

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1970

September Term, 2014

EATRIC BARCLIFFE SIMPSON

v.

STATE OF MARYLAND

Krauser, C.J.,
Woodward,
Salmon, James, P.
(Retired, Specially Assigned),

JJ.

Opinion by Salmon, J.

Filed: July 29, 2016

*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.

In 1996, appellant, Eatric Barcliffe Simpson, was convicted by a jury sitting in the Circuit Court for Prince George’s County of first-degree felony murder and lesser related offenses. The court sentenced appellant to a term of imprisonment of life plus twenty years. Upon direct appeal of those convictions, we affirmed the judgment of the circuit court in an unreported opinion. *Eatric Barcliffe Simpson v. State of Maryland*, No. 1754, Sept. Term 1996 (filed December 12, 1997).

On October 21, 2013, appellant filed a petition for a writ of actual innocence pursuant to the provisions of Maryland Code (2001, 2008 Repl. Vol., 2014 Supp.), Criminal Procedure Article (“CP”), § 8-301, and Maryland Rule 4-332, alleging that there was newly discovered evidence that, he claimed, would have created a substantial or significant possibility that the result of his 1996 trial would have been different had he known of its existence at the time of trial. The “new evidence” was that the State’s ballistics expert, Joseph Kopera, had lied about his academic credentials.¹

On August 18, 2014, the circuit court issued an Order denying Appellant’s petition without a hearing. That Order was entered on the docket the next day. Appellant waited until October 10, 2014 to file an appeal.

¹Actually, although Mr. Kopera lied about his academic credentials in many trials, in appellant’s case appellant’s counsel stipulated that the witness was “an expert in firearms examination,” and as a consequence, Mr. Kopera was not asked any questions about his credentials.

Md. Rule 8-202(a) states “[e]xcept as otherwise provided in this Rule or by law, [a] notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” No exceptions to that rule are here applicable. Therefore, appellant’s notice of appeal was due by Thursday, September 18, 2014. Appellant filed his appeal 22 days after the 30 day deadline expired.

Along with his untimely notice of appeal, appellant included a letter explaining that he had previously mailed, on August 28, 2014, a notice of appeal from prison to the circuit court, to the office of the State’s Attorney, and to this Court directly. Appellant asserted that he subsequently had learned that no one received that notice of appeal, which caused him to infer that the documents were lost in the mail. As a result he mailed another copy of his notice of appeal, which was received by the Circuit Court on October 10, 2014.

The State moved to dismiss this appeal, and contends that this Court is without jurisdiction to hear appellant’s appeal because the notice of appeal was filed more than thirty days after August 19, 2014, the date when the circuit court's order denying appellant’s petition for a writ of actual innocence was entered on the docket. We agree with the State's contention that we must dismiss this appeal.

We have no authority to shorten or extend the time for filing a notice of appeal. Because an untimely notice of appeal does not confer appellate jurisdiction on this Court, we

must dismiss the appeal. *Griffin v. Lindsey*, 444 Md. 278, 285-86 (2015); *Houghton v. County Comm'rs of Kent County*, 305 Md. 407, 413 (1986).²

**APPEAL DISMISSED. COSTS TO BE
PAID BY APPELLANT.**

²Even if the appeal had been timely, appellant would not have been entitled to a new trial for the same reasons as those set forth in *Jackson v. State*, 216 Md. App. 347, 365-66 (2014) and because at appellant's trial, there is no indication whatsoever that Mr. Kopera testified falsely about any subject. See n.1.