

Circuit Court for Baltimore City
Case No.: 106177028, 29

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1499

September Term, 2020

SH Aidon Blake

v.

STATE OF MARYLAND

Kehoe,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 25, 2022

*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 2006, the burned body of Terrance Randolph was discovered in an alley in the 1900 block of Division Street in Baltimore. It was later determined that Mr. Randolph was the victim of a gang-related murder. The autopsy revealed that his body had sustained “37 cutting and slashing wounds” and “blunt force trauma and asphyxia[.]” Evidence at trial established that Mr. Randolph was murdered in the basement of a residence bearing the street address of 1921 Division Street and that appellant, Shaidon Blake, and other individuals were present when the victim was killed.

About a month after the body was discovered in the alley, the police executed a search warrant at 1921 Division Street. “Substances” that appeared to be blood were observed in and recovered from the basement. A Clorox bleach bottle and a gasoline can were also recovered from the basement. Some of the suspected blood substances that were recovered tested positive for blood.

Following a jury trial in April 2007 in the Circuit Court for Baltimore City, Mr. Blake was convicted of second-degree murder and conspiracy to commit murder. Upon direct appeal, this Court affirmed the judgment. *Blake v. State*, No. 989, September Term, 2007 (Md. App. filed March 19, 2009).¹

In 2019, Mr. Blake, representing himself, filed a petition for writ of actual innocence which, at the circuit court’s directive, he amended. In his petition, Mr. Blake relied upon Baltimore Police Department lab reports which addressed, among other things, the lab’s analysis of the suspected blood specimens recovered from the basement. Mr. Blake

¹ More details regarding the evidence presented at trial can be found in this Court’s opinion affirming the convictions on direct appeal.

asserted that he had first discovered the lab reports in November 2009 when he received them in response to his Maryland Public Information Act request for records. He claimed that the lab reports “exclude[d]” him as a source of the blood samples that had been collected from the basement and at least one sample yielded a DNA profile consistent with an “Unknown Male #1.” He also pointed out that a blood swab taken from the washing machine tested positive for blood, but analysis indicated that “human origin testing [was] negative.” He claimed that that fact was significant because at trial the “State made it clear to the jury that this sample linked the victim to a house that [he, Blake] frequented.” And he claimed that the State had withheld this “[v]ital DNA evidence from [him] and not made [it] available for trial.”

The circuit court denied relief, without a hearing, after concluding that Mr. Blake had failed to assert grounds upon which relief could be granted. Specifically, the court found that he was not entitled to actual innocence relief because he could have filed a timely motion for a new trial pursuant to Md. Rule 4-331.² The court noted that this Court’s mandate following Mr. Blake’s direct appeal was issued on April 17, 2009, but found that it was not received by the circuit court until July 21, 2009, and “therefore, under Rule 4-331, the Petitioner had until at least April 17, 2010, if not later, to file a motion for new trial based on newly discovered evidence[.]” Because Mr. Blake had acknowledged that

² Rule 4-331(c)(1) provides that “the court may grant a new trial or other appropriate relief on the ground of newly discovered evidence . . . on motion filed within one year after . . . the date the court received a mandate issued by the final appellate court to consider a direct appeal from the judgment[.]”

he had discovered the lab reports in November 2009, the court concluded that the lab reports were “not newly discovered evidence” entitling him to relief under the actual innocence statute.³ Mr. Blake appeals that ruling. For the reasons to be discussed, we shall affirm the judgment.

DISCUSSION

Certain convicted persons may file a petition for a writ of actual innocence based on “newly discovered evidence.” *See* Md. Code Ann., Crim. Proc. § 8-301; Md. Rule 4-332(d)(6). “Actual innocence” means that “the defendant did not commit the crime or offense for which he or she was convicted.” *Smallwood v. State*, 451 Md. 290, 313 (2017).

In pertinent part, the statute provides:

- (a) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, file a petition for writ of actual innocence in the circuit court for the county in which the conviction was imposed if the person claims that there is newly discovered evidence that:
 - (1) (i) if the conviction resulted from a trial, creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; [and]

 - (2) could not have been discovered in time to move for a new trial under Maryland Rule 4-331.

- (g) A petitioner in a proceeding under this section has the burden of proof.

³ The circuit court also found that, in 2016, the court had ruled on an earlier petition filed by Mr. Blake based on the same lab reports. In the earlier case, the court determined that the lab reports did not qualify as newly discovered evidence because, again, they were discovered by Mr. Blake in time for him to have moved for a new trial pursuant to Rule 4-331. As such, the court in this case also concluded that the issue as to whether the lab reports were “newly discovered evidence” was barred by the doctrine of *res judicata*.

Crim. Proc. § 8-301.

“Thus, to prevail on a petition for writ of innocence, the petitioner must produce evidence that is newly discovered, i.e., evidence that was not known to petitioner at trial.” *Smith v. State*, 233 Md. App. 372, 410 (2017). Moreover, “[t]o qualify as ‘newly discovered,’ evidence must not have been discovered, or been discoverable by the exercise of due diligence,” in time to move for a new trial. *Argyrou v. State*, 349 Md. 587, 600-01 (1998) (footnote omitted); *see also* Rule 4-332(d)(6).

A court may dismiss a petition for actual innocence without a hearing “if the court concludes that the allegations, if proven, could not entitle a petitioner to relief.” *State v. Hunt*, 443 Md. 238, 252 (2015) (quotation marks and citation omitted). *See also* Crim. Proc. § 8-301(e)(2). “[T]he standard of review when appellate courts consider the legal sufficiency of a petition for writ of actual innocence is *de novo*.” *Smallwood*, 451 Md. at 308.

Here, Mr. Blake is not entitled to actual innocence relief because it is undisputed that he failed to meet a threshold requirement, that is, that he could not have filed a timely motion for a new trial pursuant to Rule 4-331. In fact, he readily acknowledges that he possessed the lab reports in November 2009, months before the time to file a motion for a new trial based on newly discovered evidence had expired. Despite his appellate assertion to the contrary, the circuit court did not have the discretion to waive that requirement.

Moreover, even if he had met that hurdle—which he did not—the lab reports do not provide exculpatory evidence nor even hint at the possibility that Mr. Blake may be actually innocent of the crimes. *See Faulkner v. State*, 468 Md. 418, 459-60 (2020) (The

requirement that newly discovered evidence “speaks to” the petitioner’s actual innocence “ensures that relief under [the statute] is limited to a petitioner who makes a threshold showing that he or she may be actually innocent, ‘meaning he or she did not commit the crime.’”) (quoting *Smallwood*, 451 Md. at 323)).

The evidence at trial established that the victim was murdered in the basement of 1921 Division Street and that Mr. Blake was present at time the incident unfolded. That evidence was based largely on the testimony of two eyewitnesses. The fact that Mr. Blake’s blood was not found in the basement a month after the murder, and that the blood found on the washing machine was not of human origin, does not suggest that Mr. Blake is innocent of the crimes for which he was convicted.

In sum, because Mr. Blake was not entitled to relief, the circuit court did not err in denying the petition or in ruling without a hearing.⁴

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

⁴ On appeal, Mr. Blake also seeks to challenge some of trial testimony of Detective Darrell Merrick. The State responds that, because Mr. Blake did not raise any issue related to Detective Merrick’s testimony in his petition for writ of actual innocence, any argument related to Det. Merrick is not before us in this appeal. We agree with the State.