

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1025

September Term, 2022

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GUY LEON THOMAS, JR.

v.

STATE OF MARYLAND

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Berger,  
Arthur,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 4, 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 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 2010, Guy Leon Thomas, Jr., appellant, pleaded guilty in the Circuit Court for Baltimore City to one count of carjacking. The court imposed a sentence of 15 years' imprisonment, but suspended the entire sentence with the exception of time served. The court also imposed a term of four years' probation. In 2014, the court found that appellant had violated his probation and imposed the remainder of his suspended sentence.

In October 2020, appellant filed a "Request for Substance Abuse Evaluation Under Health-General Article, § 8-505." Following a hearing, the court entered an order, finding that appellant was eligible for a substance abuse evaluation pursuant to Section 8-505, and directing the Maryland Department of Health to conduct such an evaluation. After the evaluation was completed, the court held a hearing and denied appellant's request to be committed for drug treatment pursuant to Section 8-507 of the Health-General Article. This appeal followed.

Health-General §§ 8-505(a)(1)(i) and 8-507(a)(1) provide that a court, pursuant to certain conditions, "may" order an evaluation for substance abuse and "may" commit a defendant for treatment. As such, whether to grant relief is left to the court's discretion.

The State maintains that the court's denial of appellant's motion is not an appealable order and moves to dismiss the appeal for that reason.<sup>1</sup> The State points out that neither Health-General § 8-505 nor § 8-507 provide for appellate review of a decision to deny a request for substance abuse evaluation or commitment for treatment. Moreover, the State, relying on *Fuller v. State*, 397 Md. 372, 394-95 (2007), asserts that a motion for

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<sup>1</sup> Because we conclude that the appeal has been taken from a non-appealable order, we do not address the State's alternative contention that the appeal was untimely filed.

commitment for treatment pursuant to Health-General § 8-507 is not a final order or an appealable collateral order because there is no limit on the number of motions a defendant may file. The State further maintains that this Court's decision in *Hill v. State*, 247 Md. App. 377 (2020), which addressed a decision denying relief under Health-General § 8-507 is distinguishable. The State points out that here, unlike in *Hill*, the record does not reflect that the circuit court believed it lacked authority to grant appellant's motion.

We agree with the State that *Hill* is distinguishable from the matter presently before us. In *Hill*, we held that there was appellate jurisdiction to consider the denial of an inmate's Health-General § 8-507 request where the circuit court ruled that it was precluded from authorizing treatment because the petitioner had been convicted of a crime of violence and was not yet parole eligible. *Id.* at 389. Although Hill had previously qualified for treatment and the court had indicated its willingness to authorize it, *id.* at 380-81, in 2018 the legislature amended the statute and disallowed commitment for drug treatment for prisoners convicted of crimes of violence until they became eligible for parole. *Id.* at 381-82. The circuit court rejected Hill's contention that applying those amendments to him violated the *Ex Post Facto* Clause found in Article 1 of the United States Constitution and Article 17 of the Maryland Declaration of Rights because the statutory amendments were enacted after his 2011 conviction. *Id.* at 382. When Hill appealed, the State argued that, pursuant to *Fuller*, this Court lacked jurisdiction to consider the appeal. *Id.* at 383. We disagreed. In short, we noted that "the court's express determination that application of the 2018 amendments to Hill do not violate the *Ex Post Facto* Clause is final in that it denies Hill any possibility of being granted an HG § 8-507 commitment until after he

reaches parole eligibility.” *Id.* at 389. Hence, we concluded that the ruling in Hill’s case constituted a final judgment and, therefore, this Court had jurisdiction to consider his appeal. *Id.*

In contrast, there is nothing in the record in the instant case to indicate that the court believed that it was prohibited from granting relief.<sup>2</sup> In fact, the court had previously ordered an evaluation for drug treatment, thus implicitly acknowledging that it had the authority to grant appellant’s motion for a HG § 8-507 commitment if it found good cause to do so. Moreover, appellant’s motion, unlike Hill’s, did not raise any constitutional challenge to the statutes. Accordingly, we hold that the court’s order denying appellant’s requests for substance abuse evaluation and commitment for treatment is not appealable. *See Fuller*, 397 Md. at 380 (“the denial of a petition for commitment for substance abuse treatment pursuant to Section 8-507 of the Health-General Article is not an appealable order.”).

**MOTION TO DISMISS APPEAL  
GRANTED. COSTS TO BE PAID BY  
APPELLANT.**

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<sup>2</sup> Although the court held a hearing on appellant’s request to be committed for drug treatment, he has not provided a copy of the transcript from that hearing. In any event, appellant does not claim that the court stated during that hearing that it lacked the authority to grant his request.