

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2697

September Term, 2012

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TREVE ANTONIO ABEL

v.

STATE OF MARYLAND

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Graeff,  
Kehoe,  
Alpert, Paul E.  
(Retired, Specially Assigned),

JJ.

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Opinion by Kehoe, J.

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Filed: August 6, 2015

\*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.

Treve Antonio Abel has filed an appeal from a decision of the Circuit Court for Prince George’s County denying his petition for habeas corpus. The State has moved to dismiss Abel’s appeal because it is not allowed by law. We agree; explaining why requires some background information.

On September 28, 2004, Abel shot Rochelle Fogerty to death. Abel then fled to Jamaica, his country of nationality. Abel waived extradition and was returned to Maryland. After a bench trial on April 26 and 27, 2005, he was convicted of first-degree murder, second-degree murder, first degree assault and the use of a handgun in a crime of violence. He was sentenced to life imprisonment for the first degree murder conviction, a consecutive sentence of twenty years for the handgun charge and a concurrent sentence for the assault charge. His convictions for the murder and handgun charges were affirmed by this Court in an unreported opinion, *Treve Antonio Abel v. State of Maryland*, No. 955, September Term, 2005 filed November 13, 2007.

On July 16, 2008, Abel filed a petition for postconviction relief. As amended, the petition asserted that: (1) Abel’s sentence for first degree murder was illegal because it violated the Doctrine of Speciality<sup>1</sup> regarding extradition; (2) the State violated his rights

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<sup>1</sup>The Doctrine of Specialty provides that a defendant cannot be prosecuted for an offense that is different than the offenses for which he was extradited. *United States v. Rauscher*, 119 U.S. 407, 424 (1886). Abel asserts that he was extradited to stand trial for second degree murder and accordingly, the criminal court was without jurisdiction to convict him of first degree murder. Both the postconviction court and the *habeas corpus* court concluded that Abel had been extradited to stand trial for “murder,” which encompasses both first and second degree murder. *See Lindsay v. State*, 8 Md App. 100, 105 n.6 (1969) (Maryland’s homicide “statutes, thus, do not define ‘murder’, but merely designate the  
(continued...)

under the Vienna Convention by failing to inform him that he had the right to consult with Jamaican consular authorities about his criminal charges; (3) his waiver of extradition was not knowing and voluntary; and (4) his trial counsel was ineffective. The petition was denied by the circuit court. *Treve Antonio Abel v. State of Maryland*, Circuit Court for Prince George’s County Case No. CT042239X, filed January 7, 2011. Abel filed an application for leave to appeal, which was denied by this Court. *Treve Antonio Abel v. State of Maryland*, No. 2976, September Term, 2010, filed July 27, 2011.

Abel then filed the present action, a petition for issuance of a writ of *habeas corpus* on July 26, 2012. In his petition, he asserted that (1) the criminal court did not have jurisdiction to try or sentence him for first degree murder because he was extradited from Jamaica to stand trial on a charge of murder; and (2) the criminal court violated the Doctrine of Specialty when it tried him for first degree murder because he had been extradited to stand trial for second degree murder. The circuit court denied the petition by means of a written opinion and order dated February 5, 2013. After analyzing Abel’s contentions, the court found them to be without merit and further noted that “[v]irtually all of the above discussed issues have been raised and adjudicated in previous proceedings.” Abel has appealed the circuit court’s judgment.

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<sup>1</sup>(...continued)  
degree of murder. They leave the common law sense of murder—unlawful homicide with malice aforethought—unimpaired, seeking only to graduate the measure of punishment according to the circumstances under which murder is committed.”)

MD Code, Criminal Procedure Article (“Crim. Pro.”), § 7-107 provides in pertinent part (emphasis added):

**§ 7-107. Effect of postconviction remedy on trial proceedings and appeals.**

(b) *Appeals to Court of Special Appeals.* — (1) In a case in which a person challenges the validity of confinement under a sentence of imprisonment by seeking the writ of habeas corpus or the writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Court of Appeals or the Court of Special Appeals.

(2) This subtitle does not bar an appeal to the Court of Special Appeals:

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(ii) in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.

Section 7-107 does not permit an appeal when the purpose of the *habeas corpus* petition is to challenge the legality of the petitioner’s confinement or criminal convictions. The purpose of Abel’s petition is precisely that—he argues that his convictions should be set aside because the criminal court did not have personal jurisdiction over him, because the State failed to comply with the Vienna Convention, and because his trial counsel was ineffective. We are without jurisdiction to consider these arguments and must dismiss this appeal. *See Green v. Hutchinson*, 158 Md. App. 168 (2004) (This Court has no jurisdiction to consider an appeal from a judgment denying a *habeas corpus* petition that asserted that the underlying conviction was illegal.).

**APPEAL DISMISSED. APPELLANT TO PAY COSTS.**