

Circuit Court for Anne Arundel County
Case No.: C-02-CV-22-000487

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1367

September Term, 2022

IN THE MATTER OF
MAUSEAN CARTER

Wells, C.J.,
Shaw,
Zarnoch, Robert A.,
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 28, 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.

Mausean Carter, appellant, appeals from an order by the Circuit Court for Anne Arundel County affirming a decision of the Secretary of the Department of Public Safety and Correctional Services, appellee.¹ In his brief, Carter presents three issues for our review. First, that the circuit court erred “in disregarding the attenuation of the unlawful procedures and actions of officials when they retaliated and denied visit[ation].” Second, Carter “met the burden of establishing that prison officials retaliated [against him] for exercising [his First] Amendment right[s].” And finally, that the circuit court “erred in upholding the unconstitutional due process of ‘Guilty until proven [i]nnocent.’”

In appeals from judicial review of an administrative agency’s decision, we do not review the circuit court’s decision. *Sizemore v. Town of Chesapeake Beach*, 225 Md. App. 651, 647 (2015). Instead, we “look past [that] decision to review the *agency’s* decision.” *Id.* (cleaned up and emphasis added). In doing so, we “primarily determine whether the agency’s decision is in accordance with the law or whether it is arbitrary, illegal, and capricious.” *Id.* (cleaned up). Put another way, “we apply a limited standard of review and will not disturb an administrative decision on appeal if substantial evidence supports factual findings and no error of law exists.” *Id.* (cleaned up).

Here, Carter sought review of the Warden’s decision to deny him visitation on October 29, 2020. The Warden dismissed Carter’s request for administrative review by

¹ We note that Carter’s notice of appeal was filed 34 days after the entry of the Order from which it appeals, making it untimely under Maryland Rule 8-202(a). That said, because no motion to dismiss or responsive brief was filed in this appeal, the issue is arguably waived under *Rosales v. State*, 463 Md. 552, 568 (2019). We therefore address the merits of Carter’s appeal.

first noting that Carter’s unit was not scheduled for visitation on October 29 but was instead scheduled for November 1. The Warden further noted that Carter had been found guilty of an infraction on October 30 for “an incident in the visiting room” on October 27, at which time his visitation privileges were suspended.² The Warden concluded by pointing out that, per COMAR 12.02.28.04.B(3), Carter could not seek relief through the Administrative Remedy Procedure regarding disciplinary hearing procedures and decisions, and that “video visitation is a privilege and not a right.” The Inmate Grievance Office affirmed this dismissal on the same grounds.

Based on the limited record before us, we conclude that substantial evidence supported the Department’s factual findings. Both the Warden and IGO investigated Carter’s grievance, including conducting interviews with several prison officials. And nothing in the record contradicts the facts on which they relied. Further, we discern no legal error. In its letter affirming the Warden’s decision, the IGO recognized that Carter had “failed to identify any federal or state constitutional, statutory, regulatory, policy or other prohibition against [suspending visitation] under the circumstances [Carter] ha[d] alleged.” He has failed to do so on appeal as well. *See generally Kentucky Dep’t of Corr. v. Thompson*, 490 U.S. 454, 462–65 (1989) (discussing what is required to afford an inmate

² The record does not contain any specifics regarding the alleged October 27 incident or the October 30 finding of guilt.

a liberty interest in receiving visitors). The circuit court therefore did not err in upholding the administrative agency's decision.

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