

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1509

September Term, 2023

ABRAS SANDY Q. MORRISON

v.

STATE OF MARYLAND

Nazarian,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 16, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Abras Sandy Q. Morrison, appellant, appeals from the denial, by the Circuit Court for Carroll County, of his petition for writ of habeas corpus. In response, the State has filed a motion to dismiss the appeal as not permitted by law. For the reasons that follow, we shall grant the State’s motion to dismiss the appeal.

In 1992, a jury convicted appellant of first-degree murder, conspiracy to commit murder, kidnapping, and robbery. The court sentenced him to a term of life imprisonment without parole on the murder count. The court either merged or imposed concurrent sentences on the remaining counts. This Court affirmed his convictions on direct appeal. *Morrison v. State*, 98 Md. App. 444 (1993).

In June 2023, appellant filed a petition for writ of habeas corpus, claiming that the prosecutor in his case had made “false statements of fact and law” to the sentencing judge to “influence” the judge to impose a sentence of life without parole on the murder count. As relief, he requested the court to vacate his sentence and re-sentence him to life, suspend all but 45 years.

On July 2, 2023, the court issued a show cause order directing the State to respond to appellant’s petition within 30 days and allowing appellant to respond within 30 days thereafter. The State, however, did not file its response until August 11, 2023. Because the State had filed an untimely response, appellant filed a “Motion for Summary Judgment” and a “Motion for Default Judgment.” The court denied both motions and also denied appellant’s petition for writ of habeas corpus without a hearing. This appeal followed. On appeal, appellant contends that the court erred in considering the State’s untimely response, and in not allowing him to file a reply prior to denying his petition for writ of habeas corpus.

He also contends the court erred in denying the petition on the merits. The State disagrees and has also filed a motion to dismiss the appeal.

“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. However, that statute 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 all the claims raised in appellant’s habeas petition attacked the legality of his conviction and sentence, 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). Consequently, the appeal must be dismissed.

**MOTION TO DISMISS APPEAL
GRANTED. COSTS TO BE PAID BY
APPELLANT.**