

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2808

September Term, 2014

MICHAEL THEODORE SCOTT

v.

STATE OF MARYLAND

Meredith,
Reed,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Thieme, J.

Filed: February 10, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 2001, appellant, Michael Theodore Scott, was charged with, among other offenses, first-degree murder, robbery, and a handgun offense for his role in the robbery and shooting of Kerwin Morse. Initially, appellant elected to be tried by a jury, but at the close of the State’s case, he elected to enter into a binding plea agreement. That agreement provided that appellant would plead guilty to second-degree murder and use of a handgun in the commission of a crime of violence, and that he would be sentenced to a term of 30 years imprisonment with all but 20 years suspended for second-degree murder, and to a consecutive 20 year term of imprisonment with all but 5 years suspended for the handgun offense. On October 8, 2002, appellant pleaded guilty and was sentenced in accordance with that agreement.

In 2014, appellant, acting *pro se*, filed a petition for a writ of actual innocence pursuant to the provisions of Md. Code (2001, 2008 Repl. Vol., 2015 Supp.), § 8-301 of the Criminal Procedure Article (“C.P.”), and Md. Rule 4-332, alleging newly discovered evidence that he claimed created a substantial or significant possibility that the result of his 2002 guilty plea may have been different. The alleged newly discovered evidence was the report of a forensic document examiner analyzing a police report written by an investigating police detective containing a statement of Stephen Gary, an eyewitness to the crime. Appellant claimed the document examiner’s report demonstrated that the detective “forged the second part of [the witness’s] statement, allegedly placing [appellant] at the crime scene as the shooter.”

On January 23, 2015, the circuit court denied the petition without a hearing. Appellant filed a timely *pro se* appeal from the circuit court’s decision and presents three questions for our review:

1. Did the court below err in denying the appellant’s petition for a writ of actual innocence without a hearing?
2. Did the court below err in not ruling on appellant’s amended petition for a writ of actual innocence via newly discovered evidence?
3. Did the court below abuse its discretion in its denial of appellant’s petition for a writ of actual innocence?

The Court of Appeals decision in *Yonga v. State*, No. 30, Sept. Term 2015 (filed January 27, 2016) affirming this Court’s decision in *Yonga v. State*, 221 Md. App. 45 (2015) is dispositive of the outcome in this case. In *Yonga*, the Court of Appeals held that: “a person who has pled guilty may not later avail himself or herself of the relief afforded by the Petition for a Writ of Actual Innocence.” (Slip Op. at 12, 36). As a result, because appellant pleaded guilty, we affirm the denial of his petition for a writ of actual innocence.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO BE
PAID BY APPELLANT.**