

Circuit Court for Allegany County
Case No. C-01-CV-25-000017

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 119

September Term, 2025

IN THE MATTER OF FRANKLIN
RODRIGUEZ-GUTIERREZ

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

JJ.

PER CURIAM

Filed: November 26, 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

On January 23, 2025, Franklin Rodriguez-Gutierrez, appellant, filed a petition for judicial review in the Circuit Court for Allegany County from a final decision of the Inmate Grievance Office. Along with that petition, he filed a Request for Waiver of Prepaid Costs pursuant to Maryland Rule 1-325 averring that he had no income or assets. The same day, the court issued an order denying the fee waiver request on the grounds that appellant: (1) had not satisfied the requirements of Section 5-1002 of the Courts & Judicial Proceedings Article, and (2) had not provided proof necessary to demonstrate that he had fully exhausted his administrative remedies. In denying the request, the court noted that, within 30 days, appellant had to either provide the required information or remit \$165 to the Clerk of the Court. If not, the petition would either be dismissed or “deemed withdrawn.”

On February 27, 2025, appellant filed a response wherein he “aver[red],” that the “claim is sufficiently serious;” “there is a very good likelihood of success of the claim;” “consideration of claim is urgent;” “the issue presented is of serious concern;” “delay [in] consideration of the issues presented will prejudice the consideration of the claim;” he had “proof of exhaustion;” he was unemployed; and there “is little likelihood [he] will be able to accumulate sufficient funds.” He also provided an Inmate Account Summary which indicated that he had approximately \$252.47 in his institutional account. The court subsequently entered an order dismissing his petition without prejudice.

On appeal, appellant contends that the court erred in dismissing his petition because he provided all the necessary information it requested in its January 23, 2025, order. We disagree. Section 5-1002(c) provides that a court “may waive payment of the entire required filing fee” only upon a showing under oath that: (1) the prisoner is indigent, (2) the issue presented is of

serious concern, (3) delay would prejudice consideration of the claim, (4) the prisoner is not likely to accumulate sufficient funds to pay within a reasonable period of time, and (5) there is a reasonable likelihood of success on the merits. Such a showing must be made with “‘sufficient particularity,’ such that the court can make a determination as to its validity[.]” *Williams v. Cir. Ct. for Washington Cnty.*, 196 Md. App. 169, 178 (2010). When an inmate does not satisfy the requirements of CJP § 5-1002, the trial court is “not required to consider the motion.” *Massey v. Inmate Grievance Off.*, 153 Md. App. 691, 696 (2003).

Here, appellant’s initial request to waive the filing fee did not contain any of the information regarding the five factors set forth in CJP § 5-1002. And although his response to the court’s January 23, 2025, order listed the five factors, it contained no particularized information as to how they were satisfied in his case. Without such a showing, the circuit court could not have granted appellant’s request to waive prepaid costs as a matter of law. *See Williams*, 196 Md. App. at 179 (noting that substantial compliance with the five-factor test is insufficient). Consequently, we shall affirm the judgment of the circuit court.

**JUDGMENT OF THE CIRCUIT
COURT FOR ALLEGANY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**