**FILED**
**November 5, 2026**
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

# STATE OF WEST VIRGINIA
# SUPREME COURT OF APPEALS

**Jamie E.,**
**Petitioner Below, Petitioner**

**v.) No. 24-124** (Harrison County CC-17-2020-C-35)

**Curtis Dixon, Superintendent,**
**Mount Olive Correctional Facility and Jail,**
**Respondent Below, Respondent**

## MEMORANDUM DECISION

Petitioner Jamie E.[1] appeals the Circuit Court of Harrison County's February 2, 2024, order denying his petition for a writ of habeas corpus.[2] The petitioner argues that the circuit court erred in denying him habeas relief given his lack of understanding surrounding his plea agreement. 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 May 2017, the Harrison County Grand Jury returned an eighteen-count indictment charging the petitioner with six counts of sexual abuse by a parent, guardian, custodian, or person in a position of trust; six counts of second-degree sexual assault; and six counts of incest. The petitioner was determined to be incompetent and was hospitalized for the purpose of regaining competency. After several months of treatment, the petitioner was declared competent, and his trial was scheduled. However, shortly before trial was set to begin, the petitioner entered into a plea agreement whereby he agreed to plead guilty to one count of second-degree sexual assault; one count of sexual abuse by a parent, guardian, custodian, or person in a position of trust; and two counts of incest, and, in exchange, the State agreed to dismiss the remaining charges. The court conducted a thorough plea colloquy wherein the petitioner articulated the charges and sentences he faced, acknowledged that the court was not bound by any sentencing

[1] We use initials where necessary to protect the identities of those involved in this case. *See* W. Va. R. App. P. 40(e).

[2] The petitioner is represented by counsel Jeremy B. Cooper. The respondent appears by Attorney General John B. McCuskey and Deputy Attorney General Andrea Nease. 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 Mount Olive Correctional Facility and Jail as the respondent. *See* W. Va. R. App. P. 41(c).

recommendations, and confirmed that he understood the proceedings and his guilty plea. The court accepted the petitioner's plea, finding that the petitioner knowingly and voluntarily entered his guilty plea, was competent to do so, and entered the plea with the advice of competent counsel. At a later sentencing hearing, the circuit court sentenced the petitioner to ten to twenty-five years of imprisonment for his conviction of second-degree sexual assault; ten to twenty years of imprisonment for his conviction of sexual abuse by a parent, guardian, custodian, or person in a position of trust; and five to fifteen years of imprisonment for each of his convictions for incest. The court ordered the sentences to run consecutively. The petitioner did not appeal, but he filed a Rule 35(b) motion for reduction of sentence, which was denied.

In February 2020, the petitioner filed a self-represented petition for a writ of habeas corpus. The circuit court appointed the petitioner counsel, who filed an amended petition in September 2020. While the petitioner initially filed a *Losh* checklist[3] waiving certain grounds of relief, he later expressed confusion regarding the proceedings and eventually underwent a psychological evaluation to determine whether he could proceed with his habeas matter.[4] Based on the report from the psychological evaluation, which found the petitioner to be competent but recommended certain "support and education" so that he would be able to understand and process the information covered at the upcoming evidentiary hearing, the circuit court allowed the petitioner to withdraw his *Losh* checklist and to advance any claims.

The circuit court held an evidentiary hearing on the petitioner's petition for a writ of habeas corpus in November 2023, during which the petitioner asserted that his plea was involuntary because his trial counsel wrongly advised him that he would receive probation; trial counsel incorrectly advised him that he would receive probation if he pled guilty; and he had impaired mental capacity such that he could not defend against his trial counsel's ineffective assistance. Trial counsel testified that he had repeatedly explained to the petitioner that probation was not a realistic option and that imprisonment was certain and, moreover, that the petitioner understood the magnitude of his decision to plead guilty. The petitioner testified that he did not understand much of the discussions during the plea and sentencing hearings, and he was under the impression that he would be sentenced to probation, though he admitted this notion came from his wife because trial counsel allegedly refused to speak to him. By order entered on February 2, 2024, the circuit court denied the petitioner habeas relief. The court found that the petitioner had entered his guilty plea voluntarily and had failed to meet his burden of proof in regard to his ineffective assistance of counsel claim. Although the petitioner did not specifically waive any claims through a *Losh* checklist, the court found that the petitioner failed to present any evidence in support of any other claims. 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).

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[3] The *Losh* checklist originates from our decision in *Losh v. McKenzie*, 166 W. Va. 762, 277 S.E.2d 606 (1981), wherein the Court set forth the most common grounds for habeas relief.

[4] The scope of the evaluation expressly excluded "any evaluation of the mental state of the Petitioner at the time of the entry of his plea."

On appeal, the petitioner argues that the circuit court erred in denying him habeas relief and refusing to allow him to withdraw his plea when he was not able to "absorb[] information sufficiently during court proceedings" and did not have the benefit of the accommodations provided to him during the habeas proceedings at his plea hearing. Upon our review, we find that the petitioner is entitled to no relief. The circuit court thoroughly considered and addressed the petitioner's claims. 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) (quoting Syl. Pt. 2, *Perdue v. Coiner*, 156 W. Va. 467, 194 S.E.2d 657 (1973)) ("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."). Accordingly, we find that the circuit court did not abuse its discretion in denying habeas relief.

For the foregoing reasons, we affirm.

Affirmed.

**ISSUED:** November 5, 2026

**CONCURRED IN BY:**

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan