

Circuit Court for Cecil County
Case No. C-07-CV-20-000271

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1390

September Term, 2020

HENRY ERIC HAMILTON

v.

STATE OF MARYLAND, *et al.*

Kehoe,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 28, 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 2015, Henry Eric Hamilton, appellant, was convicted of conspiracy to commit first-degree assault following a jury trial. The court imposed a sentence of 25 years' imprisonment. In August 2020, Mr. Hamilton filed a Petition for Writ of Mandamus alleging that the conditions of his incarceration placed him at a heightened risk for contracting COVID-19. In so arguing, he did not claim that he was at an increased risk of complications from COVID-19 because of his age or health conditions. Rather, he asserted that Governor Lawrence J. Hogan, the Secretary of the Department of Public Safety and Correctional Services (the Secretary), and the Commissioner of Corrections (the Commissioner), had created an unsafe environment by: (1) failing to post bulletins and directives about social distancing; (2) failing to insure that staff and inmates had access to adequate PPE; (3) permitting inmates to engage in yard activities without social distancing; (4) allowing inmates to eat meals without social distancing; (5) failing to adequately test inmates and staff for COVID-19; (6) allowing prisoners to be "double celled;" (7) failing to adequately sanitize communal areas; and (8) failing to release sufficient inmates to allow for social distancing. He further claimed that appellees' failure to implement various policies recommended by the Center for Disease Control and the World Health Organization to help control the spread of COVID-19 violated his rights under the Eighth and Fourteenth Amendments to the United States Constitution. As relief, Mr. Hamilton requested the court to reduce his sentence and issue an amended commitment order releasing him from custody.

The Maryland Attorney General's Office entered an appearance on behalf of the State of Maryland, by and through the Department of Public Safety and Correctional

Services, and filed a response and motion to dismiss. Specifically, they alleged that the petition was improper because Mr. Hamilton had failed to exhaust his administrative remedies prior to filing the petition and had failed to establish that he had a clear legal right to release from custody. The court dismissed the petition without a hearing. This appeal followed.

On appeal, Mr. Hamilton contends that he was not required to exhaust his administrative remedies because the COVID-19 pandemic is a “force majeure” event. He also claims that appellees intentionally “imped[ed] the exhaustion of the administrative remedy procedure” by either failing to respond to his complaints or claiming a lack of jurisdiction, so as to prevent him from obtaining his requested relief. However, even if we assume that Mr. Hamilton was not required to exhaust his administrative remedies, the court did not err in dismissing his petition for writ of mandamus because he failed to state a claim upon which relief could be granted.

“The fundamental purpose of a writ of mandamus is ‘to compel inferior tribunals, public officials, or administrative agencies to perform their function, or perform some particular duty imposed upon them which in its nature is imperative and to the performance of which duty the party applying for the writ has a clear right.’” *Balt. Cnty. v. Balt. Cnty. Fraternal Order of Police Lodge No. 4*, 439 Md. 547, 569-70 (2014) (quoting *Town of La Plata v. Faison–Rosewick, LLC*, 434 Md. 496, 511 (2013)). The Court of Appeals has observed that a writ of mandamus is only “appropriate where the relief sought involves the traditional enforcement of a ministerial act (a legal duty) by recalcitrant public officials, but not where there is any vestige of discretion in the agency action or decision.” *Id.* at

570 (quoting *Faison–Rosewick*, 434 Md. at 511). “[A] writ of mandamus will not be issued where the right is unclear of the party seeking it, doubtful, or where the act sought to be compelled is within the discretion of the decision-maker against whom the writ is sought.” *Id.* (internal citations omitted).

Here, Mr. Hamilton did not request the court to compel appellees to take any actions with respect to the alleged safety issues set forth in his petition. In fact, the petition indicated that some of these issues had already been addressed by the time the petition was filed. Rather, the sole relief sought by Mr. Hamilton was the modification of his sentence and his release from incarceration. However, neither the Secretary, the Commissioner, nor Governor Hogan had a clear legal duty to order his release under the circumstances. Consequently, the court could not compel them to do so by means of a petition for writ of mandamus. Because Mr. Hamilton’s petition did not request any other relief, the court did not err in dismissing it without a hearing.

In addition to challenging the merits, Mr. Hamilton also raises two procedural issues. First, he notes that Governor Hogan never filed a response to his petition. Second, he asserts that he was unable to file a reply to the State’s response to his petition because he lost his position as a legal reference clerk in the prison library and was placed on an “emergency transfer list,” thus preventing him from accessing his legal files. Mr. Hamilton has not demonstrated, however, how he was prejudiced by either of these issues. Regardless of whether Governor Hogan filed a response, Mr. Hamilton was still required to state a valid claim upon which mandamus relief could be granted. Moreover, even if he had been able to file a reply, the court could not have granted his petition because he failed

to demonstrate that appellees had a legal duty to release him from custody. Consequently, neither of these issues require reversal. *See Sumpter v. Sumpter*, 436 Md. 74, 82 (2013) (“[A]ppellate courts of this State will not reverse a lower court judgment for harmless error: the complaining party must show prejudice as well as error.” (quotation marks and citation omitted)).

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