

Circuit Court for Montgomery County  
Case No. 93341C

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 933

September Term, 2023

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IN RE: MATTHEW C.

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Arthur,  
Leahy,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: January 5, 2024

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Matthew C., appellant, appeals the denial, by the Circuit Court for Montgomery County, of his petition for expungement. For the reasons that follow, we shall affirm.

In 2001, appellant pleaded guilty to one count of possession with intent to distribute marijuana. The court imposed a sentence of 18 months' imprisonment, all suspended, in favor of 18 months of supervised probation. In March 2003, appellant admitted to violating the terms of his probation. The court revoked his probation, sentenced him to a term of nine months' imprisonment, and closed his "probation on an unsatisfactory basis." In 2023, appellant filed a petition for expungement, which the State opposed on the grounds that he "did not satisfactorily complete the sentence imposed, as he was found guilty of Violation of Probation in this case." The State further objected on the grounds that appellant had been convicted of three offenses in other jurisdictions that would not be eligible for expungement in Maryland. Following a hearing, the court denied appellant's expungement petition. This appeal followed.

Section 10-110(c)(5) of the Criminal Procedure Article provides that a petition for expungement of a conviction of possession with intent to distribute cannabis "may not be filed earlier than 3 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision." This Court has held that to "satisf[y]" a sentence of probation within the meaning of that statute, the individual seeking expungement must "fulfill or comply with the conditions of probation." *In re Abhishek I.*, 255 Md. App. 464, 474 (2022). Because the record demonstrates that appellant pleaded guilty to violating the terms of his probation, and that his probation was closed "unsatisfactorily," he is thus ineligible for expungement.

*Id.* (holding that the appellant did not satisfy his sentence, and thus was not entitled to expungement where he violated his probation, served a period of four days’ incarceration for that violation, and his probation was closed “unsatisfactorily”).

Appellant nevertheless contends that the court erred in denying his petition before he was allowed to “finish his testimony” at the hearing. He therefore asks this Court to give him “the opportunity to complete [his] statement” to explain the circumstances of his prior convictions and the steps that he has taken to rehabilitate himself. As an initial matter, it is impossible to evaluate this claim because appellant has not provided a transcript of the hearing on his expungement petition. *See Kovacs v. Kovacs*, 98 Md. App. 289, 303 (1993) (noting that the party claiming error has the burden to show “by the record, that the error occurred”).<sup>1</sup> But in any event, appellant does not challenge the fact that he did not satisfactorily complete his probation. Thus, even if the court improperly limited his testimony, the error was harmless, as appellant is not statutorily eligible for an expungement.

**MOTION TO DISMISS DENIED.  
JUDGMENT OF THE CIRCUIT  
COURT FOR MONTGOMERY  
COUNTY AFFIRMED. COSTS TO  
BE PAID BY APPELLANT.**

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<sup>1</sup> Because appellant has not provided a copy of the transcripts, the State has filed a motion to dismiss the appeal. We shall deny that motion.