

Circuit Court for Queen Anne's County  
Case No: C-17-CR-17-459

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1876

September Term, 2019

---

ALVIN FAULKNER

v.

STATE OF MARYLAND

---

Graeff,  
Berger,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: October 5, 2020

\*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.

Alvin Faulkner, appellant, appeals the denial of his petition for writ of error coram nobis by the Circuit Court for Queen’s County. For the reasons to be discussed, we conclude that the court erred in summarily denying the petition and, therefore, we shall vacate the judgment and remand for further proceedings.

### **BACKGROUND**

In February 2017, Mr. Faulkner 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 for § 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.

On November 8, 2018, after a determination was made that Mr. Faulkner was competent to stand trial, he appeared with counsel in court and pled guilty to the charge. The court sentenced him to time already served.

It appears from the limited record before us 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 sentence he was serving when he escaped. Mr. Faulkner, as a self-represented litigant, then began filing various motions and petitions in the Queen Anne’s County 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.

On October 1, 2019, the circuit court convened a hearing on various petitions and motions Mr. Faulkner had filed. The court noted that, although Mr. Faulkner was still confined, he was not being held on the escape conviction nor on any other Queen Anne’s County matter. Mr. Faulkner informed the court that he was released “to the street” after the escape proceeding, but the Circuit Court for Montgomery County then issued a bench warrant related to his underlying case and he was ultimately returned to the Western Correctional Institution and that he is currently “being held on the original [Montgomery County] case.”

The court found that Mr. Faulkner was serving an aggregate sentence of 55 years’ imprisonment for two Montgomery County cases and “not the Queen Anne’s County sentence” and, therefore, informed him that the court “can’t really offer you any relief.” Mr. Faulkner replied that he had “filed a Coram Nobis.” The court agreed but stated it “can’t take that up. That would have to be taken up there” in Montgomery County because “[t]he sentence here is over, been over since November of ’18.”

On October 3, 2019, the court filed an Order denying the petition for writ of error coram nobis (and other motions), stating that “the reasons given in the subject motions and the fact that defendant is serving a Montgomery County sentence provide no basis for relief[.]” Mr. Faulkner then filed an application for leave to appeal, which apparently was treated as a notice of appeal.

### DISCUSSION

Mr. Faulkner continues to represent himself on appeal. In his brief, he simply presents two issues for our review, which we recast as follows: (1) whether the court abused its discretion in denying coram nobis relief and (2) whether the court abused its discretion in failing to subpoena certain witnesses he had wanted to examine at the hearing. Mr. Faulkner, however, presents no factual background nor argument to support any contention and for that reason we could dismiss the appeal. *See* Md. Rule 8–504(a)(6) (An appellate brief must contain “[a]rgument in support of the party’s position on each issue.”); *Klaunberg v. State*, 355 Md. 528, 552 (1999) (“[A]rguments not presented in a brief or not presented with particularity will not be considered on appeal.”). The State did not file an appellee’s brief.

Because the circuit court clearly erred in denying the petition outright, we shall exercise our discretion and address the first issue, but not the second. We note, however, that a court, “in its discretion, may hold a hearing on the petition” and must do so if coram nobis relief is granted. Md. Rule 15-1206(a). But a court may deny a petition without

holding a hearing. *Id.* Any evidence presented in support or opposition to the petition is left to the court’s discretion. *Id.*

“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.*

As noted, Mr. Faulkner’s petition for writ of error coram nobis set forth his contention that the circuit court lacked jurisdiction to accept his guilty plea to first-degree escape, alleged that he had no other remedy to challenge the conviction, and alleged that he was suffering a significant collateral consequence as a result of the conviction. The

circuit court, however, erroneously concluded that it could not offer Mr. Faulkner any relief because he was not serving the sentence imposed for the escape nor any other sentence imposed by a Queen Anne’s County court. The relief Mr. Faulkner was seeking, however, was a declaration that the escape conviction was a nullity. Accordingly, we hold that the circuit court erred in summarily denying relief. We do not, however, render any opinion on the merits of Mr. Faulkner’s petition. That is a task for the circuit court. *See* Md. Rule 15-1207(a) (“The judge shall prepare and file or dictate into the record a statement setting forth separately each ground on which the petition is based, the federal and state rights involved, the court’s ruling with respect to each ground, and the reasons for the ruling.”).

**JUDGMENT OF THE CIRCUIT COURT  
FOR QUEEN ANNE’S COUNTY DENYING  
PETITION FOR WRIT OF ERROR  
CORAM NOBIS VACATED. CASE  
REMANDED TO THE CIRCUIT COURT  
FOR FURTHER PROCEEDINGS. COSTS  
TO BE PAID BY QUEEN ANNE’S  
COUNTY.**