Circuit Court for Prince George's County
Case No. CAL16-12002

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 834

September Term, 2017

ROGER B. HARGRAVE

v.

PRINCE GEORGE'S COUNTY, MARYLAND, et al.

Meredith,
Kehoe,
Berger,

JJ.

Opinion by Meredith, J.

Filed: July 30, 2018

*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 2005, Roger Hargrave, appellant, doused his wife with gasoline and set her on fire at her workplace in Clinton, Maryland. A jury in the Circuit Court for Prince George's County found appellant guilty of attempted first-degree murder and first-degree assault, and he was sentenced to life imprisonment. Currently, appellant is incarcerated at a State prison in Cumberland, Maryland. In 2015, appellant wrote to "P.G. County Police Dept Headquarters c/o Major Henry P. Stawinski," requesting various materials relating to his 2005 criminal case pursuant to Md. Code (2014), General Provisions Article ("GP"), § 4-101 *et seq*., the Maryland Public Information Act ("MPIA"). By letter of February 29, 2016, the Prince George's County Police Department responded by sending appellant the "investigative case file relating to CCN # 05-283-0473." The correspondence reflected: "With this letter and attached documents, in addition to the nine (9) CD's sent to you, the Prince George's County Police Department has satisfied your MPIA request of September 19, 2015."[1]

[1] Via letter of November 12, 2015, the Prince George's County Government notified appellant that it had received his MPIA request and that its legal office was processing it. The letter further advised appellant that his investigative file contained nine CDs, but that in light of appellant having informed the County in his MPIA request that, as an inmate, he was not allowed to receive CDs, the County was not enclosing the CDs, and could not transcribe them, although if there came a time in the future that appellant was allowed to have CDs, they were available for purchase. Appellant later notified the County that he could receive CDs, and nine CDs were provided to appellant in a mailing he apparently received at his correctional facility on March 17, 2016. Appellant complained that some of the CDs were improperly formatted and that the jail guards had improperly opened legal mail outside his presence, but those issues are obviously not before us.

On March 28, 2016, appellant, apparently dissatisfied with the response, filed a Petition for Judicial Review, pursuant to GP § 4-362.

On May 17, 2016, the circuit court denied it.

On June 8, 2016, appellant filed a motion for reconsideration.

On August 11, 2016, the circuit court denied it.

On October 5, 2016, the circuit court filed an order reflecting that it had "received two letters or memorandums from [appellant], one dated August 24, 2016 and one dated July 31, 2016," which the court treated as additional motions for reconsideration; the court denied both of the "newly filed Motions for Reconsideration" without prejudice in the October 5 order.

Appellant did not note an appeal to this Court at that point in time, or take any further action until March 2017.

On March 3, 2017, appellant filed a document he captioned "Motion to Reopen a Statistically Closed Case." Appellant's motion to reopen sought "an order compelling defendants to turn over all evidence that is favorable to the plaintiffs [sic] guilt in accordance with [B]rady, that has yet to be turned over in his original MPIA request[.]" The motion cited as authority Maryland Rule 2-432, which deals with the ability of "a discovering party" to file "motions upon failure to provide discovery[,]" and has nothing to do with requests for records pursuant to the MPIA. *See Hammen v. Baltimore County Police Dept.*, 373 Md. 440, 453 (2003), in which the Court of Appeals held that, "absent

a statute to the contrary, the rules of discovery applicable to circuit court proceedings are not, generally, applicable in respect to MPIA proceedings."

On March 9, 2017, the circuit court filed an order denying the "motion to reopen." On April 11, 2017, appellant's notice of appeal was filed. Even if we assume that the order entered March 9, 2017, is an appealable judgment, this appeal is untimely.

Maryland Rule 8-202(a) provides: "Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken." That time limit is jurisdictional. *Ruby v. State*, 353 Md. 100, 113 (1999). Appellant's notice of appeal was filed 33 days after the circuit court docketed the order denying the motion to reopen on March 9, 2017. The 30th day after March 9 was April 8, a Saturday, which means that the deadline for filing the notice of appeal was extended to Monday, April 10, 2017. But the notice of appeal was not filed with the clerk of the circuit court until April 11, 2017, and was therefore not within the time limit. Although we recognize that appellant is a *pro se* prisoner, there is no statute or rule extending the time for unrepresented inmates to file the notice of appeal in civil suits. Accordingly, we must dismiss the appeal pursuant to Maryland Rule 8-602(a)(3).

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.