

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

**Carl Lockhart,
Petitioner Below, Petitioner**

vs) No. 11-0407 (Wood County 95-F-23)

**David Ballard, Warden,
Respondent Below, Respondent**

FILED
October 25, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Carl Lockhart appeals the circuit court's denial of his habeas corpus petition, arguing thirteen assignments of error. The appeal was timely perfected by counsel, with the complete record from the circuit court accompanying the petition. No response was filed.

This Court has considered the petition and the record on appeal. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this case is appropriate for consideration under the Revised Rules. The facts and legal arguments are adequately presented in the petition and the record on appeal, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the petition, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules.

Petitioner was convicted by a jury of sexual assault in the first degree, battery, burglary and assault during the commission of a felony. He filed the instant habeas corpus petition in 2001, and filed a supplemental habeas corpus petition in 2006. In January 2007, petitioner and his counsel appeared for an evidentiary hearing. At the conclusion of this hearing, the circuit court ordered the parties to submit proposed findings of fact and conclusions of law, and the petitioner was provided an opportunity to reply thereto. On July 22, 2010, the circuit court entered a seventeen page order denying habeas corpus relief. Petitioner now seeks a reversal of the circuit court's decision, alleging thirteen assignments of error.

The Court has carefully considered the merits of each of the petitioner's arguments as set forth in his petition for appeal. Finding no error in the denial of habeas corpus relief,

the Court fully incorporates and adopts the circuit court's detailed and well-reasoned "Order," dated July 22, 2010, and attaches the same hereto.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: October 25, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Menis E. Ketchum
Justice Thomas E. McHugh