

Circuit Court for Montgomery County
Case No.: 97540C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1372

September Term, 2025

MARLO CRUZ

v.

STATE OF MARYLAND

Arthur,
Shaw,
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 23, 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.

In 2013, after finding that Marlo Cruz, appellant, had violated conditions of his probation, the Circuit Court for Montgomery County revoked his probation and ordered him to serve 53 years, six months of his previously suspended time for convictions for child abuse and two counts of second-degree rape. About ten years later, Mr. Cruz, representing himself, filed a petition for writ of habeas corpus, which the circuit court later denied. In denying relief, the circuit court addressed his grounds for habeas relief: (1) double jeopardy based on his allegation that multiple counts in his indictment were duplicitous and multiplicitous; (2) ineffective assistance of both trial and post-conviction counsel; (3) a claim of alleged actual innocence based on the lack of DNA evidence detected on the victim; and (4) an alleged Eighth Amendment violation due to COVID-19 exposure. The circuit court found no merit to the allegations that would warrant habeas relief. Mr. Cruz appeals that ruling. The State maintains that the circuit court’s decision is not appealable. We agree.

“Although the right to seek a writ of habeas corpus is constitutionally protected, the right to an *appeal* from the disposition of the habeas corpus petition is not.” *Simms v. Shearin*, 221 Md. App. 460, 469 (2015). “An appeal may be taken from a final order in a habeas corpus case only where specifically authorized by statute.” *Gluckstern v. Sutton*, 319 Md. 634, 652 (1990). The only possible statute that would apply in this case is Section 7-107 of the Criminal Procedure Article. That statute, however, only authorizes appeals in habeas corpus cases “when the petitioner challenge[s] the legality of confinement based on collateral post-trial influences and not the legality of the underlying conviction or sentence, and where the [Uniform Post-Conviction Procedure Act does] not otherwise provide a

remedy.” *Simms*, 221 Md. App. at 473. Because the claims raised in Mr. Cruz’s habeas petition attacked the legality of his conviction, the denial of that petition is not appealable. *See Green v. Hutchinson*, 158 Md. App. 168, 174 (2004) (where the arguments in support of habeas relief “went directly to the legality of [the petitioner’s] convictions[,]” there was no right to appeal the circuit court’s order denying relief).¹ Consequently, the appeal must be dismissed.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

¹ As for Mr. Cruz’s Eight Amendment allegation, we agree with the circuit court that any decision made by a Maryland public official or by a prison employee made in response to the COVID-19 crisis does not constitute cruel and unusual punishment.