the merits of the motion. Rather, it denied the motion as untimely filed. Appellant, however, does not address that issue in his brief or otherwise claim that the motion was timely filed. Therefore, we need not consider that issue on appeal, and may affirm the judgment for that reason alone. *See Klauenberg v. State*, 355 Md. 528, 552 (1999) (stating that “arguments not presented in a brief or not presented with particularity will not be considered on appeal”).

But even if the issue were properly briefed, appellant would not prevail. Maryland Rule 14-305(e) provides that a party must file post-sale exceptions within 30 days after the date the clerk issues the notice of sale, which in this case occurred on August 22, 2022. Thus, appellant’s motion, filed almost 60 days thereafter, was untimely. Moreover, even if the motion had been timely filed, it was still properly denied because the claims raised therein were required to be raised prior to the foreclosure sale. *See Devan v. Bomar*, 225 Md. App. 258, 267 (2015) (“A post-sale exception to a foreclosure sale is not an appropriate vehicle to challenge the broad equities of the entire foreclosure proceeding itself. It is, rather, a narrow challenge to the procedures employed in the execution of the sale process itself.”).

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