

Circuit Court for Prince George's County
Case Nos. CT010803A and CT011284X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 161

September Term, 2017

RAY BLANCHARD

v.

STATE OF MARYLAND

Woodward, C.J.,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 11, 2018

*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 2002, Ray Anthony Blanchard, Jr., appellant, entered an *Alford* plea, in the Circuit Court for Prince George’s County, to first-degree assault and reckless endangerment. He was thereafter sentenced to a total term of twenty years’ imprisonment, with all but six years suspended, to be followed by a five-year term of supervised probation upon his release. While serving that term of probation, Blanchard was accused of violating its terms and, after a hearing on October 9, 2015, the circuit court revoked his probation and ordered that he serve the remainder of his previously suspended sentence.

On November 30, 2016, Blanchard filed a petition for writ of habeas corpus claiming that: (1) his constitutional rights had been violated because of the eight-year delay between the time he was charged with violating his probation and the time that his probation revocation hearing was held, and (2) his defense counsel at the probation revocation hearing had engaged in “MISREPRESENTATION, FRAUD, DECEIT, AND CONSPIRACY AGAINST RIGHTS.”¹ The circuit court denied Blanchard’s petition without a hearing, finding that he had failed to state grounds upon which habeas relief could be granted. This appeal followed.

“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). “An appeal may be taken from a final order in a habeas corpus case only where specifically authorized by statute.”

¹ Blanchard had previously filed a petition for writ of habeas corpus in February 2016 raising essentially the same issues. The circuit court denied that petition in November 2016, and Blanchard did not appeal.

Gluckstern v. Sutton, 319 Md. 634, 652 (1990) (citations omitted). The only possible statute that would apply in this case is Section 7-107 of the Criminal Procedure Article. However, that statute only authorizes appeals in habeas corpus cases “when the petitioner challenge[s] the legality of his confinement based on collateral post-trial influences and not the legality of the underlying conviction or sentence, and where the [Uniform Post-Conviction Procedure Act does] not otherwise provide a remedy.” *Simms*, 221 Md. App. at 473. Because the claims raised in Blanchard’s habeas petition attack the legality of his sentences, the denial of that petition is not appealable. Consequently, the appeal must be dismissed.

**APPELLEE’S MOTION TO DISMISS
APPEAL GRANTED. COSTS TO BE PAID
BY APPELLANT.**