Circuit Court for Kent County
Case No. 14-K-00-005129

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 90

September Term, 2025

DAVID WAYNE STARKEY, JR.

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 2025

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

In 2000, a jury in the Circuit Court for Kent County convicted David Wayne Starkey, Jr., appellant, of one count of first-degree murder and two counts of attempted murder. The court sentenced him to a total term of life imprisonment, plus 15 years. In 2025, appellant filed a motion for a substance abuse evaluation, and commitment for substance abuse treatment, pursuant to Health-General Article §§ 8-505 and 507. The court denied the motion without a hearing, stating only that the motion was "denied." This appeal followed. On appeal, appellant contends that the court abused its discretion in "arbitrarily and summarily denying [his] motion[.]"[1] The State has filed a motion to dismiss the appeal as not allowed by law. For the reasons that follow, we shall grant the motion to dismiss.

Health-General §§ 8-505(a)(1)(i) and 8-507(a)(1) provide that a court, pursuant to certain conditions, "may" order an evaluation for substance abuse and "may" commit a defendant for treatment. As such, whether to grant relief is left to the court's discretion.

The State maintains that the court's denial of appellant's motion is not an appealable order and moves to dismiss the appeal for that reason. The State points out that neither Health-General § 8-505 nor § 8-507 provide for appellate review of a decision to deny a request for substance abuse evaluation or commitment for treatment. Moreover, the State, relying on *Fuller v. State*, 397 Md. 372, 394-95 (2007), asserts that a motion for commitment for treatment pursuant to Health-General § 8-507 is not a final order or an

[1] Appellant also contends that the court erred in not immediately sending him a copy of its decision. He acknowledges, however, that he eventually received a copy of the order. And he was able to file a timely notice of appeal. Consequently, he has failed to demonstrate how he was prejudiced by this alleged error.

appealable collateral order because there is no limit on the number of motions a defendant may file. The State further maintains that this Court's decision in *Hill v. State*, 247 Md. App. 377 (2020), which addressed a decision denying relief under Health-General § 8-507, is distinguishable. The State points out that here, unlike in *Hill*, the record does not reflect that the circuit court believed it lacked authority to grant appellant's motion.

We agree with the State that *Hill* is distinguishable from the matter presently before us. In *Hill*, we held that there was appellate jurisdiction to consider the denial of an inmate's Health-General § 8-507 request where the circuit court ruled that it was precluded from authorizing treatment because the petitioner had been convicted of a crime of violence and was not yet parole eligible. *Id.* at 389. Although Hill had previously qualified for treatment and the court had indicated its willingness to authorize it, *id.* at 380-81, in 2018 the legislature amended the statute and disallowed commitment for drug treatment for prisoners convicted of crimes of violence until they became eligible for parole. *Id.* at 381-82. The circuit court rejected Hill's contention that applying those amendments to him violated the *Ex Post Facto* Clause found in Article 1 of the United States Constitution and Article 17 of the Maryland Declaration of Rights because the statutory amendments were enacted after his 2011 conviction. *Id.* at 382. When Hill appealed, the State argued that, pursuant to *Fuller*, this Court lacked jurisdiction to consider the appeal. *Id.* at 383. We disagreed. In short, we noted that "the court's express determination that application of the 2018 amendments to Hill do not violate the *Ex Post Facto* Clause is final in that it denies Hill any possibility of being granted an HG § 8-507 commitment until after he reaches parole eligibility." *Id.* at 389. Hence, we concluded that the ruling in Hill's case

constituted a final judgment and, therefore, this Court had jurisdiction to consider his appeal. *Id.*

In contrast, there is nothing in the record in the instant case to indicate that the court believed that it was prohibited from granting relief, or that it exercised its discretion "arbitrarily," as appellant claims. As the State points out, the Supreme Court of Maryland has long recognized "[t]he presumption that trial judges know the law and apply it properly[.]" *State v. Chaney*, 375 Md. 168, 181 (2003).

Finally, we note that Health-General § 8-505(a)(1)(i) and § 8-507(a)(1) provide that a court, pursuant to certain conditions, "may" order an evaluation for substance abuse and "may" commit a defendant for treatment. As such, whether to grant relief is left to the court's discretion. Neither statute requires a court to set forth its reasons for denying a request for an evaluation or commitment for treatment, provides a right to a hearing, or provides the right to an appeal from an adverse decision. In sum, we hold that the court's order denying appellant's request for substance abuse evaluation is not appealable. Therefore, we shall grant the State's motion to dismiss. *See Fuller*, 397 Md. at 380 ("the denial of a petition for commitment for substance abuse treatment pursuant to Section 8-507 of the Health-General Article is not an appealable order").

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