Circuit Court for Baltimore City
Case No. 102071021

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 991

September Term, 2025

JAMES JOHNSON

v.

STATE OF MARYLAND

Friedman,
Kehoe, S.,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 27, 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.

Following a 2006 jury trial in the Circuit Court for Baltimore City, James Johnson, appellant, was convicted of second-degree murder; use of a handgun in the commission of a crime of violence; and wearing, carrying, or transporting a handgun. In 2024, he filed a petition for writ of actual innocence, which the circuit court dismissed. He now appeals that decision, raising two issues: (1) whether the court erred in dismissing his petition for writ of actual innocence without a hearing, and (2) whether the court took an "improper interest" in his case. For the reasons that follow, we shall affirm the judgment.

At trial, the evidence demonstrated that the boyfriend of appellant's estranged wife was shot in her apartment on November 4, 2001. Appellant's wife, who was present at the time of the shooting, was interviewed by Detective Dennis Raftery, and although her story changed over time, she eventually identified appellant as the shooter. However, when called to the stand at trial, she invoked the "spousal privilege" and refused to testify. The State also presented evidence from two individuals who were walking by the apartment where the victim was shot. They testified that they heard gunshots and a woman screaming, "stop" and "please don't." A man then ran out of the apartment, got into a green Mercury Sable with a damaged side mirror, and drove away. The parties stipulated that the police subsequently responded to a call for an abandoned vehicle and recovered a car matching that description, which was registered to appellant. Another woman, with whom appellant had two children, also testified that she spoke with appellant shortly after the shooting, and he told her that "he had just done something that may send him to jail the rest of his life[.]"

In 2024, appellant filed a petition for writ of actual innocence. The sole claim he raised therein was that he had "obtained a list from the Law Library of all corrupt Police in

Baltimore City" and that the list included the names of several officers who were involved in his case. Appellant did not indicate what misconduct they were alleged to have committed, when that misconduct allegedly occurred, when the list was created, or how it demonstrated that he was actually innocent. The State did not file a response. The court subsequently entered an order dismissing the petition, finding that it failed to assert grounds on which relief could be granted. Specifically, the court noted that appellant had not alleged that the information would have provided a "basis for impeachment" when his trial occurred and did not provide "any basis for the necessary connection to his innocence." This appeal followed.

Appellant first contends that the court erred in dismissing his petition without a hearing. We disagree. Certain convicted persons may file a petition for writ of actual innocence "based on newly discovered evidence[.]" *See* Md. Code Ann., Crim. Proc. § 8-301; Md. Rule 4-332. "Actual innocence" means that "the defendant did not commit the crime or offense for which he or she was convicted." *Smallwood v. State,* 451 Md. 290, 313 (2017). "[T]o prevail on a petition for writ of innocence, the petitioner must produce evidence that is newly discovered, i.e., evidence that was not known to petitioner at trial." *Smith v. State,* 233 Md. App. 372, 410 (2017). The burden of proof on a writ for actual innocence is on the petitioner. Crim. Proc. § 8-301(g); Md. Rule 4-332(k). A court "may dismiss a petition [for writ of actual innocence] without a hearing if the court finds that the petition fails to assert grounds on which relief may be granted." Crim. Proc. § 8-301(e)(2). *See also* Rule 4-332(i)(1). "The standard of review is *de novo* when

appellate courts consider the legal sufficiency of a petition for writ of actual innocence that was denied without a hearing." *State v. Ebb*, 452 Md. 634, 643 (2017).

Here, even if we assume that the report was newly discovered, it does not contain any exculpatory evidence which raises the possibility that appellant could be actually innocent of the crimes for which he was convicted. *See Faulkner v. State*, 468 Md. 418, 459-60 (2020) (The requirement that newly discovered evidence "speaks to" the petitioner's actual innocence "ensures that relief under [the statute] is limited 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.'" (quoting *Smallwood*, 451 Md. at 323)). Specifically, the fact that certain officers involved in his case appear on a "Do Not Call" list does not, without more, demonstrate that appellant did not commit the crimes for which he was convicted. And there is no basis to conclude that information could have even been used to impeach the officers in a way that might have affected the outcome of the trial, as it is not clear what misconduct the officers allegedly committed, whether the misconduct occurred prior to appellant's trial, or how the misconduct was otherwise relevant to the evidence presented. In fact, except for Detective Raftery, who interviewed appellant's wife, the testimony that most directly implicated appellant in the charged crimes came from non-police witnesses. And notably, Detective Raftery was not on the list provided by appellant. In short, we are persuaded that appellant's bald assertions of police misconduct

set forth in his petition were insufficient to raise a plausible claim of actual innocence, such that a hearing was required.

Appellant also contends that the court "took an improper interest in [the] case" because it dismissed the petition without a response from the State. He specifically asserts that in the absence of a response from the State, the court "improperly took up the mantle of prosecutor" when it dismissed the case rather than issuing a show cause order. However, the State was not required to file a response. *See* Crim. Proc. Art. § 8-301(c) (stating that the State may file a response to the petition within 90 days after receipt). And when the State did not do so within the time required, the court was within its discretion to act upon the motion.

Finally, we find no merit to appellant's claim that the court failed to liberally construe his filings. For the reasons already set forth, even assuming the facts in the light most favorable to appellant and accepting all reasonable inferences that can be drawn from his petition, appellant failed to identify newly discovered evidence that qualifies as the basis for a petition for writ of actual innocence.

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