Circuit Court for Carroll County
Case No.: 06-K-14-045880

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1183

September Term, 2024

LESTER AARON SNYDER

v.

STATE OF MARYLAND

Berger,
Tang,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 28, 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.

In 2015, a jury in the Circuit Court for Carroll County convicted Lester Aaron Snyder, appellant, of first-degree premeditated murder, first-degree felony murder, robbery with a deadly weapon, and related offenses. The court later imposed two consecutive life sentences without the possibility of parole for the murder charges, a concurrent 10-year sentence for robbery, and a consecutive 10-year sentence for robbery with a deadly weapon. On direct appeal, this Court merged Snyder's robbery sentences, vacated his conviction for felony murder, but otherwise affirmed the circuit court's judgments. *Snyder v. State*, No. 1848, Sept. Term, 2015 (filed Mar. 21, 2017) (unreported).

Years later, in March 2024, Snyder petitioned for a writ of actual innocence, alleging newly discovered evidence. He then supplemented his petition in April and June. After the State's responses, the circuit court denied Snyder's petition without a hearing. This appeal followed.

We review the denial of a petition for a writ of actual innocence *de novo*. *Smallwood v. State*, 451 Md. 290, 308 (2017). "[T]o prevail on a petition for writ of [actual] 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). "Evidence" in this context means "testimony or an item or thing that is capable of being elicited or introduced and moved into the court record, so as to be put before the trier of fact at trial." *Hawes v. State*, 216 Md. App. 105, 134 (2014).

Moreover, "[t]o qualify as 'newly discovered,' evidence must not have been discovered, or been discoverable by the exercise of due diligence," in time to move for a new trial. *Argyrou v. State*, 349 Md. 587, 600–01 (1998) (footnote omitted); *see also* Md.

Rule 4-332(d)(6). The newly discovered evidence also must "speak[] to" the petitioner's actual innocence so "that relief . . . 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." *Faulkner v. State*, 468 Md. 418, 459–60 (2020) (cleaned up). A court may dismiss a petition for a writ of actual innocence without a hearing "if the court concludes that the allegations, if proven, could not entitle a petitioner to relief." *State v. Hunt*, 443 Md. 238, 252 (2015) (cleaned up). *See also* Md. Code Ann., Crim Proc. § 8-301(e)(2).

Here, Snyder generally asserts that the prosecutor assigned to his case failed to disclose exculpatory and material evidence that was favorable to Snyder. He then lists six pieces of "evidence" that he claims demonstrate his actual innocence:

- A "scandal" involving the trial prosecutor;
- Use of "tampered and altered evidence" in relation to a phone owned by Snyder's co-defendant;
- Use of perjured testimony from Snyder's co-defendant;
- A conspiracy between the trial prosecutor and an expert witness at Snyder's trial to withhold and fabricate evidence;
- Racially profiling Snyder; and
- The Supreme Court of Maryland's holding in *Abruquah v. State*, 483 Md. 637 (2023).

To begin, the "scandal" to which Snyder refers is an unsubstantiated claim, made by a candidate for State's Attorney in a media report, that the trial prosecutor—in a criminal

case wholly unrelated to Snyder's case—failed to disclose that a narcotics officer had "serious integrity issues and committed perjury." This allegation does not speak to Snyder's actual innocence. It is therefore not "newly discovered evidence." *See Smith*, 233 Md. App. at 410.

Snyder's claim about "tampered and altered evidence" is also not newly discovered evidence. First, as the circuit court observed, the evidence that Snyder offered to support this claim was self-defeating. Snyder pointed to an entry in the Device Data Report indicating that the phone had been used while he and his co-defendant were incarcerated. From this, Snyder concluded that the alleged use of the phone was fabricated. But the entry that Snyder identified was categorized as an *incoming* message. Further, even if Snyder could show the report was altered or fabricated, it still would not constitute newly discovered evidence because it was admitted into evidence, without objection, at his trial. It was therefore known and discoverable in time for Snyder to move for a new trial under Maryland Rule 4-331. *Argyrou*, 349 Md. at 601.

As for the claim that the trial prosecutor knowingly used perjured testimony from Snyder's co-defendant, Snyder offers only a bald, conclusory allegation that his co-defendant did not testify truthfully. Indeed, as the circuit court recognized, Snyder did not even "specify which portion of [his co-defendant's] testimony was allegedly perjured." Such an unsupported allegation is insufficient to "justify the granting of a writ[.]" *Smith*, 233 Md. App. at 411 n.30.

Snyder's fourth claim alleges a conspiracy between the trial prosecutor and an expert witness to withhold and fabricate DNA evidence. He relies on a Crime Scene Report

and a Notification of the State's Intention to Introduce Evidence of DNA Profile through the expert witness. It is unclear how this evidence "speaks to" Snyder's actual innocence, *Faulkner*, 468 Md. at 459, and, in any event, both documents were provided to Snyder in discovery before his trial. As a result, they are not newly discovered evidence. Still, Snyder asserts that the State withheld evidence because this Court found the same expert witness culpable for fabricating evidence in another case. *See Harmon v. State*, No. 580, Sept. Term, 2018 (filed Aug. 20, 2019) (unreported). Even if Snyder was correctly characterizing the holding in *Harmon*, like his claim about a "scandal" involving the trial prosecutor, *Harmon* is wholly unrelated to this case. Thus, Snyder's claim does not speak to his actual innocence. *See Smith*, 233 Md. App. at 410.

Snyder next claims that he was racially profiled because an eyewitness identified two white men as the assailants. The witness's description and inability to identify Snyder as one of the assailants were both disclosed to Snyder in pre-trial discovery. The witness also testified at trial and was subject to cross-examination. Snyder's claim is therefore not newly discovered evidence.

Finally, Snyder asserts that the Supreme Court of Maryland's opinion in *Abruquah v. State*¸ 483 Md. 637, 696 (2023), holding that "firearms identification has not been shown to reach reliable results linking a particular unknown bullet to a particular known firearm[,]" precluded the specific testimony of the State's expert witness in firearms identification at Snyder's trial. Snyder has not identified any specific newly discovered evidence; he relies solely on the Court's opinion itself for relief. Put simply, a judicial opinion—even one from the Supreme Court—is not "testimony or an item or thing that is

capable of being elicited or introduced and moved into the court record, so as to be put before the trier of fact at trial." *Hawes*, 216 Md. App. at 134. Further, the evidentiary holding in *Abruquah* was an application of the law that followed from the Supreme Court's earlier adoption of a new standard for expert testimony in *Rochkind v. Stevenson*, 471 Md. 1 (2020). And the Court made clear in *Rochkind* that, since it was adopting "a new interpretation of Rule 5-702, [its] decision [in that case] applie[d] [only] to th[at] case and any other cases that [were] pending on direct appeal when th[e] opinion [was] filed, where the relevant question ha[d] been preserved for appellate review." 471 Md. at 38 (cleaned up). Snyder's direct appeal, however, was decided three years earlier. Thus, *Rochkind*—and, by extension, *Abruquah*—do not apply here.

In sum, Snyder failed to allege in his petition any "newly discovered evidence" to support his claim of actual innocence. Consequently, the circuit court did not err in denying his petition without a hearing.

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