

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2862

September Term, 2014

DELONTE KINGSBERRY

v.

STATE OF MARYLAND

Graeff,
Friedman,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: May 23, 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 2013, Delonte Kingsberry, appellant, filed *pro se* in the Circuit Court for Prince George’s County a motion to correct an illegal sentence. The circuit court denied the motion, and it is from that denial that appellant appeals. We shall dismiss his appeal as untimely.

FACTUAL AND PROCEDURAL BACKGROUND

Following a jury trial in 1993, appellant was convicted of first-degree felony murder, second-degree murder, robbery with a dangerous and deadly weapon, robbery, and use of a handgun in the commission of a felony or a crime of violence. The court subsequently sentenced him to life imprisonment for the conviction for felony murder and 20 years, consecutive, for the conviction of use of a handgun. The court merged his remaining convictions for sentencing purposes. Appellant appealed his convictions, and we affirmed. *See Kingsberry v. State*, No. 431, Sept. Term, 1993 (filed Jan. 11, 1994), *cert. denied*, 334 Md. 211 (1994).

On June 6, 2013, appellant filed a motion to correct an illegal sentence.¹ The circuit court denied the motion on December 9, 2014, and it was entered in the docket entries on December 10, 2014.

On January 14, 2015, appellant filed a notice of appeal from that denial. The State responds that we should dismiss appellant’s appeal as untimely. We agree.

¹ Appellant had filed an earlier motion to correct an illegal sentence on April 11, 2012, alleging that his handgun sentence was illegal because it was consecutive and not concurrent to his murder conviction. The circuit court denied that motion, and we affirmed on appeal. *See Kingsberry v. State*, No. 1580, Sept. Term, 2012 (filed Jul. 22, 2014), *cert. denied*, 441 Md. 62 (2014).

DISCUSSION

Md. Rule 8-202(a) provides, in pertinent part, that a “notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” Compliance with the Rule is mandatory. *Lovero v. Da Silva*, 200 Md. App. 433, 441 (2011). Pursuant to Md. Rule 8-602(a)(3), appeals may be dismissed when “the notice of appeal was not filed with the lower court within the time prescribed by Rule 8-202.” The record reflects that the circuit court entered the denial of appellant’s illegal sentence motion on December 10, 2014. Accordingly, appellant’s appeal was required to be filed by January 9, 2015. Appellant, however, did not file his notice of appeal until January 14, 2015. Accordingly, appellant’s appeal was not timely, and we shall dismiss appellant’s appeal.

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