UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0150

September Term, 2014

ANTHONY GRANDISON, SR., a/k/a JAMES WILLIAMS

v.

STATE OF MARYLAND

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*Zarnoch,
Reed,
Davis, Arrie W.
(Retired, Specially Assigned),

JJ.

Opinion by Davis, J.

Filed: October 14, 2015

*Zarnoch, Robert A., J., participated in the conference of this case while an active member of this Court; he participated in the adoption of this opinion as a retired, specially assigned member of this Court.

Anthony Grandison, Sr.,[1] appellant, appeals from the denial, without a hearing, of his petition for writ of error coram nobis, raising two questions:

> I. Whether the circuit court erred in finding that he failed to show that he was suffering a significant collateral consequence as a result of the conviction he was challenging; and
>
> II. Whether the circuit court erred in denying his coram nobis petition without a hearing.

Finding no error, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Grandison has an extensive criminal history and was twice sentenced to death for the murders-for-hire of David Scott Piechowicz and his sister-in-law, Susan Kennedy, to prevent them from testifying against him in a pending narcotics trial in federal court.[2] *Grandison v. State*, 341 Md. 175, 192-95 (1995). But those sentences are only indirectly at issue, as they are, Grandison alleges, the collateral consequence he is suffering because of the judgment of conviction that is at issue in this appeal.

Years before committing those murders, in 1975, Grandison was convicted, by a jury sitting in the Criminal Court of Baltimore, of wearing, carrying, or transporting a handgun, in violation of former Article 27, § 36B(b) (although he was acquitted of several other charges, including assault with intent to murder), and was sentenced to eighteen months'

[1]Also known as "James Williams." To avoid confusion, we shall henceforth refer to Grandison/Willams as "Grandison."

[2]Ms. Kennedy was not an intended victim; instead, the contract killer that Grandison hired, Vernon Lee Evans, Jr., apparently mistook her for Piechowicz's wife, Cheryl, whom he intended to kill. *Grandison v. State*, 341 Md. 175, 192-93 (1995).

imprisonment. *Grandison v. State*, 32 Md. App. 705, 706-07, *cert. granted*, 279 Md. 682 (1976), *cert. dismissed* (May 4, 1977) (unreported). At the time of the jury trial in that case, Maryland Rule 756 provided that the court "may and at the request of any party shall, give such **advisory** instructions to the jury as may correctly state the applicable law" and that the court "*shall in every case in which instructions are given to the jury, instruct the jury that they are the judges of the law and that the court's instructions are advisory only.*" Md. Rule 756 b (1975) (Emphasis added).

Grandison did not further challenge that 1975 conviction through a proceeding under the Maryland Uniform Post-conviction Procedure Act.[3] However, in 2008, Grandison filed, in the Circuit Court for Baltimore City,[4] a petition for writ of error coram nobis (which he subsequently amended, in 2011, and supplemented, in 2012), contending that his 1975 conviction for wearing, carrying, or transporting a handgun was infected with two fundamental errors: (1) that, since the advisory jury instructions given at his trial created the possibility that the jury disregarded the court's instructions as to the State's burden of proof, his right to due process was violated; and (2) that the late Joseph Kopera, a State's expert witness in ballistics, firearms identification, and gunpowder residue, offered perjured

[3]According to the docket entries, Grandison did file, in 1976, a *pro se* "motion to correct sentence," which apparently was granted, since the docker further indicates that, on July 13, 1977, a "corrected commitment" was filed.

[4]In 1983, a number of predecessor courts, including the Criminal Court of Baltimore, were consolidated into the Circuit Court for Baltimore City. *See* "Maryland State Archives: Guide to Government Records, Circuit Court" available at http://guide.mdsa.net/pages/history.aspx?ID=SH249

testimony at that same 1975 trial, again violating his right to due process.[5] Grandison further alleged that, because that tainted 1975 conviction became part of his criminal record, it appeared in the pre-sentencing investigation report subsequently used and, in fact, considered by the sentencing jury in his most recent capital sentencing procedure, as well as in several other federal cases. Accordingly, Grandison asserted that his 1975 handgun conviction should be vacated.

The circuit court determined that Grandison failed to show that he had suffered a "significant collateral consequence" as a result of the challenged 1975 handgun conviction and, without a hearing, issued a memorandum opinion and order denying Grandison's coram nobis petition. He then noted this appeal.

DISCUSSION

I.

During the pendency of this appeal, the Court of Appeals granted the State's petition for a writ of certiorari in *State v. Waine*, which addressed the question of what relief, if any, should be available under the Maryland Uniform Post-conviction Procedure Act to persons who were convicted, prior to December 1980, in jury trials in which "advisory only"

[5]Joseph Kopera was a leading firearm expert witness for the State and testified in hundreds of criminal trials in Maryland. It was subsequently discovered, in 2007, that Kopera had testified falsely, in all of those trials, regarding his credentials and educational background. Shortly after his transgressions became publicly known, Kopera took his life. Thereafter, a number of convicted persons sought various forms of post-conviction relief based upon Kopera's false testimony at their trials. *See*, *e.g.*, *State v. Hunt*, 443 Md. 238, 243-44 (2015); *Jackson v. State*, 216 Md. App. 347, 354-54 (2014).

instructions had been given. 441 Md. 61 (2014) (table). Because the outcome of that case could have affected our disposition of the present case, we issued a stay of this appeal pending the Court of Appeals' resolution of *Waine*. Now that a decision in *Waine* has been rendered, __ Md. __, 2015 WL 5081623 (Aug. 28, 2015), we lift that stay and decide the instant appeal.

II.

The State, invoking Maryland Rules 8-602(a)(6) and 8-413(a),[6] as well as the rules governing coram nobis proceedings,[7] moves to dismiss the instant appeal, on the ground that Grandison has failed to provide transcripts from either his 1975 trial or any other relevant proceedings. While we would otherwise be inclined to grant that request, because, as we shall explain, the record is adequate to resolve Grandison's claim, we shall exercise our discretion to deny it. Md. Rule 8-602(a).

As for Grandison's claim of error based upon the giving of advisory jury instructions, we observe that he has attached to his coram nobis petition an excerpt from what purports to be the transcript of his 1975 trial. That transcript indicates that the court instructed the jury:

[6]Maryland Rule 8-413(a) mandates that the "record on appeal shall include," among other things, "the transcript required by Rule 8-411[.]" Rule 8-602(a)(6) permits an appellate court to dismiss an appeal if "the contents of the record do not comply with Rule 8-413[.]"

[7]Maryland Rule 15-1202(c) requires that a coram nobis petitioner "attach to the petition all relevant portions of the transcript or explain why the petitioner is unable to do so."

> Members of the jury, under the Constitution of Maryland, *you, the jury, are the judges of the law as well as the facts. It is within your province to resolve conflicting interpretations of the law and to decide whether the law should be applied in dubious factual situations.* However, you do not have unlimited discretion to make new law or to repeal or ignore clearly existing laws as whim, fancy or compassion might dictate even within the limited confines of a single criminal case.
>
> Anything that I might say to you regarding the facts of the case and *any further instructions which I give with respect to the law are advisory only. You are in no way bound by what I say to you as to either.* * * *

(Emphasis added.)

Shortly thereafter, the trial court instructed the jury as to the presumption of innocence and the burden of proof. It thereafter instructed the jury as to the charged offenses and then further instructed:

> It is your duty as jurors to consult with one another and to deliberate with a view to reaching an agreement if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your own view if it is erroneous. However, do not surrender your own convictions as to the weight or effect[of the] evidence solely because of the arguments of your fellow jurors or merely for the purpose of arriving at a verdict. You are not partisans, you are judges. *You are judges of both the law and the facts.* Your sole interest in this case is to ascertain the truth from all of the evidence.

(Emphasis added.)

Moreover, that transcript excerpt contains self-authenticating facts consistent with Grandison's implied assertion that it is authentic. The trial court's instruction as to charged

offenses in the transcript excerpt just happened to coincide with the charged offenses recited in the reported opinion of this Court in Grandison's direct appeal in the same case. *Grandison v. State*, *supra*, 32 Md. App. at 706-07. In additional, there is a self-authenticating fact in that transcript, namely, that Grandison was charged, in one of the indictments at issue, with wearing, carrying, or transporting a handgun on November 18, 1974, which fact is also recited in our reported opinion in his direct appeal. *Id.* at 706. Given that a "presumption of regularity" attaches to criminal proceedings, *Skok v. State*, 361 Md. 52, 78 (2000), as well as the fact that Rule 756 then required a trial court to give advisory instructions, we have little doubt that the transcript excerpt is authentic and that it is sufficient to set forth a prima facie case that, in fact, advisory instructions were given at Grandison's 1975 trial. If, however, the coram nobis court had granted Grandison's request for a hearing, he would have been obligated to provide the entire transcript or explain why he was unable to do so, Md. Rule 15-1202(c), or else risk a finding that he has failed to carry his burden of proof. *See Skok*, 361 Md. at 78.

As for Grandison's "Kopera claim," his coram nobis petition contains, as an attached exhibit, only a single page from the 1975 transcript, indicating that Kopera was recalled as a defense witness. That exhibit contains absolutely none of Kopera's testimony, much less the closing arguments of the State and the defense, all of which would be crucial in evaluating the effect of Kopera's testimony, if any, on the jury. Grandison's failure to provide a transcript, both here and below, renders his "Kopera claim" nothing more than a bald allegation, which the coram nobis court was not required to consider. *See* Md. Rule

15-1202(c) (coram nobis petitioner "shall attach to the petition all relevant portions of the transcript or explain why the petitioner is unable to do so"). In any event, Grandison does not, so far as we can determine from his *pro se* brief in this appeal, raise any allegation of error based upon a "Kopera claim," and we therefore regard that claim as abandoned. *See* Md. Rule 8-504(a)(6) (providing that a brief "shall" contain "[a]rgument in support of the party's position on each issue"); *id.* (c) (providing that, in event of noncompliance with this rule, an appellate court "may dismiss the appeal or make any other appropriate order with respect to the case").

III.

Grandison raises, in his coram nobis petition, an offshoot of the claim successfully raised in a postconviction proceeding in *Unger v. State*, 427 Md. 383 (2012), namely, that his 1975 conviction should be vacated because the trial court instructed the jury, as then required by Maryland Rule 756 and Article XV, § 5 of the Maryland Constitution (now part of Article 23 of the Maryland Declaration of Rights),[8] that its instructions, as to the

[8]Maryland Rule 756 (1975) is the antecedent to present-day Rule 4-325, which governs jury instructions in criminal trials. The principal difference between the two rules is that the former rule, unlike Rule 4-325, provided that the court "may and at the request of any party shall, give such *advisory* instructions to the jury as may correctly state the applicable law" and that the court "*shall in every case in which instructions are given to the jury, instruct the jury that they are the judges of the law and that the court's instructions are advisory only.*" Md. Rule 756 b (Emphasis added). The constitutional underpinning of former Rule 756 was Article XV, § 5 of the Maryland Constitution (subsequently re-codified as part of Article 23 of the Maryland Declaration of Rights), which provided: "In the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact, except that the Court may pass upon the sufficiency of the evidence to sustain a conviction."

applicable law, were "advisory only." That "advisory only" instruction, Grandison claims, denied him due process of law because it created the possibility that the jury would disregard the trial court's instruction regarding the State's burden of proof, thereby vitiating his right to be convicted only if the evidence proved his guilt beyond a reasonable doubt.

Because Grandison long ago completed the sentence imposed for the 1975 conviction he now collaterally attacks, he invokes coram nobis in an effort to have that conviction vacated. To be eligible for coram nobis relief, a petitioner must be:

> (1) "a convicted person who is not incarcerated and not on parole or probation" as a "result of the challenged conviction";
>
> (2) "who is suddenly faced with a significant collateral consequence of his or her conviction"; and
>
> (3) "who can legitimately challenge the conviction on constitutional or fundamental grounds."

Skok v. State, 361 Md. 52, 78, 80 (2000).

According to Grandison, the "significant collateral consequence" from which he is suffering is that, when he was (re-)sentenced to death in 1994, the sentencing jury was given a presentence investigation report that included, *inter alia*, his 1975 conviction and that it is "reasonable to infer" that the jury "not only considered but relied upon" that conviction "as one of the reasons for determining to impose the death penalty." In his appellate brief, Grandison does not provide any argument that his various federal sentences were tainted by his 1975 conviction (a claim he had made below), and we therefore regard that claim as abandoned. Md. Rule 8-504(a)(6) & (c).

IV.

The State contends that Grandison waived his claim because he failed to raise it either in his direct appeal or in a postconviction proceeding.[9] We disagree.

Relying upon *Skok*, which stated that "the same body of law concerning waiver and final litigation of an issue, which is applicable under the Maryland Post Conviction Procedure Act, . . . shall be applicable to a coram nobis proceeding challenging a criminal conviction," *id.* at 79, the State insists that Grandison could have raised his *Unger* claim in an earlier proceeding but did not and that it was therefore waived under Maryland Code (2001, 2008 Repl. Vol.), Criminal Procedure Article ("CP"), § 7-106(b),[10] which provides:

> (b)(1)(i) Except as provided in subparagraph (ii) of this paragraph, an allegation of error is waived when a petitioner could have made but intelligently and knowingly failed to make the allegation:
>
> 1. before trial;
>
> 2. at trial;
>
> 3. on direct appeal, whether or not the petitioner took an appeal;

[9]The State further contends that Grandison's *Unger* claim is barred by laches. We shall not address this contention, as the coram nobis court did not hold a hearing, which would generally be necessary to determine whether the State has met its burden to show that "there [was] an unnecessary delay in the assertion of [appellant's] rights and that the delay result[ed] in prejudice" to the State. *Liddy v. Lamone*, 398 Md. 233, 244 (2007). *See id.* at 245 (observing that "[w]hether the elements of laches have been established is one of fact").

[10]At the time Grandison was serving the sentence at issue in this proceeding, a substantially similar waiver provision was codified at Maryland Code (1957, 1971 Repl. Vol.), Art. 27, § 645A(c).

> 4. in an application for leave to appeal a conviction based on a guilty plea;
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> 5. in a habeas corpus or coram nobis proceeding began by the petitioner;
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> 6. in a prior petition under this subtitle; or
>
> 7. in any other proceeding that the petitioner began.
>
> (ii) 1. Failure to make an allegation of error shall be excused if special circumstances exist.
>
> 2. The petitioner has the burden of proving that special circumstances exist.
>
> (2) When a petitioner could have made an allegation of error at a proceeding set forth in paragraph (1)(i) of this subsection but did not make an allegation of error, there is a rebuttable presumption that the petitioner intelligently and knowingly failed to make the allegation.

In *Unger*, the Court of Appeals rejected a similar waiver argument, at least as to trial counsel's failure to object to advisory jury instructions. 427 Md at 411. To understand the Court's reasoning in that case, we turn to CP § 7-106(c),[11] which sets forth an exception to the waiver provision in the preceding subsection of that same statute:

> (c)(1) This subsection applies after a decision on the merits of an allegation of error or after a proceeding in which an allegation of error may have been waived.

[11]At the time Grandison was serving the sentence at issue in this proceeding, a substantially similar exception to the waiver provision was codified at Maryland Code (1957, 1971 Repl. Vol.), Art. 27, § 645A(d).

> (2) Notwithstanding any other provision of this title, an allegation of error may not be considered to have been finally litigated or waived under this title if a court whose decisions are binding on the lower courts of the State holds that:
>
> > (i) the Constitution of the United States or the Maryland Constitution imposes on State criminal proceedings *a procedural or substantive standard not previously recognized*; and
> >
> > (ii) *the standard is intended to be applied retrospectively* and would thereby affect the validity of the petitioner's conviction or sentence.

(Emphasis added.)

It was this exception to the waiver provision that the *Unger* Court applied to two previous decisions of the Court of Appeals that had construed the "jury-as-judges-of-law" provision in Article 23 of the Maryland Declaration of Rights—*Stevenson v. State*, 289 Md. 167 (1980), and *Montgomery v. State*, 292 Md. 84 (1981). Those decisions held that Article 23 was limited to only those situations in which there was a "sound" dispute as to "the law of the crime" or "the legal effect of the evidence." *Unger*, 427 Md. at 411 (citations and quotations omitted). Because those holdings were a significant departure from an unbroken line of precedent stretching back to 1851, *id.*, which had "largely construed Article 23 as it read," *id.* at 415, and because the holdings in *Stevenson* and *Montgomery* "were clearly intended to be retroactive," *id.* at 416, the *Unger* Court declared that *Stevenson* and *Montgomery* imposed "'on State criminal proceedings a procedural or substantive standard not previously recognized.'" *Id.* at 416 (quoting CP § 7-106(c)(2)). Thus, concluded the Court, the failure to object to advisory jury instructions, during a criminal jury trial

conducted prior to the date when *Stevenson* was decided, "did not constitute a waiver" under CP § 7-106(b). *Unger*, 427 Md. at 411.

As to whether Grandison's subsequent failure to raise his *Unger* claim in a post-conviction proceeding, during the eighteen-month sentence he served for his 1975 handgun conviction, constituted a waiver under CP § 7-106(b), we turn to the recent decision of the Court of Appeals in *State v. Waine*, *supra*, __ Md. __, 2015 WL 5081623, which was rendered during the pendency of this appeal. In *Waine*, the Court of Appeals not only reaffirmed its holdings in *Unger,* but extended its holding with regard to waiver.

Waine was convicted, in 1976, of two counts of first-degree murder and one count of larceny of an automobile and was sentenced to two consecutive terms of life imprisonment as well as an additional consecutive term of fourteen years' imprisonment. *Id.*, at *2; *Waine v. State*, 37 Md. App. 222, 223-24 (1977). At Waine's pre-*Stevenson* jury trial, the court gave advisory instructions, without objection. 2015 WL 5081623, at *2. His convictions were affirmed on direct appeal, 37 Md. App. 222, and, thereafter, in 1997, Waine unsuccessfully raised an *Unger* claim in a post-conviction proceeding.

A decade later, Waine filed a motion to reopen his post-conviction proceeding, relying upon an intervening decision of the United States Court of Appeals for the Fourth Circuit, *Jenkins v. Hutchinson*, 221 F.3d 679 (4th Cir.2000), a federal habeas case in which a Maryland prisoner, who had been convicted in a 1976 trial in which the jury had been given advisory instructions, was granted *vacatur* of his convictions. The *Jenkins* Court reasoned that there was a "reasonable likelihood" that "the jury interpreted these instructions as

allowing it to ignore the 'advice' of the court that the jury should find proof beyond a reasonable doubt" and that, therefore, Jenkins's right to due process had been violated. *Id.* at 685.

Ultimately, in 2012, shortly after the decision of the Court of Appeals in *Unger*, the post-conviction court granted Waine's motion to reopen and further granted him relief on his *Unger* claim. *Waine*, 2015 WL 5081623, at *3. Upon grant of the State's ensuing application for leave to appeal, we affirmed, and, upon grant of the State's ensuing petition for writ of certiorari, the Court of Appeals likewise affirmed.

In the Court of Appeals, the State urged that *Unger* be overruled. *Id.*, at *1. Not only did the Court flatly reject that request, but it extended the holding in *Unger* regarding retroactive application of the decisions in *Stevenson* and *Montgomery*. Whereas *Unger* had held that *Stevenson* (decided in 1980) and *Montgomery* (decided in 1981) "were clearly intended to be retroactive," *Unger*, 427 Md. at 416, *Waine* held that "*Unger*," itself (decided in 2012!), "has retrospective application to specific advisory only instructions." *Waine*, 2015 WL 5081623, at *5. The *Waine* Court, accordingly explained, "[g]iven the nature of this claim and others like it, the legal landscape that prevailed at the time of Waine's trial, and the case law that developed in the decades between *Stevenson* and *Unger* suggesting the likelihood that an unobjected to jury instruction would be considered waived, it can hardly be said that reopening a postconviction proceeding to consider an *Unger* claim would be an abuse of discretion." *Id.*

Arguably, Grandison's case is distinguishable from *Waine*, given that Waine, unlike Grandison, raised an *Unger* claim in his prior post-conviction proceeding and thus could not be deemed to have waived his claim on that ground. That is, however, a distinction without a difference, given that, as *Waine* makes clear, *Unger*, itself, is to be given retroactive application. *Waine*, 2015 WL 5081623, at *5. We therefore conclude that Grandison's failure to raise his *Unger* claim in either his direct appeal or in a postconviction proceeding did not constitute a waiver.

V.

As to the merits of Grandison's *Unger* claim, raised in a coram nobis petition, the State contends that the court below correctly denied Grandison's coram nobis petition because he failed to show that he was suffering or facing a significant collateral consequence as a result of the challenged conviction. We agree.

Grandison's petition alleged that his 1975 handgun conviction was relied upon as a ground for imposing the death sentences that he received, in 1994,[12] for his role in the 1983 murders-for-hire of two witnesses in a federal narcotics trial. *See Grandison v. State*, 341 Md. 175, 192-93 (1995) (Grandison's direct appeal from 1994 capital re-sentencing proceeding). In fact, as the jury found at that sentencing proceeding, Grandison hired

[12]We are aware of the action taken, by Governor Martin J. O'Malley, shortly before the conclusion of his term and during the pendency of this appeal, commuting Grandison's death sentences to life sentences without the possibility of parole. We do not believe that Governor O'Malley's action moots this appeal, given that Grandison will remain imprisoned for the rest of his natural life.

Vernon Lee Evans, Jr., to carry out those crimes, and there is no doubt that the principal factor relied upon in imposing the death sentences was that he, in fact, engaged in a "murder for hire" scheme, *id.* at 196-98, not that he had been previously convicted of wearing, carrying, or transporting a handgun.

The Court of Appeals, in Grandison's direct appeal from his original murders-for-hire trial, aptly described those crimes:

> "The murders giving rise to this prosecution were as heinous as those in any case to come before us under the present capital punishment statute. No killings could have been more premeditated and deliberate than those here."

Grandison v. State, 305 Md. 685, 750 (1986) (quoting *Evans v. State*, 304 Md. 487, 539 (1985)). In comparison with the statutory aggravating factor, contract murder, *see* Art. 27, § 413(d)(7) (that "the defendant engaged or employed another person to commit the murder and the murder was committed pursuant to an agreement or contract for remuneration or the promise of remuneration"), found by the jury and amply supported by the evidence in that case, *see* 341 Md. at 240 (observing that there is "no question that the evidence presented was sufficient to prove the existence of an agreement" between Grandison and Evans to kill witnesses), Grandison's 1975 handgun offense is trifling.

Moreover, as the State points out in its brief, Grandison's "criminal history is staggering in its breadth and scope." Grandison sets forth a distorted view of the information that was before the sentencing court when it considered whether to impose a death sentence. The one-page excerpt from the pre-sentence investigation report in his capital case, which

he attaches to his brief, omits seven other pages, which, as the State points out, informed the sentencing court of the following additional information, which was "[p]art of his record"[13]:

> In 1976, [Grandison] was convicted, in the Circuit Court for Baltimore City, of sodomy and assault and was sentenced to two concurrent ten-year terms of imprisonment;
>
> in 1979, [Grandison] was convicted, in the United States District Court for the District of Maryland, of forcibly assaulting, resisting, and intimidating federal officers and employees; carrying a firearm during the commission of a felony; and possession of a firearm by a convicted felon, and was sentenced to concurrent sentences totaling five years;
>
> in 1983, [Grandison] was convicted, in the United States District Court for the District of Maryland, of possession of heroin with intent to distribute; possession of cocaine with intent to distribute; and possession of a firearm by a convicted felon, and received sentences totaling twenty-one years; and
>
> also in 1983, [Grandison] was convicted, in the United States District Court for the District of Maryland, of conspiracy to violate civil rights as well as witness tampering, and received sentences totaling life imprisonment plus ten years.

We agree with the State that, given Grandison's extensive criminal history, "to suggest, as Grandison does, that his one handgun conviction in 1975 alone subjected him to, or enhanced his eligibility for the death penalty in [1994], is preposterous."

VI.

[13]The capital sentencing court prepared a report, cited by the State, setting forth part of Grandison's extensive criminal record and stating that, in light of that record, "[i]t is all but impossible for the Court to determine his prior record accurately."

Finally, Grandison complains that the court below erred in denying his coram nobis petition without a hearing. He relies, in part, upon decisional law, *i.e*, *Douglas v. State*, 423 Md. 156 (2011), addressing the denial of petitions for writ of actual innocence, under Criminal Procedure Article, § 8-301. But his reliance upon that body of law is misplaced.

Unlike in an actual innocence proceeding, where a hearing is required upon request unless the petitioner "fails to satisfy the pleading requirement" of the statute, *Douglas*, 423 Md. at 180, in a coram nobis proceeding, the decision whether to hold a hearing is within the circuit court's discretion, unless the petition is granted. *See* Md. Rule 15-1206(a) (providing that coram nobis court, "in its discretion, may hold a hearing on the petition"; and that it "may deny the petition without a hearing but may grant the petition only if a hearing is held"). Since the petition in this case was denied, the circuit court was not required to hold a hearing.

STATE'S MOTION TO DISMISS DENIED. ORDER OF THE CIRCUIT COURT FOR BALTIMORE CITY DENYING APPELLANT'S CORAM NOBIS PETITION AFFIRMED. COSTS ASSESSED TO APPELLANT.