

Circuit Court for Wicomico County
Case No.: 22-K-15-000129

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2041

September Term, 2025

MAJOR LENELL RICHARDSON

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: June 29, 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.

On September 16, 2015, following a bench trial on a not guilty agreed statement of facts, the Circuit Court for Wicomico County found Major Lenell Richardson guilty of possession of a controlled dangerous substance with intent to distribute. The agreed statement of facts included assertions that, on January 28, 2015, at approximately 1300 hours, “members of the Gang Enforcement Unit” and “the Wicomico County Narcotics Task Force were conducting covert surveillance operations” when they observed a male, later identified as Richardson, engage in a hand-to-hand transaction of what they believed to be a controlled dangerous substance. They then observed Richardson get into the passenger’s seat of a black Jeep Cherokee, which the officers subsequently stopped. A K-9 scan of the vehicle alerted to the presence of the odor of narcotics. The driver of the vehicle admitted to stashing—at Richardson’s direction—a quantity of crack cocaine into her vagina. Although no controlled dangerous substances were recovered from Richardson himself, he did have \$2,417 in cash on his person. Upon subsequent questioning, Richardson informed the police that he handed “the capsule containing cocaine and heroin” to the vehicle’s driver and asked her to conceal it in her pants to avoid detection by the police. The capsule contained 53 individually wrapped pieces of crack cocaine and some heroin.

The court sentenced Richardson, as a third-time offender, to twenty-five years’ incarceration without the possibility of parole. On direct appeal, this Court affirmed the judgment. *Richardson v. State*, No. 1901, September Term, 2015 (filed unreported August 4, 2016).

In 2025, Richardson, representing himself, filed a petition for writ of actual innocence. The circuit court denied the petition, on November 12, 2025, without a hearing “for failing to assert a ground on which relief may be granted,” a decision Richardson appeals. For the reasons to be discussed, we shall affirm the judgment.

DISCUSSION

Certain convicted persons may file a petition for a writ of actual innocence based on “newly discovered evidence.” *See* Md. Code Ann., Crim. Proc. § 8-301; Md. Rule 4-332(d)(6). “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).

In pertinent part, the statute provides:

(a) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, file a petition for writ of actual innocence in the circuit court for the county in which the conviction was imposed if the person claims that there is newly discovered evidence that:

(1) (i) if the conviction resulted from a trial, creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; [and]

(2) could not have been discovered in time to move for a new trial under Maryland Rule 4-331.

(g) A petitioner in a proceeding under this section has the burden of proof.

Crim. Proc. § 8-301.

“Thus, to 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). 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* Rule 4-332(d)(6).

“Evidence” in the context of an actual innocence petition 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). 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.’” *Faulkner v. State*, 468 Md. 418, 459-60 (2020) (quoting *Smallwood*, 451 Md. at 323).

A court may dismiss a petition for 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) (quotation marks and citation omitted). *See also* Crim. Proc. § 8-301(e)(2). “[T]he standard of review when appellate courts consider the legal sufficiency of a petition for writ of actual innocence is *de novo*.” *Smallwood*, 451 Md. at 308.

Here, Richardson raised in his petition (and reiterates on appeal) a host of allegations. For instance, he asserts that the driver of the vehicle was “granted immunity”

and he did not learn of that fact until several years later; he was “not in possession of drugs,” rather a “state witness was in possession of the drugs”; he was illegally searched and detained; the statements given to the police should have been suppressed; and there was no “probable cause to arrest and convict” him. None of Richardson’s allegations, however, speak to his actual innocence. Accordingly, we hold that the circuit court did not err in dismissing or denying the petition without a hearing.

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