

Circuit Court for Howard County
Case No. C-13-CV-23-000511

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1076

September Term, 2023

LEVI WELLS

v.

MARYLAND DIVISION OF CORRECTION

Ripken,
Tang,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 9, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Levi Wells, appellant, is currently incarcerated at Dorsey Run Correctional Facility, although it is unclear from the record the nature of his convictions or the length of his sentence. In 2023, appellant filed a motion in the Circuit Court for Howard County requesting the court to recalculate his sentence.¹ Specifically, he claimed that he had been assigned to work in sanitation from May 2019 until July 2020, and again from January 2022 until January 2023, but that he had “never received his 05 days of industrial credits per month . . . in connection with [those] dates.” In total, he claimed that he was owed 130 days of diminution credits against his sentence. The court denied the motion without a hearing. This appeal followed.

In most cases, a Maryland inmate seeking to challenge the calculation of his term of confinement must first file a grievance with the Inmate Grievance Office (“IGO”). See *Adamson v. Correctional Med. Servs., Inc.*, 359 Md. 238 (2000); Md. Code Ann. Corr. Serv. § 10-206(a). Any grievance submitted to the IGO that is not “wholly lacking in merit on its face” must be referred to the Office of Administrative Hearings to “hold a hearing on the complaint as promptly as practicable.” *Id.* § 10-207(b), (c). Following such a hearing, unless the Office of Administrative Hearings finds the complaint wholly lacking in merit and so dismisses it, the Office must promptly issue a decision containing findings of fact, conclusions of law, and the disposition of the complaint, *id.* § 10-209(a), which the Secretary of the Department must, within 15 days, affirm, reverse, modify, or remand for further proceedings, *id.* § 10-209(c). The Secretary’s final

¹ The motion was not filed in his criminal case, and was docketed as a new civil action.

determination of a grievance submitted to the IGO is subject to judicial review by “the circuit court of the county in which the complainant is confined[.]” with a further opportunity to file an application for leave to appeal to this Court. *Id.* § 10-210(b), (c).

“A court may not consider an individual’s grievance that is within the jurisdiction of the [IGO] or the Office of Administrative Hearings unless the individual has exhausted [these] remedies[.]” Corr. Servs. Art. § 10-210(a); *see also Adamson*, 359 Md. at 257 (“It is clear that the [Correctional Services Article] establishes for covered inmate grievances an administrative remedy through the IGO . . . which must be invoked and exhausted before an inmate ordinarily may seek review of an adverse decision.”). And here, appellant’s motion contained no indication that he had ever filed a grievance with the IGO regarding his credits or, if he did, that he exhausted his administrative remedies prior to seeking relief in the circuit court. Consequently, the court did not err in denying that motion.

To be sure, there are some instances in which an inmate may bypass the IGO. Specifically, an inmate who “alleges entitlement to immediate release and makes a colorable claim that he or she has served the entire sentence less any mandatory [diminution] credits” may request relief directly from the Maryland circuit courts by petitioning for a writ of habeas corpus. *Maryland House of Corr. v. Fields*, 348 Md. 245, 261 (1997), *abrogated in part on other grounds by Moats v. Scott*, 358 Md. 593 (2000). But appellant did not request habeas relief in his motion. And even if we were to construe his motion as a habeas petition, it was still properly denied because it he did not allege that he would be entitled to immediate release if he was awarded the diminution credits that he

claimed he was entitled. Moreover, his motion was not supported by affidavit or contain the other requirements of a habeas petition set forth in Maryland Rule 15-302.

In sum, appellant’s motion did not indicate that he had exhausted his administrative remedies such that he was entitled to judicial review of his complaint. And appellant did not otherwise demonstrate that he was entitled to habeas relief. Because those are the sole means for an inmate to challenge the calculation of his term of confinement in the circuit court, the court did not err in denying appellant’s motion for recalculation of sentence.

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