

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2062

September Term, 2022

RICHARD MOISE

v.

STATE OF MARYLAND

Reed,
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 30, 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.

Following a 2017 jury trial in the Circuit Court for Wicomico County, Richard Moise, appellant, was convicted of robbery, reckless endangerment, and four counts of conspiracy - to commit armed robbery, robbery, first-degree assault, and second-degree assault. This Court affirmed his convictions on direct appeal. *Moise v. State*, No. 2118, Sept. Term 2018 (filed Oct. 9, 2019).

In January 2023, appellant filed a motion entitled “Motion for Repleader,” seeking to vacate his convictions. In that motion, appellant asserted that he had also been charged, in two separate case numbers, with a different robbery, and that the charges in one of those case numbers had been expunged in 2021. He further claimed that the expungement had also expunged a “post *Miranda* interview” that he had given in that case. Because evidence of “the same post-*Miranda* interview” was introduced in this case, and provided [the] basis for the denial of the motion [for judgment of] acquittal” appellant contended his convictions in this case should be vacated. The court denied the motion without a hearing.

On appeal, appellant raises the same claims. Specifically, he contends that because the “post-*Miranda* interview was expunged” his conviction cannot stand because “an immaterial point was joined in the case.” He therefore asks the Court to order the circuit court to “vacate the conviction” and “start the case anew.” 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 the appeal.

Appellant cites to no authority authorizing the filing of a “Motion for Repleader” in a criminal case. And we are aware of none. For that reason alone, the circuit court did not err in denying appellant’s motion. Moreover, in our view, appellant is not entitled to

pursue a direct appeal from a proceeding unauthorized by law. “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).¹

The motion appellant filed in this case is not recognized by law in a criminal case. Its denial, therefore, does not constitute a final judgment, and is not, therefore appealable. To hold the motion appealable, would mean that litigants who invent their own method of litigation unauthorized by law could then create for themselves greater appellate

¹ 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 motion does not meet the requirements of any of these exceptions.

rights than litigants who follow extant law and procedure. That cannot be the law. Consequently, pursuant to Maryland Rule 8-602, we dismiss this appeal.²

**MOTION TO DISMISS APPEAL
GRANTED. COSTS TO BE PAID BY
APPELLANT.**

² Nothing in this opinion is meant to comment on the merits, *vel non*, of appellant's contentions or prejudice appellant's ability to pursue the relief he seeks through existing lawful mechanisms.