

Circuit Court for Howard County
Case No. 13-K-13-053423

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1321

September Term, 2024

WALTER DERWIN POWERS

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 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.

Walter Derwin Powers, appellant, appeals from the denial, by the Circuit Court for Howard County, of a “Petition for Commitment to the Department of Health and Mental Hygiene for Treatment” (hereinafter “petition for commitment”) pursuant to Md. Code (1982, 2023 Repl. Vol.), §§ 8-505 and 8-507 of the Health-General Article (“HG”). For the reasons that follow, we shall affirm the judgment of the circuit court.

In June 2013, Mr. Powers was charged by indictment with armed robbery and related offenses. Prior to trial, the State submitted to Mr. Powers notice of its intention “to seek mandatory punishment, upon conviction herein, as a second or subsequent offender as authorized by law.” In April 2014, Mr. Powers was convicted by a jury of armed robbery, use of a handgun in the commission of a felony or crime of violence, illegal possession of a firearm after a prior conviction of a felony or crime of violence, and related offenses. The court subsequently imposed upon Mr. Powers a term of imprisonment of 25 years, to be served without the possibility of parole, for the armed robbery. For the use of a handgun in the commission of a felony or crime of violence, the court imposed a term of imprisonment of five years, to be served without the possibility of parole and consecutively to the sentence for armed robbery. For the illegal possession of a firearm after a prior conviction of a felony or crime of violence, the court imposed a term of imprisonment of five years, to be served without the possibility of parole and consecutively to the sentence for use of a handgun in the commission of a felony or crime of violence. The court merged the remaining convictions.

In May 2024, Mr. Powers filed the petition for commitment, in which he asked the court to “order an evaluation for suitable drug treatment from the Department of Health

and Mental Hygiene, Alcohol Abuse Administration and Drug Abuse Administration or it[s] designee for treatment for drug dependency.” The State filed a response to the petition in which it asked the court to deny the petition on the ground that Mr. Powers “is not eligible for relief under [HG] §§ 8-505 and 8-507 due to the mandatory nature of his sentence.” Following a hearing, the court denied the petition.

Mr. Powers contends that the court erred in denying the petition, because Md. Code (2002, 2021 Repl. Vol., 2023 Supp.), § 14-101(f)(2) of the Criminal Law Article (“CR”), states that a person sentenced to a mandatory sentence for a crime of violence “may petition for and be granted parole if the person . . . is at least 60 years old . . . and . . . has served at least 15 years of the sentence.” But, the Supreme Court of Maryland has stated that because CR § 14-101(c)(2) “specifically directs that courts may not suspend ‘all or part’ of such sentences,” and “makes no reference to alternate sentencing or commitment pursuant to the Health-General Article,” the “plain language of [the statute] clearly leads to the conclusion that it was not intended that persons sentenced under the statute also would be eligible for sentencing under [HG] § 8-507.” *State v. Green*, 367 Md. 61, 82 (2001). Mr. Powers is ineligible for sentencing under HG § 8-507, and hence, the court did not err in denying the petition for commitment.

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