

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2553

September Term, 2016

RANDOLPH THOMPSON

v.

STATE OF MARYLAND

Woodward, C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 9, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 1995, Randolph Thompson, appellant, was convicted by a jury in the Circuit Court for Baltimore City of first-degree murder and use of a handgun in a crime of violence. He was sentenced to life in prison for murder and a consecutive twenty years for the handgun conviction. This Court affirmed his convictions and sentences in an unreported opinion. *See Thompson v. State*, No. 90, Sept. Term 1996 (filed Nov. 12, 1996).

On May 31, 2016, appellant filed a petition for a writ of actual innocence, claiming that newly discovered evidence in the form of police interview notes demonstrated that a State witness lied at trial. The circuit court ordered appellant to amend his petition, which he did on August 15th. On September 6, 2016, the circuit court dismissed the petition, after determining that appellant had failed to demonstrate how the interview notes would have impacted the trial. Appellant did not note an appeal from that order. Instead, on November 15, 2016, appellant filed another petition for a writ of actual innocence, again asserting that the police interview notes were newly discovered evidence that called into question the credibility of the State’s witness.¹ The circuit court dismissed this petition without a hearing. Appellant noted this appeal and maintains that he adequately met the pleading requirements of a petition for a writ of actual innocence pursuant to Maryland Code (2001, 2008 Repl. Vol., 2016 Suppl.), Criminal Procedure Article (“Crim. Pro.”), § 8-301, and the court erred in dismissing his petition without a hearing.

¹ A review of the record indicates that appellant’s second petition is a virtual carbon-copy of an amalgamation of his first petition, as originally filed and as amended. We note that in the second petition, appellant acknowledged that the circuit court had previously dismissed his first petition, but he made no attempt to differentiate the second petition from the first.

We need not address the merits of appellant’s contention, however, because his petition is barred by *res judicata*. This doctrine bars “the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the first transaction or series of transactions and that could have been – but was not – raised in the first suit.” *Anne Arundel Cnty. Bd. of Ed. v. Norville*, 390 Md. 93, 106 (2005) (quoting *Lizzi v. Wash. Metro. Area Transit Auth.*, 384 Md. 199, 206 (2004)). “Under Maryland law, the elements of *res judicata*, or claim preclusion, are: (1) that the parties in the present litigation are the same or in privity with the parties to the earlier dispute; (2) that the claim presented in the current action is identical to the one determined in the prior adjudication; and, (3) that there has been a final judgment on the merits.” *Anand v. O’Sullivan*, 233 Md. App. 677, 696 (2017) (quoting *Norville*, 384 Md. at 107).

The elements of *res judicata* are met in this case. This is appellant’s second petition for a writ of actual innocence stating the same claims as those presented in the first petition. Appellant’s first petition was dismissed, and appellant failed to appeal that decision. Accordingly, the circuit court’s order became final, and appellant is barred from re-litigating the same claims in another petition. *See also Scott v. State*, 150 Md. App. 468, 474 (2003) (stating that a court is not “required to consider anew repeated motions by a litigant setting forth the same facts and contentions”), *aff’d*, 379 Md. 170 (2004).

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