

Circuit Court for Prince George's County
Case No. CT120890X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 858

September Term, 2017

KHALIF S. TURNER

v.

STATE OF MARYLAND

Woodward, C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 3, 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.

Khalif Turner, appellant, appeals the denial, by the Circuit Court for Prince George’s County, of his petition for a writ of habeas corpus. In response, the State filed a motion to dismiss the appeal as not permitted by law. We grant the State’s motion to dismiss the appeal.

In 2013, Turner was convicted of robbery with a dangerous weapon and other assault and handgun-related offenses following a jury trial. In 2017, he filed a petition for writ of habeas corpus claiming that he was being improperly detained because the commitment record did not accurately reflect the sentence imposed by the trial court. Specifically, he contended that, although the commitment record indicated he had been sentenced to sixty-five years’ incarceration, with all but twenty-five years suspended, the trial court had actually imposed a sentence of twenty-five years’ incarceration, with 40 years suspended. He therefore asserted that his entire sentence had been suspended and that he “should have never been committed to the Department of Corrections.” The circuit court denied Turner’s habeas petition without a hearing, finding that the commitment record accurately reflected the sentence imposed by the trial court.

“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.” *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.

Here, Turner’s habeas petition did not challenge the propriety of the Department of Corrections’ post-trial actions with respect to his confinement. Rather, his sole claim was that his commitment record does not accurately reflect the sentence imposed by the trial court. Consequently, the denial of his habeas petition is not appealable. *See Mateen v. Galley*, 146 Md. App. 623, 635 (2002) (“An inmate’s claim that his sentence is illegal as a result of substantive legal errors by the sentencing court should be redressed through a direct appeal or a motion to correct the sentence on the grounds of illegality”), *rev’d on other grounds Mateen v. Saar*, 376 Md. 385 (2003).¹

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

¹ Even if we were to construe Turner’s habeas petition as a motion to correct illegal sentence or a motion to correct the commitment record, either of which would have been appealable, we would find no error. A review of the transcript from the sentencing hearing clearly demonstrates that the circuit court did not intend to impose an entirely suspended sentence, as Turner suggests. In fact, such a sentence would have been illegal as two of Turner’s handgun convictions required the court to impose a minimum five-year active sentence.