

Circuit Court for Prince George's County
Case No.: CAL2011816

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 170

September Term, 2022

JUAN MCLENDON

v.

PRINCE GEORGE'S COUNTY, *et al.*

Kehoe,
Beachley,
Wright, Alexander, Jr.,
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 30, 2022

*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.

Juan McLendon, appellant, sued Prince George’s County and several County employees, appellees, in the Circuit Court for Prince George’s County for allegedly tortious conduct that occurred while McLendon was incarcerated at the Prince George’s County Detention Facility. The circuit court granted the County’s motion to dismiss McLendon’s complaint because he failed to exhaust his administrative remedies prior to filing suit. On appeal, McLendon contends the court erred for two reasons: (1) the facts justified his failure to comply with the required administrative procedure; and (2) the administrative remedies were rendered unavailable when he was transferred to an out-of-state prison. For the following reasons, we shall affirm.

We review the granting of a motion to dismiss for legal correctness. *Harris v. McKenzie*, 241 Md. App. 672, 678 (2019). McLendon is a “prisoner” as defined by Md. Code, Cts. & Jud. Proc. § 5-1001(g). As such he must “fully exhaust[] all administrative remedies for resolving [a] complaint or grievance” before filing a civil action. Md. Code, Cts. & Jud. Proc. § 5-1003(a)(1). Further, he must “attach proof of exhaustion of [his] administrative remedies to his complaint.” *Harris*, 241 Md. App. at 681. The record shows he failed to do either. The circuit court was therefore legally correct to dismiss his complaint. *Id.*

McLendon’s arguments that his failure was excusable are unpersuasive. McLendon first requested a grievance form in April 2017. He alleges that several prison employees refused his request, but admits he submitted a grievance in May. Before any action was taken on that grievance, McLendon sent an informal letter to the facility’s director alleging two additional grievances. Shortly thereafter, a prison employee visited McLendon to

discuss the grievance he submitted. But, in McLendon’s own words, he “refused to resolve the grievance with [her].” Per the County’s inmate grievance procedure, to continue seeking relief, McLendon had to file an appeal with the Director within five days. He did not. In fact, McLendon took no other action on his grievance until he filed suit nearly three years later. And finally, even if preserved, McLendon’s assertion that the administrative process was foreclosed when he was transferred to an out-of-state prison is unconvincing because he was not transferred until almost four months after he met with the prison employee. Thus, McLendon’s failure to exhaust his administrative remedies prior to filing his complaint was not excused, and the circuit court did not err in dismissing it.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**