

Circuit Court for Cecil County
Case No.: 07-K-14-001735

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 379

September Term, 2022

HENRY ERIC HAMILTON

v.

STATE OF MARYLAND

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

PER CURIAM

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.

In 2015, following trial in the Circuit Court for Cecil County, a jury found Henry Eric Hamilton, appellant, guilty of conspiracy to commit first-degree assault.¹ Thereafter, the court sentenced him to 25 years' imprisonment.

The evidence adduced at appellant's trial showed that appellant's son had shot and killed a person in a car parked in front of appellant's home just after appellant had been seen speaking with one of the occupants of that car. The State's theory of the case was that appellant had directed his son to open fire on the vehicle by providing a signal to his son to do so. In support of that theory, the State called Alexander Maran as a witness. Maran, who only spoke Spanish, and who had been in the car at the time of the shooting, also gave a pre-trial statement to police.

Thereafter, appellant pursued a direct appeal in which this Court affirmed his conviction. *Hamilton v. State*, No. 473, Sept. Term, 2017 (filed June 12, 2018). He also unsuccessfully litigated a petition for post-conviction relief in the circuit court from which he sought leave to appeal in this Court. We declined to grant such leave. *Hamilton v. State*, No. 1918, Sept. Term, 2019 (filed July 10, 2020). Both his direct appeal and his petition for post-conviction relief contained allegations of error related to alleged conflicts between Maran's pre-trial statements and his trial testimony.

On March 21, 2022, appellant, acting *pro se*, filed a paper in the circuit court titled "Motion to Preserve / Perpetuate Evidence[,]" the denial of which is the subject of the

¹ Appellant was acquitted of various other offenses including, *inter alia*, first-degree murder, second-degree murder, first-degree assault, and armed robbery.

current appeal. In that motion, appellant alleged that he is currently engaged in litigation in federal court “challenging [his] conviction and conduct of law enforcement in generating evidence to falsely assert probable cause to obtain charges in this case[.]” In the motion, appellant requested that the circuit court issue an order requiring the Cecil County Sheriff’s Office to preserve evidence it had in its control relevant to his criminal case and to provide him with “all interviews which were recorded, separately, ... and all time/date stamped/tagged photographs of any other evidence obtained, with a foundational letter indicating the date and time they were originally recorded and were received/collected by their department in this case[.]”

On April 14, 2022, the circuit court summarily denied appellant’s motion. From that denial, appellant, again acting *pro se*, noted this appeal. In his *pro se* briefs before this Court, he claims that (1) the circuit court judge who denied his motion abused its discretion because that judge had previously ruled on appellant’s petition for post-conviction relief and did not preside over appellant’s trial, and (2) for various reasons, he is entitled to have the State provide “without further delay tactics, the original discovery file as was generated to trial counsel in this case, to appellant directly.”

We do not reach the merits of appellant’s arguments because we dismiss this appeal as not allowed by law. Appellant cites to no authority authorizing the motion he filed in the circuit court. We are otherwise aware of none. For that reason alone, the circuit court did not err in denying appellant’s motion. Moreover, in our view, appellant is not entitled to pursue a direct appeal from a proceeding unauthorized by law. “In Maryland, criminal defendants do not have a constitutional right to appeal. Instead, the right to seek appellate

review is statutory; the Legislature can provide for, or preclude, it.” *Douglas v. State*, 423 Md. 156, 170 (2011) (cleaned up). Section 12-301 of the Courts & Judicial Proceedings Article provides, with exceptions not here pertinent, that “a party may appeal from a final judgment entered in a civil or criminal case by a circuit court.” “A final judgment is one that either determines and concludes the rights of the parties involved or denies a party the means to prosecute or defend his or her rights and interests in the subject matter of the proceeding.” *Douglas*, 423 Md. at 171 (cleaned up).²

The motion appellant filed in this case is not recognized by law in a criminal case. Its denial, therefore, does not constitute a final judgment, and is not, therefore appealable. If the motion were appealable, then litigants who invent their own method of litigation unauthorized by law would then create for themselves greater appellate rights than litigants who follows extant law and procedure. That cannot be the law.

Consequently, pursuant to Maryland Rule 8-602, we dismiss this appeal.³

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

² There are three exceptions to the final judgment rule: “(1) appeals from interlocutory orders specifically allowed by statute; (2) immediate appeals permitted when a circuit court enters final judgment under Maryland Rule 2-602(b); and (3) appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *In re O.P.*, 470 Md. 225, 250 (2020) (footnote omitted). In our view, the denial of appellant’s motion does not meet the requirements of any of these exceptions.

³ Nothing in this opinion is meant to comment on the merit, *vel non*, of appellant’s contentions or prejudice appellant’s ability to pursue the relief he seeks through existing lawful mechanisms.