

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2093

September Term, 2015

ELROY MATTHEWS

v.

WARDEN OF CORRECTIONAL
INSTITUTION

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

JJ.

PER CURIAM

Filed: January 5, 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.

In 2003, Elroy Matthews, appellant, appeared before the Circuit Court for Baltimore County and pleaded guilty to attempted first-degree murder and related offenses. In exchange for that plea, the State agreed to recommend a sentence capped at forty-three years' imprisonment. But the court subsequently sentenced Matthews to life in prison, with all but thirty years suspended, which led Matthews to challenge that sentence, claiming he had understood that the total sentence he would receive would not exceed forty-three years. Ultimately, the Court of Appeals in *Matthews v. State*, 424 Md. 503 (2012) concluded that the sentencing term of Matthews's plea agreement was ambiguous and that the ambiguity had to be resolved in Matthews's favor. *Id.* at 525. Consequently, the Court of Appeals ordered that Matthews's sentence be vacated and that he be re-sentenced, with the instruction to the circuit court that, "at the resentencing proceeding, the court is bound not to exceed a total sentence of 43 years, with all but 30 years suspended." *Id.* at 525-526.

At a re-sentencing hearing held on May 16, 2012, the court sentenced Matthews to a total term of forty-three years imprisonment, with all but thirty years suspended, to be followed by five years of supervised probation. That sentence is clearly in accordance with the Court of Appeals's decision in *Matthews*.

In 2014, Matthews filed a petition for a writ of habeas corpus in which he claimed that his re-sentencing violated the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. The circuit court rejected that claim and denied the petition. Matthews then filed this appeal, in which he claims that the court's decision "was not

legally correct” and that the court violated his due process rights by denying relief without a hearing.

Matthews’s contentions have no merit. A habeas corpus proceeding is a method by which an individual may challenge the legality of his confinement or restraint. *See* Section 3-702(a) of the Courts & Judicial Proceedings Article of the Maryland Code (1973, 2013 Repl.Vol.). Matthews is not being held illegally because the sentence he is serving is lawful. Accordingly, we hold that the circuit court did not err in denying his petition and did not abuse its discretion in doing so without a hearing. *See Nance v. Warden*, 189 Md. 112, 116 (1947) (“It is incumbent upon a petitioner to allege facts entitling him to [habeas corpus] relief before he is entitled to a hearing.”). To the extent that Matthews may be challenging the legality of the underlying conviction, the court’s denial of his petition is not an appealable judgment. *See Green v. Hutchinson*, 158 Md. App. 168, 174-175 (where the arguments in support of habeas corpus 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).

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