

Circuit Court for Baltimore City
Case No. 110349052

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1737

September Term, 2022

BOBBY WILLIAMS

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.

Bobby Williams, appellant, appeals from an order, issued by the Circuit Court for Baltimore City, striking his application for leave to appeal as untimely. For the reasons that follow, we shall affirm the judgment of the circuit court.

In 2012, appellant was convicted of second-degree murder, conspiracy to commit murder, first-degree assault, and two counts of use of a handgun in a crime of violence. This Court affirmed his convictions on direct appeal. *Williams v. State*, No. 2739, Sept. Term 2011 (filed Jan. 30, 2014). In 2018, appellant filed a petition for post-conviction relief. The court entered an order on December 18, 2019, granting the petition in part and denying the petition in part.¹ Appellant filed an application for leave to appeal that order on July 12, 2022 (the ALA). Thereafter, the circuit court issued an order to show cause why the ALA should not be struck as untimely filed. Appellant filed a response stating that he had not filed the ALA previously because his access to the law library was restricted during the COVID-19 pandemic. On September 14, 2022, the court entered an order striking the ALA as having been untimely filed. This appeal followed.

Appellant's sole contention on appeal is that the court erred in denying an ineffective assistance of counsel claim that he raised in his post-conviction petition. However, because the court struck the ALA, that contention is not properly before us. Rather the only issue that we may consider in this appeal is whether the court erred in striking the ALA as having been untimely filed.

¹ The court granted the petition to the extent that appellant was allowed to file a belated motion for modification of sentence. All of the remaining claims raised in the petition were denied.

In his brief appellant does not address the court’s striking of his ALA or otherwise assert that it was timely filed. Therefore, we could affirm the judgment for this reason alone. *See Klauenberg v. State*, 355 Md. 528, 552 (1999) (noting that “arguments not presented in a brief or not presented with particularity will not be considered on appeal”). But even if appellant had raised the issue, we would find no error. Maryland Rule 8-204(b)(2)(A) requires an application for leave to appeal to be “filed within 30 days after entry of the judgment or order from which the appeal is sought.” Yet, appellant filed his ALA more than two years after the court entered its final judgment with respect to his post-conviction petition.² Consequently, we hold the court did not err in striking the ALA as untimely.

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

² Although Maryland Rule 1-322 was amended in 2019 to create a “prison mailbox rule,” that does not assist appellant as the certificate of service on his application for leave to appeal indicates that it was mailed on July 6, 2022, still well over the 30-day time limit set in Rule 8-204.