UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1360

September Term, 2016

ANGELA LYON

v.

STATE OF MARYLAND

Berger,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed:

In 2016, the State charged Angela Lyon, appellant, with driving under the influence, and other related offenses, in the Circuit Court for Prince George's County. The State also sought an enhanced penalty based on her being a repeat offender. Ms. Lyon moved to dismiss the charges, claiming that, despite the possibility of an enhanced penalty, the District Court had exclusive jurisdiction over the case because the maximum possible penalty for driving under the influence was one year imprisonment. The circuit court denied Ms. Lyon's motion and she filed an "Application for Leave to Appeal," which this Court treated as a direct appeal. 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).

"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 Ms. Lyon does not cite any statute or rule permitting this appeal and we are not aware of any. And we are not convinced that her 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 Ms. Lyon's claim that the circuit court lacked jurisdiction can be reviewed on direct appeal if she is, in fact, convicted. *See In re Franklin P.*, 366 Md. 306, 328 (2001) (holding that the circuit court's order denying the appellant's motion to dismiss for lack of jurisdiction on the ground that the case should have been brought in juvenile court, was not immediately appealable under the collateral order doctrine because it could be effectively reviewed following the entry of a final judgment). And we perceive no "serious risk of irreparable loss of the claimed right" in this case if appellate review is deferred. *Parrot v. State*, 301 Md. 411, 424-25 (1984) (per curiam). Because Ms. Lyon 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), her appeal must be dismissed.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.