

Circuit Court for Harford County
Case No. 12-K-09-000358

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 394

September Term, 2021

WESLEY HOWARD McNEAL, III

v.

STATE OF MARYLAND

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 28, 2022

*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 2009, Wesley Howard McNeal, III, appellant, was convicted in the Circuit Court for Harford County of second degree escape in violation of Md. Code (2002, 2008 Supp.), § 9-405 of the Criminal Law Article (“CL”). In 2021, Mr. McNeal filed two petitions for expungement of the conviction pursuant to Md. Code (2001, 2018 Repl. Vol., 2020 Supp.), § 10-110 of the Criminal Procedure Article (“CP”). The State objected to the petitions, which the court subsequently denied without a hearing.

Mr. McNeal now contends that the court erred in denying the petitions, because the court failed to hold a hearing in violation of Rule 4-507(b) (“a hearing [on a petition for expungement] shall be held . . . if the State’s Attorney . . . objects to the petition”), the State’s objection to Mr. McNeal’s first petition “was filed untimely,” and the court “failed to evaluate whether [Mr.] McNeal was entitled to have his record expunged.” But, CP § 10-110 specifies the convictions that are eligible for expungement, and a conviction for violating CL § 9-405 is not included. The court cannot order that Mr. McNeal’s conviction be expunged, and hence, the court did not err in denying Mr. McNeal’s petitions without a hearing.

**JUDGMENTS OF THE CIRCUIT COURT
FOR HARFORD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**