

Circuit Court for Baltimore County
Case Nos.: 03-K-01-004662 & 03-K-17-003099

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2087

September Term, 2021

LUKE JOSEPH WARNER

v.

STATE OF MARYLAND

Nazarian,
Ripken,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 28, 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.

On April 9, 2021, the Circuit Court for Baltimore County entered an order denying Luke Joseph Warner’s, appellant’s, motion to reopen post-conviction proceedings. Warner claims to have never received notice of that ruling, and thus did not file his notice of appeal until January 12, 2022. On January 28, the circuit court—without prior notice—entered an order striking Warner’s notice of appeal as untimely. Warner timely noted this appeal from that order. In its response brief, the State moves to dismiss this appeal because Warner’s original notice was untimely.

The State agrees that the circuit court erred by striking Warner’s notice without giving the prior notice required by Maryland Rule 8-203(b). We too agree and therefore vacate the circuit court’s order striking Warner’s notice. We decline the State’s invitation to dismiss the appeal as untimely and instead direct the circuit court to reinstate Warner’s first notice of appeal and issue the notice required by Rule 8-203(b).

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY VACATED. APPELLEE’S
MOTION TO DISMISS DENIED.
CASE REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY APPELLEE.**