

Circuit Court for Baltimore County
Case No. 03-C-17-011699

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1970

September Term, 2023

THEARONE RICHARDSON, JR.

v.

SARLETTA RICHARDSON

Wells, C.J.
Reed,
Battaglia, Lynne A.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: November 4, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant Thearone Richardson, Jr., appeals from a judgment of absolute divorce that the Circuit Court for Baltimore County granted his wife, appellee Sarletta Richardson. For the reasons that follow, we must dismiss the appeal because Mr. Richardson filed his notice of appeal beyond the 30-day time limit.

A brief recitation of the procedural history of this case will illustrate why we are compelled to dismiss. Through her attorney, Ms. Richardson filed an amended complaint for absolute divorce on December 4, 2017. Mr. Richardson, through his attorney, answered on July 7, 2021. With counsels' assistance, the parties entered into a consent agreement which they acknowledged on the record in open court on June 21, 2022. Part of the agreed upon division of marital property included Ms. Richardson receiving a 30% share of her husband's pension, with some adjustments.

The parties hired an attorney to draft the Qualified Domestic Relations Order (QDRO) which would accomplish the transfer of funds. But for reasons that animate this appeal, Mr. Richardson refused to sign the QDRO. As a result, Ms. Richardson moved the circuit court to accept the QDRO as negotiated. The court held a hearing to address the parties' concerns in this regard on May 2, 2023. We do not have a transcript of that hearing, but the docket sheet shows that an order—presumably the QDRO—was “to be submitted by counsel.” This supposition is supported by the fact that on August 3, 2023, the court granted Ms. Richardson an absolute divorce and incorporated but did not merge the QDRO as originally drafted. Both the judgment of absolute divorce and the QDRO were docketed on August 14, 2023. That is the date that the appeals clock started running.

Mr. Richardson, now representing himself, filed two post-judgment motions on September 14, 2023: (1) a motion to reconsider, under Rule 2-535 and (2) a motion to alter or amend the judgment, under Rule 2-534. Neither of these motions were filed within the time limits prescribed by the respective Rules: 30 days from the date of judgment, in the case of the motion to reconsider¹ and 10 days from the same date, in the case of the motion to alter or amend. In other words, under the Rules, if Mr. Richardson wanted the court to reconsider its decision, he had until September 13, 2023 to make that request. In the case of the motion to alter or amend, he had until August 24, 2023 to make that request. As noted, he filed both motions on September 14, 2023.

Equally important, even if the motion to reconsider was timely filed, it would not have stopped the clock for Mr. Richardson to file his appeal. *Johnson v. Francis*, 239 Md. App 530, 541 (2018) (A motion for reconsideration filed more than ten days, but within 30 days, after entry of a judgment or order may still be considered by the trial court, pursuant to Rule 2-535, but it does not toll the running of the time to note an appeal.) Mr. Richardson was still required to file his appeal no later than September 13, 2023. He filed his notice of appeal on December 12, 2023.

On the other hand, the case law is clear that had Mr. Richardson timely asked the court to alter or amend the judgment, that would have stopped or “tolled” the time to appeal,

¹ Mr. Richardson did not allege fraud, irregularity, or mistake under Rule 2-535(b) which would have permitted him to file the motion “at any time.” In his motion to alter or amend, he asks the court to consider what he deems additional evidence about how his pension should have been divided, which he claims his attorney did not present to the court. *See Docket Entry of 9/14/23.*

but only until the court ruled on the motion. *Pickett v. Noba, Inc.*, 114 Md. App. 552, 557(1997) (“If the motion [under Rule 2-534] is filed within ten days of judgment, it stays the time for filing the appeal; if it is filed more than ten days after judgment, it does not stay the time for filing the appeal.”). The circuit court ruled on November 9, 2023, denying both motions. This means that even if he had timely filed the motion to alter or amend, Mr. Richardson was required to file his appeal no later than December 9, 2023. Again, Mr. Richardson filed his notice of appeal on December 12, 2023.

We realize that these rules might seem complicated and perhaps confusing, but they are the guidelines that every litigant, whether they are represented by an attorney or not, must follow and the Court must enforce. Consequently, we conclude that both of Mr. Richardson’s post-trial motions were filed too late. As a result, he was obligated to file his appeal within thirty days after the judgment of absolute divorce, which he did not do. Under Rule 8-202(a), a “notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” If not filed timely, “the appellate court acquires no jurisdiction, and the appeal must be dismissed.” *HIYAB, Inc. v. Ocean Petroleum, LLC*, 183 Md. App. 1, 8 (2008) (quoting *Houghton v. County Comm’rs of Kent County*, 305 Md. 407, 413 (1986)). Since July 1, 2018, Rule 8-602(b)(2) has expressly mandated dismissal if “the notice of appeal was not filed with the lower court within the time prescribed by Rule 8-202.” Because Mr. Richardson’s notice of appeal was more than 60 days beyond the time limit, we are compelled to dismiss the appeal.

APPEAL DISMISSED. APPELLANT TO PAY THE COSTS.