

Circuit Court for Allegany County
Case No. C-14-40864

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 409

September Term, 2016

FRANKLIN T. GIBBS

v.

STATE OF MARYLAND

Woodward, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 3, 2017

*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.

Franklin Gibbs, appellant, brought suit in the Circuit Court for Allegany County against the Office of the Public Defender, appellee, alleging violations of the Maryland Public Information Act. Appellee filed a motion for summary judgment, the circuit court granted the motion, and this appeal followed. Gibbs’s sole claim on appeal is that the circuit court erred in granting the motion for summary judgment without holding a hearing because, he claims, a hearing was required pursuant to Maryland Rules 2-311(f) and 7-208.¹ For the following reasons, we shall affirm.

Maryland Rule 2-311(f) provides that the circuit court must hold a hearing on a dispositive motion if the party desiring a hearing “requested the hearing in the motion or response under the heading ‘Request for Hearing.’” Rule 2-311(f) also requires the title of the motion or response to “state that a hearing is requested.”

On February 26, 2016, appellee filed a “Motion to Continue Trial and Request for Clarification,” requesting the circuit court either to reconsider its prior denial of appellee’s motion to dismiss or to grant summary judgment in appellee’s favor. In response, Gibbs filed a “Motion for Summary Judgment and Response to Defendant’s Motion to Continue Trial and Clarification.” In that motion, Gibbs requested the court to deny appellee’s

¹ In his reply brief, Gibbs raises several claims regarding the merits of the summary judgment motion. However, these contentions were not raised in his original brief and “[a] reply brief cannot be used as a tool to inject new arguments.” *See Strauss v. Strauss*, 101 Md. App. 490, 509 n. 4 (1994). Consequently, we decline to exercise our discretion to address those claims on appeal. *See Jones v. State*, 379 Md. 704, 713 (2004) (explaining that “an appellate court ordinarily will not consider an issue raised for the first time in a reply brief”).

motion and to grant “summary judgment in his favor.” Gibbs did not request a hearing in his response or file any subsequent pleadings requesting a hearing on appellee’s motion. Because Gibbs failed to request a hearing in the manner required by Rule 2-311(f), the trial court did not err in not holding a hearing.²

Gibbs alternatively contends that he was entitled to a hearing pursuant Maryland Rule 7-208(a). However, that rule only applies to “actions for judicial review of (1) an order or action of an administrative agency, where judicial review is authorized by statute, [or] (2) a final determination of the trustees of the Client Protection Fund of the Bar of Maryland.” *See* Md. Rule 7-201(a). Because Gibbs was not seeking judicial review of an agency decision or a final determination of the Client Protection Fund, Rule 7-208(a) did not require the circuit court to hold a hearing on appellee’s motion.

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

² Gibbs notes that he filed a “Notice of Hearing” in December 2016, requesting a hearing on the merits of his complaint. However, that pleading was filed approximately two months before appellee filed its motion for summary judgment and, therefore, cannot be construed as a request for a hearing on that motion under Rule 2-311(f).