

Circuit Court for Allegany County
Case No. C-01-CV-21-000264

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 413

September Term, 2022

STEPHEN D. NOLAN

v.

JEFF NINES

Wells, C.J.,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 1, 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.

Stephen D. Nolan, appellant, is an inmate at North Branch Correctional Institution (NCBI). In October 2021, appellant filed a complaint in the Circuit Court for Allegany County against Jeff Nines, appellee, the Warden at NCBI. In that complaint, appellant alleged that he had contracted COVID-19 because appellee “failed to do his job which resulted in the Corona virus (Covid 19) entering the prison.” As relief, appellant requested \$9,000 to compensate him for permanent scarring to his lungs and to be transferred to a different prison. Appellee filed a motion to dismiss on the grounds that he was immune from suit, that the court lacked jurisdiction because appellant had failed to exhaust his administrative remedies, and that appellant’s complaint failed to state a claim upon which relief could be granted. The court granted the motion to dismiss without a hearing. On appeal, appellant contends that the court erred in granting the motion to dismiss. For the reasons that follow, we shall affirm.

Section 5-1003(a)(1) of the Courts and Judicial Proceedings (CJP) Article provides that “[a] prisoner may not maintain a civil action until the prisoner has fully exhausted all administrative remedies for resolving the complaint or grievance.” Section 5-1003(a)(2) makes clear that “an administrative remedy is exhausted when the prisoner has pursued *to completion* all appropriate proceedings for appeal of the administrative disposition, *including any available proceedings for judicial review.*” (Emphasis added.) Section 5-1003(b) additionally requires the prisoner to attach to his initial complaint “proof that administrative remedies have been exhausted,” including proof that he filed a complaint or grievance with the appropriate agency, proof of the administrative disposition

of the complaint or grievance, and proof that he appealed the administrative disposition to the appropriate authority, including proof of judicial review.

Appellant is a “prisoner” as the term is defined in CJP § 5-1001(g). Along with his complaint, appellant attached documents indicating that he had filed several grievances with the Inmate Grievance Office regarding appellee’s alleged failure to protect him from contracting COVID-19. However, those grievances were found to be “wholly lacking in merit” and administratively dismissed pursuant to § 10-207(b)(1) of the Correctional Services Article. Such a dismissal constituted the final decision for the purposes of judicial review. Corr. Servs. § 10-207(b)(2)(ii). But nothing in the record indicates that appellant filed a petition for judicial review of that decision in the circuit court. Because appellant failed to include proof that he exhausted his administrative remedies prior to filing his complaint, the court did not err in granting appellee’s motion to dismiss.

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