

Circuit Court for Baltimore City
Case No. 105231025

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 786

September Term, 2021

TIMOTHY BROCKINGTON

v.

STATE OF MARYLAND

Arthur,
Shaw,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 4, 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 2007, Timothy Brockington, appellant, was tried by a jury in the Circuit Court for Baltimore City on numerous charges in Case No. 105231025 and Case Nos. 105217026-33. The trial court granted appellant’s motion for judgment of acquittal on all charges in Case No. 105231025. A jury then convicted appellant of kidnapping, conspiracy to kidnap, carjacking, and robbery in some of the remaining case numbers.

In May 2021, appellant filed a “Motion to Compel the Search and Seizure Warrant” in Case No. 105231025. Relying on Maryland Rule 2-432(b)(1)(A), appellant’s motion requested the court to compel the State to “unseal” the search and seizure warrant and affidavit that had been filed in that case and provide it to him for “review and copying.” The court denied the motion, finding that: Rule 2-432(b)(1)(A) only applied to pending actions, except on matters relating to a deposition; appellant’s case was not pending; and appellant’s request was not related to a deposition.¹ This appeal followed.

As an initial matter, the State has filed a motion to dismiss on the ground that orders denying discovery requests are generally non-appealable interlocutory orders, not final judgments. To constitute a final judgment, an order “must be ‘so final as either to determine *and conclude* the rights involved or to deny the appellant the means of further

¹ In its order, the court noted that it had granted a defense motion for judgment of acquittal as to all counts in Case No. 105231025. In his brief, appellant notes that he is currently incarcerated and therefore, as “far as [he] knows, he was not acquitted as to all counts on March 1, 2007.” He further contends that if he was acquitted of all counts, he “should be released immediately.” Although the court granted appellant’s motion for judgment of acquittal in Case No. 105231025, he was convicted in the same trial of other offenses that were charged in Case Nos. 105217029-31, 33. It is for those offenses, not the charged offenses in Case No. 105231025, that he is currently serving a sentence of incarceration.

prosecuting or defending his or her rights and interests in the subject matter of the proceeding.” *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. 289, 299 (2015) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)). In other words, the order “must be a complete adjudication of the matter in controversy, except as to collateral matters, meaning that there is nothing more to be done to effectuate the court’s disposition.” 442. Md. at 299. “Such an order has been described as one that has the effect of put[ting] the [party] out of court.” *Id.* (internal quotation marks and citation omitted). It is true that in most instances, orders addressing discovery are not immediately appealable because their merits can be addressed after a final judgment has been entered. Here, however, appellant’s motion was not filed prior to the conviction and sentence being imposed. As such, there was nothing left for the court to do after it denied appellant’s motion for post-trial discovery. Moreover, the court’s order was a complete adjudication of appellant’s claim that he was entitled to that discovery in his criminal case. We are therefore persuaded that the order denying appellant’s motion was a final judgment for the purposes of appeal and shall deny the State’s motion to dismiss.²

As to the merits, however, we conclude that the court did not err in denying appellant’s motion. First, Maryland Rule 2-432, which appellant relied on in his motion, governs discovery in civil cases, not criminal cases. And in any event, it only applies to pending actions or matters related to depositions. *See* Maryland Rule 2-432(e). As the

² The State also asserts that the order should not be appealable because appellant was not entitled to post-trial discovery. The fact that appellant’s request might have lacked merit, however, does not affect the appealability of the court’s order.

court correctly found, appellant’s criminal case was no longer pending, and appellant was not seeking disclosure of the search warrant for the purposes of conducting a deposition. Thus, the court was not authorized to order the disclosure of the search warrant under Rule 2-432. Moreover, although not cited by appellant, Maryland Rule 4-263(i)(1), which governs discovery in criminal cases, requires that a motion for discovery be filed within 10 days after discovery is due. And as the State was presumably required to provide appellant with discovery prior to his 2007 trial, that Rule also would not allow disclosure of the search warrant to appellant in this case. Consequently, the court did not err in denying appellant’s Motion to Compel the Search and Seizure Warrant.

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