Circuit Court for Anne Arundel County
Case No. 02-K-04-001948

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 593

September Term, 2025

ANN SWANSON PENNY HOARD

v.

STATE OF MARYLAND

Wells, C.J.,
Albright,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 25, 2026

*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.

Ann Swanson Penny Hoard, appellant, appeals from the denial, by the Circuit Court for Anne Arundel County, of a petition for writ of actual innocence. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from our previous opinions in Ms. Hoard's case:

> On March 29, 2004, as arranged with appellant, Don Hoard arrived at appellant's home to pick up his seven-year-old son Zachary. Appellant "opened the door to let [him] into the house, which surprised" Hoard because "[t]hat's the first time . . . that she had let [him] inside the house, since about a week prior to [their] divorce trial" in October 2002.
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> "As soon as [Hoard] walked in the door [appellant] started to close the main door and [he] felt something sticking into [his] left buttock." Hoard swung around and hit her arm, "and when [he] turned around [he] looked on the floor and there was a syringe with some type of a liquid in it laying on the floor." Hoard asked: "What are you doing?" Appellant "just started screaming 'Give me back my son! Give me back my son. I'm just trying to teach you a lesson.'" She "kept saying those things over and over again."
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> Mr. Hoard picked up the syringe, then went outside to his truck and called 911. By that time, he had "started shaking and was having trouble breathing." In addition, he was "confused," telling the emergency dispatcher that he "was in Howard County when actually [he] was in Anne Arundel County."
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> Appellant came out of the house, opened Hoard's truck door, looked over the seat, and moved his coat, in an effort to "find the syringe . . . because she knew by this point she was in trouble." But appellant was unable to retrieve the syringe and returned to the house without it.
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> Fearing that his son was inside, Hoard went into the unlocked house. Unbeknownst to Hoard, appellant had sent the child to her sister's house around the corner before his father arrived. Inside the house, Hoard found appellant "standing at the top of the steps," in the doorway to her bedroom. When Hoard asked where Zach was, appellant replied, "He's up here. He's in his room." Hoard yelled for his son, but "there was no answer." Appellant told Hoard, "If you want him, come up here and get him."

Hoard "started up the steps[,]" but "before [he] got to the top[,]" appellant "brought her hand out from behind the door and [he] saw another syringe in her hand. She then proceeded to chase [him] down the steps." Hoard fled into the dining room downstairs, but "she . . . came at [him] with the syringe . . . while [he] was facing her[.]" Appellant held the syringe "in her right hand" and came at Hoard with "a stab." She "came at" Hoard again "a few times." Although he "was able to block her blows a couple of times . . . she got me once in the hip and once in the right thigh." He "was finally able to knock the syringe from her hand. And then she . . . was just punching me[.]" "[S]he got a few good shots in on my left shoulder." Hoard "pushed her," catching her blouse on his watch and tearing it. As appellant fell to the ground, Hoard "turned and ran out the door."

Throughout the attack, Hoard's cell phone remained connected to 911. He retreated to his truck and locked it. Appellant came out again and he told her that "the police are on their way." Through the window, he saw appellant talking on the telephone inside the house.

Police and paramedics responded to the emergency call. Mr. Hoard, a heavy smoker who weighed approximately 230 lbs. and takes medication for hypertension, had puncture wounds. He had "half dollar" sized "red welts" around the puncture marks on his buttocks and thigh. His pants, underwear, and undershirt were stained with blood from the buttocks puncture wound. Hoard was shaking and out of breath in a way that he had never experienced before, and his blood pressure, which had been controlled by medication, was "through the roof."

A 5 milliliter syringe with a bent needle was recovered from Mr. Hoard's truck. It contained "a drop or two" of a "clear liquid," which later was identified as the neuromuscular blocker succinylcholine chloride.

Inside the house, appellant told one of the responding paramedics that she was not stabbed and that her son had "been upstairs . . . the whole time." But she refused his request to "look at him[.]"

After paramedics left, appellant reported to the investigating police officer that Mr. Hoard attacked her with a syringe and tore her shirt when she let him into the house. The paramedics were called back. They found a single needle puncture mark on her arm, but appellant refused treatment.

Hoard was examined, treated, and released that night from Providence Hospital, where he worked as a record clerk. Among the tests performed was

"an x-ray of the abdominal region" to [determine] whether "any air . . . had gotten in" as a result of empty syringe stabbings.

Appellant consented to the search of her home. She told police that, when Mr. Hoard returned to the house, he assaulted her with a needle, which she got away from him and threw in the trash can of her upstairs bathroom.

A second used syringe was recovered from "the very bottom of the trash can" in the master bathroom. The 10 ml syringe and needle were disassembled, but "placed back in the wrappers in the bottom of the . . . trash can." When asked, appellant "couldn't give [police] a reason why it was there." Police reported that this syringe had a liquid substance in it when it was recovered but there was no liquid or residue when lab tests were performed two weeks after the altercation, on April 13.

In addition to the used syringe in appellant's bathroom, unwrapped unused syringes were found in appellant's closet. Mr. Hoard reported that appellant occasionally brought these home from her contract nursing work at various Washington area hospitals, when she forgot to empty her pockets. No one in the family ever had a medical need for the syringes.

Mr. Hoard obtained a protective order against appellant on March 30, the day following the attack. In his application, he wrote that, while she was attacking him, appellant "said I'm trying to scare you and I'm trying to teach you a lesson[.]"

On April l, appellant reported to police that Mr. Hoard had "raped" her on the evening of the altercation. She told an investigator that Hoard "got upset" when she told him their son was not there, then "pushed her and tore off her clothes." She tried to get away, but he sexually assaulted her. Appellant made a written statement that Hoard "pushed, kicked, tore off my clothes and sexually assaulted me," reporting for the first time that "[h]e stuck me with a needle" and penetrated her vagina with his finger. She "called 911" when she "managed to get away from him momentarily[.]"

When questioned following her statement, appellant claimed that she did not report the sexual assault to the officers who responded to the 911 call because "I was scared" and "had a feeling I may be in trouble." Appellant did not "really remember" whether there was an "act of sexual intercourse with his penis entering [her] vagina." During the interview, she asked the investigating officer "several times how to get a protective order and . . . wanted to know if she would be able to get her son by getting one."

> A sexual assault investigator followed up on April 7, leaving a message for appellant to return her call. After several additional messages, appellant called back six days later, saying "she had to think things out before calling[.]" She repeated her sexual assault charges, but did not remember exactly how Mr. Hoard restrained her and could not say what he used to penetrate her. She became "very hostile and upset" when the investigator asked for clarification.
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> Appellant also told the investigator that, as she was attempting to go upstairs to get away from Hoard, she "was stabbed a few times with the syringe on her arms and legs." When asked how Hoard obtained the syringe, she posited that "perhaps Mr. Hoard found [the syringe] in her house[.]" She explained that she did not tell the responding police and paramedics at the scene about the sexual assault because she felt that the police "were already on her husband's side" and that she "didn't need to be checked out" by the paramedics because "she was a nurse and she knew she was okay." At the end of the interview, when asked whether there was "anything else that you would like to add," appellant asked, "'If he gets locked up, will I get my son back?'" In response to the investigator's statement "that there was some inconsistencies and that it was going to be difficult," appellant "just walked out" without speaking.
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> After a bench trial, the Circuit Court for Anne Arundel County found appellant guilty of attempted first degree murder, first degree assault and battery, second degree assault and battery, and using a weapon to cause serious injury. The trial court concluded that appellant intended to kill her former husband in order to regain custody of their son.

Hoard v. State, No. 1398, Sept. Term 2005 (filed August 21, 2006), slip op. at 1-7 (footnote omitted).

> Appellant filed several motions for post-conviction relief. Relevant here is her 2021 petition for a writ of error coram nobis. In that petition, appellant asserted a *Brady* violation based on Mr. Hoard's transcripts. She asserted that appellant's sister found previously undiscovered transcripts in appellant's home. The transcripts showed that Mr. Hoard had momentarily studied respiratory therapy. Appellant contend[ed] that this undermined Mr. Hoard's argument that he lacked the technical wherewithal to possess and operate the syringe. Appellant argue[d] that the State should have known that Mr. Hoard had studied respiratory studies. Appellant claim[ed] that this violation caused her to lose her nursing license. In November of 2021, at the coram nobis hearing, appellant asserted that Mr. Hoard's school grade

> transcripts showed that he had majored in respiratory therapy and not medical records as he had testified during the trial. The State argued that there could not be a *Brady* violation because it did not possess the transcripts, they were not material, and appellant had exclusive access to them.
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> Mr. Hoard testified at [the] coram nobis hearing. He testified that although the transcripts were his, he had worked as a release of information coordinator, and had no access to prescription or pharmaceutical drugs. He testified that he only momentarily majored in respiratory therapy before he switched to general studies. Additionally, he learned nothing about drugs or human anatomy in his respiratory theory [sic] class.
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> On September 7, 2022, the coram nobis court denied appellant's petition, holding that there was no *Brady* violation because appellant did not establish that the State suppressed Mr. Hoard's college transcripts. The judge concluded that the State was never in possession of the transcripts and that only the appellant had access to them. The court held that the transcripts were neither material nor favorable to the defense, concluding that there was no evidence that succinylcholine chloride, the drug found in the syringe, was discussed in any of Mr. Hoard's classes.

Hoard v. State, No. 1264, Sept. Term 2022 (filed August 14, 2023), slip op. at 5-6.

Affirming the judgment, we stated, in pertinent part:

> There is no evidence that the documents were either material or favorable to the defense. Both the United States Supreme Court and the Supreme Court of Maryland have held that for evidence to be material, there must be a reasonable probability that the undisclosed evidence would have undermined confidence in the outcome of the case. The crux of [Ms. Hoard's] *Brady* allegation is that because Mr. Hoard's transcripts showed that he temporarily majored in respiratory therapy, he must have had some familiarity with succinylcholine chloride. There is no indication, however, that this drug was covered in any of his courses. Moreover, Mr. Hoard studied respiratory therapy temporarily before switching to general medical records. Consequently, the circuit court did not abuse its discretion or err in denying appellant's coram nobis petition.

Id. at 12 (citations omitted).

On October 11, 2024, Ms. Hoard filed the petition for writ of actual innocence, in which she alleged "newly discovered information [that] relates to the implement used in

the attack, to the victim's medical knowledge closely tied to the implement . . . , and to the victim's motive." Ms. Hoard stated, in pertinent part:

> Ms. Hoard's new evidence unequivocally shows that the victim had knowledge of succinylcholine chloride and its effects given [his] educational background. . . . . The victim had completed extensive coursework toward an associate degree in respiratory therapy which included courses such as Human Anatomy & Physiology I, Human Anatomy & Physiology II, Functional Anatomy, Biology, and other medical related courses. Furthermore, the "Report of Academic Progress dated 11-10-00" from Columbia Union College stated that Mr. Hoard had also pursued a Bachelor of Science Degree in Information Systems. These courses typically cover all body parts, respiratory systems, vascular systems, and the most accessible areas on the body, providing Mr. Hoard with the knowledge to target the specific site where the puncture wound on Ms. Hoard's wrist was inflicted as testified by dialysis nurse Wayne Williams. The new evidence proves that Mr. Hoard purposely concealed the truth of his educational history, which is highly relevant to the case as it suggests Mr. Hoard had extensive medical knowledge and could have had knowledge of succinylcholine chloride.
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> Ms. Hoard's new evidence also suggests Mr. Hoard had access to succinylcholine chloride. . . . . In a handwritten note titled "Reasons for requesting new position," [the] victim writes, "I know the hospital" and "I interact with the medical staff, and nursing units, and other hospital departments on a daily basis." His responsibilities as a Release of Information Coordinator included having access to various records including medication, emergency room, surgical[,] and restricted records. It is conceivable, through Mr. Hoard's education and having clearance in his employment status, that he would have been familiar with the drug[] succinylcholine chloride and had access to it.
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> . . . . Given the new evidence of his awareness of succinylcholine chloride he may have been falsifying his symptoms to match those associated with succinylcholine chloride. . . . .
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> Ms. Hoard also can present new evidence that casts doubt on the victim's statements regarding motive. At trial, the State, through the victim, claimed that Ms. Hoard had a motive to kill her former husband because she wanted custody of their son and sought to exclude the victim from their lives. However, Ms. Hoard now has evidence indicating that it was, in fact, the

> victim who aimed to remove Ms. Hoard from their child's life. . . . . In a fax from the victim, he explicitly states, "I don't want [Ms. Hoard] to be able to get to my mother's estate." . . . .
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> Additionally, Ms. Hoard has provided new evidence that demonstrates Mr. Hoard did have motive. Mr. Hoard had a motive related to the Federal Bankruptcy Adversarial Case, Chapter 13 No.: 03-65869, Adversary No.: 03-05970, which was active during that time and resulted in his losing the $20,000 marital reward awarded to him by the Anne Arundel County Circuit Court in the 2002 divorce settlement.

(Paragraph numbering omitted.) Following a hearing, the court denied the petition.

Ms. Hoard now contends that, for numerous reasons, the court erred in denying the petition. The State contends that the "claims in [the petition] were barred by the doctrine of res judicata." Alternatively, the State contends that the court did not err in denying the petition.

With respect to the evidence of Mr. Hoard's "educational background" cited in the petition, we conclude that the law of the case precludes further review of the matter. In affirming the denial of Ms. Hoard's petition for writ of error coram nobis, we explicitly stated that "[t]here is no evidence that" Mr. Hoard's "college transcripts" are "either material or favorable to the defense." We shall not revisit this conclusion.

With respect to the other evidence cited in the petition, specifically the "handwritten note," the "fax," and Mr. Hoard's loss of a "$20,000 marital reward," we reject Ms. Hoard's contention. The Supreme Court of Maryland has stated that one who petitions for a writ of actual innocence "must produce newly discovered evidence that: (1) speaks to his or her actual innocence; (2) could not have been discovered in time to move for a new trial under . . . Rule 4-331; and (3) creates a substantial or significant possibility that, if his or her jury

had received such evidence, the outcome of his or her trial may have been different." *Carver v. State*, 482 Md. 469, 489-90 (2022) (internal citations, quotations, and footnote omitted).

> The first prong limits relief to a petitioner who makes a threshold showing that he or she may be actually innocent, meaning he or she did not commit the crime. . . . . The third prong requires a materiality analysis under a standard that falls between "probable," which is less demanding than "beyond a reasonable doubt," and "might," which is less stringent than "probable." To meet this standard, the cumulative effect of newly discovered evidence, viewed in the context of the entire record, must undermine confidence in the verdict.

Id. at 490 (internal citations and quotations omitted).

Here, Ms. Hoard did not contend in the petition, or at the hearing on the petition, that she did not stab Mr. Hoard with a syringe. Hence, Ms. Hoard failed to make a threshold showing that she is actually innocent. Also, Mr. Hoard, at trial, gave extensive and detailed testimony as to how Ms. Hoard stabbed him with a syringe, demanded the return of their son, stated that she was "trying to teach [Mr. Hoard] a lesson," attempted to locate the syringe inside Mr. Hoard's truck, lured Mr. Hoard back into her residence, and attempted to stab him with a second syringe. The State also presented evidence that Ms. Hoard falsely told Mr. Hoard and paramedics that Zachary was inside her residence at the time of the attacks, falsely told a police officer that Mr. Hoard had attacked her with a needle, failed to provide an explanation for the presence of a second used syringe in her bathroom, falsely reported that Mr. Hoard had sexually assaulted her, and inquired whether the issuance of a protective order or criminal charges against Mr. Hoard would enable her to regain custody of their son. In light of the considerable, if not overwhelming, nature of this evidence, we

conclude that the cumulative effect of the evidence cited in the petition does not undermine confidence in the verdict, and hence, the court did not err in denying the petition.

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