

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 911

September Term, 2016

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AARON LEMON

v.

STATE OF MARYLAND

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Woodward, C.J.,  
Nazarian,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 6, 2017

\*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 2014, Aaron Frederick Lemon, appellant, was convicted of possession of marijuana, following a guilty plea, in the Circuit Court for Baltimore City. Two years later, Lemon filed a pleading entitled “Verified Petition for Revision Pursuant MD RULE 4-331 Challenge of Jurisdiction, Motion to Void Orders” contending that his conviction, and all other orders issued by the circuit court in that case, should be vacated on the grounds of “fraud, mistake, or irregularity.” Specifically, he claimed that he was denied the right to a speedy trial because the State failed to bring him to trial within 180 days of his first appearance and that the trial court had violated his due process rights.<sup>1</sup> The circuit court denied the petition without a hearing. On appeal, Lemon raises two issues that are reducible to one: whether the circuit court erred in denying his petition. For the reasons that follow, we affirm.<sup>2</sup>

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<sup>1</sup> Lemon’s motion does not specify how his due process rights were violated.

<sup>2</sup> The State has filed a motion to dismiss the appeal claiming: (1) that the notice of appeal was prematurely filed; (2) that Lemon failed to provide the necessary transcripts; and (3) that the claims raised in Lemon’s motion were not cognizable under Maryland Rule 4-331 (b)(1)(B). That motion is denied. Although appellant’s notice of appeal was premature, it was filed on the same day that the trial court signed the order denying his motion and, therefore, the notice of appeal is treated as having been timely filed. *See* Rule 8-602(d) (“A notice of appeal filed after . . . signing by the trial court of a ruling, decision, order, or judgment but before entry of the ruling, decision, order, or judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.”). Moreover, we do not believe that appellant violated Maryland Rule 8-411 as no transcripts were needed to resolve this appeal. Finally, although we agree with the State that appellant’s claims did not demonstrate the existence of “fraud, mistake or irregularity” under Rule 4-331(b)(1)(B), that argument ultimately goes to the merits of his motion and not the appealability of the circuit court’s order.

Even if we were to assume that Lemon’s claims were not waived as a result of his guilty plea, his motion was “fatally defective,” because it was filed approximately two years after his conviction and he “failed to allege or in any way demonstrate that he acted with ordinary diligence” in raising them. *Minger v. State*, 157 Md. App. 157, 175 (2004) (noting that a Rule 4-331(b) motion filed outside the ninety-day time limit requires a showing that the movant acted with “ordinary diligence” in raising his or her claim). Moreover, even if true, appellant’s claims do not establish the existence of any “fraud, mistake, or irregularity” in his case that would allow the court to exercise its revisory power under Rule 4-331(b)(1)(B). *See id.* at 172 (noting that the term “fraud, mistake, or irregularity,” as it is used in Rule 4-331, is narrowly interpreted and, therefore, does not “encompass [unobjected to] prejudicial trial errors and the like” (internal quotation marks omitted)).

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