Circuit Court for Baltimore City
Case Nos. 105140024-27

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 567

September Term, 2017

CAMERON KNUCKLES

v.

STATE OF MARYLAND

Woodward, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 8, 2018

*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.

Cameron Knuckles filed a motion in the Circuit Court for Baltimore City seeking the disclosure of a portion of the grand jury transcripts related to his indictment in 2005 for attempted first-degree murder and related offenses. The circuit court denied the motion, without comment and without a hearing. Knuckles appeals, contending that the court erred in denying his request without holding the hearing he had requested. For the reasons to be discussed, we affirm.

BACKGROUND

Following a 2006 jury trial, Knuckles was convicted of attempted second-degree murder, first-degree assault, use of a handgun in the commission of a felony, conspiracy to commit first-degree murder, and related offenses. His sentences included a thirty-year term of imprisonment for attempted second-degree murder, a consecutive term of twenty years for a handgun offense, and a thirty-year term for conspiracy to commit first-degree murder, to run concurrent with the sentence for attempted second-degree murder. This Court affirmed the judgments. *Hall, Johnson, and Knuckles v. State,* No. 766, September Term, 2006 (filed October 20, 2008), *cert. denied*, 407 Md. 277 (2009). The circuit court subsequently denied Knuckles's petition for post-conviction relief, and this Court denied his application for leave to appeal that judgment. *Knuckles v. State,* No. 1552, September Term, 2015 (filed March 8, 2016).

In 2017, Knuckles, a self-represented litigant, filed a motion pursuant to Md. Rule 4-642(d) in which he requested certain transcripts from the grand jury proceedings which led to his indictment. His motion included a request for a hearing.

Rule 4-642 addresses the "secrecy" of records pertaining to criminal investigations, including grand jury proceedings. In pertinent part, the Rule provides:

> Unless disclosure of matters occurring before the grand jury is permitted by law without court authorization, a motion for disclosure of such matters shall be filed in the circuit court where the grand jury convened. If the moving party is a State's Attorney who is seeking disclosure for enforcement of the criminal law of a state or the criminal law of the United States, the hearing shall be ex parte. In all other cases, the moving party shall serve a copy of the motion upon the State's Attorney, the parties to the judicial proceeding if disclosure is sought in connection with such a proceeding, and such other persons as the court may direct. The court shall conduct a hearing if requested within 15 days after service of the motion.

Rule 4-642(d).

Before a court may issue an order disclosing the material under this Rule, the party seeking the disclosure must demonstrate a "particularized need" for it. *In re Criminal Investigation No. 437 in the Circuit Court for Baltimore City*, 316 Md. 66, 83 (1989). Specifically, the requesting party "must show" that

> 1.) the material they seek is needed to avoid a possible injustice; and
> 2.) the need for disclosure is greater than the need for continued secrecy; and
> 3.) their request is structured to cover only material so needed.

Id. at 85 (footnote omitted).

In Knuckles's motion, he clearly limited his disclosure request to that portion of the grand jury proceedings which lead to "Count X" of the indictment charging him with conspiracy to commit attempted murder in the first degree.[1] As for the "particularized need" for the information, he stated:

> Petitioner seeks disclosure because petitioner was indicted for an offense that doesn't exist in Maryland. In indictment No. 105140024 (count X.

[1] The indictment is not in the record before us.

> Conspiracy to commit Att. Murder, 1st Degree) [CR 2-205]. Because of this "non-offense" being submitted to the grand jury and illegal evidence submitted, in the form of testimony, etc. to prove this illegal offense / non offense, it's [sic] shows an [sic] particularized need in several respects: 1) the need to correct this injustice that was done; 2) because of this non-offense of Cons.Att.Murder being submitted to the grand jury along with the prejudicial evidence to try and prove this illegal offense, the need for disclosure is greater than the need for continued secrecy, and 3) the only indictment of focus is the one with the non-offense (i.e. indictment No. 105140024), this request covers only the transcripts of that specific indictment, so it covers only material needed.
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> ***
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> Petitioner has shown a "particularized need" for disclosure, and have [sic] shown that "grounds exist" [to] dismiss the indictment, due to this non-offense of Cons.Att,Murder, in the 1st Degree [CR 2-205], being presented to the grand jury illegally, with illegal evidence offered to try and prove it, in order for the grand jury to return an indictment for the State of Maryland.
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> ***
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> Furthermore, the need for disclosure is also needed to file an [sic] Motion to Re-Open Post-Conviction, to which the records will be relevant to challenge the court[']s "subject matter jurisdiction" for the non-offense of (Cons.Att.Murder, 1st Degree).

Brackets around [CR 2-205] in the original.

As noted, the court denied the motion, without a hearing.

DISCUSSION

We affirm the court's denial of the motion because Knuckles's asserted "particularized need" for the disclosure is without merit. The basis for the disclosure is Kunckles's claim that he was indicted for the "non-offense" of conspiracy to commit attempted murder in the first degree and, hence the court lacked "subject matter jurisdiction" to try him for this "non-offense." Knuckles, however, did not cite any law to

support his claim that conspiracy to commit attempted murder is not a cognizable crime in Maryland. Nor does he support that contention with any authority in this appeal.

In *Townes v. State*, 314 Md. 71, 77 (1988), the Court of Appeals held that conspiracy to attempt to obtain money by false pretenses is a cognizable crime in Maryland. In *Mitchell v. State*, 363 Md. 130, 150 (2001), the Court refused to recognize conspiracy to attempt to commit second-degree murder as a criminal offense. In *Stevenson v. State*, 423 Md. 42, 53 (2011), the Court held that conspiracy to commit attempted armed robbery is a cognizable crime. In so holding, the *Stevenson Court* noted:

> Petitioner argues that our holding in *Townes* has been overruled by *Mitchell v. State*, 363 Md. 130 (2001), in which we held that "where the charge is made and the evidence shows that the defendant conspired to kill another person unlawfully and with malice aforethought, the conspiracy is necessarily one to commit murder in the first degree . . . as the agreement itself, for the purposes of the conspiracy would supply the necessary deliberation and premeditation." *Id.* at 149. While *Mitchell* has made clear that a "conspiracy to attempt a *second degree* murder" is not a cognizable offense, that case is in no way inconsistent with *Townes*, under which a "conspiracy to attempt a first degree murder" is a cognizable offense.

423 Md. at 52 (footnote omitted) (italics and ellipses supplied in *Stevenson*).

Thus, the Court of Appeals in *Stevenson* recognized that a conspiracy to attempt to commit murder in the first degree is a cognizable offense. Moreover, as the State points out, the docket entries reflect that, at a motions hearing held about five weeks before trial, the "State's motion to amend wording on Count #10 [of indictment] ending in 024" was heard and granted and "change[d] from conspire to attempted murder to conspire to commit murder." As noted, Knuckles was convicted of conspiracy to commit first-degree murder.

In light of the above, Knuckles's "particularized need" for the grand jury transcripts collapses. As such, any error by the circuit court in denying the motion without holding a hearing was harmless. Clearly, under these circumstances, vacating the judgment and remanding this case for the sole purpose of holding a hearing would be a waste of judicial resources. We caution, however that we do not countenance the circuit court's denial of a Rule 4-642(d) motion without a hearing, where a hearing was requested, without stating the reasons for its ruling.

Finally, we deny the State's motion to dismiss the appeal on the grounds that the court's denial of the motion was not a final judgment subject to immediate appeal. As the State acknowledges, we held otherwise in *Causion v. State*, 209 Md. App. 391 (2013). The State maintains, however, that *Causion* was "decided wrongly." We disagree and shall not revisit that issue in this appeal.

APPELLEE'S MOTION TO DISMISS APPEAL DENIED. JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELANT.