

Circuit Court for Baltimore County
Case No.: 03-K-08-001523

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2010

September Term, 2021

RICHARD L. GADSDEN

v.

STATE OF MARYLAND

Arthur,
Tang,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 3, 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 2009, Richard L. Gadsden, appellant, entered a plea of guilty to first-degree rape in the Circuit Court for Baltimore County. The court sentenced him to life imprisonment, with all but 30 years suspended. In December 2021, Gadsden, representing himself, filed a motion for substance abuse evaluation and treatment pursuant to Md. Code, Health-General § 8-505 and § 8-507. The circuit court denied the motion, noting that “Defendant is not a suitable candidate for 8-507 placement.” Gadsden appeals that ruling.

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.

The State maintains that the court’s denial of Gadsden’s motion is not an appealable order and moves to dismiss the appeal. The State points out that neither Health-General § 8-505 or § 8-507 provide for appellate review of a decision to deny a request for substance abuse evaluation or commitment for treatment. Moreover, the State, relying on *Fuller v. State*, 397 Md. 372, 394-95 (2007), asserts that a motion for commitment for treatment pursuant to Health-General § 8-507 is not a final order or an appealable collateral order because there is no limit on the number of motions a defendant may file.

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 Gadsden’s motion.

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, *id.* at 380-81, in 2018 the legislature amended the statute and disallowed commitment for drug treatment for prisoners convicted of crimes of violence until they became eligible for parole. *Id.* at 381-82. 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, pursuant to *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 considered Gadsden’s request and found that he was “not a suitable candidate for 8-507 placement.” There is nothing in the record to indicate that the court believed that it was prohibited from granting relief. Moreover, Gadsden’s motion, unlike Hill’s, did not raise any constitutional challenge to the statutes. Accordingly, we hold that the court’s order denying Gadsden’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.”).

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