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RECENT DEVELOPMENT

MASSEY V. GALLEY: THE EXHAUSTION OF ADMINISTRATIVE REMEDIES PROVISION OF THE PRISONER LITIGATION ACT DOES NOT APPLY TO AN INMATE'S STATUTORY CAUSE OF ACTION UNDER THE MARYLAND PUBLIC INFORMATION ACT.

By: Christopher Heagy

The Court of Appeals of Maryland held that the exhaustion of administrative remedies provision of the Prisoner Litigation Act ("PLA") does not apply to a prisoner's suit under the Maryland Public Information Act ("MPIA"). *Massey v. Galley*, 392 Md. 634, 898 A.2d 951 (2006). The Court found that the MPIA's statutory presumption in favor of the disclosure of government records applies to any person and thus allows an inmate's suit under the MPIA to proceed, even though the inmate has not exhausted the administrative remedies required by the PLA. *Id.* at 636, 898 A.2d at 952.

On May 28, 2002, Richard L. Massey, Jr. ("Massey"), an inmate at Western Correctional Institute ("WCI"), requested certain public records from John P. Galley ("Warden Galley"), warden of WCI. Massey sought records pertaining to inmate medical care, the WCI commissary, and the photocopy machines and copy cards used by WCI inmates. After failing to receive a response within the MPIA's 30-day requirement, Massey made a second request to inspect the requested documents. When he received no response to his second request, Massey filed suit in the Circuit Court for Allegany County to compel Warden Galley to produce the requested records. Massey alleged that Warden Galley did not request a time extension for production and did not temporarily deny access to the documents under the MPIA.

The circuit court dismissed Massey's suit finding the court lacked subject matter jurisdiction over Massey's complaint because Massey did not comply with the PLA, failing to exhaust his administrative remedies with the Inmate Grievance Office before filing his complaint. On appeal, the Court of Special Appeals of Maryland affirmed the decision and rationale of the circuit court. The Court of Appeals of

Maryland granted certiorari to determine whether the PLA precluded a suit under the MPIA by a Maryland prison inmate when the inmate has not exhausted his administrative remedies.

The Court of Appeals of Maryland stated that this dispute involved the relationship between three separate state statutes: the Inmate Grievance Office statute, the MPIA and the PLA. *Massey*, 392 Md. at 640, 898 A.2d at 964. The Court began its analysis by reviewing those statutes. *Id.* First, the administrative remedy provided by the Inmate Grievance Office statute applies only when an inmate, in the custody of a state correctional institution, has a grievance against an employee of the Division of Correction. *Massey*, 392 Md. at 640, 898 A.2d at 964. Further, under this statute, a court does not have jurisdiction over a grievance until the prisoner has exhausted his statutory remedies. *Id.* at 640-41, 898 A.2d at 955.

Next, the Court turned to the MPIA. *Massey*, 392 Md. at 641, 898 A.2d at 955. The Court found that the “legislative intent of the MPIA was to give Maryland citizens wide ranging access to public information concerning the operation of their government and that there is a presumption in favor of disclosure.” *Id.* at 642, 898 A.2d at 956 (quoting *Hammen v. Balt. County Police Dep’t.*, 373 Md. 440, 456, 818 A.2d 1125, 1135 (2003)). Further, although the MPIA contains an administrative remedy, an individual seeking to have a record produced need not exhaust that remedy before filing suit in court. *Massey*, 392 Md. at 641, 898 A.2d at 955. Underscoring the legislative intent to make government records available for public inspection, a judicial action to force the production of documents is expedited and the government official has the burden of demonstrating that inspection of the public record was properly denied. *Id.* Further, the MPIA contains no limitation as to who may request a public document; therefore a prison inmate has the right to request and inspect public records. *Massey*, 392 Md. at 642-43, 898 A.2d at 956.

Finally, the PLA attempts to reduce the number of frivolous lawsuits filed by inmates relating to their conditions of confinement by imposing certain requirements before a prisoner can file such a suit. *Massey*, 392 Md. at 643, 898 A.2d at 956. The PLA defines conditions of confinement as any circumstance “that involves a prisoner’s custody, transportation, incarceration or supervision.” *Massey*, 392 Md. at 645, 898 A.2d 957 (quoting MD. CODE ANN., CTS. & JUD. PROC. § 5-1001(d)(West 2006)). Specifically, the PLA states that an inmate may not maintain a civil suit related to his conditions of confinement until he fully exhausts all of the administrative remedies

for resolving his grievance. *Massey*, 392 Md. at 645, 898 A.2d at 957. Furthermore, the PLA defines administrative remedy as any procedure for review of a prisoner's grievance, including proceedings under the Inmate Grievance Office Act. *Massey*, 392 Md. at 644, 898 A.2d at 957.

After reviewing these three statutes, the Court reiterated that the only issue presented was whether the exhaustion of remedies provision of the PLA precludes an inmate's suit under the MPIA when the inmate has not demonstrated that he has exhausted his administrative remedies. *Id.* at 646, 898 A.2d 958. The Court then distinguished an injured party's right to bring suit based on a grievance against a government official and "any person's" right to bring an MPIA action. *Id.* at 647, 898 A.2d at 958.

The MPIA states that, subject to certain statutorily created exceptions, any person who requests public documents shall be allowed to inspect those documents. *Massey*, 392 Md. at 647, 898 A.2d at 959. Again, the purpose of the MPIA is to "provide any person with 'wide-ranging access to public information concerning the operation of government.'" *Massey*, 392 Md. at 649, 898 A.2d at 959 (quoting *Fioretti v. Md. Bd. Dental Exam'rs*, 351 Md. 66, 73, 716 A.2d 258, 262 (1998)). Therefore, the Court focused not on *Massey's* status as a prison inmate, but on imposing the duty of disclosure on the custodian of the requested record, Warden Galley. *Massey*, 392 Md. at 649, 898 A.2d at 960.

Next, the Court found Warden Galley's focus on *Massey's* status as an inmate in a MPIA proceeding was problematic because *Massey* could clearly request public records outside the custody of the Division of Correction. *Id.* at 649, 898 A.2d at 960. The Court found the Inmate Grievance Office might have jurisdiction over an inmate's MPIA request to require a custodian within the Division of Correction to produce the requested records for inspection. *Massey*, 392 Md. at 649, 898 A.2d at 960. However, the Inmate Grievance Office does not have the authority to compel a custodian outside the Division of Correction to produce public records. *Id.* at 650, 898 A.2d at 960. Therefore, because of the MPIA's focus on compelling the custodian of the record to produce the requested document, the administrative remedy under the Inmate Grievance Office was not applicable to *Massey's* suit under the MPIA. *Id.*

Finally, the Court found that there was no conflict between the MPIA and the PLA. *Massey*, 392 Md. at 650, 898 A.2d at 960. The PLA focuses on inmate grievances while the MPIA does not focus on

grievances, but seeks to allow access to public records regardless of an individual's motivation to obtain the public record. *Id.* A request to inspect a public record does not involve an inmate's "condition of confinement," which is the focus of the PLA. *Massey*, 392 Md. at 651, 898 A.2d at 960. Nothing in the language or legislative history of the PLA suggests the statute could deny an inmate's request for public documents. *Id.* In conclusion, the court should not have dismissed *Massey's* suit under the MPIA because of his failure to exhaust possible administrative remedies. *Id.* at 651, 898 A.2d at 961.

In *Massey v. Galley*, the Court of Appeals of Maryland firmly established the independence of the MPIA from the requirements of other administrative statutes. Acknowledging the legislative intent to make public records accessible to Maryland citizens, the Court removed an inmate's public information request from other statutory constraints. Without the requirement of administrative review, inmates could possibly flood Maryland courts with requests to enforce MPIA requests. However, *Massey* reaffirms that the MPIA is a powerful tool to ensure every citizen has access to documents regarding state government and helps guarantee accountability in state government.