

**STATE OF WEST VIRGINIA  
SUPREME COURT OF APPEALS**

C. CASEY FORBES, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**State of West Virginia,  
Plaintiff Below, Respondent**

**v.) No. 23-468** (Webster County CC-51-2013-F-13)

**Amanda York,  
Defendant Below, Petitioner**

**MEMORANDUM DECISION**

Petitioner Amanda York appeals the Circuit Court of Webster County’s June 6, 2023, order denying her request for relief pursuant to Rule 35(a) of the West Virginia Rules of Criminal Procedure.<sup>1</sup> The petitioner alleges that the circuit court erred in denying her motion by improperly referencing rulings from her other post-conviction actions and sentencing her without appropriate regard for the jury’s verdicts and statutory requirements. 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.

On September 20, 2013, a jury convicted the petitioner of three counts of voluntary manslaughter and one count of conspiracy to conceal a deceased human body. The jury acquitted the petitioner of one count of conspiracy to commit murder and found that she had not used a firearm while committing voluntary manslaughter. On November 14, 2013, the circuit court sentenced the petitioner to fifteen years imprisonment for each count of voluntary manslaughter and not less than one nor more than five years imprisonment for conspiracy to conceal a deceased human body, with all sentences to be served consecutively. This Court affirmed the petitioner’s convictions in *State v. York*, No. 13-1312, 2015 WL 1881062 (W. Va. Apr. 24, 2015) (memorandum decision). The petitioner next filed a petition for a writ of habeas corpus that the circuit court denied by order entered July 11, 2019. The petitioner did not appeal this ruling. The petitioner subsequently filed a motion requesting relief under Rule 35(a) of the West Virginia Rules of Criminal Procedure.<sup>2</sup> The circuit court denied the petitioner’s Rule 35(a) motion by order

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<sup>1</sup> The petitioner is self-represented. The State of West Virginia appears by Attorney General John B. McCuskey and Assistant Solicitor General Grant A. Newman. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel.

<sup>2</sup> Rule 35(a) of the West Virginia Rules of Criminal Procedure provides that “[t]he court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time period provided herein for the reduction of sentence.” That timeframe is “within

entered June 6, 2023, ruling that the issues raised were res judicata and the petitioner's sentence was within statutory parameters. It is from this order the petitioner now appeals.

In reviewing the findings of fact and conclusions of law of a circuit court concerning an order on a motion made under Rule 35 of the West Virginia Rules of Criminal Procedure, we apply a three-pronged standard of review. We review the decision on the Rule 35 motion under an abuse of discretion standard; the underlying facts are reviewed under a clearly erroneous standard; and questions of law and interpretations of statutes and rules are subject to a *de novo* review.

Syl. Pt. 1, *State v. Head*, 198 W. Va. 298, 480 S.E.2d 507 (1996). This Court has also noted that, “[a]s a general matter, a Rule 35 motion is not reviewable by this Court absent an abuse of discretion.” *State v. Goff*, 206 W. Va. 516, 521, 509 S.E.2d 557, 562 (1998) (citing *State v. Head*, 198 W. Va. at 301, 480 S.E.2d at 510).

Given the nature of the petitioner's arguments and her failure to assert that her sentence was illegally imposed, we regard her Rule 35(a) motion as asserting that her sentences are illegal. This is a difficult hurdle to surmount, as this Court has long held that “[s]entences imposed by the trial court, if within statutory limits and if not based on some [im]permissible factor, are not subject to appellate review.” Syl. Pt. 4, *State v. Goodnight*, 169 W. Va. 336, 287 S.E.2d 504 (1982). With these standards in mind, we turn to the petitioner's arguments.

In this case, we deem it appropriate to address the petitioner's first three assignments of error jointly as they involve interrelated issues. First, the petitioner alleges that the circuit court erred in relying on the Court's decision in *York* to rule that she could be convicted and sentenced as an accomplice to murder despite a jury finding that she was unarmed during the commission of the underlying crimes. Second, the petitioner alleges that the circuit court erred in relying on *York* to rule that she could be convicted as an accomplice despite a jury finding that she acted without

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120 days after the sentence is imposed . . . or within 120 days after a mandate by [this Court] upon affirmance of a judgment of conviction. . . .” Rule 35(b). As noted herein, the petitioner neither directly alleges, nor do her arguments suggest, that her sentence was “imposed in an illegal manner”; therefore, Rule 35(b)'s time requirements do not apply.

We note that the appendix record in the present case is very brief and does not contain a copy of the Rule 35(a) motion underlying this appeal. Rule 7(d) of the West Virginia Rules of Appellate Procedure requires a petitioner to prepare and submit an appendix record consisting of, among other documents and filings, motions that are material to the issue on appeal. We also note that a petitioner's omission of relevant information from an appendix record may impair his or her ability to adequately meet the required burden before this Court. *See State v. Larry A.H.*, 230 W. Va. 709, 716, 742 S.E.2d 125, 132 (2013) (“An appellant must carry the burden of showing error in the judgment of which he complains. This Court will not reverse the judgment of a trial court unless error affirmatively appears from the record.” (quoting *State v. Myers*, 229 W. Va. 238, 241, 728 S.E.2d 122, 130 (2012))).

malice in the commission of the underlying crimes. Third, the petitioner alleges that the circuit court erred in finding that the issues raised in her Rule 35(a) motion were res judicata. In sum, the petitioner argues that her acquittal for the charge of conspiracy to commit murder and the jury's determination that she was unarmed means that she could not have acted with malice, and, therefore, it was improper for the court to punish her as a principal actor in the killing of the three victims. We find that these first three assignments of error attempt to revisit the requisite elements of her underlying convictions, which is an implicit challenge to the sufficiency of the evidence sustaining her convictions. Such arguments are not cognizable under Rule 35(a); therefore, we find no error in the circuit court's refusal to grant relief on those bases. *See Layne v. Siefert*, No. 101278, 2012 WL 2874240, at \*1 (W. Va. Jan. 13, 2012) (memorandum decision) ("Rule 35 contemplates correction or reduction of a criminal sentence rather than a challenge to the underlying conviction.").

The petitioner's fourth assignment of error asserts that the circuit court erred in finding that her "convictions" were in accordance with statutory provisions because her fifteen-year sentences for voluntary manslaughter are, in effect, "back door" gun enhancements. She argues that her sentence violates West Virginia Code § 61-11-6(a), which provides, in relevant part, that "[i]n the case of every felony, every principal in the second degree and every accessory before the fact shall be punishable as if he or she were the principal in the first degree[.]" The petitioner also asserts that sentencing her as a principal is inconsistent with the jury finding that she was unarmed and not guilty of conspiracy to commit murder. As with her preceding allegations of error, this Court and the habeas court previously ruled on this issue and concluded that the evidence was sufficient to support the jury's determination that the petitioner was a principal actor in the killing of the victims. Therefore, the petitioner's pursuit of relief on this same issue in her previous post-conviction proceedings bars her ability to raise it in a Rule 35(a) motion, and the circuit court did not err in finding that this allegation of error had already been adjudicated.

In the petitioner's fifth assignment of error, she argues that the circuit court erred in sentencing her to determinate sentences of fifteen years on her three convictions for voluntary manslaughter without acknowledging in its order that the sentence was only a judicial recommendation. The petitioner also asserts that West Virginia Code § 61-11-16 requires the court to sentence her to an indeterminate sentence of three to fifteen years for each voluntary manslaughter conviction, and the court sentencing her to determinate fifteen-year sentences amounts to an improper gun enhancement sentencing penalty.<sup>3</sup> Again, the petitioner applies the wrong statute. Voluntary manslaughter is punishable by a "definite term of imprisonment in the penitentiary" of not less than three nor more than fifteen years. *See W. Va. Code § 61-2-4*. Here, the circuit court sentenced the petitioner to a definite term of fifteen years imprisonment for each

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<sup>3</sup> In support of her argument, the petitioner points to the fact that the commitment order incorrectly indicates she pled guilty instead of being convicted by a jury after trial, but she fails to explain or offer any supporting authority regarding how this discrepancy renders her sentence illegal; therefore, we do not address it here. *See State v. LaRock*, 196 W. Va. 294, 302, 470 S.E.2d 613, 621 (1996) ("We deem these errors abandoned because these errors were not fully briefed."); *see also State v. Lilly*, 194 W. Va. 595, 605 n.16, 461 S.E.2d 101, 111 n.16 (1995) ("[C]asual mention of an issue in a brief is cursory treatment insufficient to preserve the issue on appeal." (quoting *Kost v. Kozakiewicz*, 1 F.3d 176, 182 (3d Cir. 1993))).

manslaughter conviction, and we conclude that the circuit court did not err in finding that the petitioner's sentences are within statutory limits. *See Goodnight*, 169 W. Va. at 366, 287 S.E.2d at 505, Syl. Pt. 4. The petitioner does not allege, and we do not find any evidence that the court's sentences were based on any impermissible factors, and in accordance with Rule 35(a) and *Goodnight*, the petitioner's sentences for voluntary manslaughter are not reviewable. Accordingly, we find that the circuit court did not abuse its discretion in denying the petitioner's Rule 35(a) motion.

For the foregoing reasons, we affirm.

Affirmed.

**ISSUED:** September 10, 2025

**CONCURRED IN BY:**

Chief Justice William R. Wooton  
Justice C. Haley Bunn  
Justice Charles S. Trump IV  
Justice Thomas H. Ewing  
Senior Status Justice John A. Hutchison