

Circuit Court for Baltimore City
Case No.: 24-D-18-002934

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2518

September Term, 2024

JOHN A. BRINKLEY

v.

NORVEL N. BRINKLEY

Graeff,
Berger,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 16, 2026

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

In October 2020, the Circuit Court for Baltimore City entered a judgment of absolute divorce ending the marriage of appellant John A. Brinkley and Norvel N. Brinkley. As part of the judgment, the court appointed appellee Joseph W. Tychostup as trustee to effectuate sale of the former marital home. Four years passed, but Mr. Brinkley refused to vacate the premises. Eventually, Tychostup moved for possession, which the circuit court granted on January 7, 2025. Two weeks later, the court issued a writ of possession.

More than 30 days later, Mr. Brinkley appealed. This Court initially dismissed the appeal for Mr. Brinkley’s failure to file a Civil Information Report. *See* Md. Rule 8-602(c)(2). Mr. Brinkley later corrected the deficiency, and the Court rescinded the initial dismissal and re-dismissed the as appeal untimely on May 21, 2025. *See* Md. Rule 8-602(b)(2). In the interim, however, Mr. Brinkley noted a second appeal on May 12—which, in the May 21 Order, this Court allowed to proceed under this case number—and he later noted a third appeal on July 16, which was also docketed in this case. *See* Md. Rule 8-421(b). To the extent either appeal is properly before us, we shall affirm.

Mr. Brinkley’s appeals cover three orders by the circuit court. Two of these orders denied Mr. Brinkley’s motions to stay enforcement of the writ of possession pending appeal. But neither the writ nor the circuit court’s order granting possession to Tychostup were the subject of any pending appeal at the time the court denied Mr. Brinkley’s motion. *See* Md. Rule 2-632(f). Moreover, Mr. Brinkley sought the same relief from this Court under Maryland Rule 8-425 while this appeal was proceeding, and he was denied. We

decline to reconsider that decision here. The circuit court did not err in denying Mr. Brinkley’s motions to stay enforcement pending appeal.

As for the remaining order, Mr. Brinkley filed a paper in the circuit court on April 11 stating, “I hereby appeal the attached Sheriff Office notice which was posted on my door on 10 April 2025.” The circuit court treated this filing as a “motion requesting an appeal of the Sheriff’s Office notice” and denied it because “[t]he Sheriff’s Office notice is not a final judgment entered by a circuit court[.]” That was error.

“Maryland cases usually have construed notices of appeal liberally and have ignored limiting language in notices of appeal, deeming it surplusage.” *B&K Rentals and Sales Co., Inc. v. Universal Leaf Tobacco Co.*, 319 Md. 127, 133 (1990). Here, it was clear that Mr. Brinkley intended his filing as a notice of appeal. A circuit court does not have authority to “deny” a notice of appeal based on the order or judgment designated therein. *See id.* To be sure, Rule 8-203(a) authorizes the court to *strike* a notice of appeal under certain circumstances, but (1) that is not what the court here did; and (2) designating an improper order or judgment in the notice is not grounds for striking it. The court therefore erred in “denying” Mr. Brinkley’s notice of appeal.

That said, “[i]n a civil case, in order to win on appeal, an appellant must show not only error but that the error was prejudicial.” *Johnson v. Rowhouses, Inc.*, 120 Md. App. 579, 591–92 (1998). And, here, there were no orders by the circuit court entered in the 30 days preceding Mr. Brinkley’s April 11 notice of appeal.¹ Thus, even if the circuit court

¹ This would have been grounds for the circuit court to strike the notice. Md. Rule 8-203(a).

had docketed it appropriately, this Court would have dismissed. Consequently, the error was not prejudicial, and we shall still affirm.

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