

Circuit Court for Somerset County
Case No. C-19-CV-24-000110

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1522

September Term, 2024

IN THE MATTER OF DEON TURNER

Shaw,
Ripken,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 2, 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 September 2024, Deon Turner, appellant, filed a petition for judicial review in the Circuit Court for Somerset County from a final decision of the Inmate Grievance Office. Along with that petition, he filed a Request for Waiver of Prepaid Costs pursuant to Maryland Rule 1-325 averring that he had no income or assets. He also included an Inmate Account Summary which indicated that he had approximately \$128 in his institutional account. The court subsequently entered an order denying his request for waiver of prepaid costs on the grounds that it had “granted waivers in [other petitions]” but that appellant had “sufficient funds to pay fees” in this case. This appeal followed. On appeal, appellant contends that the court abused its discretion in denying his fee waiver request because “the submitted inmate account summary included for disclosure [showed] a total balance below the court costs” and the court did not make any findings that his petition for judicial review was frivolous. For the reasons that follow, we shall affirm.

As an initial matter, we note that appellant’s request for a waiver of prepaid costs is not governed by Maryland Rule 1-325. Rather, it is governed by Section 5-1002 of the Courts and Judicial Proceedings Article which “sets forth [additional] limitations on those situations in which a trial court can waive or reduce filing fees.” *Massey v. Inmate Grievance Off.*, 153 Md. App. 691, 694 (2003). And those “limitations are specifically applicable to inmates and exceed those limitations set forth by . . . Md. Rule 1-325(a).” *Id.* Section 5-1002(c) provides that a court “may waive payment of the entire required filing fee” only upon a showing under oath that: (1) the prisoner is indigent, (2) the issue presented is of serious concern, (3) delay would prejudice consideration of the claim, (4) the prisoner is not likely to accumulate sufficient funds to pay within a reasonable period of time, and (5) there is a reasonable

likelihood of success on the merits. Such a showing must be made with “‘sufficient particularity,’ such that the court can make a determination as to its validity[.]” *Williams v. Cir. Ct. for Washington Cnty.*, 196 Md. App. 169, 178 (2010). When an inmate does not satisfy the requirements of CJP § 5-1002, the trial court is “not required to consider the motion.” *Massey*, 153 Md. App. at 696.

Here, we need not determine whether the court abused its discretion in finding that appellant could afford the filing fee because appellant provided no information regarding the basis or merits of the underlying administrative complaint. As such, there was nothing from which the circuit court could make a determination regarding the seriousness of the issues to be raised, the prejudice that could be caused by any delay in considering the claim, or the likelihood of success on the merits. And without a showing that all five factors set forth in CJP § 5-1002(c) were satisfied, the circuit court could not have granted appellant’s request to waive prepaid costs as a matter of law. *See Williams*, 196 Md. App. at 179 (noting that substantial compliance with the five-factor test is insufficient).¹ Consequently, we shall affirm the judgment of the circuit court.

**JUDGMENT OF THE CIRCUIT
COURT FOR SOMERSET COUNTY**

¹ To be sure, the court did not address CJP § 5-1002(c) in its order. Nevertheless, it is unnecessary to remand this matter to the circuit court because the denial of appellant’s fee waiver request under the circumstances was required by law. *See Morris v. Goodwin*, 230 Md. App. 395, 410-11 (2016) (declining to remand for a hearing where the circuit court’s “dismissal of appellant’s petition [was] mandated by law”); *Express Auction Servs., Inc. v. Conley*, 127 Md. App. 447, 450 (1999) (noting that, though summary judgment was granted without a hearing in error, remanding the case to hold a hearing would serve no practical purpose where the “only substantive issue . . . on appeal . . . [was] a narrow issue of law” to be addressed in the Court’s opinion).

**AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**