

Circuit Court for Howard County
Case No.: C-13-CV-24-000686

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2077

September Term, 2024

IN THE MATTER OF
LUBNA KHAN

Wells, C.J.,
Leahy,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 7, 2025

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

Appellant Lubna Khan submitted to Appellee Howard County, Maryland, an application under the Maryland Public Information Act (“MPIA”), requesting certain records related to a parcel of land. *See* Md. Code Ann., Gen. Provis. (“GP”) § 4-202(a). The County answered Khan’s application and told her that it did not have any responsive records. *See* GP § 4-202(d). The next day, Khan submitted a second application, requesting largely the same records. The County again answered that it did not have any responsive records.

Dissatisfied with these replies, Khan sued the County in the Circuit Court for Howard County, alleging that it had unlawfully denied her MPIA application. She styled this action as a petition for judicial review under Maryland Rule 7-202. The County moved to dismiss the petition, arguing that Khan had not sufficiently alleged that she was denied access to records and that, in any event, the action was not proper as a petition under Rule 7-202. The court held a hearing and dismissed Khan’s petition with leave to refile it as a civil complaint.

At the hearing, after the court had announced its ruling, Khan asked for some clarification: “So when I file a complaint it will be a civil complaint. And then I have to serve them?” The court confirmed, “Yes. You’ve got to serve them[,]” and explained, “[Y]ou’re going to have to get a summons[,] and you’re going to have to serve it.” Khan signaled her understanding, and the hearing ended.

In line with the circuit court’s direction, Khan refiled her action as a civil complaint under GP § 4-362(a)(1). She did not, however, request that a summons be issued and never served the County with the complaint. Accordingly, the County moved to dismiss for

insufficiency of service and lack of jurisdiction.¹ After a hearing, the circuit court granted the County’s motion and dismissed the case. This appeal followed.

Generally, we review the grant of a motion to dismiss based on insufficient service for an abuse of discretion. *See Conwell Law LLC v. Tung*, 221 Md. App. 481, 498–99 (2015). That said, we still review *de novo* the circuit court’s legal conclusions. *See D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 350 (2019). On appeal, Khan does not dispute that she failed to properly serve the County. Instead, she argues that she was not required to do so because her complaint should have been treated as a petition for judicial review under Maryland Rule 7-202. She is mistaken.

Judicial review of the denial of an MPIA application is governed by GP § 4-362(a). As relevant here, “whenever a person or governmental unit is denied inspection of a public record or is not provided with a copy, printout, or photograph of a public record as requested, the person or governmental unit may file a complaint with the circuit court.” GP § 4-362(a)(1). To be sure, both GP § 4-362(a) and Rule 7-202 deal ostensibly with “judicial review.” But “the judicial review available pursuant to [the MPIA] is by way of an original civil action,” *Blythe v. State*, 161 Md. App. 492, 504 (2005)—not a Rule 7-202 petition.

Khan’s reliance on *Action Comm. for Transit, Inc. v. Town of Chevy Chase*, 229 Md. App. 540 (2016), as contrary precedent is misplaced. That case did not stem from a

¹ The County also argued, in the alternative, that Khan failed to state a claim upon which relief could be granted because, in the County’s view, a no-records determination under GP § 4-202(d) is not a denial of inspection under GP § 4-362(a)(1). It repeats this distinction on appeal, but, given our resolution of the service issue, we need not decide whether this distinction has any difference.

Rule 7-202 petition; it began as an original civil action. *See id.* at 551. Thus, her argument is self-defeating.

Because Khan’s complaint was an original civil action, she was bound by the service requirements of the Maryland Rules. *See* Md. Rule 2-121. “[A]t no point did [Khan] effect service upon [the County] in compliance with Rule 2-121(a), which supports dismissal under Rule 2-322(a), and [Khan’s] service failure created a jurisdictional defect, which supports dismissal under Rule 2-507(b).” *Conwell Law*, 221 Md. App. at 506. The circuit court therefore did not err in dismissing her complaint.

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