

Circuit Court for Baltimore County
Case No.: 03-K-94-003270

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 526

September Term, 2021

DAVID ROSS FULCO

v.

STATE OF MARYLAND

Kehoe,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 31, 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.

David Ross Fulco, appellant, challenges an order entered by the Circuit Court for Baltimore County denying his petition for expungement. In his petition, filed in April 2020, Mr. Fulco sought to expunge an October 1994 guilty finding for driving a motor vehicle on the highway in excess of the speed limit. On appeal, Mr. Fulco contends that there was insufficient evidence to support the guilty disposition rendered by the court and that this “non-incarcerable, minor traffic offense” should be expunged from his record.

For the reasons that follow, we shall affirm.

DISCUSSION

We decline to consider Mr. Fulco’s first claim of error that he “was not exceeding [the] speed limit” and that there was no evidence to support the court’s finding of guilt. This contention was not raised in Mr. Fulco’s petition for expungement and was, therefore, not preserved for this Court’s consideration. *See Baltimore Cty., Maryland v. Aecom Servs., Inc.*, 200 Md. App. 380, 421 (2011) (“[a] contention not raised below...and not directly passed upon by the trial court is not preserved for appellate review.”). Moreover, an appeal from an expungement proceeding is not an appropriate vehicle for contesting the sufficiency of evidence underlying a conviction.

We are further satisfied that the court did not err in denying Mr. Fulco’s petition for expungement. Pursuant to § 10-102 of the Criminal Procedure Article, “a record about a minor traffic violation” is not a record subject to expungement. Because Mr. Fulco’s conviction for driving in excess of the speed limit was a “nonincarcerable violation of the

Maryland Vehicle Law¹[,]” it constituted a minor traffic violation and was not subject to expungement. *See* Md. Code Ann., Transp. §§ 21-801.1; 27-101. Moreover, Mr. Fulco does not direct this Court to any provision which would allow for the expungement he seeks.

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

¹ Transportation, § 11-101 et seq.