

Circuit Court for Baltimore City
Case No. 28100729

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1744

September Term, 2022

EARL S. COUSINS

v.

STATE OF MARYLAND

Nazarian,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 27, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*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.

Earl S. Cousins, appellant, appeals from the denial, by the Circuit Court for Baltimore City, of a petition for writ of error coram nobis. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from one of our previous opinions in Mr. Cousins's case:

On July 6, 1981, [Mr.] Cousins entered a plea of guilty to the charge of robbery with a deadly weapon. The court . . . sentenced him to a term of imprisonment of eight years. . . .

At the guilty plea proceeding in 1981, the prosecutor presented an agreed statement of facts. According to the State, on November 8, 1980, at approximately 9:30 p.m., [Mr. Cousins] forced his way into a vehicle operated by Leonard Krout. [Mr.] Krout's wife, a passenger in the car, was able to flee from the vehicle. [Mr. Cousins] pressed a hard object against Mr. Krout's neck and demanded money. Accordingly, Mr. Krout turned over his wallet, containing \$70. [Mr. Cousins] also took [Mr.] Krout's car keys. After [Mr.] Krout exited the vehicle, [Mr. Cousins] drove away in [Mr.] Krout's car. [Mr. Cousins] was apprehended several hours later.

Cousins v. State, No. 1847, September Term, 2002 (filed September 30, 2003), slip op. at 1-2.

On August 23, 2000, Mr. Cousins filed a petition for writ of error coram nobis. The court denied the petition, and we subsequently affirmed the court's judgment. *Cousins v. State*, No. 2549, September Term, 2004 (filed May 4, 2006). In September 2016, Mr. Cousins was convicted by a jury in the Circuit Court for Baltimore County of two counts of armed robbery and related offenses. *Cousins v. State*, No. 2204, September Term, 2016 (filed October 23, 2017), slip op. at 1. The court subsequently sentenced Mr. Cousins to a total term of imprisonment of life without the possibility of parole, plus a consecutive thirty

years. *Id.* On February 1, 2018, Mr. Cousins filed in the Circuit Court for Baltimore City a second petition for writ of error coram nobis. The court subsequently denied the petition.

On March 21, 2022, Mr. Cousins filed a third petition for writ of error coram nobis. In the petition, Mr. Cousins contended that at the time of his arrest, he was seventeen years old. Mr. Cousins contended, among other contentions, that at his preliminary hearing, the court violated his right to due process by waiving his case to adult court. Mr. Cousins further contended that he had suffered a significant collateral consequence of the conviction, because it was used to enhance the sentence that he received in the Circuit Court for Baltimore County. On May 10, 2022, Mr. Cousins filed a supplement to the petition, in which he added the contention, among others, that the State failed to identify the deadly weapon allegedly used to commit the robbery, and hence, “there was no weapon[] to support” the offense of robbery with a deadly weapon.

Following a hearing, the court denied the petition on four grounds. First, Mr. Cousins’s “failure to raise the new issues in earlier coram nobis proceedings operates as a bar to the new claim,” and he “failed to rebut the presumption that his waiver was both intelligent and knowing and . . . to demonstrate special circumstances that would allow the court to excuse his failure to raise the issue on prior occasions.” (Italics omitted.) Second, Mr. Cousins “failed to address, much less overcome, the presumption of regularity in this case.” Third, “the newest incarnation of [Mr. Cousins’s] question for relief is barred by the doctrine of laches,” because “actual prejudice to the State [has] resulted from [his] failure to timely pursue the issues he now raises.” Finally, “the record . . . supports that

both the nature of the crime and [Mr. Cousins’s] prior juvenile record left him with little argument as to how [he] ended up in [adult] court.”

Mr. Cousins contends that the court “err[ed] and abuse[d] its discretion” in denying the petition, because it “fail[ed] to address each ground upon which [the petition] was based,” specifically whether “he was denied his due process rights when the District Court waived” him to adult court, and “the impropriety of the plea of guilty to a [d]angerous and [d]eadly [w]eapon when . . . there was no standing charge of [d]angerous and [d]eadly [w]eapon.” We disagree. The court expressly concluded that both grounds were barred by Mr. Cousins’s “failure to raise [them] in earlier coram nobis proceedings,” his failure to “address . . . the presumption of regularity,” and the doctrine of laches, and Mr. Cousins does not challenge this conclusion. Also, the court expressly addressed and rejected Mr. Cousins’s contention that “he was denied his due process rights when the District Court waived” him to adult court. Hence, the court did not err in denying the petition.

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