Circuit Court for Baltimore City
Case Nos.: 193106007 & 193106008

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 0335

September Term, 2024

ANTONIO JACKSON

v.

STATE OF MARYLAND

Beachley,
Albright,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 10, 2025

* This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

On November 8, 1993, following trial in the Circuit Court for Baltimore City, a jury found Antonio Jackson, appellant, guilty of first-degree murder, attempted second-degree murder, and related offenses. On January 4, 1994, the court sentenced him to life imprisonment plus 35 years. He took a direct appeal to this Court and we affirmed. *Jackson v. State*, No. 1898, Sept. Term, 1993 (filed unreported October 20, 1994) (*Jackson I*).

Nearly two decades later, on October 10, 2012, appellant filed a petition for a writ of actual innocence which, on November 26, 2012, the circuit court denied without holding a hearing. Appellant took an appeal to this Court from that denial. In an unreported opinion, we vacated the order denying the petition and remanded the case to the circuit court for it to hold a hearing. *Jackson v. State*, No. 2176, Sept. Term, 2012 (filed June 11, 2015) (*Jackson II*).

On November 23, 2015, upon remand, the circuit court held a hearing on appellant's petition for a writ of actual innocence. During that hearing, the parties explained that they had agreed to a negotiated resolution of the case whereby the State would not oppose the vacating of appellant's convictions, and appellant would plead guilty and be sentenced to life imprisonment with all but 30 years suspended in favor of five years' probation.[1] The circuit court agreed to be bound to that agreement, and, accordingly, it thereafter granted appellant's petition, vacated his convictions, accepted appellant's guilty plea to first-degree

[1] We shall explain more details about appellant's petition, and the events that occurred during the hearing on it, as they become germane to our discussion.

murder, and sentenced him to life with all but thirty years suspended in favor of five years' probation.[2]

Nearly eight years later, on November 2, 2023, appellant, acting *pro se*, filed a petition for a writ of error coram nobis attacking his 2015 guilty plea on various grounds. On February 29, 2024, the court denied that petition in all respects without holding a hearing on it. Appellant, still acting *pro se*, noted an appeal from that denial and presents us with the following question which we have re-phrased and condensed for clarity:[3] Did the court abuse its discretion in denying appellant's petition for a writ of error coram nobis?

Discerning no reversible error or abuse of discretion, we shall affirm the judgment of the circuit court denying appellant's coram nobis petition.

[2] In its Brief of Appellee, the State asserts that appellant's sentence was "essentially time served." Appellant does not dispute that assertion.

[3] Appellant presented his questions to us as follows:

1. Did the coram nobis court's *sua sponte* denial of coram nobis relief on grounds the petition lacked proof appellant was facing or suffering significant collateral consequences constitute an abuse of discretion?
2. Did the coram nobis court[] failure [sic] to consider and rule upon the six allegations of significant collateral consequences alleged in the petition?
3. Did the coram nobis court erred [sic] and abuse its discretion in erroneou[s]ly concluding appellant was not denied ineffective assistance of counsel?
4. Did the coram nobis court['s] failure to hold a hearing based upon its erroneous reliances [sic] on the created significant collateral consequences not alleged in the petition constitute an abused [sic] of its discretion?

BACKGROUND

Factual Background

We briefly outlined the factual background of this case in *Jackson II*, as follows:

> On February 10, 1993, in Baltimore City, Wilson Staples and Andre Ford were shot. Staples died of his wounds. Ford recovered. [Appellant] was arrested and charged with crimes arising out of the shootings. At a jury trial in the Circuit Court for Baltimore City the primary witness against Jackson was Sion Ford, a relative of Andre Ford. He identified "Bay-Boy" – Jackson's street name – as the shooter. The defense was one of mistaken identity. Jackson testified that he was not in the area of the shooting when it took place.

Jackson II, slip op. at 1.

2012 Petition for a Writ of Actual Innocence

In *Jackson II*, we explained that, in 2012, appellant filed a petition for a writ of actual innocence based on documents he claimed to have received from the Baltimore City State's Attorney's Office pursuant to a request he had made in accordance with the Maryland Public Information Act. He claimed that those documents amounted to newly discovered evidence within the meaning of a petition for a writ of actual innocence. One of those documents was a lined page torn from a spiral notebook containing what appeared to be "the handwritten notes of a police officer or medic who was present with victim Staples soon after the shooting, when he was lying in the street suffering from a gunshot wound." Written in the margin of the paper were the words "'Little puppy' did it" which appeared to "memorialize a statement that was made by Staples, informing the officer or medic of the identity of the shooter." *Jackson II,* slip op. at 4-7, 10.

As noted earlier, the circuit court denied appellant's petition without a hearing, and we vacated that order and remanded the matter to the circuit court to conduct a hearing because "with regard to the 'Little puppy' paper, [appellant] adequately pleaded the existence of newly discovered evidence that could not have been discovered in time to move for a new trial under Rule 4-331, and that created a substantial or significant possibility that the result of his trial would have been different." *Jackson II*, slip op. at 10-11.

The 2015 Hearing on Appellant's Petition Upon Remand from this Court

Near the outset of the November 23, 2015 hearing on appellant's petition for a writ of actual innocence, the State, and counsel for appellant, announced to the court that they had "reached a resolution" to appellant's petition. As explained earlier, under that resolution, the court would grant appellant's petition and vacate his convictions, appellant would then plead guilty to first-degree murder, and the court would sentence appellant to life with all but 30 years suspended. Before agreeing to be bound to the agreement, the court called counsel for appellant and the State to the bench and told appellant: "[Y]ou can have a seat."

During the ensuing bench conference, which appellant did not attend, the court inquired of the parties "is there more to this than this?" and "is there more of a back story?" In response, the State briefly summarized the evidence adduced during appellant's 1993 trial, and appellant's counsel explained, among other things, the existence of the "Little puppy" paper described earlier. The court questioned appellant's counsel about the circumstances of appellant's acquisition of the document and questioned whether, or how,

it could potentially be admitted into evidence under the dying declaration exception to the hearsay rule.[4]

The court established that the State was conceding that, if the "Little puppy" paper were admissible as a dying declaration, "that would be something that would have a substantial significant possibility to [affect] the verdict." The State explained that, were the parties to litigate the merits of appellant's petition, and were the court to grant appellant's petition, it was concerned that appellant would be "walking" presumably due, *inter alia*, to the difficulties in re-trying the case so many years after the original trial in 1993.

Thereafter, appellant's counsel explained that appellant had originally wanted to proceed with litigating his petition "[b]ut then I think common sense (inaudible 03:15:19) I want to go home and see my grandchildren. That was basically it." The court then concluded the bench conference by saying "[o]kay, okay. I just want to understand."

After the bench conference concluded, the following occurred in open court:

> THE COURT: All right. So we can set up the appropriate context here. So for the record then, the State is conceding, 1), that this is newly discovered evidence, and 2), that . . . this evidence would provide a substantial or a significant possibility that the verdict would have been affected had this evidence been known at the time, correct?
>
> [THE STATE]: Yes, Your Honor.

[4] Maryland Rule 5-804(b)(2), titled "Statement Under Belief of Impending Death," provides that "[i]n a prosecution for an offense based upon an unlawful homicide, attempted homicide, or assault with intent to commit a homicide or in any civil action, a statement made by a declarant, while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the declarant's impending death" is not excluded by the hearsay rule if the declarant is unavailable as a witness.

> THE COURT: Okay. And obviously you're not contesting that either, right?
>
> [DEFENSE COUNSEL]: No, Your Honor.
>
> THE COURT: Okay. So for the record then, I will find, based on that concession, that in fact I will grant the petition. I will order a new trial. Now, we are [at] the trial stage. It's my understanding, again, [appellant] is going to plead guilty to first-degree murder. I am going to impose a sentence of life suspend all but 30 years, followed by five years['] supervised probation. And I will date the 30 years from March 8th, 1993. Is that everybody's understanding of the plea?
>
> [THE STATE]: Yes, Your Honor.
>
> [DEFENSE COUNSEL]: Yes, Your Honor.
>
> THE COURT: Okay. All right.

The court then thoroughly examined appellant about pleading guilty and the rights he was waiving by doing so. Thereafter, the court found that appellant's guilty plea was knowingly and voluntarily entered. After the State read its statement of facts in support of the guilty plea, the court entered its guilty finding for first-degree murder. As noted earlier, the court then sentenced appellant to life with all but 30 years suspended in favor of five years' probation.

Appellant did not seek leave to appeal from his guilty plea.

Coram Nobis Generally

"Coram nobis is extraordinary relief designed to relieve a petitioner of substantial collateral consequences outside of a sentence of incarceration or probation where no other remedy exists." *State v. Smith*, 443 Md. 572, 623 (2015). Relief is "justified only under

circumstances compelling such action to achieve justice." *State v. Rich*, 454 Md. 448, 461 (2017) (cleaned up).

A coram nobis petitioner "is entitled to relief . . . if and only if" the petitioner challenges a conviction based on constitutional, jurisdictional, or fundamental grounds; the petitioner rebuts the presumption of regularity that attaches to criminal cases; the petitioner is facing a significant collateral consequence as a result of the challenged conviction; the allegations raised have not been waived or finally litigated; and another statutory or common law remedy is not available. *Jones v. State*, 445 Md. 324, 338 (2015). A petitioner must satisfy all five of those criteria. *Id.*

Even if the foregoing prerequisites are met, however, relief is only required to be granted under circumstances compelling such action to achieve justice. *Vaughn v. State*, 232 Md. App. 421, 429 (2017).

Appellant's Petition for a Writ of Error Coram Nobis

On November 2, 2023, appellant, acting *pro se*, filed a petition for a writ of error coram nobis in the circuit court. In his petition, he argued, *inter alia*, that he was denied his right to effective assistance of counsel when his lawyer (1) failed to ensure his presence at the bench conference that took place before he pleaded guilty, (2) failed to tell him that, during that bench conference, the State had conceded that he would "walk" if they had to re-try the case, (3) failed to object to the court's conclusion that his guilty plea was voluntarily made, and (4) failed to object to the allegedly insufficient factual basis for the

plea.[5] In his petition, appellant alleged that he was facing a wide range of significant collateral consequences from his conviction in this case.

The Denial of Appellant's Coram Nobis Petition

As noted earlier, on February 28, 2024, without holding a hearing, the circuit court denied appellant's petition by way of a written memorandum opinion and order.

The court found that appellant had met some, but not all, of the aforementioned 'gatekeeping' criteria for obtaining coram nobis relief. Specifically, the court found that appellant had established (1) that his claims were based on constitutional or fundamental grounds, (2) that he had not waived his claims, and (3) that, because he was no longer incarcerated, on parole, or on probation for the first-degree murder he pleaded guilty to in this case, he had no other remedy available.

However, the court found that appellant did not suffer from significant collateral consequences within the meaning of the relevant case law and was not therefore eligible for coram nobis relief. In any event, even though the court had determined that appellant had not met all of the gatekeeping criteria for coram nobis relief, the court addressed each of appellant's claims of ineffective assistance of counsel and found that all lacked merit.

[5] Appellant also raised a claim of ineffective assistance of counsel for not properly preparing for the hearing on his petition for actual innocence. Specifically, appellant claimed that his attorney had not interviewed the police officer or medic who had allegedly written down the victim's dying declaration that "Little puppy" killed him. The coram nobis court denied relief on this claim on the basis that it became moot when the court vacated his convictions and appellant pleaded guilty. Appellant does not challenge that ruling in this appeal.

The court collectively addressed appellant's contentions of ineffective assistance of counsel for allegedly (1) failing to ensure his presence at the bench conference that took place before he pleaded guilty, (2) failing to tell him that, during that bench conference, the State had conceded that he would "walk" if they had to re-try the case, and (3) failing to object to the court's conclusion that his guilty plea was voluntarily made.

The court found that, given all that occurred on the record during the November 23, 2015 hearing, appellant was well-aware that the State may have difficulty re-trying him even if appellant was not specifically made aware of the State's concern expressed during that bench conference about appellant "walking". This was so, according to the court, because on the record appellant was told, among other things, that the State had conceded, and the court had found, that the "Little puppy" document created a significant or substantial possibility of a different result at trial. The court noted "[t]he petitioner wants this court to believe that the statement made by the prosecutor was a statement that he would be exonerated, and the court is not willing to make that leap." Relying on *Santobello v. New York*, 404 U.S. 257, 261 (1971), the court observed that "[p]lea agreements eliminate many of the risks, uncertainties, and practical burdens of trials."

Next, the court addressed appellant's ineffective assistance of counsel claim which asserted that his counsel should have objected to the statement of facts proffered by the State in support of appellant's guilty plea. According to appellant, that statement of facts was objectionable because it made no mention of the deceased victim's dying declaration identifying "Little puppy" as his killer. As a result, according to appellant, his guilty plea was not therefore entered voluntarily. The coram nobis court noting, *inter alia*, that the

purpose of the factual basis is to ensure that defendant does not plead guilty "without realizing that his conduct does not actually fall within the charge" found the factual basis sufficient in this case.

Finally, the coram nobis court, after recognizing that coram nobis relief may not be granted without holding a hearing, and after observing, among other things, that coram nobis relief is an extraordinary remedy which is reserved for "circumstances compelling such action to achieve justice[,]" determined, in its discretion, to not hold a hearing on appellant's petition for a writ of error coram nobis.

DISCUSSION

Standard of Review

Given the extraordinary nature of coram nobis relief, we review the circuit court's ultimate decision to deny relief under the abuse of discretion standard, with legal determinations reviewed without deference and factual findings left undisturbed unless clearly erroneous. *Rich*, 454 Md. at 470-71. "There is an abuse of discretion where no reasonable person would take the view adopted by the trial court." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 418 (2007) (cleaned up). "To be reversed the decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* at 418-19 (cleaned up).

Collateral Consequences

On appeal, appellant, again acting *pro se*, asserts that the coram nobis court erred in a variety of ways. For example, appellant contends that the coram nobis court failed to

address the specific collateral consequences that he had asserted, and instead addressed collateral consequences that he did not assert. It is not necessary for us to address all of appellant's perceived errors in the coram nobis court's decision with respect to the collateral consequences he asserted because, as will be seen, regardless of those alleged errors, our affirmance of the coram nobis court's decision on the merits of appellant's ineffective assistance of counsel claims is dispositive of this appeal.

Ineffective Assistance of Counsel Claims

To prevail on a claim of ineffective assistance of counsel under the Sixth Amendment, the claimant must prove that his defense counsel's performance was deficient and caused him to suffer prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Whether a lawyer's performance was deficient is decided based on "an objective standard of reasonableness[.]" *Syed v. State*, 463 Md. 60, 75 (2019). "In light of that objective standard, judicial scrutiny of counsel's performance is highly deferential, and there is a strong (but rebuttable) presumption that counsel rendered reasonable assistance." *Id.* (cleaned up).

In the context of a guilty plea, to prove prejudice, the claimant "must show that but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Yoswick v. State*, 347 Md. 228, 245 (1997) (citing *Hill v. Lockhart*, 474 U.S. 52, 59 (1985)). "[T]he [court's prejudice] analysis should be made objectively, without regard for the idiosyncrasies of the particular decisionmaker." *Yoswick*, 347 Md. at 245 (citation and quotation marks omitted).

"[C]ourts need not consider the performance prong and the prejudice prong in order, nor do they need to address both prongs in every case." *Newton v. State*, 455 Md. 341, 356, (2017). "As the *Strickland* Court explained, 'If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed.'" *Id.* (quoting *Strickland*, 466 U.S. at 697).

Appellant argues, for many different reasons, that the coram nobis court erred in finding that he was not denied his right to effective assistance of counsel. His argument continues to be that his lawyer made a prejudicial serious attorney error in not telling him about the State's 'concession' during the bench conference, which, according to him, made his guilty plea involuntary because, had he known about the State's concerns, he would not have pleaded guilty and instead insisted on going to trial.

In our view, appellant's guilty plea was not rendered involuntary from any supposed error of his counsel with respect to his absence from the bench conference because, as the coram nobis court found, (1) he reads too much into the State's concerns expressed at the bench, and (2) from what was told to him on the record during the proceedings he was made aware that the State would have difficulty re-trying his case. Moreover, appellant's argument takes an overly myopic view of the nature of the guilty plea agreement in this case. His argument totally ignores the fact that a major part of the negotiated resolution of his case involved the grant of his petition for a writ of actual innocence and having his convictions vacated. He chooses to place his analytical starting point immediately after the court vacated his convictions, as if vacating his decades old conviction were immaterial to the guilty plea proceedings.

Appellant ignores the reality that, had the negotiated agreement been rejected by anyone (the court, the State, or even himself), a hearing would have then taken place on his petition for a writ of actual innocence – and there was no guarantee that he would have prevailed on his petition. In other words, it is clear enough to us, that everyone traded risk in the negotiated resolution of the case. Among other things, the State traded appellant's lowered sentence and risk that it would not prevail at a retrial for the certainty of appellant's conviction *via* guilty plea, and appellant traded the risk that he would not prevail on the petition for a writ of actual innocence, and at a potential retrial, for the certainty of a time-served sentence and the release from prison after decades of confinement.

As a result, appellant has not proven that he was prejudiced by any perceived error of counsel as he has not shown that but for counsel's supposed error in not informing him of what occurred during the bench conference, there is a significant possibility that he would have rejected the negotiated resolution of his case and demanded to proceed on the merits of his petition for a writ of actual innocence.

Moreover, we find meritless appellant's contention of ineffective assistance of counsel for not raising the issue that the factual basis for the plea was allegedly inadequate because it contained no reference to the "Little puppy" paper. We are unaware of any authority requiring that the factual basis for a guilty plea contain any reference to potentially exculpatory facts as appellant suggests. As a result, trial counsel made no error. In addition, we are persuaded that, had his counsel objected, and had the factual basis contained the reference to the dying declaration, there is not a significant possibility that

appellant would have rejected the negotiated resolution of his case and demanded to proceed on the merits of his petition for a writ of actual innocence.

Hearing

Finally, appellant claims that the coram nobis court abused its discretion in declining to hold a hearing on his petition. Essentially, appellant asserts that, had the court not made the errors he complains of, it would have been required to hold a hearing on his petition. We are not persuaded this is so.

As noted earlier, the coram nobis court acknowledged the fact that Maryland Rule 15-206(a) permits the court to deny a coram nobis petition without a hearing but does not permit the court to grant such a petition unless the court holds a hearing. The court also recognized that coram nobis relief is an extraordinary remedy. From that standpoint, the court declined to hold a hearing, and, thereby, declined to grant appellant's petition.

We discern no abuse of discretion in determining that appellant's case did not warrant the extraordinary remedy available through a petition for a writ of error coram nobis. Such relief is only required to be granted under circumstances "compelling such action to achieve justice." *Vaughn*, 232 Md. App. at 429 (citation and quotation marks omitted). In our view, this case does not compel such an extreme remedy.

CONCLUSION

We therefore affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.