

Circuit Court for Queen Anne's County
Case No. 17-K-07-006653

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2173

September Term, 2018

PETER KARL URBANOWICZ

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: September 26, 2019

*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 2008, Peter Karl Urbanowicz, appellant, was convicted of sexual abuse of a minor and third-degree sexual offense following a jury trial in the Circuit Court for Queen Anne’s County.¹ The court sentenced him to 25 years’ imprisonment, with all but 10 years suspended, and ordered him to serve a five-year term of supervised probation upon his release. When Mr. Urbanowicz was released from custody in 2013, he was required to register as a sex offender with the Queen Anne’s County Sheriff’s Department.

On August 9, 2018, Mr. Urbanowicz filed a motion, in his criminal case, requesting “declaratory relief.” Specifically, he asked the court to issue an order removing him from the sex offender registry because, he claimed, the 2010 amendments to the Maryland Sex Offender Registration Act (MSORA) had “creat[ed] and impose[d] [] Tier III registration requirements upon [him] retroactively.” The circuit court denied the motion, finding that the registration requirement had not been retroactively imposed on Mr. Urbanowicz as he had been convicted of a “sexually violent offense,” which “subjected him to life-long registration under the laws in place at the time his offenses occurred, the same length of registration he would have been exposed to after the 2010 three tiered amendment [to the MSORA].” This appeal followed.

Mr. Urbanowicz raises five issues on appeal. However, we do not reach the merits of those claims because the circuit court cannot issue a declaratory judgment in a criminal cause regarding a person’s status as a sex offender. *See Sinclair v. State*, 199 Md. App.

¹ We note that, after the notice of appeal was filed in this case, the Circuit Court for Cecil County issued an order changing appellant’s name from Peter Karl Urbanowicz to Karl Urbanewitz.

130 (2011). Rather, because “registration remains a collateral consequence of criminal punishment,” a person “can seek removal from the sex offender registry only through a civil action for declaratory judgment.” *Rodriguez v. State*, 221 Md. App. 26, 39 (2015). Because Mr. Urbanowicz filed the motion in his criminal case and the motion did not challenge the legality of his underlying sentence and conviction, the circuit court lacked jurisdiction to address his claim for declaratory relief. *Sinclair*, 199 Md. App. At 140.² Consequently, we shall vacate the order of the circuit court, without affirmance or reversal, and remand the case to the circuit court to dismiss Mr. Urbanowicz’s August 9 motion without prejudice. *Id.*

**JUDGMENT OF THE CIRCUIT COURT
FOR QUEEN ANNE’S COUNTY
VACATED. CASE REMANDED TO THAT
COURT, WITHOUT AFFIRMANCE OR
REVERSAL, WITH INSTRUCTIONS TO
DISMISS, WITHOUT PREJUDICE, THE
APPELLANT’S MOTION FILED AUGUST
9, 2018. COSTS TO BE PAID BY
APPELLANT.**

² Although the circuit court’s order referred to Mr. Urbanowicz’s motion as a motion for modification of sentence, we decline to construe it as such because he specifically requested “declaratory relief” and did not ask the court to modify its previously imposed sentence. In any event, construing the motion as a motion for modification of sentence would not assist Mr. Urbanowicz as the denial of such a motion is generally not appealable. *See Fuller v. State*, 169 Md. App. 303, 316 (2006). And such a motion would have been untimely in any event as it was filed more than five years after his sentence was imposed. *See Maryland Rule 4-345(e)(1)*.