

Circuit Court for Washington County  
Case No.: 21-K-00-026006

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1702

September Term, 2021

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THOMAS CLIFFORD WALLACE

v.

STATE OF MARYLAND

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Nazarian,  
Leahy,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: March 29, 2022

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 2000, a jury in the Circuit Court for Washington County found Thomas Clifford Wallace, appellant, guilty of first and second-degree murder. The court sentenced him to life imprisonment without the possibility of parole. Upon direct appeal, this Court affirmed the judgments. *Wallace v. State*, No, 218, September Term, 2001 (filed May 9, 2002).

In 2021, Mr. Wallace, representing himself, filed a motion for evaluation and commitment pursuant to Md. Code, Health-General §§ 8-505 and 8-507 seeking substance abuse evaluation and treatment. The State opposed “any modification of [his] sentence” and “commitment to any facility outside the Division of Correction.”<sup>1</sup> The court, “having . . . read and considered” the motion, denied relief. Mr. Wallace appeals that ruling.

We note, first, that Health-General §§ 8-505(a)(1)(i) and 8-507(a)(1) provide that a court, pursuant to certain conditions, “may” order an evaluation for substance abuse and “may” commit a defendant for treatment. As such, whether to grant relief is left to the court’s discretion. Neither statute requires a court to set forth its reasons for denying a request for an evaluation or commitment for treatment.

The State maintains that the court’s denial of Mr. Wallace’s motion is not an appealable order and moves to dismiss the appeal. The State points out that neither Health-General § 8-505 nor § 8-507 provide for appellate review of a decision to deny a request for substance abuse evaluation or commitment for treatment. Moreover, relying on *Fuller v. State*, 397 Md. 372, 394-95 (2007), the State asserts that a motion for commitment for treatment pursuant to HG § 8-507 “is not a final order or an appealable collateral order

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<sup>1</sup> Notably, the State did not maintain that Mr. Wallace was not eligible for evaluation or treatment.

because there is no limit on the number of motions a defendant may file, and thus the defendant’s rights are not settled by the denial of such a motion.”

The State further maintains that this Court’s decision in *Hill v. State*, 247 Md. App. 377 (2020), which addressed a decision denying relief under Health General § 8-507, is distinguishable. The State points out that here, unlike in *Hill*, the record does not reflect that the circuit court believed it lacked authority to grant Mr. Wallace’s motion, as the order itself reflects that the court in fact considered it.

We agree with the State that *Hill* is distinguishable from the matter presently before us. In *Hill*, we held that there was appellate jurisdiction to consider the denial of an inmate’s Health General § 8-507 request where the circuit court ruled that it was precluded from authorizing treatment because the petitioner had been convicted of a crime of violence and was not yet parole eligible. *Id.* at 389. Although Hill had previously qualified for treatment and the court had indicated its willingness to authorize it, in 2018 the General Assembly amended the statute and disallowed substance abuse evaluation and treatment under the statutes for prisoners convicted of crimes of violence until they became eligible for parole. *Id.* at 380-82. The circuit court rejected Hill’s contention that applying those amendments to him violated the *Ex Post Facto* Clause found in Article 1 of the United States Constitution and Article 17 of the Maryland Declaration of Rights because the statutory amendments were enacted after his 2011 conviction. *Id.* at 382.

When Hill appealed the State argued that, under *Fuller*, this Court lacked jurisdiction to consider the appeal. *Id.* at 383. We disagreed. In short, we noted that “the court’s express determination that application of the 2018 amendments to Hill do not

violate the *Ex Post Facto* Clause is final in that it denies Hill any possibility of being granted an HG § 8-507 commitment until after he reaches parole eligibility.” *Id.* at 389. Hence, we concluded that the ruling in Hill’s case constituted a final judgment and, therefore, this Court had jurisdiction to consider his appeal. *Id.*

In contrast, the court’s order in this case reflects that the court read and considered Mr. Wallace’s request, and there is nothing in the record to indicate that the court believed that it was prohibited from granting relief. Accordingly, we hold that the court’s order denying Mr. Wallace’s requests for substance abuse evaluation and commitment for treatment is not appealable. *See Fuller*, 397 Md. at 380 (“the denial of a petition for commitment for substance abuse treatment pursuant to Section 8-507 of the Health-General Article is not an appealable order.”). *Compare Hoile v. State*, 404 Md. 591, 615 (2008) (“the denial of a motion to modify a sentence, unless tainted by illegality, fraud, or duress, is not appealable”) and *Brown v. State*, 470 Md. 503, 548, 551 (2020) (acknowledging *Hoile’s* principle that a motion for modification of sentence filed pursuant to Rule 4-345(e) is committed to the court’s discretion and the denial of that motion is not subject to appeal).

**STATE’S MOTION TO DISMISS APPEAL  
GRANTED.**

**APPEAL DISMISSED.**

**COSTS TO BE PAID BY APPELLANT.**