Circuit Court for Prince George's County
Case No. CT 07-0616X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

CONSOLIDATED CASES

No. 2332
September Term, 2013
ELIJAH PETERSON
v.
STATE OF MARYLAND

No. 474
September Term, 2014
ELIJAH PETERSON
v.
STATE OF MARYLAND

Woodward,*
Reed,
Sharer, J. Frederick.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Woodward, J.

Filed: January 24, 2019

*Woodward, Patrick L., J., now retired, participated in the hearing of this case while an active member of this Court, and as its Chief Judge; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

In 2007 in the Circuit Court for Prince George's County, appellant, Elijah Peterson, was (1) found guilty of two counts of second degree assault, (2) determined to be not criminally responsible ("NCR"), and (3) committed to the Department of Health and Mental Hygiene ("the Department")[1] for institutional inpatient treatment. Five years later, Peterson leveled two collateral attacks on his NCR judgment. The first was in the form a petition for post-conviction relief. The circuit court, however, dismissed the petition without reaching the merits, because, under § 7-101 of the Maryland Code (2001, 2008 Repl. Vol.), Criminal Procedure Article ("CP"), Peterson did not meet the statutory requirement of being sentenced to imprisonment or placed on parole or probation. Peterson appealed the dismissal by filing an application for leave to appeal to this Court, which we subsequently granted.

While his application for leave to appeal was pending before us, Peterson filed a petition for writ of error coram nobis. Following a hearing, the circuit court denied his coram nobis petition on the grounds, among others, that he was not suffering a significant collateral consequence as a result of the 2007 NCR judgment. After Peterson's motion for reconsideration was denied, he noted an appeal from that judgment.[2]

[1] Effective July 1, 2017, the "Maryland Department of Health and Mental Hygiene" was renamed as the "Maryland Department of Health." 2017 Md. Laws, ch. 214.

[2] These appeals illustrate a peculiar anomaly in Maryland post-conviction law. Appeal from a judgment disposing of a post-conviction petition must proceed by way of application for leave to appeal, whereas an appeal from a judgment disposing of a coram nobis petition proceeds as of right. *Compare* Md. Code (2001, 2008 Repl. Vol.), Criminal Procedure Article ("CP"), § 7-109 (providing that an appeal granting or denying a post-conviction petition must proceed by way of application) with *Skok v. State*, 361 Md. 52, 62-66 (2000) (holding that a direct appeal lies from the denial of a coram nobis petition).

On our own motion, we consolidated Peterson's appeals, and we consider the following questions presented by Peterson:

> 1. Did the post[-]conviction court err in ruling that post[-]conviction relief is not available to a criminal defendant found to be not criminally responsible and committed to the Department [ ]?
>
> 2. Did the [circuit] court err in ruling that coram nobis relief is not available to a criminal defendant found to be not criminally responsible and committed to the Department [ ]?

For the reasons that follow, we hold that post-conviction relief is not available to a defendant found to be not criminally responsible. We further hold that commitment to the Department does not satisfy the coram nobis requirement that a defendant face a significant collateral consequence from a conviction. Accordingly, we affirm the judgments of the circuit court.

BACKGROUND

In March 2007, Peterson was arrested after pointing what appeared to be a rifle[3] at a police car as he walked past that vehicle on Marlboro Pike in Prince George's County. Charged with two counts of first degree assault, two counts of second degree assault, and related offenses,[4] Peterson, through counsel, filed a written plea of "not criminally responsible by reason of insanity."

[3] The rifle was, in fact, only a caulking gun.

[4] The other charges were attempted armed carjacking, auto theft, attempted theft of property with a value greater than $500, and unauthorized use of a motor vehicle.

Pursuant to an agreed-upon statement of facts, the circuit court found Peterson guilty of two counts of second degree assault, acquitted him of the remaining charges, and determined him to be NCR. In accordance with CP § 3-112(a), Peterson was immediately committed to the Department for institutional inpatient treatment. By order dated September 15, 2010, the court ordered that Peterson be released for a period of five years, subject to the conditions set forth in the release order.

On July 24, 2012, when he was on conditional release,[5] Peterson filed a petition for post-conviction relief pursuant to CP § 7-101 *et seq.*, seeking to vacate the circuit court's 2007 NCR judgment, on three grounds. First, if the 2007 proceeding was deemed a bench trial, Peterson argued that his waiver of jury trial was not knowing and voluntary because he was not advised nor did he waive his right to a jury trial on the record. Second, if the 2007 proceeding was a guilty plea, Peterson asserted that his plea was not knowing and voluntary because he was not advised of the trial rights that he was waiving, the nature of the charges to which he was pleading, or the maximum penalty that he faced as a consequence of his plea. Lastly, Peterson claimed that his counsel was ineffective because counsel never informed him of the consequences that would flow from a plea of NCR.

[5] On February 16, 2012, Peterson voluntarily committed himself to the Springfield Hospital Center after being noncompliant with his medications and having a urinalysis screen test positive for cocaine. Peterson remained at Springfield until September 6, 2012, when he was discharged to the care of a residential rehabilitation program. On September 17, 2012, the State filed a Petition for Revocation of Conditional Release, and the trial court issued a hospital warrant the same day. After an examination and evaluation at Springfield, and a hearing before an administrative law judge, the court, on March 18, 2013, conditionally released Peterson from confinement for a period of five years, subject to the conditions set forth in the order of conditional release.

Following a hearing on Peterson's post-conviction petition, the circuit court held that Peterson was ineligible for relief under the Uniform Postconviction Procedure Act ("UPPA") because CP § 7-101 requires that the petitioner be "confined under sentence of imprisonment" or "on parole or probation[,]" and Peterson met neither requirement. Consequently, the court dismissed his petition, and Peterson filed an application for leave to appeal,[6] which this Court granted.

Peterson then filed a petition for writ of error coram nobis seeking to vacate the 2007 NCR judgment on the ground that he had not been advised or waived any of his trial rights. Following a hearing, the circuit court concluded that Peterson's commitment to the Department was a direct result of his guilty verdict and NCR finding and not a collateral consequence, and accordingly, denied his petition. Peterson filed a timely motion for reconsideration, but after a hearing the court denied the motion, ruling that Peterson had never been "'convicted' in the traditional sense," and thus he had failed to show a significant collateral consequence. Peterson noted a timely appeal from that ruling, and we consolidated both of his appeals.

[6] In his application for leave to appeal, Peterson contends that the post-conviction court erred in failing to hold a hearing on his petition. The post-conviction court actually did hold a hearing on the petition, but the only subject addressed at that hearing was the court's jurisdiction. The post-conviction court thereafter denied Peterson's petition, both on jurisdictional grounds and on the merits. Because we hold that the post-conviction court correctly ruled that Peterson was ineligible to seek post-conviction relief, there is no basis for a remand to hold a hearing on the merits of his petition.

DISCUSSION

I. Not Criminally Responsible

To properly address the questions presented in this appeal, we begin with a brief history of Maryland's defense of insanity, including its evolution into what is now known as a plea of not criminally responsible. This history begins with Maryland's adoption of the English common law, including the insanity defense, in our constitution in 1776. Md. Const. Declaration of Rights art. III (1776). In 1826, Maryland enacted its first statutory recognition of the insanity defense. Acts of 1826, Ch. 197.

Prior to the 1980s, the insanity defense evolved from the adoption of the McNaghten test in *Spencer v. State*, 69 Md. 28 (1888), to the statutory requirement that a defendant enter a formal plea of insanity. Md. Code, Art. 59 § 9(b). Somewhat uniquely, the defense of insanity required that a fact finder first consider whether the State had proven beyond a reasonable doubt the underlying crime and then consider whether the State had proven beyond a reasonable doubt that the defendant was sane at the time of the commission of the crime. *See Langworthy v. State*, 284 Md. 588, 592-93 (1979), *cert. denied*, 450 U.S. 960 (1981). Thus, under Maryland's statutory scheme pre-1980s, there were three possible outcomes in a case involving a plea of insanity in addition to a plea of not guilty to the underlying offense:

> 1) If the verdict on the general plea is not guilty, the plea of insanity becomes moot. Patently, a person, whether sane or insane, may not be held criminally responsible for an offense of which he has been acquitted. In such event, the accused has attained all he sought, and walks out of the courtroom a free man.

> 2) If the verdict on the general plea is guilty and the special verdict on the additional plea is that the defendant was sane at the time of the commission of the offense, the court shall impose sentence. The accused has failed in all he sought by his pleas and on appeal from the judgment may challenge the propriety of both the finding of guilt of the substantive offense and the determination that he was sane at the time of its commission.
>
> 3) If the verdict on the general plea is guilty and the special verdict on the additional plea is that the accused was insane at the time of the commission of the offense, he has failed in what he sought under his general plea but attained what he sought by his additional plea, in that he shall not be held responsible for his criminal conduct. Two courses are then open in the trial court. In its discretion, it may either turn him loose or, as authorized by Code (1957, 1972 Repl.Vol.) art. 59, s 27, commit him "to the Department of Mental Hygiene for confinement in one of the facilities of the State for examination and evaluation to determine, by the standards applicable to civil admission proceedings under ss 11 and 12 of (art. 59), whether such person by reason of mental disorder would, if he becomes a free agent, be a danger to himself or to the safety of the person or property of others. Upon the basis of the report by the facility, and any other evidence before it, the court may in its discretion, direct that the person be confined in a facility designated by the Department for treatment."

Id. at 593-94.

If, after a hearing, the trial court determined that the defendant was to be committed to the Department, he or she was confined indefinitely. *Anderson v. Dep't of Health and Mental Hygiene*, 310 Md. 217, 221 (1987). A defendant, however, was permitted to request release either by (1) an administrative hearing, with judicial review—in which the State bore the burden to prove "by clear and convincing evidence that the [ ] defendant should continue to be confined[,]" (2) a judicial proceeding—where the defendant bore the burden to prove "by a preponderance of the evidence his [or her] fitness for release[,]" or (3) a habeas corpus proceeding. *Id.*

In 1982, on the heels of the attempted assassination of President Ronald Reagan by John Hinkley and the national attention on mental health, Governor Harry Hughes created the "Task Force to Review the Defense of Insanity" to conduct an in-depth examination of

> the nature of the defense as a part of the criminal law, examine the evidentiary and procedural issues which arise when the defense of insanity is raised at trial, and issues related to the detention and treatment of persons who are determined not to be criminally responsible for their actions, and examine alternatives to the defense of insanity.

Governor's Task Force to Review the Defense of Insanity, Report to the Governor at 1-2 (1984), *see also Anderson*, 310 Md. at 220. The result of this report was the enactment by the General Assembly of Chapter 501 of the Acts of 1984.

Chapter 501 made some notable changes to the defense of insanity, including the shifting of the burden of proof from the State to prove sanity to the defendant to prove, by a preponderance of the evidence, that the defendant was not criminally responsible at the time of the crime. *Anderson*, 310 Md. at 221-222. Additionally, a trial court no longer had the discretion to release a defendant after a finding of NCR, and instead, a defendant was automatically committed to the Department "for institutional, inpatient care or treatment." *Id.* at 222 (quoting CP § 12-111(a)). Moreover, once committed, a defendant was entitled to challenge his or her commitment by either a judicial proceeding or an administrative hearing with judicial review, but the burden of proof for release in both fora rested entirely on the defendant. *Id.*

The procedures today, and at the time of the instant case, are very much the same as the procedures created after the enactment of Ch. 501 of the Acts of 1984. A defendant

wishing to enter a plea of not criminally responsible must do so in writing. CP § 3-110(a)(1). At trial or upon a guilty plea of the underlying criminal offense(s), it is the defendant's burden to prove that he or she is not criminally responsible by a preponderance of the evidence. *See* CP § 3-110(b). CP § 3-109 provides the test of NCR:

> (a) A defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to:
> (1) appreciate the criminality of that conduct; or
> (2) conform that conduct to the requirements of law.

A defendant found not criminally responsible is automatically committed to the Department for inpatient care or treatment. CP § 3-112(b). Within fifty days, a hearing officer of the Department holds a hearing to make recommendations to the court as to whether the defendant is eligible for conditional release or discharge; in that hearing the defendant bears the burden to establish his or her eligibility for conditional release or discharge. CP § 3-114(d); CP § 3-115(a). Thereafter, the Office of Administrative Hearings submits a report to the trial court outlining its recommendations for the defendant. CP § 3-116(a), (c). After receipt of the report, the court determines whether the evidence indicates that the defendant is eligible for release, with or without conditions, and then enters the appropriate order thereon. CP § 3-118(a).

If the trial court orders continued commitment, the defendant may file a petition for release not less than one year after the initial release hearing and not more than one year thereafter. However, if the defendant's petition is accompanied by an affidavit by a physician or psychologist stating an improvement in the defendant's mental condition, the defendant may file such petition and accompanying affidavit at any time. CP § 3-119(a).

The defendant may file a petition for release either with the Department and proceed administratively, with judicial review, or with the court that ordered his or her commitment, but not both. CP §§ 3-119(a), 3-119(b), 3-119(c).

In short, the NCR statutory scheme recognizes that "no valid purpose would be furthered by holding the [NCR defendant] accountable for his acts. [NCR] is a recognition that none of the theories which underlie our criminal law—prevention, restraint, rehabilitation, deterrence, education, and retribution—are furthered by punishing" those found to be NCR. *State v. Garnett*, 172 Md. App. 558, 564 (2007) (internal quotation marks omitted). A defendant convicted of a crime and then found NCR is, therefore, not subject to criminal punishment. *See Pouncey v. State*, 297 Md. 264, 269 (1983) (holding that, "while her successful insanity defense means that she is not criminally responsible for her conduct, that determination merely relieves her of liability for punishment under the criminal law. No criminal sentence may ever be entered on the guilty verdict in this case . . . ."), *Garnett*, 172 Md. App. at 566 (holding that restitution is a criminal sanction that may not be imposed on a defendant deemed NCR). Instead, "[c]ommitment of those found not criminally responsible and the restrictions of conditional release[, for example,] are not designed to punish, but rather to protect the public from the patient and the patient from himself or herself." *Harrison-Solomon v. State*, 442 Md. 254, 286 (2015).

II. Post-Conviction Challenges

In Appeal Number 2332, Peterson contends that the post-conviction court erred by interpreting CP § 7-101 to exclude him from being eligible to seek post-conviction relief. According to Peterson, his commitment to the Department is tantamount to "confinement

under sentence of imprisonment" within the meaning of § 7-101, because the confinement to a Department facility is a deprivation of liberty akin to confinement in a prison. Peterson further argues that his conditional release is, for all intents and purposes, the functional equivalent of "parole or probation" under § 7-101. Peterson therefore concludes that he was eligible to file a post-conviction petition and that the post-conviction court erred in concluding otherwise. We disagree.

The Court of Appeals has held that a lower court's interpretation of a statute is reviewed *de novo*, *Harrison-Solomon*, 442 Md. at 265, and has explained consistently:

> The cardinal rule of statutory construction is to ascertain and effectuate the General Assembly's intent. [O]ur primary goal is always to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision, be it statutory, constitutional or part of the Rules. The starting point of any statutory analysis is the plain language of the statute, viewed in the context of the statutory scheme to which it belongs. We presume, moreover, that the General Assembly intends its enactments to operate together as a consistent and harmonious body of law, and, thus, we seek to reconcile and harmonize the parts of a statute, to the extent possible consistent with the statute's object and scope. We do that by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.
>
> It is settled that when a statute's language is clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends. Yet, it is also settled that the purpose of the plain meaning rule is to ascertain and carry out the real legislative intent. What we are engaged in is the divination of legislative purpose or goal. . . . the plain-meaning rule is not a complete, all-sufficient rule for ascertaining a legislative intention. The meaning of the plainest language is controlled by the context in which it appears. To that end, we may find useful the context of a statute, the overall statutory scheme, and archival legislative history of relevant enactments.

Kranz v. State, 459 Md. 456, 474-75 (2018) (alteration in original) (internal quotation marks and citations omitted).

The UPPA grants a statutory right, and CP § 7-101 provides its applicability as follows:

> This title applies to a person convicted in any court in the State who is:
> (1) confined under sentence of imprisonment; or
> (2) on parole or probation.

Peterson satisfies the requirement of being "a person convicted in any court in the State," because he was found guilty of two counts of second degree assault. The Court of Appeals explained in *Treece v. State*, 313 Md. 665, 676 (1988):

> If a lack of responsibility is found, that is not an acquittal. The result of the successful interposition of a plea of insanity is not that an accused is to be found not guilty of the criminal act it was proved he [or she] had committed, but that he [or she] shall not be punished therefor.
>
> **In short, the defendant who "successfully" pleads not criminally responsible is subject to the stigma of a criminal conviction, although he or she may not be subject to all of the consequences that would otherwise flow therefrom.**

(Internal quotation marks and citations omitted) (emphasis added). Hence, the issue here is whether an individual determined to be NCR, like Peterson, meets CP § 7-101's requirements that he or she be "confined under sentence of imprisonment" or "on parole or probation."

Because at the time of the filing of his petition Peterson was on conditional release, we begin with Peterson's argument that conditional release is the equivalent of being "on parole or probation" within the meaning of the UPPA. *See Kranz*, 459 Md. at 476 (holding

that CP § 7-101 establishes jurisdiction at the time that the defendant files his or her petition and he or she is "confined under sentence of imprisonment[;] or on parole or probation"). The UPPA does not define parole or probation. Black's Law Dictionary defines probation as "[a] court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the criminal to jail or prison, usu. on condition of routinely checking in with a probation officer over a specified period of time." *Probation*, Black's Law Dictionary (10th ed. 2014). Parole is defined by Black's Law Dictionary as "[t]he conditional release of a prisoner from imprisonment before the full sentence has been served." *Parole*, Black's Law Dictionary (10th ed. 2014). In our view, parole and probation are unambiguous terms, and the plain meaning of each term describes a criminal sanction imposed on a person convicted of a crime. Based on the plain meaning alone, conditional release is not probation or parole, because conditional release is not a criminal sanction. *See Harrison-Solomon*, 442 Md. at 286-87.

We further hold that there is no support for Peterson's argument that the General Assembly intended the terms parole and probation to encompass conditional release. In *Harrison-Solomon*, the Court of Appeals rejected the appellant's argument that the prohibition of extending a period of probation absent a violation of probation was equally applicable to extending a period of conditional release. *Id*. at 285. The Court noted that conditional release and probation were superficially similar but then explained:

> **Probation is a punishment.** *See Donaldson v. State*, 305 Md. 522, 530, 505 A.2d 527, 532 (1986). **Although we have called probation "a matter of grace" and effectively clemency,** *Scott v. State*, 238 Md. 265, 275, 208 A.2d 575, 580 (1965), **its fundamental**

> **nature is different from the treatment of people found not criminally responsible.**
>
> **Commitment of those found not criminally responsible and the restrictions of conditional release are not designed to punish, but rather to protect the public from the patient and the patient from himself or herself.** If the patient is unlikely to represent a risk to others or himself/ herself, CP § 3-114 mandates that the patient be discharged if a court renders affirmatively such a holding. Although the State supervision could be indefinite potentially, it could also be relatively brief. **Unlike someone subject to probation, there is no longer a determined time for which the patient will be subject to judicial oversight, absent an outright discharge.**

Id. at 286-87 (emphasis added).

Therefore, because "the restrictions of conditional release are not designed to punish," *see id.* at 286, and parole and probation are both criminal sanctions, we conclude that an NCR defendant on conditional release does not satisfy the requirement of the UPPA that the defendant be "on parole or probation." To interpret the UPPA otherwise, in our view, would expand the UPPA beyond its clear scope. In the instant case, Peterson was on conditional release at the time of the filing of his petition for post-conviction relief. Consequently, Peterson was ineligible to file such petition.

To be sure, we need not consider whether Peterson meets the UPPA requirement of being "confined under sentence of imprisonment" because Peterson was not confined at the time of the filing of his petition—he was on conditional release. *See Kranz*, 459 Md. at 479. But even assuming *arguendo* that he was confined, we determine that reading CP § 7-101 in context indicates that the General Assembly intended that UPPA to apply to those defendants who are punished by a sentence of jail or prison, probation, fines, restitution, other penal sanctions, etc. Moreover, it would be illogical to allow a confined

NCR defendant to seek post-conviction release but not an NCR defendant on conditional release. Thus, we conclude that post-conviction relief is not applicable to those defendants determined to be NCR, whether confined or on conditional release.

III. Coram Nobis

In Appeal Number 474, Peterson contends that, if he was ineligible to seek post-conviction relief, this Court should hold that he *was* eligible to pursue the remedies available through a writ of error coram nobis. Peterson argues that the circuit court erred when it ruled that his commitment to the Department was not a collateral consequence of his conviction and thus he was ineligible for a writ of error coram nobis. According to Peterson, his commitment is a collateral consequence *of the conviction*, because his commitment is a direct consequence of an NCR finding, and not from the guilty verdict rendered in the guilt/innocence phase of the proceeding. Peterson argues further that, because the purpose of the "significant collateral consequence" requirement is "to guard against mootness," his actual and present adverse consequences from the conviction satisfy the spirit of such requirement.[7]

The Court of Appeals has explained:

> A convicted petitioner is entitled to relief through the common law writ of error coram nobis if and only if: (1) the petitioner challenges a conviction based on "constitutional, jurisdictional[,] or fundamental" grounds, whether factual or legal; (2) the petitioner rebuts the "presumption of regularity [that] attaches to the criminal case"; (3) the petitioner "fac[es] significant collateral consequences

[7] Peterson also argues that the circuit court erred in ruling that Peterson's petition for writ of error coram nobis did not meet the requirement of Peterson having a conviction. Because we determine that Peterson's petition for writ of error coram nobis fails for lack of a significant collateral consequence, we need not address such argument.

> from the conviction"; (4) the issue as to the alleged error has not been waived or "finally litigated in a prior proceeding, [absent] intervening changes in the applicable law"; and (5) the petitioner is not entitled to "another statutory or common law remedy" (for example, the petitioner cannot be incarcerated in a State prison or on parole or probation, as the petitioner likely could then petition for post-conviction relief).

Jones v. State, 445 Md. 324, 338 (2015) (alterations in original).

Peterson's claim that his commitment to the Department is a significant collateral consequence runs counter to the Court of Appeals' characterization of a commitment in *Anderson v. Department of Health and Mental Hygiene*, 310 Md. 217 (1987). In *Anderson*, the Court considered whether the *ex post facto* clause forbids a new statute's imposition of the burden of proof on the defendant to prove eligibility for release at an administrative hearing, when under the statute in effect at the time of the defendant's criminal activity, the State bore the burden of proving that the defendant was not eligible for release. *Id.* at 223. In explaining that the *ex post facto* clause did apply in the appellant's case, the Court considered the consequences of being found NCR. *Id.* at 224. In doing so, the Court stated:

> Under the pertinent provisions of Maryland law as construed by this Court in *Pouncey v. State*, 297 Md. 264, 465 A.2d 475 (1983), and *Langworthy v. State*, 284 Md. 588, 399 A.2d 578 (1979), **it is clear that Anderson's confinement in a state mental institution is a direct consequence of adjudications at his criminal trial that he was guilty of committing a crime but insane at the time of the crime.** *Langworthy v. State, supra*, 284 Md. at 594, 597-598, 399 A.2d 578. **The commitment is not simply a consequence of the insanity finding, as "a person, whether sane or insane," may not be committed for an offense of which he has been acquitted.** *Id.* at 593, 399 A.2d 578. In such event, the accused ... walks out of the courtroom a free man." *Id.* at 593-594, 399 A.2d 578. Instead, the commitment to the mental hospital is the

> "disposition" portion of the judgment in the criminal case, which is "composed of the verdict that he committed the criminal act charged and the disposition of him, as a final judgment." *Id.* at 597, 399 A.2d 578. *See also* §§ 12-109 and 12-111 of the Health-General Article.

Id. at 224-25.

Applying the Court of Appeals' reasoning in *Anderson* to the case *sub judice*, we hold that Peterson's commitment and conditional release are a direct consequence of his conviction and subsequent NCR finding. Peterson has not directed us to any authority that contradicts the Court of Appeals' view in *Anderson*, albeit in the context of *ex post facto* law, that confinement to a state mental institution is a direct consequence of not just a finding of NCR, but also of the adjudication of guilt. Therefore, Peterson is not eligible for a writ of error coram nobis.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.