

Circuit Court for Montgomery County
Case No.: 125462C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1503

September Term, 2022

NDOKLEY PETER ENOW

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: April 4, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 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.

For the third time, Ndokley Peter Enow appeals the denial by the Circuit Court for Montgomery County of his petition for a writ of actual innocence. We shall affirm the judgment.

In 2014, Mr. Enow sought to hire someone to kill or seriously maim his ex-wife and the mother of his child. His solicitation was recorded by an undercover police officer posing as a hitman, whom he had given a deposit for the job. A grand jury returned an indictment charging him with solicitation to commit first-degree murder and solicitation to commit first-degree assault.

In 2015, Mr. Enow appeared with counsel in court and pursuant to a plea agreement with the State entered a plea of guilty to solicitation to commit first-degree murder. The court sentenced him in accordance with the plea agreement to 40 years' imprisonment, all but 20 years suspended, to be followed by a 5-year term of supervised probation.

In 2019, Mr. Enow, representing himself, filed a petition for writ of actual innocence, which the circuit court denied. On appeal, this Court affirmed the judgment. In doing so, we noted that Mr. Enow had made a variety of claims attacking his conviction, but none were based on “newly discovered evidence” that was exculpatory in any way. *Enow v. State*, No. 2649, September Term, 2019 (filed April 2, 2021), slip op. at 5.

Mr. Enow then filed a second petition for writ of actual innocence in which he attempted to challenge the validity of his guilty plea and the investigation which led to his arrest. The circuit court denied relief and upon appeal this Court affirmed the judgment. In doing so, we noted that “Mr. Enow’s petition was not based on any ‘evidence’ that could be deemed ‘newly discovered’ or that even hinted at the possibility that he could be

innocent.” *Enow v. State*, No. 826, September Term, 2021 (filed January 25, 2022), slip op. at 2.

Not to be deterred, in August 2022 Mr. Enow filed a third petition for writ of actual innocence. He attached to this petition various papers he had received pursuant to a Maryland Public Information Act request, including a copy of the written plea offer, a detective’s notes following Mr. Enow’s arrest, and the victim’s impact statement. The circuit court denied relief.

On appeal, Mr. Enow raises nine questions for this Court’s consideration. The only relevant issue, however, is whether the circuit court erred in denying relief and in doing so without a hearing. We hold that the court did not err because, once again, Mr. Enow failed to present any “newly discovered evidence” which in any manner speaks to his alleged innocence. *State v. Hunt*, 443 Md. 238, 252 (2015) (a petition for writ of actual innocence may be dismissed without a hearing where the court concludes that allegations raised in the petition, even if proven, would not entitle the petitioner to relief).

The requirement that newly discovered evidence “speaks to” the petitioner’s actual innocence “ensures that relief [under the statute] is limited to a petitioner who makes a threshold showing that he or she may be actually innocent, ‘meaning he or she did not commit the crime.’” *Faulkner v. State*, 468 Md. 418, 459-60 (2020) (quoting *Smallwood v. State*, 451 Md. 290, 323 (2017)). Nothing in Mr. Enow’s latest petition casts doubt on

the State’s evidence that he solicited an undercover officer posing as a hitman to kill his ex-wife.

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