

Circuit Court for Charles County  
Case No. C-08-CV-23-000896

UNREPORTED  
IN THE APPELLATE COURT OF  
OF MARYLAND\*

No. 2400

September Term, 2023

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MARC C. BROWN, JR.

v.

STATE OF MARYLAND, ET AL.

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Nazarian,  
Albright,  
Kehoe, Christopher B.  
(Senior Judge, Specially Assigned),  
JJ.

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Opinion by Kehoe, C., J.

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Filed: February 14, 2025

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Marc C. Brown, Jr., appeals from the Circuit Court for Charles County’s denial of his petition for a writ of habeas corpus.<sup>1</sup> We will dismiss his appeal because it is not allowed by law.

### **Background**

On June 3, 2021, a Charles County jury convicted Mr. Brown of home invasion, first- and second-degree burglary, kidnapping, false imprisonment, and various other offenses.<sup>2</sup> The court sentenced Mr. Brown to an aggregate term of seventy-five years’ imprisonment. Mr. Brown noted a direct appeal from his convictions, and we affirmed them in an unreported opinion. *See Brown v. State*, No. 1384, Sept. Term, 2021 (filed June 7, 2023) (“*Brown I*”).

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<sup>1</sup> In his informal brief, Mr. Brown presented the following issues:

1. Circuit Court erred by not holding an evidentiary hearing in order to examine and admit time-stamped document hosted at “Flickr” weblink and described in petition for writ of actual innocence in Cir. Ct. case C-08-CR-20-000020, filed June 23, 2023[.]
2. Circuit Court denied Petitioner Substantive and/or Procedural Due Process by the denial of a Writ of Habeas Corpus[.]
3. Circuit Court was cruel in allowing continued imprisonment of the actually innocent, without a hearing in violation of Maryland Constitution → Declaration of Rights → Article 16 & U.S. Constitution → 8th Amendment[.]

<sup>2</sup> We take judicial notice of the record in Charles County Case Number C-08-CR-20-000020, as it is available on the Maryland Electronic Courts (“MDEC”) case management system. *See Lewis v. State*, 229 Md. App. 86, 90 n.1 (2016) (“We take judicial notice of the docket entries . . . found on the Maryland Judiciary CaseSearch website, pursuant to Maryland Rule 5-201.”), *aff’d*, 452 Md. 663 (2017).

On August 15, 2023. Mr. Brown filed a petition for writ of actual innocence, based on what he asserts is newly discovered evidence, pursuant to § 8-301(a) of the Criminal Procedure Article (“Crim. Proc.”) of the Maryland Code. In his petition, Mr. Brown stated in pertinent part:

It wasn’t until the year 2022 that Petitioner remembered private property and other signs were placed by him, in multiple locations, on December 12[,] 2019. Because Petitioner is the only person who would know those signs exist, what was on them, when they were printed, and where they were last seen[,] the signs serve as evidence more veritable than DNA, fingerprints, and facial recognition combined. As well, it would be refutable, unreasonable, self-serving, conclusory, and bordering the claims of insanity to conclude [to] the contrary. Because Petitioner couldn’t recall the existence of the private property and other signs until 2022, he couldn’t have collected them in time . . . to move for a new trial in accordance with MD Rule 4-331. Petitioner wasn’t educated on the abilities of the Windows’ Operating System’s web browser, which is the program that printed the signs. That is important because included on the private property signs are time stamps which are printed along with any document printed using Microsoft web browser, showing the exact date and time at which the user printed a document. Because Petitioner wasn’t educated on the time stamps until the end of 2022, he had “no specific information” to put him “on notice to investigate” the private property signs in time for trial or to move for a new trial[.] . . . Upon realizing the private property signs could have time stamps on them[,] Petitioner had research performed to verify that idea, which ultimately confirmed that as true. Because Petitioner knows the documents were created [in] the evening hours before the date of arrest and into the morning hours, along with the time it would take him to post, the signs would serve as an alibi as to his activities and thus, his whereabouts in respect to the present case, exonerating him of the charges because he is actually innocent of all charges.

It seems that the circuit court has not yet held a hearing or ruled on this petition.

On November 21, 2023,<sup>3</sup> Mr. Brown filed a petition for a writ of habeas corpus. Citing the newly discovered evidence referenced in his actual innocence petition, Mr. Brown asserted:

For the reasons listed in Petitioner’s Petition for Writ of Actual Innocence . . . , Petitioner has claimed an alibi[.] [T]hus, probable cause evidence in [the case] was fabricated[,] as time stamps on alibi document conflict with related case’s incident times[.] [T]herefore, Petitioner cannot be [a] suspect. As such, the testimony of and evidence collected by [the] Charles County Detectives<sup>[4]</sup> . . . [is] not credible. . . . Petitioner’s alibi, which creates a discrepancy in the evidence, coupled with a strong defense, prove[s] [that he] is actually innocent of all criminal violations of law[.]

As relief, Mr. Brown asked the court to release him from confinement on his personal recognizance and requested a “[h]earing . . . in order to authenticate [the] alibi document and the application for statement of charges via witnesses[.]” On December 28, 2023, the circuit court summarily denied Mr. Brown’s petition without a hearing. This appeal followed.

### Analysis

Mr. Brown contends that the circuit court erred by denying his petition for a writ of habeas corpus without a hearing, thereby depriving him of the opportunity to present the above-referenced alibi evidence. According to Mr. Brown, that unrepresented evidence

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<sup>3</sup> Mr. Brown dated the petition November 9, 2023.

<sup>4</sup> Mr. Brown was convicted of kidnapping. The kidnapping took place in Charles County and the victim was transported by him to Prince George’s County. He left her bound and gagged by the side of a road in Prince George’s County. *Brown I*, slip op. at 2. Charles County law enforcement was involved in the investigation that resulted in Petitioner’s arrest.

plainly shows that he could not have committed the crimes of which he was convicted.

The State responds that “[Mr.] Brown’s habeas petition and his appeal from its denial both expressly challenge the legality of his criminal conviction and sentence.” The State asserts that Md. Code, Crim. Proc. § 7-107(b) prohibits such appeals in habeas corpus cases and therefore Mr. Brown’s appeal must be dismissed.<sup>5</sup> We agree.

“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) (emphasis in original). “Rather, ‘[a]n appeal may be taken from a final order in a habeas corpus case only where specifically authorized by statute.’” *Sabisch v. Moyer*, 466 Md. 327, 351 (2019) (quoting *Gluckstern v. Sutton*, 319 Md. 634, 652 (1990)). This Court has identified four statutes which authorize appeals from final judgments in habeas corpus cases:

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<sup>5</sup> Crim. Proc. § 7-107(b) provides, in pertinent part:

(b)(1) In 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 Appellate Court of Maryland.

(2) This subtitle does not bar an appeal to the Appellate Court of Maryland:

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(ii) in any . . . proceeding in which a writ of habeas corpus is sought for a purpose *other than to challenge the legality of a conviction of a crime or sentence of imprisonment for the conviction of the crime*[.]

(Emphasis added.)

(1) [Crim. Proc.] § 9-110, which authorizes appeals in extradition cases; (2) [Cts. & Jud. Proc.] § 3-707, which authorizes an application for leave to appeal in cases involving right to bail or allegedly excessive bail; (3) [Cts. & Jud. Proc.] § 3-706, which provides for an appeal if a court issued a writ of habeas corpus based on the unconstitutionality of the law under which the petitioner was convicted; and (4) [Crim. Proc.] § 7-107 a provision in the [Uniform Postconviction Procedure Act (“UPPA”)], which permits an appeal if the writ was sought under [Crim. Proc.] § 9-110 or for a purpose other than to challenge the legality of a conviction or sentence . . . , [and] permits appeals where the UPPA does not otherwise provide a remedy.

*Simms*, 221 Md. App. at 469–70 (internal citation, quotation marks, and footnote omitted); *accord Simms v. Md. Dep’t of Health*, 240 Md. App. 294, 312-13 (2019), *aff’d*, 467 Md. 238 (2020).

The case before us concerns neither extradition nor bail. Nor did the circuit court issue a writ of habeas corpus, either based upon “the unconstitutionality of the law under which [Mr. Brown] was convicted” or otherwise. Thus, Crim. Proc. § 7-107 is the only statute that could authorize the instant appeal. As we will now explain, however, § 7-107 does not provide an avenue of appellate relief to Mr. Brown in the present case.

In *Simms*, we explained that, in applying Crim. Proc. § 7-107, “Maryland appellate courts have entertained appeals from rulings on habeas corpus petitions only when the petitioner challenged the legality of confinement based on collateral post-trial influences and *not the legality of the underlying conviction or sentence*, and where the UPPA did not otherwise provide a remedy.” *Simms*, 221 Md. App. at 473 (emphasis added). In the present case, Mr. Brown’s habeas petition challenges the legality of his convictions. Crim. Proc. § 7-107(b)(1) bars appeals of judgments denying habeas corpus petitions

which, like Mr. Brown’s, challenge the legality of the conviction. Thus, the circuit court’s denial of that petition is not properly before us and this appeal must be dismissed. *See Green v. Hutchinson*, 158 Md. App. 168, 174-75 (2004) (holding that the petitioner “was not permitted to appeal from the judgment dismissing his petition for writ of *habeas corpus*” where the arguments set forth therein “went directly to the legality of [his] convictions”).

We express no views as to whether Mr. Brown’s pending petition for actual innocence presents a cognizable claim for relief.

**APPEAL DISMISSED. APPELLANT TO  
PAY COSTS.**