

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 375

September Term, 2016

ALBERT GUSTAVE GIVENS

v.

MARYLAND CORRECTIONAL
TRAINING CENTER

Woodward, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 2, 2017

*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.

Albert Gustave Givens is serving a life sentence for first-degree murder. In 2015, he filed a petition for a writ of habeas corpus in the Circuit Court for Anne Arundel County in which he alleged that his conviction was a nullity, and hence his confinement illegal, because the trial court had failed “to record the poll of the jury during the rendition of the verdict.”¹ The circuit court reviewed the audio record of the announcement of the jury’s verdict, including the polling of each juror, as well as the hearkening of the verdict, and concluded that the verdict was properly rendered. Accordingly, the circuit court denied Givens’s request for habeas corpus relief. Givens appeals that decision.

Where a habeas corpus petitioner is challenging the legality of his conviction, as Givens does here, the circuit court’s denial of relief is not an appealable judgment. *Gluckstern v. Sutton*, 319 Md. 634, 652-653 (1990) (noting that an appeal of a decision on a petition for habeas corpus relief is permitted only where authorized by statute and no statute permits an appeal where the challenge is to the legality of the conviction); *Green v. Hutchinson*, 158 Md. App. 168, 174 (stating that where the arguments in support of habeas relief “went directly to the legality of [the petitioner’s] convictions,” there was no right to appeal the circuit court’s order denying relief), *cert. denied*, 383 Md. 212 (2004).

¹ In fact, the announcement of the jury’s verdict was properly recorded. The transcript of the audio recording, however, merely indicated that “the jury was polled.”

Even if Givens were entitled to appeal, we would affirm for the reasons set forth by the circuit court in its Memorandum Opinion and Order denying relief.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.