

Circuit Court for Baltimore City
Case No.: C-24-CV-24-003964

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1494

September Term, 2025

BILLY G. ASEMANI

v.

SECRETARY DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONAL SERVICES

Nazarian,
Leahy,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 29, 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.

Billy G. Asemani, representing himself, filed a complaint in the Circuit Court for Baltimore City against the Maryland Department of Public Safety and Correctional Services (“DPSCS”) in which he sought a declaration of the “proper application / interpretation” of § 3-706(a)(4) of the Correctional Services Article of the Maryland Code. That statute provides that, “an incarcerated individual may be allowed a deduction of 5 days from the incarcerated individual’s term of confinement for each calendar month during which the incarcerated individual manifests satisfactory progress in or completion of . . . cognitive-behavioral therapy[.]” In his complaint, he asserted that a judicial “determination of the exact legislative-intent, regarding ‘cognitive-behavioral therapy’s’ import” would affect his mandatory release date by either moving it “forward significantly” or leaving it unchanged. Asemani acknowledged that he had filed a petition for writ of habeas corpus relief in the Circuit Court for Howard County “based on the same claim,” but he asserted this case was different because in the habeas petition he had claimed he was “entitled to immediate release” whereas his “goal” in this complaint was “to obtain a declaration as to how many days of credit he is owed by the State” based on his alleged participation in cognitive-behavioral therapy “during the past nineteen years.”

On August 1, 2025, DPSCS filed a motion to dismiss, or in the alternative, for summary judgment. As grounds, DPSCS asserted that, the issue between the parties had already been litigated in the habeas case where the habeas court, in a written opinion filed on May 7, 2024, ruled in its favor. The habeas court found that Asemani had failed to establish that he had “been in continuous cognitive behavioral therapy from 2007 to present” and, other than a 2007 document, produced no evidence “demonstrating continued

involvement, satisfactory progress or completion of [such a] program.” Accordingly, the habeas court denied relief. Thus, DPSCS argued that the present case was barred by the doctrine of res judicata given that the parties and the issue in both cases were the same.

In the alternative, DPSCS argued the declaratory judgment complaint should be dismissed, or summary judgment granted in its favor, because Asemani failed to exhaust his administrative remedies prior to filing the complaint. DPSCS asserted that, pursuant to the Maryland Prisoner Litigation Act, Courts & Judicial Proceedings § 5-1001 *et seq.*, incarcerated individuals must exhaust administrative remedies prior to filing a civil action, such as this one.

Two weeks later, on August 15, 2025, Asemani filed a motion requesting that the court place this case “in abeyance” pending the resolution of certain state and federal cases (the resolution of which he asserted could “render the instant matter moot”) or, in the alternative, that he be granted an extension of time to respond to DPSCS’s motion to dismiss the case. On August 26, 2025, the court filed an order granting DPSCS’s motion (which it treated as one for summary judgment) and entered judgment in its favor. The court did not rule on Asemani’s August 15th motion.

On appeal, Asemani presents a single question for this court’s review: “Did the lower court abuse its discretion by dismissing the case without considering / ruling-on pro se appellant’s timely motion for extension of time?”

Asemani maintains that “[t]he lower court’s dismissal of the case before deciding [his] motion for extension of time, and without mentioning such motion in the dismissal order, constitutes an abuse of discretion requiring reversal of said order.” He requests that

this Court “set aside” the order and remand the case to the circuit court to allow him to respond to DPSCS’s motion to dismiss.

DPSCS asserts that the circuit court did not err or abuse its discretion in ruling on its motion to dismiss, or alternatively for summary judgment, because Asemani failed to file a response to that motion within 15 days. It further asserts that any extension of time given to Asemani to respond would not have changed the “applicable, straightforward legal analysis[,]” and, therefore, his argument on appeal “is without merit.” DPSCS points out that *res judicata* is an “affirmative defense and purely a question of law that is determined solely through an examination of the pleadings in both cases” and Asemani did not raise any new facts or grounds for relief that he had not raised in the earlier habeas corpus petition. Moreover, DPSCS maintains that the court properly entered judgment in its favor because the declaratory judgment action was not only barred by the doctrine of *res judicata*, but inappropriate because Asemani had not exhausted administrative remedies by first filing a grievance with the Incarcerated Individual Grievance Office. In a reply brief, Asemani does not challenge the circuit court’s ultimate ruling, but insists that the court could not render a judgment without first ruling on his motion for an extension of time to respond to DPSCS’s motion.

We agree with DPSCS. The issue as to the amount of diminution credits Asemani has or has not earned for “manifest[ing] satisfactory progress in or completion of . . . cognitive-behavioral therapy” while serving his term of imprisonment is an issue the parties in this case litigated in the habeas action. We, therefore, agree with DPSCS that this declaratory judgment action was barred by the doctrine of *res judicata*. *Colandrea v.*

Wilde Lake Community Association, 361 Md. 371, 392 (2000) (A judgment in a prior action by the same parties litigating the same issue “is a final bar to any other suit upon the same cause of action and is conclusive, not only as to all matters decided in the original suit, but also as to matters that could have been litigated in the original suit.”) (Emphasis omitted.)

Moreover, even if *res judicata* was not a bar to the declaratory judgment action, we agree with DPSCS that Asemani was first required to seek a resolution of his dispute—that is, the amount of diminution credits, if any, he is entitled to for engaging in cognitive-behavioral therapy while incarcerated—through the incarcerated individual grievance procedures. *See Young v. Anne Arundel County*, 146 Md. App. 526, 560 (2002) (“[A] litigant is usually required to exhaust administrative remedies before pursuing a declaratory judgment as a means of obtaining a statutory interpretation.”) (citations omitted)).

Accordingly, even assuming that the circuit court erred in ruling on DPSCS’s motion in this case without first ruling on Asemani’s motion to stay or provide him an extension of time to respond to the motion, any error or abuse of discretion was harmless.

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