

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Michael Ian Palmer,
Petitioner Below, Petitioner

v.) **No. 23-205** (Marion County CC-24-2016-C-297)

Russell Maston, Superintendent,
St. Mary's Correctional Center,
Respondent Below, Respondent

MEMORANDUM DECISION

Petitioner Michael Ian Palmer appeals the Circuit Court of Marion County's March 14, 2023, order denying his petition for a writ of habeas corpus.¹ The petitioner argues that the circuit court erred in finding that he was not provided ineffective assistance of counsel, finding that he failed to meet his burden of proof regarding his prosecutorial misconduct claim, and finding that he waived his claim that his indictment was improperly secured. Upon our review, finding no substantial question of law and no prejudicial error, we determine that oral argument is unnecessary and that a memorandum decision affirming the circuit court's order is appropriate. *See* W. Va. R. App. P. 21(c).

The petitioner was indicted on one count of first-degree murder after he shot and killed his father-in-law. Following a jury trial, the petitioner was convicted of first-degree murder, and the circuit court eventually sentenced him to a term of life imprisonment with a recommendation of mercy. The petitioner filed an appeal and argued, among other things, that the circuit court erred in refusing to dismiss the indictment based on prosecutorial misconduct. This Court affirmed the petitioner's conviction. *See State v. Palmer*, No. 16-0862, 2016 WL 3176472 (W. Va. June 3, 2016) (memorandum decision).

The petitioner, through appointed habeas counsel, filed an amended petition for a writ of habeas corpus in May 2021. The amended petition alleged that the petitioner's trial counsel provided ineffective assistance, that the State knowingly presented perjured testimony at trial, and that the indictment was improperly secured. By order dated March 14, 2023, the circuit court denied the petition. The petitioner now appeals. We review the circuit court's order "and the

¹ The petitioner appears by counsel J. Daniel Kirkland. The respondent appears by Attorney General John B. McCuskey and Deputy Attorney General Andrea Nease Proper. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel. Additionally, the Court has automatically substituted the name of the current Superintendent of St. Mary's Correctional Center as the respondent. *See* W. Va. R. App. P. 41(c).

ultimate disposition under an abuse of discretion standard; the underlying factual findings under a clearly erroneous standard; and questions of law are subject to a *de novo* review.” Syl. Pt. 1, in part, *Mathena v. Haines*, 219 W. Va. 417, 633 S.E.2d 771 (2006).

The circuit court thoroughly considered and addressed each of the petitioner’s habeas claims. Upon our review, we conclude that the petitioner has not satisfied his burden of demonstrating error in the court’s rulings, and we find none. *See* Syl. Pt. 2, *Dement v. Pszczolkowski*, 245 W. Va. 565, 859 S.E.2d 732 (2021) (“On appeal to this Court the appellant bears the burden of showing that there was error in the proceedings below resulting in the judgment of which he complains, all presumptions being in favor of the correctness of the proceedings and judgment in and of the trial court.” (quoting Syl. Pt. 2, *Perdue v. Coiner*, 156 W. Va. 467, 194 S.E.2d 657 (1973))). Accordingly, we find that the circuit court did not err in denying the petitioner habeas relief.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: April 22, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton
Justice Elizabeth D. Walker
Justice Tim Armstead
Justice C. Haley Bunn
Justice Charles S. Trump IV