UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2342

September Term, 2014

DAMON GERARD DICKERSON

v.

STATE OF MARYLAND

Krauser, C.J.,
Graeff,
Leahy,

JJ.

PER CURIAM

Filed: September 2, 2016

Damon Gerard Dickerson, appellant, appeals *pro se* from the Circuit Court for Baltimore City's denial of his petition for writ of error coram nobis which challenged his 1995 conviction, following a guilty plea, for unlawful manufacturing and distribution of cocaine.[1] The circuit court denied Dickerson's petition without a hearing finding that: (1) it was procedurally deficient because he had not attached the relevant portions of the guilty plea transcript or provided an explanation as to why he was unable to do so and (2) it was substantively deficient because, other than his "bald assertions" of error, appellant had not proffered any evidence to overcome the presumption of regularity that attached to his guilty plea. On appeal, Dickerson contends that: (1) he raised a claim in his coram nobis petition that his Sixth Amendment rights were violated because he did not knowingly and voluntarily waive his right to assistance of counsel before pleading guilty; (2) the trial court erred by not addressing that claim in its final order; and (3) had the trial court addressed that claim, he would have been entitled to coram nobis relief. Finding no error, we affirm.

We liberally construe pleadings filed by *pro se* litigants; however, based on our review of Dickerson's petition for writ of error coram nobis, we do not believe that it raised a cognizable deprivation of counsel claim under the Sixth Amendment. Although appellant's petition briefly stated that he "pled guilty without the benefit of legal counsel," it also alleged that he had trial counsel who was ineffective by failing to ensure that he understood the elements of the offense, by failing to investigate his case, by failing to

[1] In his petition, appellant also sought to vacate his 1999 guilty plea, entered in the Circuit Court for Baltimore County, to unlawful manufacturing and distribution of cocaine. The trial court found that it lacked jurisdiction to consider appellant's claims with respect to that conviction and appellant does not challenge that finding on appeal.

recommend a drug treatment program, and by failing inform him of the collateral consequences of his plea. Moreover, appellant never claimed in his petition that his guilty plea was unknowing or involuntary because of his lack of counsel. Accordingly, the trial court did not "mischaracterize" appellant's claims or fail to address any issues raised in his petition.

Finally, even if Dickerson's petition could be construed as raising such a claim, we find no error. Coram nobis relief is "extraordinary, and therefore limited to compelling circumstances rebutting the presumption of regularity that ordinarily attaches to the criminal case." *Smith v. State*, 219 Md. App. 289, 292 (2014) (internal quotation marks and citations omitted)). "The burden of demonstrating such circumstances is on the coram nobis petitioner." *Id.* Here, as the trial court correctly found, Dickerson did not demonstrate that there was a "flaw in his guilty plea of constitutional proportion" because he (1) did not attach the relevant portions of the guilty plea transcript or provide an explanation as to why he was unable to do so, as required by Maryland Rule 15-202 (c), and (2) did not proffer any other evidence that might overcome the presumption of regularity attached to his case.

Although Dickerson now asserts, based on documents that are not part of the trial court record, that he was unable to obtain the necessary transcripts because they were destroyed, he did not raise this issue in the trial court and therefore it is not preserved for appeal. *See* Md. Rule 8-131 (a); *see also Cochran v. Griffith Energy Service Inc.*, 191 Md.

App. 625, 663 (2010) (noting that "an appellate court must confine its review to the evidence actually before the trial court when it reached its decision").

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.