

Circuit Court for Montgomery County
Case No. 97546C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2102

September Term, 2022

SAMSON ADEFERIS

v.

STATE OF MARYLAND

Nazarian,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 27, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*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.

Samson Adefris, appellant, appeals from the denial, by the Circuit Court for Montgomery County, of a petition for commitment for substance abuse treatment pursuant to Md. Code (1982, 2019 Repl. Vol., 2022 Supp.), §§ 8-505 and 8-507 of the Health-General Article (“HG”). For the reasons that follow, we shall dismiss the appeal.

On April 10, 2003, Mr. Adefris was charged by indictment with committing a first degree murder on or about April 4, 2002. On July 22, 2003, Mr. Adefris pleaded guilty to second degree murder and second degree rape. The court subsequently sentenced Mr. Adefris to a total term of imprisonment of fifty years, all but forty years suspended.

On February 28, 2018, Mr. Adefris filed a petition for evaluation for substance abuse treatment pursuant to HG § 8-505. On April 2, 2018, the court entered an order in which it denied the petition. “Effective October 1, 2018, . . . the General Assembly amended [HG § 8-507] to preclude a court from ordering a commitment for substance abuse treatment for a defendant convicted of a crime of violence until the defendant is eligible for parole.” *Hill v. State*, 247 Md. App. 377, 379 (2020) (quotations omitted). On November 28, 2022, Mr. Adefris filed a “Petition for Civil Commitment” pursuant to HG §§ 8-505 and 8-507, “or, in the Alternative, Modification.” On January 4, 2023, the court denied the petition “as it was previously ruled on April 2, 2018.”

Mr. Adefris contends that for three reasons, the court erred in denying the petition. First, Mr. Adefris contends that he is still “eligible for commitment . . . because the court’s ruling [of April 2,] 2018, . . . is ‘unqualified’ and his conviction . . . was well before the effective date of” the amendment to HG § 8-507. Second, Mr. Adefris contends that “the *Ex Post Facto* Clause required that [he] be issued commitment . . . pursuant to the more

lenient laws . . . that were in effect . . . when the crimes were committed, . . . not the [subsequent] versions.” Third, Mr. Adefris contends that the amendment to HG § 8-507 “creat[es] a significant risk of prolonging [his] incarceration and . . . an additional step which was not required before[,] violating the due process clause” and denying him “equal protection of laws.” Additionally, Mr. Adefris contends that “this Court must order a belated motion for modification or reduction of sentence[,] because [his trial counsel] failed to transmit the record, file a brief, file a motion for modification[,] and . . . file a post-conviction motion to vacate the sentences and convictions after being instructed to do so,” and because his “plea agreement was breached based on incorrect information tendered by trial counsel regarding . . . the maximum possible sentence.”

The State moves to dismiss the appeal for two reasons. First, “the denial of an [HG] § 8-507 motion is not appealable unless the court denied the motion for the reason that ‘legal principles . . . prevent the court from exercising its discretion.’” *Hill*, 247 Md. App. at 389. *See also Fuller v. State*, 397 Md. 372, 380 (2007) (“the denial of a petition for commitment for substance abuse treatment pursuant to [HG § 8-507] is not an appealable order”). Second, “the final two questions . . . should also be dismissed as not allowed by law,” because “the circuit court did not appear to address these alternative issues,” and hence, “there does not appear to be a final judgment on those issues.” Alternatively, the State requests that we affirm the court’s judgment.

We shall dismiss the appeal for two reasons. First, in *Hill*, we reversed the circuit court’s denial of a motion requesting commitment for substance abuse treatment because the court erroneously concluded that the 2018 amendment to HG § 8-507 precluded the

court from ordering such commitment for a defendant convicted of a crime of violence committed prior to the amendment. 247 Md. App. at 380. Here, the court’s order entered on April 2, 2018, simply states: “Defendant’s Petition for Evaluation Pursuant to Annotated Code of Maryland Health General § 8-505 be, and the same hereby is, DENIED.” (Boldface omitted.) Similarly, the court’s order of January 4, 2023, simply states: “Defendant’s Petition for Commitment to the Department of Health and Mental Hygiene for Treatment Pursuant to . . . § 8-505 through § 8-507 of the Health General Article . . . be, and the same hereby is, DENIED as it was previously ruled on April 2, 2018.” (Boldface omitted.) There is no evidence that the court denied Mr. Adefris’s petition for the reason prohibited by *Hill*, and the denial of a petition for commitment for substance abuse treatment is not otherwise appealable. Second, this Court cannot *sua sponte* award an appellant a belated motion for modification of sentence, as such relief must be pursued in the circuit court via a petition for post-conviction relief. Accordingly, we grant the State’s motion and dismiss the appeal.

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