

Circuit Court for Anne Arundel County
Case No.: C-02-CV-23-001318

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1531

September Term, 2023

IN THE MATTER OF
ROGER HARGRAVE

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

JJ.

PER CURIAM

Filed: May 15, 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.

In June 2023, Roger Hargrave, appellant, filed, in the Circuit Court for Anne Arundel County, a petition for judicial review of a decision by the Inmate Grievance Office (“IGO”). The Department of Public Safety and Correctional Services moved to dismiss Hargrave’s petition as untimely, and the court granted the motion without a hearing. This appeal followed.

We review the granting of a motion to dismiss for legal correctness. *Harris v. McKenzie*, 241 Md. App. 672, 678 (2019). Maryland Rule 7-203(a) requires a petition for judicial review be filed within 30 days after “(1) the date of the order or action of which review is sought; (2) the date the administrative agency sent notice . . . to the petitioner . . . ; or (3) the date the petitioner received [the] notice[,]” whichever is latest. Here, the IGO issued its decision on April 25, 2023. Hargrave received notice the same day. So, under Rule 7-203(a), he had until May 25, to file a petition for judicial review.

Hargrave first mailed his petition to the circuit court on May 24, but he failed to include a proper certificate of service, and the court rejected it. Consequently, the first petition was not a “filing” within the deadline. *See Lovero v. Da Silva*, 200 Md. App. 433, 450 (2011). Hargrave mailed a second petition, including a proper certificate of service, on June 14. The docket reflects that the court received it on June 29. Because the petition was filed more than 30 days after Hargrave received notice of the IGO’s decision, it was untimely.

Still, in his brief, Hargrave contends that, under the “prison mailbox rule,” his petition should have been deemed filed on May 24—the day he mailed his first petition. *See Md. Rule 1-322(d)*. We disagree. As noted, Hargrave’s first petition was not a “filing”

because it lacked a proper certificate of service. *See Lovero*, 200 Md. App. at 450. Accordingly, even under the prison mailbox rule, the earliest Hargrave could be said to have “filed” his petition for judicial review would be June 14—the day he mailed his second petition. Because that is still past the 30-day deadline imposed by Rule 7-203(a), the petition would still be untimely. Therefore, the circuit court did not err in dismissing the case.

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