

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Clarence Slaughter,
Petitioner Below, Petitioner

v.) No. 23-671 (Lewis County CC-21-2023-C-19)

Jonathan Frame, Superintendent,
Mt. Olive Correctional Complex and Jail,¹
Respondent Below, Respondent

MEMORANDUM DECISION

Petitioner Clarence Slaughter appeals the October 18, 2023, order of the Circuit Court of Lewis County denying his petition for a writ of habeas corpus.² The petitioner challenges his convictions on two counts of failing to provide a change of information under the West Virginia Sex Offender Registration Act (SORA),³ second offense, arguing that SORA did not require him to register as a sex offender because his out-of-state conviction did not require proof of the same essential elements as the most similar sex offense under the West Virginia Code. 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).

In 1981, the petitioner was convicted in Alaska for sexual abuse of a minor pursuant to Alaska Statutes § 11.41.440(a)(2) (1980) and was sentenced to five years of incarceration. After being released from incarceration, the petitioner relocated to West Virginia. In 2011, the circuit court convicted the petitioner of failing to provide a change of information under SORA and sentenced him to one to five years of incarceration.

In 2016, the petitioner was indicted on two counts of sexual abuse by a person in a position of trust, two counts of first-degree sexual abuse, and two counts of failing to provide a change of information under SORA, second offense. The petitioner pled guilty to the two SORA counts in

¹ The current superintendent has been substituted as the respondent. *See* W. Va. R. App. P. 41(c).

² The petitioner appears by counsel Jeremy B. Cooper, and the respondent appears by Attorney General John B. McCuskey and Assistant Attorney General Frankie Dame. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel.

³ W. Va. Code §§ 15-12-1 to -10.

exchange for the State's dismissal of the sex offense counts. The circuit court sentenced the petitioner to an aggregate term of twenty to fifty years of incarceration.

In 2023, the petitioner filed a petition for a writ of habeas corpus challenging his two convictions for failing to provide a change of information under SORA, second offense, and the circuit court appointed him habeas counsel. At a September 2023 evidentiary hearing, the court questioned the petitioner regarding the *Losh* checklist⁴ and determined that the petitioner waived all grounds for habeas relief except for the following: (1) indictment shows on its face no crime was committed; (2) involuntary guilty pleas; (3) failure of counsel to take an appeal; (4) unfulfilled plea bargain; (5) excessive bail; (6) failure to receive a copy of the indictment; (7) defective indictment; (8) refusal to subpoena witnesses; (9) question of actual guilt upon acceptance of the guilty pleas; (10) severer sentence than expected; (11) excessive sentence; and (12) ineffective assistance of trial counsel. The petitioner indicated that all of his claims were derivative of his legal argument that SORA did not require him to register as a sex offender because his out-of-state conviction did not require proof of the same essential elements as the most similar sex offense under the West Virginia Code. For evidentiary support, the petitioner testified on his own behalf and presented the testimony of trial counsel.

In its October 18, 2023, order, the circuit court denied the petitioner's habeas petition. The circuit court stated that it needed to fully address only the ineffective assistance of trial counsel claim and the petitioner's argument that SORA did not require him to register as a sex offender because "the remaining grounds raised by the [p]etitioner were only raised in a cursory fashion and not sustained by the testimony[.]" Regarding ineffective assistance of trial counsel, the circuit court found that the petitioner's testimony was not credible because it was contradicted by the record from the underlying criminal case.

The circuit court also rejected the petitioner's claim that SORA did not require him to register as a sex offender, finding that, at the time of the petitioner's offense in Alaska, Alaska Statutes § 11.41.440(a)(2) (1980) prohibited a person over the age of sixteen from having sexual contact with a person under the age of thirteen. The circuit court noted that SORA mandates registration by any person with an out-of-state conviction that requires proof of the same essential elements.⁵ The circuit court found that the most similar West Virginia offense is set forth in West Virginia Code § 61-8B-7(a)(3) (2006) as that statute provides that it is first-degree sexual abuse for a person who is at least fourteen years old to have sexual contact with a person younger than

⁴ The checklist of grounds typically used in habeas corpus proceedings, usually referred to as the *Losh* checklist, originates from our decision in *Losh v. McKenzie*, 166 W. Va. 762, 277 S.E.2d 606 (1981), wherein we set forth the most common grounds for habeas relief. *See id.* at 768-70, 277 S.E.2d at 611-12.

⁵ West Virginia Code § 15-12-2(b) provides, in pertinent part, that any person convicted "under a statutory provision of another state, . . . which requires proof of the same essential elements," shall register as a sex offender under SORA.

twelve years old.⁶ Observing that the petitioner’s victim in his Alaska case was no more than three years old,⁷ the circuit court concluded the offense provided for in Alaska Statutes § 11.41.440(a)(2) (1980) is essentially the same as the offense set forth in West Virginia Code § 61-8B-7(a)(3) (2006). The petitioner now appeals. We review the circuit court’s order “and the 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 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. 564, 859 S.E.2d 732 (2021) (“On an 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 abuse its discretion in denying habeas relief.

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

⁶ The petitioner agrees with the circuit court’s assessment, stating that “[t]he closest West Virginia statute requires proof of a perpetrator over fourteen and a victim under twelve.”

⁷ The petitioner turned twenty-four years old in 1981 as he was born in 1957.