

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 421

September Term, 2025

PATRICK MICHAEL GARY

v.

STATE OF MARYLAND

Leahy,
Albright,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 10, 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 2016, a jury in the Circuit Court for Garrett County convicted Patrick Michael Gary, appellant, of sexual abuse of a minor, attempted second-degree rape, second-degree sexual offense, perverted sexual practice, fourth-degree sexual offense, and second-degree assault. Beginning in 2020, appellant filed numerous motions seeking a substance abuse evaluation and commitment for substance abuse treatment pursuant to Sections 8-505 and 507 of the Health-General Article (HG). In one of those motions, appellant also requested that he be transferred to the Department of Veterans Affairs for treatment pursuant to HG § 10-808. Those motions were denied without a hearing.

On August 9, 2024, appellant sent a letter asking the court to reconsider his request that he be “evaluated for the Veteran DHMH Article § 8-505/507.” The court responded by requesting that appellant “provide evidence of [his] projected release date.” After appellant did so, the court scheduled a “review” hearing for March 26, 2025. Following that hearing, a hearing sheet was entered on the docket, stating that appellant’s 8-505 and 10-808 motions had been “denied in open court.” This appeal followed.

On appeal, appellant contends that the court erred in finding that it lacked jurisdiction to “transfer custody to a federal agency” for drug and alcohol treatment. The State counters that the court properly denied his request for a transfer under HG § 10-808. The State further asserts that we should not consider any claims related to the denial of appellant’s petition for a substance abuse evaluation pursuant to HG § 8-505, because the denial of a petition for treatment under that subsection is not an appealable order. For the reasons that follow, we shall affirm the judgment of the circuit court.

HG § 10-808 allows for transfers to a Veterans’ Hospital from “a facility.” A facility is defined a “public or private clinic, hospital, or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.” HG § 10-101(g)(1). Moreover, such a transfer must be requested by either the Director of the Behavior Health Administration or the “administrative head of a facility.” HG § 10-808(c)(1), (e)(1). Here, appellant is neither confined in a “facility,” nor has there been any request by an authorized individual for his transfer. Thus, the court did not err in determining that it did not have the authority to transfer him to the Department of Veterans Affairs for substance abuse treatment

Finally, it is unclear whether appellant is also claiming that the court abused its discretion in denying his request for a substance abuse evaluation under HG § 8-505. But to the extent that he is attempting to raise such a claim, we shall not consider it. HG §§ 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 subsection, however, provides for appellate review of a decision to deny a request for substance abuse evaluation or commitment for treatment. Moreover, as set forth in *Fuller v. State*, 397 Md. 372, 394-95 (2007), a motion for commitment for treatment pursuant to Health-General § 8-507 is not a final order or an appealable collateral order because there is no limit on the number of motions a defendant may file.

To be sure, in *Hill v. State*, 247 Md. App. 377 (2020), 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[es] 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.*

Here, however, the hearing sheet entered on the docket only indicates that the motion was “denied.” And appellant has not provided a copy of the hearing transcript. 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). Thus, unlike in *Hill*, there is nothing in the record to indicate that the court believed that it was prohibited from granting relief under HG § 8-505. In sum,

we hold that the portion of the court’s order denying appellant’s request for substance abuse evaluation is not appealable. Therefore, we will not consider any of appellant’s claims with respect to that order.

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