

Circuit Court for Wicomico County
Case No. C-22-CV-23-000173

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1320

September Term, 2023

IN THE MATTER OF RICHARD MOISE

Arthur,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 4, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Richard Moise, appellant, appeals from the denial, by the Circuit Court for Wicomico County, of a motion for partial summary judgment, and the court’s granting of a motion to dismiss. For the reasons that follow, we shall dismiss the appeal.

On May 8, 2023, Mr. Moise sent to the Office of the State’s Attorney for Wicomico County (hereinafter “Office”) a letter in which he requested “any record in [the Office’s] posses[s]ion that ref[er]ences[] the criminal investigation of case no. C-22-CR-17-000042.” On May 16, 2023, the Office sent to Mr. Moise a letter in which it denied the request. On May 26, 2023, Mr. Moise filed in the circuit court a “request for judicial review,” in which he contended that on March 1, 2023, he sent to the Office “a request for information regarding whether or not the [O]ffice used any information that derived from . . . expunged case [number] C-22-CR-17-000042[] in the indictment[] and conviction of case no. C-22-CR-17-000278.” Mr. Moise contended that he received no response to the request, and hence, he “was willfully denied access to a public record.” On June 26, 2023, Mr. Moise filed an “Amended Complaint,” in which he contended that, for numerous reasons, the Office’s denial of his May 8, 2023 request was impermissibly deficient.

On July 13, 2023, the Office filed a motion to dismiss the complaint, in which it contended that, for numerous reasons, Mr. Moise “fail[ed] to state a claim upon which relief may be granted.” On July 17, 2023, Mr. Moise filed a motion for partial summary judgment. In an accompanying memorandum, Mr. Moise requested that the court “enter judg[ment] in his favor as to all claims,” on the ground that the Office’s response of May 16, 2023 did not meet the requirements of Md. Code (2014, 2019 Repl. Vol., 2022 Supp.), § 4-203(c) of the General Provisions Article (requiring a custodian who denies an

application to inspect a public record to give the applicant a written statement containing, among other information, “the reasons for the denial,” “the legal authority for the denial,” and “notice of the remedies . . . for review of the denial”). On July 24, 2023, the court denied the motion for partial summary judgment.

On August 25, 2023, the court held a hearing on the motion to dismiss and other pending motions. Following the hearing, the court stated, in pertinent part:

. . . I agree with [the Office]. Mr. Moise, you failed to state a claim for which relief can be granted on any of your allegations, and so I’m granting the motion to dismiss, which renders moot all the other outstanding motions.

* * *

And it’s a dismissal without prejudice, Mr. Moise.

Now, let me just tell you something. You’ve obviously done a lot of research. These are complicated procedural matters. As a lawyer, I was an administrative law lawyer and then subsequently an administrative law judge, so . . . I’m very familiar with these statutes you’re talking about.

I believe they have through the prison system, in addition to the library, some legal services that are available. You might avail yourself of some assistance in working your way through what are these very complicated – you obviously have a grasp of their understanding, but they’re very complicated.

And in this particular case, you might want to do that if you intend to refile this motion, which I’m dismissing your case, which I’m dismissing without prejudice.

And I’m not saying you’d be successful if you did. I’m just saying that if that’s the way you want to go, you might want to get some legal assistance before you proceed because it’s very difficult to navigate all these things.

All right. So I’m going to grant the motion to dismiss. It’s without prejudice.

Mr. Moise contends that, for numerous reasons, the court erred in denying the motion for partial summary judgment and granting the motion to dismiss. We shall dismiss the appeal for two reasons. First, we have stated that “an order dismissing claims without prejudice and granting leave to file an amended complaint is not a final judgment, and therefore is not appealable.” *Doe v. Sovereign Grace Ministries*, 217 Md. App. 650, 661 (2014) (citations and emphasis omitted). Here, the court explicitly dismissed Mr. Moise’s claims without prejudice, and clearly granted him leave to file an amended complaint. Second, we have stated that “the denial of a motion for summary judgment is an interlocutory order which is not appealable, absent a final judgment disposing of all claims before the court.” *Washington Mut. Bank v. Homan*, 186 Md. App. 372, 407 (2009) (citations omitted). Accordingly, we dismiss the appeal.

**APPEAL DISMISSED. COSTS TO BE PAID
BY APPELLANT.**