

Circuit Court for Anne Arundel County
Case No. C-02-CV-20-001110

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 260

September Term, 2020

ANTHONY JOHNSON

v.

SECRETARY OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES, *et al.*

Nazarian,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 7, 2020

*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 1988 Anthony Johnson, appellant, was convicted of first-degree murder and use of a handgun in the commission of a crime of violence following a jury trial. The court imposed a life sentence on the first-degree murder count and a consecutive 20-year sentence on the handgun count. Mr. Johnson is currently an inmate at Jessup Correctional Institution.

In April 2020, Mr. Johnson filed, in the Circuit Court for Anne Arundel County, a “Petition for Release Due to Health Emergency” pursuant to Maryland Rule 15-1103, claiming that he should be immediately released because his confinement “pose[d] an immediate threat to his life and well-being due to the global pandemic COVID-19 (Coronavirus) disease.” Specifically, he claimed that he was at high risk of contracting and dying from COVID-19 because he was 54 years’ old and was confined in a cell with another inmate. The court denied the petition without a hearing finding that Mr. Johnson was “not eligible for relief pursuant to Maryland Rule 15-1101-1107.”

On appeal, Mr. Johnson claims that the court erred in denying his petition without appointing counsel, as required by Rule 15-1104(a); without holding a hearing, as required by Rule 15-1104(c); and without explaining the reasons for its decision, as required by Rule 15-1105(c). We disagree. Rules 15-1104-05 apply to petitions that are filed pursuant to Rule 15-1103(a), which provides that an “individual or group of individuals required to go to or remain in a place of isolation or quarantine by a directive of the Secretary [of Health] issued pursuant to Code, Health-General Article, § 18-906, Public Safety Article, § 14-3A-05, may contest the isolation or quarantine by filing a petition for relief in the circuit court[.]” However, as Mr. Johnson’s petition demonstrates, he is not being

quarantined or ordered to remain in isolation by a directive of the Secretary of Health. Rather, he is being incarcerated in the Division of Correction because of sentences that were lawfully imposed by the circuit court. And while we acknowledge the possibility that his incarceration might increase his risk of contracting COVID-19, that does not change the fact that Rule 15-1103 does not apply to someone in his situation. Because Mr. Johnson was not eligible to file a petition pursuant to Rule 15-1103 in the first instance, the court did not err in failing to comply with Rule 15-1104-05. Consequently, we shall affirm the judgment.¹

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

¹ Even if we were to assume that Mr. Johnson was entitled to counsel and a hearing simply by virtue of his having cited Rule 15-1103 in his petition, we would not reverse as he cannot demonstrate prejudice. *Sumpter v. Sumpter*, 436 Md. 74, 82 (2012) (“Appellate courts of this State will not reverse a lower court judgment for harmless error: the complaining party must show *prejudice* as well as *error*.” (internal quotation marks and citation omitted)). In short, we are not persuaded that the presence of counsel or the holding of a hearing could have affected the outcome of the proceedings as Mr. Johnson’s petition did not allege facts that would have allowed the court to release him from custody pursuant to Rule 15-1103.