

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2318

September Term, 2024

JOHANN MARTIN YARBOROUGH

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 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.

Following a 2008 jury trial in the Circuit Court for Montgomery County, Johann Martin Yarborough, appellant, was convicted of one count of first-degree murder. The court sentenced him to life imprisonment without parole. In 2024, appellant filed a petition for a substance abuse evaluation, and commitment for substance abuse treatment, pursuant to Health-General Article §§ 8-505 and 507. The court denied the motion, finding that he was “not eligible for an evaluation because he is serving a sentence for a crime of violence.” On appeal, appellant claims that: (1) the court “violate[d] the constitutional prohibitions against ex post facto laws when it concluded that it had no authority to consider [his] petition,” and (2) in 2014, the post-conviction court erred when it orally granted him the right to file a belated motion for modification of sentence, but then denied him that relief in its written order. For the reasons that follow, we shall reverse the judgment of the circuit court and remand the case for the court to consider appellant’s petition for a substance abuse evaluation on the merits.

As to the first issue raised by appellant, the State concedes that the court erred in finding that appellant was ineligible for a drug treatment evaluation referral as a matter of law. We agree. In *Hill v. State*, 247 Md. App. 377 (2020), this Court held that the 2018 amendment to the Health-General Article did not apply to people who were already serving sentences for crimes of violence at the time the amendment was passed because that would be a “quintessential *ex post facto* violation[.]” *Id.* at 402. Because appellant was already serving his sentence when the legislature passed the 2018 amendment, it does not apply to him. He therefore remains eligible for an evaluation to determine whether he is in need of

drug treatment under the Health-General Article despite the fact that he is serving a sentence for a crime of violence.

Appellant’s remaining claim of error regarding the actions of the post-conviction court in 2014 is not properly before us in this appeal. First, even if we assume that the post-conviction court erred in denying appellant the right to file a belated motion for modification of sentence, that has no bearing on whether he was eligible for a substance abuse evaluation, or commitment for substance abuse treatment. More importantly, any issues related to the post-conviction process must be raised by way of an application for leave to appeal. *See* Md. Rule 8-204.¹

**JUDGEMENT REVERSED AND
CASE REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE PAID
BY MONTGOMERY COUNTY.**

¹ In fact, the record indicates that appellant filed an application for leave to appeal from the denial of his post-conviction petition in 2014, which was denied. In 2020, he also raised this issue in several motions to reopen his postconviction proceedings. But those motions were denied, and appellant did not apply for leave to appeal.