

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1760

September Term, 2023

KENNETH ADOLPHUS HINTON

v.

STATE OF MARYLAND

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 1, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a 2015 jury trial in the Circuit Court for Montgomery County, Kenneth Adolphus Hinton, appellant, was convicted of theft scheme and 26 counts of perjury by affidavit. He received an aggregate sentence of 70 years' imprisonment. This Court affirmed his convictions on direct appeal. *See Hinton v. State*, No. 2119, Sept. Term, 2015 (filed March 15, 2017).

Appellant has filed numerous post-trial motions in his criminal case, four¹ of which are the subject of this appeal:²

- An August 2023 letter regarding “Egregious and Opprobrious Misconduct by Officer(s) of the Court,” docketed as a “motion for appropriate relief,” wherein he alleged that: (1) the State’s Attorney had served numerous subpoenas to various persons in 2014 which had disclosed his “personal identifiers” (the 2014 subpoenas) yet refused his requests to “have the recipients of those subpoenas” “cease, desist, and destroy” them; (2) that certain pre-trial motions had not been filed; (3) that he was not afforded the benefit of counsel at his sentencing hearing; and (4) he was “belatedly arrested and criminally processed” and “unjustly held without any bail;”
- A November 2023 petition for writ of mandamus wherein appellant requested the court to order the State’s Attorney’s Office to “have any and all ‘State’s witnesses’ that were sent [the 2014 subpoenas] [] to immediately destroy, cease, desist and relinquish their custody and control [of those subpoenas];”
- A December 2023 petition for writ of mandamus wherein appellant requested the court to force his former public defender “to notify ‘all affected individuals, entities, and organizations’” regarding his “loss/displacement of (10,000) ten thousand pages of highly confidential, sensitive, & private

¹ We note that the notices of appeal filed by appellant would also have been timely as to the court’s denial of other motions that he filed. Appellant, however, does not raise any claims with respect to any of those other motions. In any event, for the reasons stated herein, the court’s orders denying those motions were not final judgments and, therefore, were not appealable.

² Appellant filed separate notices of appeal, which were consolidated into this appeal.

data/information pertaining to them as discovery evidence” that he allegedly mailed to the wrong address in 2014, rather than mailing to appellant;

- A January 2024 motion that requested the court to compel the witnesses for the State in his trial to “Promptly Destroy, Cease, & Desist Their Custody, Control and Retention of [the 2014 Subpoenas].”

On appeal, appellant contends that the court abused its discretion in denying these motions. The State has moved to dismiss the appeal as not allowed by law. For the reasons that follow, we shall grant the motion to dismiss with respect to appellant’s appeals from the denial of the August 2023 motion for appropriate relief and the January 2024 motion to compel. As to appellant’s appeals from the denial of his petitions for writ of mandamus we shall deny the motion to dismiss but affirm the judgments.

“In Maryland, criminal defendants do not have a constitutional right to appeal. Instead, the right to seek appellate review is statutory; the Legislature can provide for, or preclude it.” *Douglas v. State*, 423 Md. 156, 170 (2011) (cleaned up). Section 12-301 of the Courts & Judicial Proceedings Article provides, with exceptions not here pertinent, that “a party may appeal from a final judgment entered in a civil or criminal case by a circuit court.” “A final judgment is one that either determines and concludes the rights of the parties involved or denies a party the means to prosecute or defend his or her rights and interests in the subject matter of the proceeding.” *Douglas*, 423 Md. at 171 (cleaned up).³

³ There are three exceptions to the final judgment rule: “(1) appeals from interlocutory orders specifically allowed by statute; (2) immediate appeals permitted when a circuit court enters final judgment under Maryland Rule 2-602(b); and (3) appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *In re O.P.*, 470 Md. 225, 250 (2020) (footnote omitted). In our view, the denial of appellant’s motions does not meet the requirements of any of these exceptions.

The motion for appropriate relief and the motion to compel that were filed by appellant in this case are not recognized by law in a criminal case. Their denial, therefore, does not constitute a final judgment, and is not, therefore, appealable. If we were to hold that the denial of those motions was appealable, then litigants who invent their own method of litigation unauthorized by law would then create for themselves greater appellate rights than litigants who follow extant law and procedure. That cannot be the law. Consequently, pursuant to Maryland Rule 8-602, we shall dismiss appellant’s appeal from the court’s orders denying those motions.

The court’s denials of appellant’s petitions for writ of mandamus are appealable final judgments, and the court did not err in denying those petitions. The fundamental purpose of that writ is “to compel inferior tribunals, public officials, or administrative agencies to perform their function, or perform some particular duty imposed upon them which in its nature is imperative and to the performance of which duty the party applying for the writ has a clear legal right.” *Town of La Plata v. Faison–Rosewick, LLC*, 434 Md. 496, 511 (2013) (quotation marks and citation omitted). The Supreme Court of Maryland has observed that a writ of mandamus is only “appropriate where the relief sought involves the traditional enforcement of a ministerial act (a legal duty) by recalcitrant public officials, but not where there is any vestige of discretion in the agency action or decision.” *Balt. Cnty. v. Balt. Cnty. Fraternal Ord. of Police Lodge No. 4*, 439 Md. 547, 570 (2014) (internal quotation marks and citation omitted). Forcing the recipient of a subpoena to “cease, desist, and destroy” that subpoena almost 9 years after that subpoena is served is not a ministerial act that is required to be performed by the State’s Attorney. Neither is it

a clear legal duty of the Office of the Public Defender to belatedly notify persons or organizations about the possible inadvertent disclosure of confidential information contained in discovery. Consequently, the court could not compel them to do so by means of a mandamus petition.

**MOTION TO DISMISS APPEAL
GRANTED IN PART AND DENIED IN
PART CONSISTENT WITH THIS
OPINION. JUDGMENTS DENYING
APPELLANT’S PETITIONS FOR
WRIT OF MANDAMUS AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**