

Circuit Court for Wicomico County
Case No. C-22-CV-20-000209

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 433

September Term, 2020

WILLIE BARTON

v.

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

Arthur,
Beachley,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 3, 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 1975, Willie Barton, appellant, was convicted of first-degree murder in the Circuit Court for Wicomico County and sentenced to life imprisonment. Mr. Barton is currently an inmate at Eastern Correctional Institution.

In May 2020, Mr. Barton filed, in the circuit court, a “Petition for Release Under Catastrophic Health Emergency” pursuant to Maryland Rule 15-1103, claiming that he should be immediately released, because COVID-19 was “spreading throughout the prison system” and it placed him at “severe immediate risk to suffer severe illness and potential death.” Specifically, he asserted that he was at high risk of contracting and dying from COVID-19 because he was 67 years’ old and suffered from several medical conditions including high blood pressure and high cholesterol.¹ The circuit court denied his petition without a hearing, finding that “the rules and statutory authority cited by petitioner are not applicable.”

On appeal,² Mr. Barton 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

¹ In addition to requesting relief pursuant to Rule 15-1103, Mr. Barton also asserted that he should be released pursuant Chief Judge Barbera’s April 14, 2020 “Administrative Order Guiding the Response of the Trial Courts of Maryland to the Covid-19 Emergency as it Relates to Those Persons Who Are Incarcerated or Imprisoned.” However, he does not contend on appeal that the court erred in failing to release him pursuant to that order and therefore we do not consider that issue on appeal.

² After the circuit court denied Mr. Barton’s petition, he filed an application for leave to appeal. Because an order denying a petition for relief from a quarantine order issued by the Secretary of Health is appealable as a final judgment, this Court entered an order treating his application for leave to appeal “as his informal brief on the threshold issue of whether Rule 15-1103 applies to [him].”

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[.]” As Mr. Barton’s petition demonstrates, however, 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 a sentence that was 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. Barton 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 Rules 15-1104-05. Consequently, we shall affirm the judgment of the circuit court.³

³ Even if we were to assume that Mr. Barton 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 (2013) (“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. Barton’s petition did not allege facts that would have allowed the court to release him from custody pursuant to Rule 15-1103.

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