

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2866

September Term, 2014

JODIE HILL

v.

BOBBY P. SHEARIN, WARDEN

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 31, 2016

*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.

Jodie Hill, appellant, filed this appeal from the denial, by the Circuit Court for Baltimore City, of his petition for a writ of habeas corpus. The State has moved to dismiss the appeal because it is not permitted by law. We agree.

In 2003, Hill was convicted, by a jury, of first-degree murder and carrying a concealed weapon. Those convictions were affirmed on direct appeal. *See Hill v. State*, No. 2425, Sept. Term 2003 (Md. App. Jan. 26, 2006). Hill thereafter filed a petition for post-conviction relief under the Maryland Uniform Post-Conviction Procedure Act, claiming that he had received ineffective assistance of trial counsel and that the jury's verdict was defective because, when polled, the jurors did not individually state whether they had found him guilty of murder in the first or second degree. After a hearing, the circuit court denied Hill's petition. This Court subsequently denied his application for leave to appeal.

Hill then filed a petition for writ of habeas corpus, contending that the failure to record the portion of his trial when the jury announced its verdict had violated his due process rights by denying him meaningful review of his jury polling claim. The circuit court denied the petition without a hearing, finding that Hill's claim lacked merit and, in any event, had been litigated during the prior post-conviction proceeding. Appellant filed this appeal.

An appeal, however, may not be taken from the denial of a habeas corpus petition challenging the legality of a conviction. *See Gluckstern v. Sutton*, 319 Md. 634, 652-653 (1990) (noting that an appeal of a decision on a petition for habeas corpus relief is permitted only where authorized by statute and no statute permits an appeal where the challenge is to

the legality of the conviction); *Simms v. Shearin*, 221 Md.App. 460, 472-73 (2015) (emphasis added) (stating that “Maryland appellate courts have entertained appeals from rulings on habeas corpus petitions only when the petitioner challenged the legality of confinement based on *collateral post-trial influences* and not the legality of the underlying conviction or sentence”).

In his habeas petition, Hill challenged the legality of his convictions, contending that, because the announcement of the jury’s verdict was not recorded, he had been prevented from obtaining meaningful review of his jury polling claim. *See Simms*, 221 Md.App. at 474 (dismissing the appellant’s appeal from the denial of his habeas petition because, in arguing that the destruction of DNA evidence from his trial rendered him unable to challenge the legality of his conviction through post-conviction collateral attack, he was, in fact, challenging the legality of his convictions, and not the terms of his confinement). Consequently, Hill’s appeal must be dismissed.

**APPELLEE’S MOTION TO DISMISS
APPEAL GRANTED. COSTS TO BE PAID
BY APPELLANT.**