

Circuit Court for Baltimore County
Case No. 03-K-07-002978

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1478

September Term, 2024

STEPHEN NIVENS

v.

STATE OF MARYLAND

Leahy,
Zic,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 10, 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.

Stephen Nivens, appellant, appeals from the denial, by the Circuit Court for Baltimore County, of a petition for writ of habeas corpus. For the reasons that follow, we shall affirm the judgment of the circuit court.

In 2011, Mr. Nivens was convicted of second degree sexual offense and first degree burglary. The court subsequently sentenced Mr. Nivens to a total term of imprisonment of forty years. In October 2012, Mr. Nivens filed a petition for post-conviction relief. The State subsequently moved to dismiss the petition without a hearing. In February 2013, the court granted the State’s motion and dismissed the petition without a hearing. Mr. Nivens subsequently applied to this Court for leave to appeal from the judgment. In November 2014, we denied the application. In January 2016, December 2019, and March 2020, Mr. Nivens filed additional petitions for post-conviction relief. In August 2020, the court denied the petitions.

In September 2024, Mr. Nivens filed the petition for writ of habeas corpus, in which he challenged the failure of the Maryland Parole Commission (“MPC”) to schedule a parole hearing prior to December 2030. Mr. Nivens also contended that he “has been [impermissibly] denied a post-conviction hearing and counsel.” The court denied the petition.

Mr. Nivens contends that, for numerous reasons, the court erred in denying the petition. The State moves to dismiss the appeal on the ground that the “petition challenged in part the legality of [Mr. Nivens’s] conviction and sentence,” and hence, the “appeal is barred.” *See* Md. Code (2001, 2018 Repl. Vol., 2024 Supp.), § 7-107(b)(1) of the Criminal Procedure Article (“CP”) (“[i]n a case in which a person challenges the validity of

confinement under a sentence of imprisonment by seeking the writ of habeas corpus . . . , a person may not appeal to the Supreme Court of Maryland or the Appellate Court of Maryland”). Alternatively, the State requests that we affirm the judgment.

We disagree with the State as to whether the appeal is barred. Although Mr. Nivens listed in the petition numerous reasons why he believes that his convictions and sentences should be vacated, he ultimately challenged the collateral actions of the MPC and post-conviction court. Hence, we deny the State’s motion to dismiss.

Nevertheless, we shall affirm the judgment. Mr. Nivens first contends that the judge that denied the petition “was prohibited from . . . ruling upon” the petition, because while she was employed as “an Assistant Public Defender with the Baltimore County Public Defender’s Office,” she “accept[ed] bribes” and engaged in “money laundering” and “ongoing corruption.” Mr. Nivens does not specify any evidence that supports these allegations. Mr. Nivens also does not cite any authority that disqualifies a judge formerly employed by the Office of the Public Defender from resolving a petition for writ of habeas corpus. Hence, the judge did not err in resolving the petition.

Mr. Nivens next contends that, for numerous reasons, the MPC erred in failing to schedule a parole hearing prior to December 2030. But, the Supreme Court of Maryland has recognized that “[t]he parole statute does not provide for a right to judicial review,” *Farmer v. State*, 481 Md. 203, 214 n.7 (2022), and Mr. Nivens does not cite any authority that allows an inmate to challenge a decision of the MPC in a petition for writ of habeas corpus. Hence, we shall not reach Mr. Nivens’s contention.

Mr. Nivens next contends that, for numerous reasons, he has been impermissibly “denied a post-conviction hearing and counsel.” But, CP § 7-103(a) states that “[f]or each trial or sentence, a person may file only one petition for [post-conviction] relief,” and Mr. Nivens’s initial petition for post-conviction relief was finally resolved by this Court in November 2014. Mr. Nivens does not have the right to an additional petition for post-conviction relief, and hence, the court did not err in denying the petition for writ of habeas corpus.

Finally, Mr. Nivens contends that, for numerous reasons, his convictions and sentences must be vacated. But, Mr. Nivens did not raise this contention before the circuit court, and Rule 8-131(a) states that “an appellate court will not [ordinarily] decide any . . . issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Also, an appeal from the denial of a petition for writ of habeas corpus on this ground is prohibited by CP § 7-107(b)(1). Hence, we shall not reach the contention.

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