

Circuit Court for Allegany County
Case No.: C-01-CV-22-000230

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1181

September Term, 2022

STEPHEN NOLAN

v.

SECRETARY OF THE DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONAL
SERVICES

Friedman,
Albright,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 8, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 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.

On September 12, 2022, Stephen Nolan, appellant, noted this appeal from an Order by the Circuit Court for Allegany County denying his “Motion for Injunction” to preserve certain video evidence.¹ The Certificate of Service accompanying Nolan’s notice indicates that he mailed it to the circuit court but did not indicate service on the appellee. Notwithstanding this deficiency, the clerk’s office accepted Nolan’s notice of appeal.

Maryland Rule 1-323 provides: “The clerk shall not accept for filing any pleading or other paper requiring service . . . unless it is accompanied by . . . a signed certificate showing the date and manner of making service.” When a clerk accepts for filing a notice of appeal with a deficient certificate of service, which thus should have been rejected under Rule 1-323, “such defective notice of appeal is not ‘filed’ within the meaning of Rule 8-202(a).” *Lovero v. DaSilva*, 200 Md. App. 433, 450 (2011).

Although it is certainly our preference to decide appeals on the merits rather than on technicalities, the record in this case reveals that Nolan’s notice of appeal did not contain a proper certificate showing the date and manner of making service on the appellee. As a result, it was not timely filed. That the clerk accepted the notice of appeal does not change this. *Id.* at 449–50.

¹ The circuit court had denied the motion because the case was dismissed three months earlier.

Because Nolan’s notice of appeal failed to include a proper certificate of service, we acquired no jurisdiction, and Nolan’s appeal must be dismissed.²

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

² There are two additional filings outstanding in this matter, specifically Nolan’s “Motion for an Injunction,” in which he seeks preservation of certain camera footage, and this Court’s December 8, 2022, Order to Show Cause why this appeal should not be dismissed for Nolan’s failure to certify service of his notice of appeal and informal brief on the appellee. In light of our analysis here, we deem both matters moot.