

Circuit Court for Baltimore City
Case Nos. 112241001-03

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 676

September Term, 2022

REGINALD BELLAMY

v.

STATE OF MARYLAND

Nazarian,
Ripken,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 28, 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.

Reginald Bellamy, appellant, challenges the denial, by the Circuit Court for Baltimore City, of a “Motion to Vacate Conviction” (hereinafter “the motion to vacate”). For the reasons that follow, we shall affirm the judgment of the circuit court.

In 2014, Mr. Bellamy was convicted by a jury of first-degree rape and related offenses. In 2022, Mr. Bellamy filed the motion to vacate “under the court[']s revisory power” pursuant to Rules 2-535(b), 2-311(f), and 4-331(b)(1)(B).¹ In the motion, Mr. Bellamy contended that the trial court “committed a[n] ‘irregularity’ within the meaning of . . . Rule 2-535(b)” by “excusing [three] prospective jurors for cause because [their] physical disabilities prevented them from using [the] stairs” of the courthouse. The court denied the motion without a hearing.

Mr. Bellamy now contends that, for numerous reasons, the court erred in failing to hold a hearing on the motion pursuant to Rule 2-311(f), and in denying the motion. We disagree for three reasons. First, Rule 1-101(b) states that “Title 2 [of the Rules] applies to civil matters in the circuit courts, . . . except as otherwise specifically provided or necessarily implied.” Mr. Bellamy does not cite any authority specifically providing, or implying, that Title 2 of the Rules applies to the instant criminal matter. Second, we have stated that “[i]rregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court,” and if an “appellant could have challenged [a] court’s [action] on direct review or, if he

¹Rule 4-331(b) states, in pertinent part, that where more than ninety have passed after imposition of sentence, “the court has revisory power and control over the judgment in case of fraud, mistake, or irregularity.”

contended that his trial counsel was ineffective by failing to object at trial, in a post-conviction hearing,” there is “no ‘irregularity,’ as the term is used in Rule 4-331(b).” *Minger v. State*, 157 Md. App. 157, 173-75 (2004) (internal citation omitted). Here, Mr. Bellamy could have challenged the court’s excusal of prospective jurors on direct review or trial counsel’s failure to object to the excusal in a post-conviction proceeding, and hence, the court’s action does not constitute an irregularity as the term is used in Rule 4-331(b). Third, we stated in *Minger* that “a prerequisite to a successful 4-331(b) motion filed outside the ninety-day limit” is that the movant “allege or . . . demonstrate that he acted with ordinary diligence.” 157 Md. App. at 175. Here, Mr. Bellamy filed his motion nearly eight years after trial. Mr. Bellamy did not allege or demonstrate that such diligence is ordinary, and hence, the court did not err in denying the motion to vacate without a hearing.

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