

Circuit Court for Baltimore County
Case No. C-03-CV-25-001136

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 691

September Term, 2025

KENNETH KELLY

v.

STATE OF MARYLAND

Wells, C.J.,
Albright,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 25, 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.

Kenneth Kelly,¹ appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a petition for writ of habeas corpus. Mr. Kelly is incarcerated in the Western Correctional Institution in Cumberland, where he is serving a term of imprisonment for violation of probation. In March 2025, Mr. Kelly filed in the Circuit Court for Allegany County the petition, in which he contended that the Division of Corrections is miscalculating his “good conduct credits.” The court subsequently referred the petition to the Circuit Court for Baltimore County. *See* Rule 15-303(c) (if a petition for writ of habeas corpus “is made by . . . an individual confined or restrained as the result of a prior judicial proceeding, a judge to whom the petition has been made may refer the petition, without taking other action, to the administrative judge of the court in which the prior proceeding was held”). The petition was subsequently denied by the same judge that imposed the term of imprisonment.

Rule 15-303(c) states that “[u]pon receiving the referral” of a petition for writ of habeas corpus, an “administrative judge shall assign the petition to a judge in accordance with the assignment procedures of that court, except that, without the written consent of the individual confined or restrained, the petition shall not be assigned to any judge who sat at the proceeding as a result of which the individual was confined or restrained.” Here, the petition was assigned to the same judge who sat at the proceeding as a result of which Mr. Kelly was confined, and there is no evidence in the record that Mr. Kelly consented to the assignment of the petition to that judge. Accordingly, we reverse the denial of the

¹In the record, Mr. Kelly is also identified as Kenneth Kelly, Jr.

petition and remand the case to the circuit court with instructions to assign the petition to a different judge.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY REVERSED.
CASE REMANDED TO THAT COURT
FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION.
COSTS TO BE PAID BY BALTIMORE
COUNTY.**