Circuit Court for Montgomery County
Case No. 131730C

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1541

September Term, 2024

SEBASTIAN A. C.

v.

STATE OF MARYLAND

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 13, 2025

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

Sebastian A. C., appellant, appeals from the denial, by the Circuit Court for Montgomery County, of a petition for writ of actual innocence. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from one of our previous opinions in appellant's case:

> In 2017, a jury in the Circuit Court for Montgomery County found . . . appellant . . . guilty of two counts of sex abuse of a minor and four counts of second-degree rape. The victim was his biological daughter, who began living with [appellant] in 2012 when she was 11 years old. In August 2013, the victim gave birth to a daughter. DNA evidence presented at trial indicated that [appellant] was the father of the victim's child, a fact [appellant] did not dispute. The court sentenced [appellant] to a total term of 130 years' imprisonment. On direct appeal, this Court affirmed the judgments. *C*[.] *v. State*, 243 Md. App. 507 (2019).
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> In 2019, [appellant] – representing himself – filed a motion for a new trial based on the victim's alleged recantation of her trial testimony. . . . . On May 8, 2019, the court convened a hearing on the motion for new trial and permitted the victim, who resides in Michigan, to testify via telephone. The victim testified that [appellant] had not sexually abused her and asserted that her trial testimony to the contrary was untruthful. She claimed, instead, that she had impregnated herself with a used condom discarded by [appellant], which she had retrieved from a trash bin.
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> In a 52-page Opinion and Order, the court denied [appellant's] motion for a new trial finding, among other things, that the victim's recantation testimony was not credible.

C. v. State, No. 1397, Sept. Term 2019 (filed September 9, 2021), slip op. at 1 (footnote omitted).

On appeal, we affirmed the judgment, stating:

> [Appellant's] motion centered on the victim's recantation of her trial testimony. A witness's post-trial recantation of testimony, however, is regarded "with the utmost suspicion." *Yonga v. State*, 221 Md. App. 45, 91 (2015), *aff'd*, 446 Md. 183 (2016). Based on a well-reasoned and factually

> supported analysis, the circuit court concluded that the victim's recantation testimony was "simply improbable and not credible." The court also concluded that, given the evidence presented at trial, the victim's recantation testimony would not have affected the jury's verdict. We see no reason to disturb those findings. The court, having heard both the victim's trial testimony (including several hours of cross-examination by the self-represented [appellant]) and her recantation testimony at the motions hearing, was in the best position to determine the victim's credibility and assess its weight.

C., No. 1397, Sept. Term 2019, at 4-5.

In June 2024, appellant filed the petition for writ of actual innocence. Appellant attached to the petition a purported "affidavit" of his mother, Tonie C. In the "affidavit," Ms. C., who lives in Michigan and appears to have been living in Michigan at the time of the events that gave rise to the charges against appellant, stated that appellant and the victim "did not spend a single night at [a Montgomery County] residence," the victim told Ms. C. "that she'd gotten drunk and impregnated herself with a dildo and one of her father's used condoms with a hole in the tip," Ms. C. "insisted that [the victim] just concede that [appellant] had raped her," and the victim "completely fabricated every aspect of her experience." Appellant contended that the affidavit constituted newly discovered evidence "indicating first-hand knowledge that the alleged victim . . . did, in fact, present knowingly false testimony at trial," the evidence "could not have been discovered earlier," the evidence "was not known to [appellant] in time to move for a new trial pursuant to Md. Rule 4-331," and the evidence "creates a substantial or significant possibility that if [the] jury had received it during trial, the outcome of the proceedings would have been different."

The court denied the petition without a hearing, stating:

> Although the new evidence speaks to [appellant's] innocence, the [c]ourt cannot find that the new evidence could not have been discovered with due diligence in time to request a new trial. Even if the new evidence could not have been discovered with due diligence, the [c]ourt cannot find that the newly discovered evidence creates a substantial or significant possibility that the result of the trial may have been different.

Appellant contends that, for numerous reasons, the court erred in denying the petition. The State concedes that the "court erred by failing to state its reasons for denying [the] petition . . . without a hearing." *See* Md. Code (2001, 2018 Repl. Vol., 2024 Supp.), § 8-301(f)(3) of the Criminal Procedure Article ("CP") ("[t]he court shall state the reasons for its ruling on the record"). Nevertheless, the State contends that appellant "was not prejudiced by that error because the evidence upon which his petition was based was not newly discovered."

We agree with the State. CP § 8-301(a) states that in a petition for writ of actual innocence, the "newly discovered evidence" claimed by the petitioner must not have been able to be "discovered in time to move for a new trial." Here, appellant has already presented the "newly discovered evidence," specifically "the victim's recantation of her trial testimony," in a motion for new trial. The court reviewed the evidence and expressly concluded that "the victim's recantation testimony was not credible" and "would not have affected the jury's verdict." The evidence is not "newly discovered," and hence, the court did not err in denying the petition.

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