

Circuit Court for Allegany County
Case No.: C-01-CV-24-000253

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1618

September Term, 2024

WAYNE RESPER

v.

WESTERN CORRECTIONAL INSTITUTION

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

JJ.

PER CURIAM

Filed: April 1, 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.

Wayne Resper, appellant, is incarcerated in the Western Correctional Institution (“WCI”), appellee, in Cumberland. In June 2024, Resper filed a Request for Administrative Remedy with the Division of Correction alleging that WCI staff were mishandling his mail. Resper’s request was dismissed after the Division reviewed the surveillance footage of the mail room and found no misconduct. Resper then sued WCI, in the Circuit Court for Allegany County, for the same alleged tortious conduct related to the handling of his mail.

Resper did not attach to his complaint proof that he had exhausted his administrative remedies. Accordingly, the court ordered Resper to correct the deficiency within 30 days or his complaint would be dismissed. Resper failed to do so, and the court dismissed his complaint. This appeal followed.

We review dismissal of a complaint for legal correctness. *See Harris v. McKenzie*, 241 Md. App. 672, 678 (2019). Resper is a “prisoner” as defined by Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 5-1001(g). As such, he must “fully exhaust[] all administrative remedies for resolving [a] complaint or grievance” before filing a civil action. CJP § 5-1003(a)(1). Further, he must “attach proof of exhaustion of [his] administrative remedies to his complaint.” *Harris*, 241 Md. App. at 681. Resper failed to do either.

On appeal, Resper claims that his failure should have been excused because there was no administrative remedy available for him to exhaust. Not true. The Division’s response to Resper’s request, which he attached to his complaint, states that Resper could appeal the response by following the procedure on the back of the form. He chose not to

do so. Thus, Resper's failure to exhaust his administrative remedies prior to filing his complaint was not excused, and the circuit court did not err in dismissing it.

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