FILED
September 10, 2025
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

State of West Virginia,
Plaintiff Below, Respondent

v.) No. 23-538 (Kanawha County 13-F-223)

Joey Keith Jeffery,
Defendant Below, Petitioner

MEMORANDUM DECISION

Petitioner Joey Keith Jeffery appeals the Circuit Court of Kanawha County's August 22, 2023, order denying the petitioner's request for relief pursuant to West Virginia Rule of Criminal Procedure 35(b).[1] The petitioner argues that the circuit court erred by failing to secure an expert witness regarding his medical condition and failing to issue a more detailed order concerning its findings of facts and conclusions of law. 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.

The petitioner was charged with crimes stemming from the kidnapping, robbery, and assault of Leanne Quinn. On February 2, 2014, a jury convicted the petitioner of kidnapping, malicious wounding, second degree robbery, and assault during the commission of a felony. On July 24, 2014,[2] the petitioner was resentenced to concurrent terms of imprisonment for life without mercy for kidnapping; not less than two nor more than ten years for malicious wounding; not less than five nor more than eighteen years for second degree robbery; and not less than two nor more than ten years for assault during the commission of a felony. The petitioner appealed his conviction to this Court, which was affirmed in *State v. Jeffery*, No. 14-0888, 2015 WL 1740281 (W. Va. Apr. 13, 2015) (memorandum decision).

[1] The petitioner is self-represented. The State of West Virginia appears by Attorney General John B. McCuskey and Assistant Attorney General Mary Beth Niday. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel.

[2] The petitioner was originally sentenced on April 9, 2014, but was re-sentenced on July 24, 2014, to re-establish post-conviction filing deadlines that were inadvertently missed due to misdirected mail intended for appellate counsel.

On July 22, 2014,[3] the petitioner filed a motion for reduction of his sentence pursuant to Rule 35(b) of the West Virginia Rules of Criminal Procedure,[4] which remained pending until March 10, 2023, when his file was judicially reassigned, and the circuit court appointed counsel to assist him.[5] On June 14, 2023, the court granted the petitioner leave to supplement his previously filed Rule 35(b) motion, stating that "consideration of events in this case occurring outside the 120-day filing period serves the ends of justice and would not usurp the role of the parole board." The petitioner filed an amended Rule 35(b) motion in August 2023, in which he expressed remorse for the conduct that led to his convictions; highlighted his good behavior in prison; highlighted his work record; detailed his poor health, which he claimed was not being properly addressed in prison and impaired his ability to work; and listed family and friends willing to provide support if the court allowed him to "return to being a productive member of society." In an order entered on August 22, 2023, the court denied the petitioner's motion, stating, "After reviewing the record, the circumstances, and the arguments set forth in the filed motion, the Court finds that the previously ordered sentence is proper. Accordingly, the Court ORDERS that the motion is DENIED." The petitioner now appeals the court's order denying his request for Rule 35(b) relief.

This Court has held:

> 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. Finally, we have held that "in the final analysis, a Rule 35(b) motion is essentially a plea for leniency from a presumptively valid conviction." *Head*, 198 W. Va. at 306, 480 S.E.2d at 515.

In the petitioner's first assignment of error, he alleges that the circuit court erred in denying his Rule 35(b) motion without securing "an expert to issue a report regarding [his] medical condition." The petitioner asserts that a medical expert was determinative of his request for leniency from the court. However, the petitioner does not cite to any relevant legal authority in

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[3] *See* note 2, *supra*.

[4] Rule 35(b) of the West Virginia Rules of Criminal Procedure provides, in relevant part, that "[a] motion to reduce a sentence may be made, or the court may reduce a sentence without motion within 120 days after the sentence is imposed[.]"

[5] The petitioner subsequently filed a petition for a writ of habeas corpus, which was denied by this court in *State ex. rel. Jeffery v. Terry*, No. 17-0216, 2018 WL 4961592 (W. Va. Oct. 15, 2018) (memorandum decision).

support of his contention that he is entitled to an appointed medical expert for a Rule 35(b) motion.[6] Further, the record on appeal does not indicate that the petitioner ever requested the appointment of such an expert at the time his Rule 35(b) motion was filed or while it was pending before the circuit court. The petitioner proffered medical records in support of his motion, which the circuit court considered as part of its review of "the record, the circumstances, and the arguments set forth in the filed motion." Ultimately, in finding that "that the previously ordered sentence is proper[,]" the circuit court did not find the petitioner's circumstances appropriate for leniency, and the petitioner demonstrates no abuse of discretion in the court's denial of his Rule 35(b) motion.

Next, the petitioner alleges that the circuit court erred in failing to provide sufficient findings of facts and conclusions of law in its order denying his Rule 35(b) motion. The petitioner again cites inapplicable federal law in support of his assertion that the circuit court should have entered a more comprehensive order that specifically addresses his medical conditions and efforts towards rehabilitation, as evidenced by his work record and certificates for completion of various programs while incarcerated. Specifically, the petitioner relies on *United States v. Martin*, 916 F.3d 389 (4th Cir. 2019), which addresses the sufficiency of orders entered by federal district courts considering motions to reduce sentences pursuant to 18 U.S.C. § 3582(c)(2), which allows modification of a sentence when the federal Sentencing Commission retroactively lowers a sentencing range. This federal statutory scheme is not analogous to motions made in state court pursuant to Rule 35.

"Rule 35 does not explicitly require findings of fact and conclusions of law[.]" *State v. Redman*, 213 W. Va. 175, 178, 578 S.E.2d 369, 372 (2003). However, we have indicated that "rulings issued by trial courts, as a rule, must contain the requisite findings of fact and conclusions of law 'to permit meaningful appellate review.'" *Id. citing* Syl. Pt. 3, in part, *Fayette County Nat. Bank v. Lilly*, 199 W.Va. 349, 484 S.E.2d 232 (1997) (overruled on other grounds). In the present case, the court's order denying the petitioner's Rule 35(b) motion specifies that the court reviewed the record prior to its ruling, and this language serves to incorporate the factual circumstances of the crimes underlying the petitioner's convictions and any other relevant history contained within the record. Further, the court noted that it had considered the arguments set forth in the petitioner's Rule 35(b) motion, which included the court's review of any information submitted in conjunction with that motion. While succinct, the court's order adequately referenced the relevant factors it considered in ruling on the petitioner's motion. Therefore, the court's order meets the requisite standard.

For the foregoing reasons, we affirm.

[6] The petitioner's reliance on federal law in support of this assignment of error is misplaced, and the cases he cites are inapposite to his arguments. Briefly, the petitioner cites *Ake v. Oklahoma*, 470 U.S. 68 (1985), and *Barefoot v. Estelle*, 463 U.S. 880 (1983), *superseded by statute on other grounds*, 28 U.S.C. § 2253 (1996), as stated in *Slack v. McDaniel*, 529 U.S. 473 (2000). However, these cases deal with the appointment of psychiatrists (medical experts) in the guilt phase, in *Ake*, and the sentencing phase, in *Barefoot*, of capital criminal trials, and thus invoke life and liberty interests implicated by the U.S. Constitution that are not at stake in a Rule 35(b) motion for reduced sentence.

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