

Circuit Court for Prince George's County  
Case No. CT-950490X

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 428

September Term, 2018

---

TERRY SANJUAN HILL

v.

STATE OF MARYLAND

---

Fader, C.J.,  
Meredith,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: April 30, 2019

\*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 1995, Terry Hill, appellant, was convicted of first-degree felony murder, two counts of robbery with a dangerous weapon, and two counts of use of a handgun in the commission of a felony, following a jury trial in the Circuit Court for Prince George’s County. In 2017, he filed a petition for writ of actual innocence, which the trial court denied without a hearing. On appeal, he raises two issues, which reduce to one: whether the court erred in denying his petition without a hearing. Because the evidence that Mr. Hill maintains was newly discovered does not demonstrate his actual innocence, we affirm.

At trial, the murder victim’s wife testified that Mr. Hill entered their home, brandished a firearm, and told the victim to give him \$5,000. Mr. Hill and the victim then went upstairs and Mr. Hill took several items belonging to the victim. Later, the victim’s wife heard an altercation downstairs, followed by two gunshots. When she went downstairs, she discovered the victim, who had been fatally shot, lying on the floor of their living room. The victim’s children and step-children provided similar testimony and identified Mr. Hill as the person who brandished the firearm.

Mr. Hill testified in his defense and denied shooting the victim. According to Mr. Hill, he accompanied Leslie Latislaw to the victim’s residence to help Mr. Latislaw collect money from the victim. Mr. Hill admitted that, after he entered the victim’s home, he pulled out a gun, demanded money from the victim, and then took several items belonging to the victim. He testified that he then went downstairs and observed Mr. Latislaw “scuffling” with the victim. During that altercation, Mr. Latislaw and the victim bumped into Mr. Hill, causing him to drop his firearm. Mr. Hill testified that Mr. Latislaw then picked up the gun and shot the victim.

On direct appeal, Mr. Hill claimed that the evidence was insufficient to sustain his convictions. However, we noted that the “substance of [Mr. Hill’s] testimony [was] that he was working in concert with Latislaw, that two of them sought to relieve [the victim] of a sum of money, and that it was in the course of this undertaking that [the victim] was killed.” *Hill v. State*, No. 1682, Sept. Term 1995 (filed July 1, 1996). We therefore held that, “[r]egardless of whether [Mr. Hill] or Latislaw shot [the victim], [Mr. Hill’s] testimony alone is sufficient to sustain [his] conviction for first degree felony-murder, because under the felony-murder doctrine, criminal culpability shall continue to be imposed for all lethal acts committed by a felon or an accomplice acting in furtherance of a common design.” *Id.* (internal quotation marks and citation omitted).

In 2017, Mr. Hill filed a petition for writ of actual innocence, claiming that the State had withheld certain documents prior to trial, and that he did not discover the existence of those documents until he filed a public records request in 2013. Contained in those documents were the summaries of four witness interviews that were conducted by the Prince George’s County Police Department. In those interviews, witnesses told the police that Mr. Latislaw had purchased a light blue Buick several months before the murder; that the Buick matched the description of a vehicle observed at the scene of the crime; that, prior to the murder, Mr. Latislaw had gotten into an argument with the victim regarding tires that the victim had sold him; and that the “word on the street” was that Mr. Latislaw had set the victim up to be robbed. The circuit court ultimately denied the petition without a hearing, finding that there was not a significant possibility that the outcome of the trial

would have been different if Mr. Hill had been aware of the information contained in the interviews prior to trial. This appeal followed.

On appeal, Mr. Hill contends that the court erred in denying his petition without a hearing. A court “may dismiss a petition [for writ of actual innocence] without a hearing if the court finds that the petition fails to assert grounds on which relief may be granted.” Md. Code Ann., Crim. Proc. § 8-301(e)(2); *see also Douglas v. State*, 423 Md. 156, 185 (2011). “Generally, the standard of review when appellate courts consider the legal sufficiency of a petition for writ of actual innocence is *de novo*. *Smallwood v. State*, 451 Md. 290, 308 (2017).

To prevail on a petition for a writ of actual innocence the petitioner has the burden of establishing that there is newly discovered evidence that could not have been discovered in time to move for a new trial under Maryland Rule 4-331 and that the new evidence creates a substantial or significant possibility that the result at his trial may have been different. *See Hawes v. State*, 216 Md. App. 105, 133 (2014). In addition, a petitioner is required to show that the new evidence supports a claim that he or she is actually innocent. *Smith v. State*, 233 Md. App. 372, 413 (2017). The Court of Appeals has held that “actual innocence,” means that “a defendant is not guilty of a crime or offense in fact. In other words, ‘actual innocence’ means the defendant did not commit the crime or offense for which he or she was convicted.” *Smallwood*, 451 Md. at 313.

In the instant case, the interviews conducted by the Prince George’s County Police Department indicated that Mr. Latislaw may have had a motive to shoot the victim and been present at the crime scene. But Mr. Hill testified to as much at trial, stating that he

and Mr. Latislaw committed the robbery and that, during that robbery, Mr. Latislaw shot the victim. However, as we noted in Mr. Hill’s direct appeal, that testimony was sufficient to establish his guilt for the charged crimes, regardless of who shot the victim. Therefore, although the evidence presented by Mr. Hill in his petition might have bolstered his trial testimony, it does not demonstrate that he was actually innocent. Consequently, the court did not err in denying his petition for writ of actual innocence without a hearing.<sup>1</sup>

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

---

<sup>1</sup> Mr. Hill also contends that the court erroneously indicated in its final order that the name and address of one of the witnesses interviewed by the police was “included within the witness list that was provided to the State, Defense, and Court.” We need not address this claim, however, because even if Mr. Hill is correct, it does not change the fact that his petition failed to demonstrate that he was actually innocent.