

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 390

September Term, 2025

IN THE MATTER OF TONI DAVIS

Graeff,
Berger,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 4, 2026

*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.

Toni Davis, appellant, appeals from an order issued by the Circuit Court for Baltimore City, affirming a decision issued by the Office of Administrative Hearings (the OAH) which held that the Maryland Department of State Police (the Department) had properly denied her handgun permit application. Ms. Davis raises two issues on appeal: (1) whether the OAH erred in finding that she was not eligible to receive a handgun permit, and (2) whether the denial of her handgun permit violated her Second, Fifth, and Fourteenth Amendment rights under the United States Constitution. For the reasons that follow, we shall affirm the judgment.

Ms. Davis filed an application for a handgun permit with the Department, wherein she acknowledged that she had been in a “mental [institution or hospital] in 2008 for 3 days” and had been treated with an antipsychotic medication in 2007. The Department conducted a background check of Ms. Davis through the National Instant Criminal Background Check System (NICS) and determined that she had been either adjudicated as a “mental defective” or committed to a mental institution by the Virginia State Police in March 2006. Based on the results of the background check, the Department denied Ms. Davis’s application pursuant to 18 U.S.C. § 922(g)(4) which prohibits “any person who has been adjudicated as a mental defective or who has been committed to a mental institution” from possessing a firearm. Ms. Davis requested an informal review of that decision, which was sustained on April 2, 2024.

Ms. Davis then appealed to the OAH, which held a hearing. At that hearing, Trooper Justin Rann testified regarding the results of the Department’s investigation and submitted into evidence Ms. Davis’s handgun permit application and the NICS query results. Ms. Davis testified and did not dispute that she was committed or adjudicated as a mental defective in Virginia in 2006. She contended, however, that she was eligible for a handgun permit because the 2006 adjudication has been “expunged.” In support, Ms. Davis introduced a letter from the section chief at the Criminal Justice Information Services Division (CJIS) of the Federal Bureau of Investigation which indicated that a “review of the FBI [Universal Control Number] [appellant] provided disclosed that the [Identity History Summary] information associated with that [Universal Control Number] has been expunged.”

The Administrative Law Judge (ALJ) subsequently issued a final decision finding by a preponderance of the evidence that Ms. Davis had been committed to an institution or hospital on March 13, 2006, which prevented her from obtaining a handgun under federal law. The ALJ further found that the letter submitted by appellant specifically indicated that the CJIS was only a repository of “fingerprint identification and related Identity History Summary (IdHS) information”; that it was “unable to assist [her] regarding [her] request for removal of the NICS Indices record”; and that she would “need to contact the agency who submitted the NICS Indices record for their possible assistance in the matter.” Moreover, the ALJ noted that the expungement of an FBI Universal Control Number “is not the same as the NICS Indices record being expunged.” Because Ms. Davis was disqualified from possessing a handgun, and had not been granted relief from that

disqualification, the ALJ thus found that the Department had properly denied her request for a handgun permit. Ms. Davis then filed a petition for judicial review, and the circuit court affirmed the OAH’s decision. This appeal followed.

Ms. Davis first contends that the OAH erred in upholding the denial of her handgun permit application because the expungement of the “involuntary admission record by the FBI” nullified the basis for the denial of her handgun permit application. However, the ALJ found that the letter submitted by Ms. Davis did not prove that her 2006 adjudication had been expunged. And that finding is supported by the record, as the letter clearly states that the FBI could not help her remove the adjudication from NICS and that she would need to contact the reporting agency for assistance. Here, there was substantial evidence that appellant had been involuntarily committed in 2006. And because Ms. Davis did not prove by a preponderance of the evidence that this disqualification had been removed, the OAH did not err in finding that the Department had properly denied her application for a handgun permit.

Ms. Davis also raises two constitutional claims on appeal. Specifically, she asserts that denying her a handgun permit based on her having been involuntarily committed violated her right to bear arms under the Second Amendment, and that “Maryland’s lack of a relief-from-disability program for individuals with prior involuntary admissions” violated her right to due process under the Fifth and Fourteenth Amendments. She did not, however, raise these contentions in the OAH proceedings. Consequently, they are not preserved, and we will not consider them for the first time on appeal. *See Cap. Com. Props., Inc. v. Montgomery Cnty. Plan. Bd.*, 158 Md. App. 88, 102 (2004) (because the

appellant did not present to the administrative agency the argument it raised before this Court, the issue was not preserved); *Templeton v. Cnty. Council of Prince George's Cnty.*, 21 Md. App. 636, 645 (1974) (because the appellant did not present a question before a hearing examiner or District Council, the question was “not properly before this Court”).

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**