

Circuit Court for Baltimore City
Case No.: 24C19004623

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1504

September Term, 2021

IN THE MATTER OF THE PETITION OF
CYNTHIA RICHARDSON

Kehoe,
Beachley,
Wright, Alexander, Jr.,
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 30, 2022

*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 2015, Cynthia Richardson, appellant, was injured on the job while working as a correctional officer for Baltimore City Detention Center. In 2017, the Workers’ Compensation Commission awarded her permanent partial disability benefits for her injury. Two years later, Richardson sought authorization for (1) medical treatment, including pain management, and (2) temporary total disability from February 18, 2019. The Commission denied her request and found that Richardson had reached maximum medical improvement. Richardson appealed the matter to the Circuit Court for Baltimore City and demanded a jury trial. At trial, the court excluded two sets of Richardson’s medical records because they lacked a proper certification by a custodian of records. At the close of Richardson’s case-in-chief, the trial court granted the State’s¹ motion for judgment. The court held that Richardson had not satisfied her burden of production because she “failed to produce any expert testimony” on the issue of whether she had reached maximum medical improvement.

On appeal, Richardson contends the court erred when it excluded her medical records because they were self-authenticating. Notably, however, she does not appear to dispute the court’s ruling that she failed to satisfy her burden of production on the issue of whether she had reached maximum medical improvement.

Maryland Rule 5-902(12) creates a method for authenticating business records, including medical records, without live testimony of the records’ custodian. “It allows

¹ The Baltimore City Detention Center (BCDC, formerly known as the City Jail) is a Maryland Department of Public Safety and Correctional Services state prison for men and women.

proof, by certification, of the same facts to which a witness would have been required to testify in court[.]” *State v. Bryant*, 361 Md. 420, 427 (2000). But that certification must be in a “Certification of Custodian of Records or Other Qualified Individual Form substantially in compliance with such a form approved by the State Court Administrator and posted on the Judiciary website[.]” Md. Rule 5-902(12). To substantially comply with this form, the custodian’s declaration must be made under penalty of perjury. *See Bryant*, 361 Md. at 428.

Here, neither of the purported certifications accompanying the two sets of excluded medical records—Plaintiff’s Exhibits 9 and 10—were made under penalty of perjury. They therefore did not qualify as self-authenticating documents under Rule 5-902(12), and the trial court did not err in excluding them. Further, even if it were error to exclude the records, neither record discusses when or if Richardson reached maximum medical improvement and thus would not have satisfied her burden of production. Consequently, any error was harmless. *See Prince George’s Cnty. Md. v. Longtin*, 190 Md. App. 97, 133 (2010) (“[E]ven if the evidentiary ruling was manifestly wrong, it will not be set aside unless the appellant can show the probability of prejudice.”).

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**