

Circuit Court for Prince George's County
Case No.: CT881623X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 853

September Term, 2020

JAIME TRAVERSO

v.

STATE OF MARYLAND

Reed,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 20, 2021

*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 1989, following a bench trial in the Circuit Court for Prince George’s County, appellant Jaime Traverso was convicted of the first-degree murder of his wife and sentenced to life imprisonment. On direct appeal, Mr. Traverso argued, among other things, that the evidence was insufficient to prove that he had committed murder in the first degree. *Traverso v. State*, 83 Md. App. 389, 394-95, *cert. denied*, 320 Md. 801 (1990). He maintained that the “evidence produced by the State was only sufficient to prove a homicide blameworthy somewhere between second degree murder and voluntary manslaughter because he claim[ed] that he hit his wife and that she hit him back and that ‘... he got very angry and lost his head.’” *Id.* at 395. This Court concluded that “there was sufficient evidence that [Traverso] killed his wife willfully, deliberately, and with premeditation[,]” and affirmed the conviction. *Id.* at 396. Mr. Traverso’s subsequent challenges to his conviction and sentence—including petitions for post-conviction relief, multiple motions to correct an illegal sentence, and petitions for actual innocence filed in 2011 and 2014—have been unsuccessful.

In 2020, the self-represented Mr. Traverso filed yet another petition for writ of actual innocence, which the circuit court denied without a hearing. Mr. Traverso appeals that ruling. For the reasons to be discussed, we shall affirm the judgment.

BACKGROUND

In our decision affirming Mr. Traverso’s conviction on direct appeal, we summarized the following evidence elicited at trial:

On July 30, 1985, William H. Harris, a Deputy Sheriff for Loudoun County, Virginia, stopped appellant at 2:50 a.m. while he was speeding southbound on Route 15 south of Lucketts, Virginia. Appellant told the

officer that he did not have his driver’s license or the car’s registration, but upon further discussion with the officer, appellant eventually produced them. On the front seat of appellant’s automobile, Sheriff Harris noticed a woman’s pocketbook. Appellant explained that it was his girlfriend’s bag and that he was returning from Ottawa, Canada. Later that day, officers from the Loudoun County Sheriff’s Department found the body of Antonia Traverso, appellant’s wife, floating face down in the Potomac River near McKinney’s^[1] Landing in Virginia. In the investigation conducted at McKinney’s Landing, drag marks were discovered leading from a concrete apron to the river bank. A piece of twine, parts of the victim’s clothing, and a footprint were also found on the river bank.

After obtaining a search warrant for appellant’s car, parts of the carpet which was in the trunk were removed along with a wheel cover. Later, forensic analysis of the carpet and clothing fabric worn by Mrs. Traverso, the clothing fabric found on the shore of the Potomac, the twine found on the river bank, and Mrs. Traverso’s blood revealed that: (1) the blood on the fragment of cloth was consistent with Mrs. Traverso’s blood; (2) appellant was not the source of the blood found in the trunk; (3) the blood found on the twine was consistent with the victim’s blood; (4) the piece of cloth found on the river bank was part of the victim’s blouse; and (5) the fibers of the twine found on the shore of the Potomac were consistent with the fibers found on the blouse and fibers found in the carpet removed from the trunk of appellant’s car.

Shigella Anais Traverso, the couple’s daughter, testified that on July 29, 1985, the day before the body was discovered, she saw her mother enter her father’s car. Another witness, Dexter D. [Coffin], III^[2] who had been incarcerated with appellant, testified that subsequent to the reversal of appellant’s conviction in Virginia,^[3] appellant confessed to committing the murder and described to [Coffin] the details of how it was accomplished. [Coffin’s] testimony was corroborated by Thomas Kirk Doyle (Doyle) who had also been incarcerated with appellant and who had overheard one of the

¹ The correct spelling is McKimney’s Landing.

² In our direct appeal opinion, Mr. Coffin’s name is spelled “Kaufman.” It appears, however, that “Coffin” is the correct spelling.

³ The victim’s body was discovered in the Potomac River. Mr. Traverso was originally tried and convicted in Loudoun County, Virginia. The Court of Appeals of Virginia reversed the conviction after concluding that the Commonwealth had failed to prove territorial jurisdiction. *Traverso v. Commonwealth*, 6 Va. App. 172 (1988).

conversations between appellant and [Coffin]. According to these two witnesses, appellant stated that he and his estranged wife had gone to a restaurant in Prince George's County, Maryland; that they argued in the restaurant and later in his car; and that at some point while still in Maryland, appellant pulled the car over, got out, and strangled Mrs. Traverso with a piece of twine. Then, he put her body in the trunk and drove to Virginia where he stabbed her already dead body with a knife several times to make sure that she was dead before throwing her body into the Potomac River.

83 Md. App. at 391-93.

Further evidence at trial established that the victim and Mr. Traverso were separated and living apart at the time of her murder. The police had investigated the victim's boyfriend, who had offered to clear himself by taking a polygraph. When the police met with Mr. Traverso on Friday, August 2, 1985 to notify him that his wife had been found deceased, Mr. Traverso informed the officers that he had last seen his wife the afternoon of Monday, July 29, 1985 (the day before her body was discovered) when he went to her apartment to give her some money and food for their children. Mr. Traverso also told the police that the victim had just returned from a trip and had left her disabled vehicle at Dulles Airport. When he saw her on Monday, the victim had given him the car keys so that he could retrieve the vehicle from the airport, which he did. He also spent a considerable amount of time complaining to the officers about the lack of care his wife gave their three children.⁴

Mr. Traverso told the officers that he had decided to drive to Canada the evening of Monday July 29th but somewhere between Gettysburg and Harrisburg, PA, his wheels

⁴ The court denied Mr. Traverso's motion to suppress the statement he gave to the police.

started shaking and he turned around for home. He informed the officers that he was stopped by a Deputy Sheriff in Virginia around 11:00p.m., but he was not given a citation. The Deputy Sheriff who conducted the stop testified that he had stopped Mr. Traverso about 2:50a.m. on July 30th, about five miles from McKimney’s Landing. He observed a bag of groceries in the back seat and a woman’s bag on the front seat of the floor board. When the Deputy Sheriff inquired about the handbag, Mr. Traverso said it belonged to his girlfriend.

Evidence at trial included testimony from a shop keeper that he saw an individual on July 30th—whom he thought was Mr. Traverso—and had observed that he was “washing out” the trunk of his vehicle.⁵ Mr. Traverso’s vehicle was impounded by the police about four days after the victim’s body was recovered. The police recovered “various cleaning agents” from the trunk of Mr. Traverso’s car.

Myron Scholberg testified for the State as an expert in the examination of hairs, fibers, fabrics, and related materials. He testified, among other things, that he had examined hairs recovered from Mr. Traverso’s trunk and compared them to hairs from the victim and concluded that the trunk hairs “could have originated from” the victim. When asked about his use of the word “could,” Mr. Scholberg testified:

Hairs are not a positive means of identification such as a fingerprint would be. The testimony on hair identification, this is the strongest identification that I can make. They are alike in all identifiable microscopic characteristics, of which I use about 15. And they are unlike in no microscopic

⁵ The witness had testified in Mr. Traverso’s trial in Virginia, but had died before Mr. Traverso was tried in Prince George’s County. The court, however, allowed the State to submit the transcript from the witness’s testimony in the Virginia case. That transcript is not in the record before us.

characteristics. The strongest conclusion is, they could have originated from this individual.

This is a subjective type testimony, and the conclusion that I'm rendering is my opinion.

Mr. Traverso took the stand in his own defense. His trial testimony regarding his last contacts with his wife differed from what he had told the officers when they notified him of his wife's death. At trial, he testified that the victim had flown to Toronto for business and had asked him to come there and pick her up. He related that he had left home the Friday before the Monday that the victim was last seen alive to meet her in Canada. He testified that he and the victim had spent the weekend together in Canada and together they drove home to Virginia. He claimed that they were "talking about getting back together" and there were no problems nor disputes between them during the ride home. Mr. Traverso testified that he dropped his wife at her apartment sometime on Sunday July 28th and that was the last time he ever saw her. However, he had dropped by his wife's apartment on Monday about lunchtime to leave food for the children because his wife had called him that day saying that she didn't have enough food for the kids for lunch. He agreed to pick up chicken from Popeye's. When he got to the apartment, he blew the horn and his daughter came outside and retrieved the food.

Mr. Traverso testified that he had called Social Services on July 29th to complain that his wife was "constantly leaving [their children] by themselves." He explained that he wanted "to see if [he] could get their involvement to get custody or whatever[.]" He also said that he had gone to the courthouse that day in the hope of obtaining custody of his

children. He did not go to work that day or the next, but did go to his office on Wednesday, July 31st.

Elizabeth Lender testified that she worked in Child Protective Services for the Fairfax County Department of Social Services and on the afternoon of Tuesday July 30, 1985, Mr. Traverso had called “to report that his wife had neglected the children by leaving them unattended from a period beginning the previous Friday.” He told Ms. Lender that his wife “had gone someplace without telling him or the children where she was going. That she had been out of contact with them since the previous Friday. That was something she often did. She very often left them alone and went off on trips or places where her whereabouts were not known.”

In response to the phone call, Ms. Lender testified that she went to the victim’s apartment and met with the children. The children told her “that they had been unattended since the previous evening, not since the previous Friday. Their mother had been gone over the weekend, but they knew where she was, that she was in daily contact with them. That they talked with her on the telephone[.] She had come home that Monday and had left again Monday evening for a meeting and was scheduled to return home around 11:00 o’clock that night, and she had not come home.” Ms. Lender further testified that the children “were concerned; they didn’t know where she was.”

Carlos Lunia testified that during the summer of 1985, he and Mr. Traverso worked at the same firm and their desks were near each other. He related that Mr. Traverso was “in constant contact” with the victim – he “would be on the telephone at least twice or three times a day” with her. Mr. Lunia testified that the phone conversations “were generally

arguments over the phone, ranging from all kinds of different subjects, but generally, was an argumentative tone. Forceful language.” He further explained that “there was just discussions over custody of the kids, and their relationship and that sort of thing.” He admitted that he had only heard Mr. Traverso’s side of the conversations.

After Mr. Traverso was arrested in this case, Leslie Wilson, a co-worker, looked through his desk in search of something with her name on it that she wished to retrieve. Ms. Wilson observed the victim’s driver’s license and social security card in Mr. Traverso’s desk drawer. The social security card and driver’s license were subsequently recovered by the police.

At the conclusion of the bench trial, the court found Mr. Traverso guilty of first-degree murder.

DISCUSSION

The Writ of Actual Innocence

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.

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).

“Evidence” in the context of an actual innocence petition means “testimony or an item or thing that is capable of being elicited or introduced and moved into the court record, so as to be put before the trier of fact at trial.” *Hawes v. State*, 216 Md. App. 105, 134 (2014). 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.’” *Faulkner v. State*, 468 Md. 418, 459-60 (2020) (quoting *Smallwood*, 451 Md. at 323).

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.

Mr. Traverso’s Petition for Writ of Actual Innocence

In support of his petition, Mr. Traverso cited the following, which we summarize, as his newly discovered evidence:

1. A “2009 National Academy of Sciences Report on Forensic Science” which Mr. Traverso claimed concluded that the “practice of microscopic hair and fiber comparison was deemed highly unreliable” and thus, State expert Myron Scholberg’s testimony regarding his analysis and findings of fibers and a hair recovered from the trunk of Mr. Traverso’s vehicle was based on “junk science.”
2. “[G]rossly erroneous and invalid serological analysis and testimony altering statistics results by [State expert witness] Amy Wong that was scientifically flawed and highly unreliable, where no blood pattern analysis was conducted to support the State’s theory that a body was in the trunk and to determine how old and how dried blood spots were deposited on the carpet.” Mr. Traverso cited a March 2009 article in 95 Va. Law Review by Garrett & Neufeld, “Invalid Forensic Science Testimony and Wrongful Convictions,” as well as the article noted above.
3. An unsupported allegation that the State “tampered with a State witness,” namely Mr. Traverso’s daughter (who at the time of trial was 14-years old), “with the aid of the child’s Aunt by presenting in Court a false witness and false/coached testimony and later vouching for the credibility of the witness, knowing it was false, to bolster the State’s case[.]”
4. An allegation that the State had withheld “the victim’s sworn and notarized affidavit,” dated a few days before her death, in which she disavowed any “present association whatsoever” with Thomas Brown; that she had taken

from Brown’s residence all of her “personal belongings;” and that Brown had “been calling [her] home” even though she had told him she “didn’t want to speak to him any longer.” Based on this affidavit, Mr. Traverso theorized that “there’s a strong possibility that because Mr. Brown feared to loose [sic] the potential relationship he had with the victim, he may have gotten severely upset and jealous while drinking and in a fit of rage and anger, decided to kill the victim.”

5. Allegations that the State had withheld “crucial and material evidence concerning” State witnesses Dexter Coffin, III and Thomas Doyle, who were former cellmates of Mr. Traverso and testified that he had confessed to killing his wife. Mr. Traverso asserted, among other things, that Mr. Coffin “has a long history of testifying falsely against criminal defendants in many states and has a record of testifying falsely against innocent individuals in exchange for his own personal freedom from prison[.]”

Circuit Court Ruling

In an 11-page Opinion and Order of the Court, the court reviewed Mr. Traverso’s allegations and concluded that he had “failed to meet his burden to show any of these would have changed the outcome of the case[.]” The court also found that the allegations regarding Mr. Coffin were raised in a previous petition for writ of actual innocence, the rejection of which was affirmed by this Court on appeal.

In fact, in the prior appeal, this Court concluded that Mr. Traverso’s “newly discovered evidence” that Mr. Coffin had allegedly lied when testifying against other inmates related to Mr. Coffin’s “testimonial credibility and constitute[d] merely impeaching evidence that is cumulative to the impeaching evidence presented by appellant at this own trial.” *See Traverso v. State*, No. 1721, September Term, 2011 (Md. App. October 23, 2014), slip op. at 7. We further concluded that such “evidence” did “not have a direct bearing on the merits of [Mr. Traverso’s] trial[.]” *Id.*

Analysis

In this appeal, Mr. Traverso asserts that the circuit court erred in dismissing his petition “without granting a hearing and appointment of counsel,” which he had requested. The State responds that none of Mr. Traverso’s allegations “proffered newly discovered evidence” and, therefore, the court properly denied relief without a hearing. The State further asserts that Mr. Traverso did not allege any “evidence” that is “directly material” to his guilt or innocence.

Even if we were to assume that Mr. Traverso’s allegations constitute “newly discovered evidence,” none of them speak to his “actual innocence.” Rather, they are merely another attempt to discredit the trial witnesses. In other words, the allegations, even if proven, would not amount to a “threshold showing” that Mr. Traverso “may be actually innocent, ‘meaning he . . . did not commit the crime.’” *Faulkner*, 468 Md. at 459-60 (2020) (quoting *Smallwood*, 451 Md. at 323). For instance, he alleged that Coffin is a pathological liar and had lied in other cases. He did not present any “newly discovered evidence,” however, that either Coffin or Doyle had lied in his case. Moreover, as noted, we rejected a similar claim in his prior appeal from the denial of his second petition for writ of actual innocence.

Even assuming that hair analysis is “junk science,” as Mr. Traverso alleges, Mr. Scholberg’s trial testimony was clear: it was his “subjective” opinion that the hairs recovered from Mr. Traverso’s trunk “*could have* originated from” the victim. (Emphasis added.) Moreover, discounting Mr. Scholberg’s testimony does not speak to nor support a

claim that Mr. Traverso is actually innocent of his wife’s murder. The same can be said of his remaining allegations.

In short, we agree with the circuit court that Mr. Traverso failed to meet his burden to show that, if proven, his allegations—if they even qualify as “newly discovered evidence”—may have changed the outcome of the trial. For that reason, the court did not err in denying his petition, in failing to hold a hearing on the petition, or in declining to appoint counsel to represent him.

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