

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 60

September Term, 2024

IN THE MATTER OF RICHARD
FERGUSON

Beachley,
Albright,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 8, 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.

Richard Ferguson, appellant, was convicted of first-degree murder in 1989 and sentenced to life imprisonment. In August 2023, the Maryland Parole Commission held a parole hearing for appellant and determined that he was not suitable for parole and should be considered for parole again in 2025. Thereafter, appellant filed a petition for judicial review in the Circuit Court for Howard County. After filing that petition, he subsequently filed a petition for writ of mandamus within that case. In both petitions, appellant claimed, among other things, that the Parole Commission had violated the Ex Post Facto Clause by considering him for parole based on statutes and policies that took effect after the date that he committed the murder.

During the course of the administrative proceedings, appellant filed a “Praecipe for Rule,” wherein he requested to conduct discovery and also for the production of numerous documents including his parole file, Division of Correction case file, and recordings and transcripts from his previous parole hearings (the discovery motion). The Parole Commission filed an opposition asserting that appellant had failed to make “a strong showing of the existence of fraud or extreme circumstances that occurred outside of the scope of the administrative record,” which is required before a party challenging an agency action may engage in discovery. *See* Maryland Rule 7-402(c). On February 29, 2024, the court entered an order denying the discovery motion “for the reasons set forth in the Opposition . . . filed by the Maryland Parole Commission.” Appellant filed a notice of appeal from that order on March 11, 2024. Appellee has filed a motion to dismiss the appeal as having been taken from a non-final judgment. For the reasons that follow, we shall grant the motion to dismiss the appeal.

This Court only has jurisdiction over an appeal when it is taken from a final judgment or is otherwise permitted by law. *See Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 273-74 (2009). A final judgment is a judgment that “disposes of all claims against all parties and concludes the case.” *Matter of Donald Edwin Williams Revocable Tr.*, 234 Md. App. 472, 490 (2017) (quotation marks and citation omitted). “An order will constitute a final judgment if the following conditions are satisfied: (1) it must be intended by the court as an unqualified, final disposition of the matter in controversy; (2) it must adjudicate or complete the adjudication of all claims against all parties; and (3) the clerk must make a proper record of it on the docket.” *Waterkeeper All., Inc. v. Md. Dep’t of Agric.*, 439 Md. 262, 278 (2014) (internal quotation marks and citation omitted). There are only three exceptions to the final judgment requirement: appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602(b); and appeals from interlocutory rulings permitted under the common law collateral order doctrine. *Johnson v. Johnson*, 423 Md. 602, 607 (2011).

Here, the circuit court’s orders denying the discovery motion did not resolve all of the issues raised in appellant’s petition for judicial review or petition for writ of mandamus. Consequently, no final judgment had been entered at the time appellant filed his notice of appeal.¹ Moreover, no exception to the final judgment rule applies. *See In re Foley*, 373 Md. 627, 634 (2003) (noting that discovery orders, “being interlocutory in nature, are not

¹ Although Sections (d) and (e) of Maryland Rule 8-602 contain limited savings provisions for premature appeals, neither of those provisions apply in this case.

ordinarily appealable prior to a final judgment terminating the case in the trial court” (quotation marks and citation omitted)).² Consequently, appellant’s notice of appeal was premature, and the appeal must be dismissed.

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

² The court entered its final judgment affirming the decision of the Parole Commission on May 14, 2024. Appellant did not file a new notice of appeal from that order.