

Circuit Court for Queen Anne's County
Case No: C-17-CR-17-000459

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1452

September Term, 2020

ALVIN FAULKNER

v.

STATE OF MARYLAND

Fader, C.J.,
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 14, 2021

*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 2018, Alvin Faulkner, appellant, appeared with counsel in the Circuit Court for Queen Anne’s County and pleaded guilty to escape. The court sentenced him to time served. In its examination of Mr. Faulkner prior to accepting the plea, the court elicited that he understood the charge, the penalty he was facing, and the rights he was waiving by pleading guilty. The unobjected to proffer of facts in support of the plea indicated that, in February 2017, while he was housed at the Eastern Pre-Release Unit, a Division of Correction minimum-security facility in Queen Anne’s County for prisoners who are nearing their release date, Mr. Faulkner left the facility without permission, traveled on foot about two miles, and ignored uniformed correctional officers’ orders to stop. He was charged in the Circuit Court for Queen Anne’s County with first-degree escape, a violation of § 9-404(a) of the Criminal Law Article of the Maryland Code which provides that “[a] person may not knowingly escape from a place of confinement.” The offense carries a maximum penalty of 10 years’ imprisonment. Crim. Law § 9-404(c).

Based on the limited record before us, it appears that, as a result of the escape conviction, Mr. Faulkner lost his pre-release status and was returned to prison to serve the balance of the sentences he was serving when he escaped. Mr. Faulkner, as a self-represented litigant, then began filing various motions and petitions in the escape case. Pertinent here, on July 29, 2019, he filed a petition for writ of error coram nobis in which he alleged that the circuit court had “lacked both authority and jurisdiction” over him and the “cause of action” and, therefore, the guilty plea to escape was a “nullity.” He also alleged that, as a result of the escape conviction, he suffered “significant

collateral consequences,” that is, his “security classification” was changed from “pre-release” with “Parole Release” set for July 2017 to “high-med” and a “current release date [of] January 2025.” He also alleged that coram nobis was the only remedy or procedure available for him to challenge the escape conviction.

The circuit court summarily denied the petition on the ground that Mr. Faulkner was serving an aggregate sentence of 55 years’ imprisonment for two Montgomery County cases and, therefore, the Queen Anne’s County court believed it could not offer him any relief. Mr. Faulkner appealed. This Court found that the circuit court had erred, as Mr. Faulkner was not seeking relief from the Montgomery County cases but instead was seeking to nullify his guilty plea in the Queen Anne’s County escape case. Accordingly, we reversed and remanded to the circuit court. *See Faulkner v. State*, No. 1876, September Term, 2019 (filed October 5, 2020).

Upon remand, the court convened a hearing and thereafter issued its decision. The court noted that Mr. Faulkner’s contention that the trial court lacked jurisdiction to accept his guilty plea was based on his claim that (1) the Warden of the Eastern Pre-Release Unit had failed to request a “fugitive warrant” following his escape and (2) in 2016 he was granted a Presidential pardon commuting the sentences he was serving when he escaped in 2017. The court found no merit to the contention, noting that Mr. Faulkner had escaped from a facility located in Queen Anne’s County and was apprehended in Queen Anne’s County. The court further concluded that a “fugitive warrant” was not required for Mr. Faulkner’s apprehension and that he had failed to

produce any evidence whatsoever to support his bald allegation that he had received a Presidential pardon in the Montgomery County cases. Accordingly, the court denied relief. Mr. Faulkner appeals that ruling. We shall affirm the judgment.

DISCUSSION

“Coram nobis is extraordinary relief designed to relieve a petitioner of substantial collateral consequences outside of a sentence of incarceration or probation where no other remedy exists.” *State v. Smith*, 443 Md. 572, 623 (2015). Relief is “justified ‘only under circumstances *compelling such action to achieve justice.*’” *State v. Rich*, 454 Md. 448, 461 (2017) (quoting *Smith*, 443 Md. at 597) (further quotation omitted). To be eligible for the writ, a petitioner must meet certain requirements, including that the petitioner is “‘suffering or facing significant collateral consequences’” because of a conviction which can be “‘legitimately’” challenged “‘on constitutional or fundamental grounds.’” *Smith*, 443 Md. at 623-24 (quoting *Skok v. State*, 361 Md. 52, 78-79 (2000)). The writ is intended to provide a means to overturn an otherwise final and unchallengeable conviction “‘in order to remove these consequences.’” *Skok*, 361 Md. at 76 (quoting 3 Wright, *Federal Practice and Procedure Criminal 2d.* § 592, at 429-32 (1982)).

We review the circuit court’s ultimate decision to grant or deny a petition for coram nobis relief for an abuse of discretion. *Rich*, 454 Md. at 471. In doing so, we will not “disturb the coram nobis court’s factual findings unless they are clearly erroneous[.]” *Id.* “[L]egal determinations,” however, are “reviewed de novo.” *Id.*

In this appeal, Mr. Faulkner asserts that the circuit court erred in quashing certain subpoenas he had requested, in denying his request for the appointment of counsel, and in

denying his “fundamental right to compulsory process.” We disagree. First, whether to hold a hearing on the coram nobis petition and accept evidence outside the record of the guilty plea hearing on the escape charge was left to the sound discretion of the court. *See* Rule 15-1206(a). Here, the issue before the court was a legal question regarding jurisdiction. No additional evidence was needed to address that question as Mr. Faulkner did not object to the proffer of facts at the guilty plea hearing that he had escaped from a place of confinement located in Queen Anne’s County and was apprehended in that county. Second, Mr. Faulkner points to no authority supporting his contention that he was entitled to the appointment of legal counsel on a petition for coram nobis relief. Finally, he does not proffer what evidence he would have produced that would have had any bearing on the question before the court.

**JUDGMENT OF THE CIRCUIT COURT
FOR QUEEN ANNE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**