

Circuit Court for Baltimore City
Case No. 24-C-19-002433

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND *

No. 2107

September Term, 2021

WARREN GRIFFIN

v.

SECRETARY, DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONAL SERVICES

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

JJ.

PER CURIAM

Filed: December 28, 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.

Warren Griffin, appellant, is an inmate at North Branch Correctional Institution (NCBI). In April 2021, appellant filed a complaint in the Circuit Court for Baltimore City against the Commissioner of Correction, O. Wayne Hill, and the warden of North Branch Correctional Institution, Frank B. Bishop. In that complaint, appellant alleged that in 2014 he had been assaulted by another inmate as a result of appellees' negligence. Specifically, he claimed that appellees had "breached their duty to protect" him by failing to properly supervise and train correctional staff and failing "to enforce standing policy" regarding the "orderly operation of the N.B.C.I. Medical Unit." Appellees filed a motion to dismiss on the grounds that they were immune from suit, that the court lacked jurisdiction because appellant had failed to exhaust his administrative remedies, that appellant's complaint failed to state a claim upon which relief could be granted, and that appellant's claim was barred by the statute of limitations and the three-year filing requirements under the Maryland Tort Claims Act. Following a hearing, the court granted the motion to dismiss hearing. On appeal, appellant contends that the court erred in granting the motion to dismiss. For the reasons that follow, we shall affirm.

Section 5-1003(a)(1) of the Courts and Judicial Proceedings Article (CJP) provides that "[a] prisoner may not maintain a civil action until the prisoner has fully exhausted all administrative remedies for resolving the complaint or grievance." Section 5-1003(a)(2) makes clear that "an administrative remedy is exhausted when the prisoner has pursued *to completion* all appropriate proceedings for appeal of the administrative disposition, *including any available proceedings for judicial review.*" (Emphasis added.) Section 5-1003(b) additionally requires the prisoner to attach to his initial complaint "proof

that administrative remedies have been exhausted[,]” including proof that he filed a complaint or grievance with the appropriate agency, proof of the administrative disposition of the complaint or grievance, and proof that he appealed the administrative disposition to the appropriate authority, including proof of judicial review.

Appellant, is a “prisoner” as the term is defined in CJP § 5-1001(g). And he concedes that he was required to exhaust his administrative remedies prior to filing his civil action. To satisfy that requirement, appellant attached documents to his complaint which indicated that he had previously filed a grievance with the Inmate Grievance Office regarding the assault; that the matter was referred to the Office of Administrative Hearings; that following a hearing, an Administrative Law Judge (ALJ) had dismissed the grievance as lacking in merit; that he had filed a petition for judicial review in the circuit court; and that the circuit court had issued an order affirming the ALJ’s decision. Appellant, however, did not file an application of leave to appeal from the circuit court’s decision, as authorized by section 10-210(c)(2) of the Correctional Services Article.

In *Harris v. McKenzie*, 241 Md. App. 672, 680-81 (2019) we held that the appellant had failed to exhaust his administrative remedies under the Prisoner Litigation Act when, following judicial review of his grievance in the circuit court, he failed to file an application for leave to appeal following the circuit court’s adverse ruling. In so holding, we reiterated that proof that administrative remedies have been exhausted under CJP § 5-1003 includes proof that all available proceedings for judicial review have been pursued. As in *Harris*, appellant did not file an application of leave to appeal from the circuit court’s order affirming the ALJ’s decision. Therefore, he also failed to exhaust his administrative

remedies prior to filing his complaint. Consequently, the court did not err in granting appellee’s motion to dismiss.¹

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

¹ Because we hold that appellant failed to exhaust his administrative remedies, we need not address the other claims raised by appellee, including that appellant’s complaint was barred by the statute of limitations, that the complaint failed to state a claim upon which relief could be granted, or that they were immune from suit.