

Circuit Court for Baltimore County  
Case No. 03-K-14-003188

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 363

September Term, 2022

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ANTHONY HARRIS

v.

STATE OF MARYLAND

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Graeff,  
Zic,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: October 6, 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.

Anthony Harris, appellant, appeals from an order issued by the Circuit Court for Baltimore County denying his Motion for a New Trial pursuant to Maryland Rule 4-331(b). On appeal, he contends that the court erred in denying the motion on the merits and in denying the motion without holding a hearing. For the reasons that follow, we shall affirm.

In 2016, pursuant to a binding plea agreement with the State, appellant entered a conditional plea of guilty to possession with intent to distribute heroin and possession of a firearm in relation to a drug trafficking crime. Those convictions arose after the execution of a search and seizure warrant at a residence in Baltimore County. Appellant filed a request for a *Franks* hearing on the search warrant and the court held a hearing on June 3, 2015. After the State presented evidence suggesting that the grounds for appellant’s challenge to the officer’s application in support of the search warrant was based on “doctored” documents, the motion was withdrawn. Thereafter, appellant fired his counsel and hired a new attorney who filed an “amended” motion for a *Franks* hearing. The court subsequently found that appellant had waived his right to another *Franks* hearing and denied appellant’s motion to suppress based on a review of the search warrant application. Following his conditional guilty plea, appellant had filed numerous motions challenging his conviction and sentence. All those motions have been denied.

In March 2022, appellant filed a Motion for a New Trial pursuant to Maryland Rule 4-331(b). In that motion he argued that the trial court had “committed an irregularity when it took the burden of proof out [of] the State’s hand.” Specifically, he claimed that the State had “presented no witnesses and no evidence” to support the search warrant. Because the court allowed the State to meet its burden using hearsay evidence, appellant alleged

that “the opportunity for immediate cross-examination [was] unavailable[,]” resulting in a violation of his Fourth and Sixth Amendment rights. Appellant also attacked the validity of information contained in the search warrant, claiming that it did not establish probable cause. The court denied the motion without a hearing. This appeal followed.

On appeal, appellant contends that the court erred in denying his motion for a new trial “based on the merits of the irregularities in the suppression hearing and constitutional violations[.]” We disagree. Maryland Rule 4-331(b)(2) provides that the “court has revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial . . . in the circuit courts, on motion filed within 90 days after its imposition of sentence.” After 90 days, “the court has revisory power and control over the judgment [only] in case of fraud, mistake, or irregularity.” *Id.* Appellant filed his Rule 4-331(b) motion more than five years after the court imposed its sentence. Therefore, the judgment is subject to revision only in the event of “fraud, mistake, or irregularity.” Those terms, however, are narrowly defined and strictly applied. *See generally Peay v. Barnett*, 236 Md. App. 306, 321 (2018) (“Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments.” (quotation marks and citation omitted)). As this Court has previously observed, absent a narrow interpretation of the phrase “fraud, mistake, or irregularity,” “almost no criminal conviction would be safe from belated attack.” *Minger v. State*, 157 Md. App. 157, 172 (2004).

Appellant contends that the court’s alleged errors in its handling of his suppression motion constituted an irregularity. However, “irregularity” means “irregularity of process

or procedure[,]” such as the failure of the clerk to notify a party of the entry of a judgment. *Id.* at 171 (quotation marks and citations omitted). In other words, “irregularity, in the contemplation of the Rule, usually means irregularity of process or procedure, *not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged.*” *Id.* at 175 (emphasis added in *Minger*) (citation omitted). Here, the claims raised in appellant’s motion, even if true, are not the type of irregularity that would warrant a new trial. Nor would they demonstrate the existence of fraud or mistake within the meaning of Rule 4-331(b). Therefore, the court did not err in denying appellant’s motion on the merits.

Finally, appellant asserts that the court should have held a hearing on his motion. However, pursuant to Rule 4-331(f) no hearing was required. Consequently, we shall affirm the judgment of the circuit court.

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