

Circuit Court for Baltimore City
Case No. 24-H-23-000086

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1074

September Term, 2023

CHRISTOPHER LEE

v.

STATE OF MARYLAND

Wells, C.J.,
Zic,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 6, 2023

*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.

Christopher Lee, appellant, appeals the denial, by the Circuit Court for Baltimore City, of his petition for writ of habeas corpus. In response, the State has filed a motion to dismiss the appeal as not permitted by law. For the reasons that follow, we shall grant the State’s motion to dismiss the appeal.

In September 2022, appellant pleaded guilty to one count of prohibited possession of a regulated firearm. The court sentenced him to ten years’ imprisonment, with all suspended but five years without parole. Appellant subsequently filed two petitions for writ of habeas corpus, claiming that the State had withheld certain exculpatory evidence. As relief, appellant requested his immediate release from custody and \$750 million in damages.¹ The court denied the petition, finding that appellant had already raised those claims in pre-trial motions to dismiss, and that those motions had been denied. 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.” *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 confinement based on collateral post-trial influences and not

¹ Notably, a claim for damages is not cognizable in a habeas corpus proceeding. *See Wolff v. McDonnell*, 418 U.S. 539, 555 (1974).

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 appellant’s habeas petition attack the legality of his sentence, the denial of that petition is not appealable.² Consequently, the appeal must be dismissed.

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

² Appellant also claims on appeal that the officer who interrogated him after his arrest improperly accessed his expunged records. This claim is not preserved, however, as it was not raised in the circuit court. *See* Maryland Rule 8-131(a).