

Circuit Court for Baltimore City  
Case No. 108018023

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2209

September Term, 2017

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RONALD COX

v.

STATE OF MARYLAND

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Fader, C.J.,  
Leahy,  
Moylan, Charles, E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: December 28, 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.

Ronald Cox, appellant, appeals from an order, issued by the Circuit Court for Baltimore City, striking his September 6, 2016 notice of appeal as untimely. On appeal, Cox presents one question for our review, which we have rephrased: Did this Court err when it issued a limited remand order to the circuit court to reconsider the timeliness of Cox’s September 6, 2016 notice of appeal? For the reasons that follow, we affirm.

In 2009, Cox was convicted of first-degree murder and other related offenses following a jury trial. In 2016, he filed a Petition for Writ of Actual Innocence. That petition was dismissed on July 8, 2016. Cox filed a notice of appeal in the circuit court on September 6, 2016. Thereafter, the circuit court issued an order directing Cox to show cause why the notice of appeal should not be struck as untimely. In his response, Cox claimed that he had, in fact, filed a timely notice of appeal with the circuit court, although the docket entries do not reflect such a filing. Upon review of Cox’s response, the circuit court issued an order on November 16, 2016, granting Cox permission to file a “belated application for leave to appeal.”<sup>1</sup> Cox did not file a new notice of appeal or application for leave to appeal following the entry of that order.

Because it was unclear whether Cox’s notice of appeal had been timely filed in the circuit court, and that issue was not addressed in the circuit court’s November 16, 2016 order, we remanded the case to the circuit court “to reconsider appellant’s response to the circuit court’s show cause order, and to determine whether, in fact, appellant timely noted

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<sup>1</sup> Notably, Cox could not have obtained review of the denial of his Petition for Writ of Actual Innocence by way of an application for leave to appeal. Moreover, the circuit court could not have extended the time for him to file a notice of appeal.

an appeal in that court from the denial of his petition for writ of actual innocence.” On November 14, 2017, the circuit court reconsidered appellant’s response to the show cause order, determined that he had not filed a timely notice of appeal in the circuit court, and struck his September 6, 2016 notice of appeal as untimely. This appeal followed.

On appeal, Cox contends that this Court erred when it issued the limited remand order because that order was issued more than eleven months after the November 16, 2016 order allowing him to file a belated application for leave to appeal. However, Cox cannot use this appeal to collaterally attack our decision to issue a limited remand order in his prior appeal. Instead, to the extent that Cox believed that the limited remand order was issued in error, he should have filed a motion for reconsideration in that appeal. But, even if Cox had filed a motion for reconsideration, it would have been denied. The requirement that a notice of appeal be timely filed is jurisdictional and, therefore, we “may, *sua sponte*, raise the issue of . . . non-appealability *at any time*.” *Stuples v. Baltimore City Police Dep’t*, 119 Md. App. 221, 241 (1998) (emphasis added).

Finally, we note that, in the “Argument” section of his brief, Cox briefly asserts that the “lower court Judge Doory abused his discretion by changing his Order from Granted to denied[.]” However, Cox does not set forth this issue in the “Questions Presented” section of his brief, as required by Maryland Rule 8-504(a)(3), which mandates that a brief shall contain “[a] statement of the questions presented, separately numbered, indicating the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail.” We therefore conclude that he has waived this issue for appellate review. *See Green v. N. Arundel Hosp. Ass’n, Inc.*, 126 Md.

App. 394, 426 (1999) (“Appellants can waive issues for appellate review by failing to mention them in their ‘Questions Presented’ section of their brief.”), *aff’d*, 366 Md. 597 (2001). Moreover, even if not waived, the only specific argument that Cox raises regarding the lower court’s decision to strike the notice of appeal is that the motions judge had a conflict of interest. However, Cox did not file a motion for recusal in the circuit court and none of alleged conflicts that he sets forth in his brief would have required the trial judge to recuse himself *sua sponte*.

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