

Circuit Court for Cecil County
Case No. C-07-CV-20-000047

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1084

September Term, 2021

HUGH HARTMAN BALDWIN

v.

STATE OF MARYLAND

Beachley,
Shaw,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.

Filed: July 11, 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.

Appellant, Hugh Hartman Baldwin, appeals from an order of the Circuit Court for Cecil County denying his petition for writ of error *coram nobis*. For the reasons set forth below, we shall affirm.

BACKGROUND

In August 1978, Appellant was charged with two counts each of manufacturing phencyclidine (PCP); possession of PCP with intent to distribute; possession of equipment for the production of a controlled dangerous substance (CDS); and keeping and maintaining a common nuisance. He was convicted of all but one count of manufacturing PCP. Those convictions were overturned on appeal.¹

We have previously summarized the procedural history that followed:

Upon retrial [Appellant] was convicted on four counts and these convictions were reversed on appeal because Appellant was required to proceed without counsel. *Baldwin v. State*, 51 Md. App. 538 (1982). Appellant's third trial resulted in convictions for maintaining a common nuisance; possessing phencyclidine (PCP) with intent to distribute; and possessing equipment adapted for the production and sale of controlled dangerous substances.

On January 3, 1983, the court imposed consecutive five year sentences on each of the three convictions with one year of each sentence suspended. Additionally, Appellant was fined \$15,000.00 on the charge of possessing PCP with intent to manufacture and distribute.

Baldwin v. State, 56 Md. App. 529, 532-33 (1983). The convictions resulting from the third trial were affirmed on appeal. *Id.*

In February 2021, Appellant filed a petition for writ of error *coram nobis*, in which he alleged that his convictions were due to ineffective assistance of counsel and/or various

¹ *Baldwin v. State*, 45 Md. App. 378 (1980), *aff'd*, 289 Md. 635 (1981).

trial court errors. Appellant asserted that he was entitled to either a reversal of his convictions or a new trial because he was currently facing significant collateral consequences. Specifically, Appellant alleged that because he was statutorily prohibited from possessing a firearm, he could not obtain a license to work as a duck hunting guide. Appellant also alleged that he was the subject of “contrived” investigations and unjustified surveillance by the Maryland State Police (“MSP”) based on an “erroneous” belief that he had previously been convicted of manufacturing PCP.

The court held a hearing on the petition at which the following evidence was adduced. Appellant testified that, in November 2016, police “banged” on his door shortly after 5:00 a.m. to question him about a citizen complaint of a firearm discharge. Appellant denied that he had discharged a firearm or that he was in possession of a firearm or ammunition, whereupon the officers left. Later the same day, Appellant noticed that two of the windows of his home were broken.

On August 7, 2017, Appellant filed a complaint alleging that police were responsible for the damage. Appellant also alleged that the incident report related to the investigation of the citizen’s complaint falsely stated that he had been convicted of manufacturing a controlled dangerous substance.

In investigating that complaint and other complaints of police “fraud” and “incompetence” that Appellant subsequently filed, police interviewed Appellant at his home on three separate occasions. The complaints were determined to be “unfounded.” In a letter dated January 12, 2018, Captain J.E. DeCoursey of the Internal Affairs Division of MSP advised Appellant:

In reference to your complaint dated October 10, 2017 . . . research of records revealed the following under your name: [] “CASE NUMBER MD008015J00004: . . . CIRCUIT FILING DATE 08/03/78” for “CHARGE 5 [] 270286000A CDS-UNLAWFUL MFGR,” with a “DISPOSITION GUILTY.” If you dispute the court records it is incumbent upon you to obtain the documentation from the courts and file the appropriate judicial challenge.

Appellant testified that after he filed his initial complaint with MSP, he observed marked and unmarked police vehicles turning around and parking in his driveway, then leaving. In April 2020, Appellant installed a motion-activated camera to “record the police activity.” Appellant said there were “profuse pictures of marked and unmarked vehicles” on the public road in front of his home.

The court admitted five photographs offered by Appellant. Four of the photographs depict a local or state police vehicle on the road. The fifth photograph depicts an unmarked, dark-colored SUV that, according to Appellant, belongs to the Sheriff of Kent County.²

Appellant testified that, in 1977, he hunted ducks and worked as a hunting guide. He said that he was no longer permitted to work as a hunting guide because he was prohibited from possessing a shotgun or ammunition. Appellant had not applied for a hunting guide license or a hunting license, however, since his convictions.³

At the conclusion of the hearing, the court took the matter under advisement. On August 30, 2021, the court issued an 18-page written order in which it analyzed in detail the evidence presented and the various legal arguments advanced by Appellant in support

² The court sustained the State’s objection to the admission of other photographs offered by Appellant.

³ Appellant also claimed that because of his convictions, he “wasn’t allowed” to become a member of the bar. That claim has been abandoned on appeal.

of his petition. The court denied the requested relief, finding: (1) Appellant did not prove that his trial counsel was ineffective; (2) the alternative grounds for reversal of the convictions were not constitutional, jurisdictional, or fundamental in nature, and (3) Appellant did not meet his burden of proving that he suffered any significant collateral consequences as a result of his convictions.

With respect to the element of significant collateral consequences, the court found (1) there was no evidence of malicious conduct or harassment by police and no evidence that Appellant was a target of police surveillance, and (2) there was no evidence that Appellant was disqualified from being a hunting guide or that Appellant was otherwise unemployable.

Appellant noted this timely appeal and presents seven questions for our review:

1. Did the State of Maryland commit a discovery violation by failing to provide to the defense exculpatory information?
2. Did the State of Maryland commit a due process violation by failing to preserve potentially useful evidence?
3. Was Trial [Counsel] ineffective, given their failure to pursue a Discovery Violation and a Due Process Violation?
4. Does a Bad Faith Due Process Violation mandate a missing evidence instruction to the jury?
5. Did [Appellant's] inability to obtain transcripts of all his court hearings deprive him of the opportunity to pursue an earlier post-conviction filing?
6. Did the Coram Nobis filing meet the requirement of MD Rule 15-1202(b)(1)(D) demonstrating facts which would have resulted in a different outcome?

7. Did the Coram Nobis filing satisfy the requirements to demonstrate sufficient collateral consequences?

Based on our review of the record, Appellant failed to prove significant collateral consequences stemming from his convictions. Because that failure was fatal to Appellant’s request for relief, we find it unnecessary to address the first six questions.

DISCUSSION

“A petition for writ of error *coram nobis* is a common law means through which a person who has been convicted of a crime but is no longer incarcerated, on parole, or on probation can challenge the validity of the conviction based on an alleged error of fact or law.” *Byrd v. State*, 471 Md. 359, 370 (2020) (emphasis added). It is an “‘extraordinary remedy’ justified ‘only under circumstances *compelling such action to achieve justice.*’” *Griffin v. State*, 242 Md. App. 432, 438 (2019) (quoting *Hyman v. State*, 463 Md. 656, 671 (2019) (in turn quoting *State v. Smith*, 443 Md. 572, 597 (2015))) (emphasis in original).

“Because of the extraordinary nature of a coram nobis remedy, we review a court’s decision to grant or deny such a petition for abuse of discretion.” *Byrd*, 471 Md. at 370 (citations and quotation marks omitted). “In determining abuse of discretion, however, an appellate court should not disturb the *coram nobis* court’s factual findings unless they are clearly erroneous, while legal determinations shall be reviewed de novo.” *Id.* (quotation marks and citation omitted).

In order for a court to issue a writ of error coram nobis, the petitioner must satisfy five conditions:

[1] “the grounds for challenging the criminal conviction must be of a constitutional, jurisdictional, or fundamental character”; [2] the petitioner

has ... overcome the [burden of the] “presumption of regularity” in the criminal case; [3] “the coram nobis petitioner must be suffering or facing significant collateral consequences from the conviction”; [4] the issue must not be waived; and [5] there may be no other “statutory or common law remedy [] then available.”

Id. at 370-71 (quoting *Hyman*, 463 Md. at 672) (additional citation omitted) (emphasis added).

The significant collateral consequences alleged by the petitioner “must be actual, not merely theoretical.” *Graves v. State*, 215 Md. App. 339, 353 (2013)). Moreover, “the mere desire to be rid of the stigma of a conviction is not enough.” *Griffin*, 242 Md. App. at 441 (quoting *Fleming v. United States*, 146 F.3d 88, 90 (2d Cir. 1988)) (internal quotation marks omitted). To date, Maryland appellate courts “have only explicitly acknowledged that subsequently enhanced sentences and deportation proceedings may constitute ‘significant collateral consequences.’” *Griffin*, 242 Md. App. at 440 (citations in footnotes omitted).

Appellant claims that, as a result of his convictions (1) he is currently a target of harassment and “unwarranted [d]omestic [s]pying” by police, and (2) he cannot obtain a hunting guide license and therefore has “lost [an] opportunity for certain employment” as a hunting guide.

As an initial matter, it appears that Appellant’s first claim is not related to the convictions at issue. Appellant attributes police presence near his home to being “falsely labeled a CDS manufacturer.” This is a reference to the MSP incident report, which Appellant challenged on grounds that it contained false information regarding his criminal history. The only conviction referenced in the report is Appellant’s 1978 conviction for

manufacturing PCP. That conviction was previously overturned, consequently, *coram nobis* relief is unavailable. In any event, we discern no error in the court’s finding that the evidence presented by Appellant did not establish that he was under surveillance or being harassed by police. As stated by the trial court, “Petitioner has not described or substantiated any conduct that this Court would deem as malicious or harassment and does not find that Petitioner is a target of any surveillance.”

Appellant next asserts that, because his convictions prohibit him from possessing a firearm, he cannot work as a hunting guide. Appellant explains that, to obtain a hunting guide license, he must have a current hunting license, which in turn requires a Certificate of Competency in Firearms and Hunter Safety, which we shall presume involves handling a firearm.⁴ Appellant conceded that he has not applied for a hunting license or a hunting guide license. Moreover, Appellant, who said that he hunted ducks and worked as a hunting guide in 1977, did not prove that he would have to comply with the certificate of competency requirement, which does not apply to a person who (1) submits a certificate of competency or a hunting license issued before July 1, 1977 or (2) submits an affidavit stating that they hunted before July 1, 1977. *See* Natural Resources Article §10-301(a)(1)(ii).

The trial court held:

The eligibility requirements for obtaining a license should have been known to Petitioner despite his testimony that he ‘found out he could not get a license because of this conviction.’ There was no evidence as to

⁴ *See* Code of Maryland Regulations 08.03.14.04(B)(2); Natural Resources Article (“NR”) §10-301.1(a)(1).

what the standards were in 1977 and the Court cannot make an assumption in Petitioner’s favor. When asked if he ever applied to a hunting license, Petitioner answered no. There was no testimony that Petitioner is disqualified from being a hunting guide. There was no testimony that this was Petitioner’s only skill and that he cannot find other employment.

On this record, we hold the court did not err in finding that Appellant failed to prove that he was unable to be a duck hunting guide due to his convictions. *See Fleming*, 146 F.3d at 91 (because petitioner failed to prove that he had “sought and been denied licensure as a securities broker that he ha[d] ever been so employed in the past, or that he could obtain such employment but for his conviction[,]” petitioner’s claim that he was “disabled” from employment in the financial sector was “purely speculative” and insufficient to “justify invoking the ‘extraordinary remedy’” of *coram nobis* relief.) Even if we were to examine the issue and conclude that Appellant’s inability to work as a duck hunting guide is a “significant collateral consequence” that warrants the extraordinary remedy of a writ of error *coram nobis*, Appellant’s claim fails because it is “merely theoretical.” *Graves*, 215 Md. App. at 353.

In sum, the court did not err in concluding that Appellant did not meet his burden of proving that he is suffering or facing significant collateral consequences as a result of the convictions challenged in his petition. The circuit court properly denied relief.

**JUDGMENT OF THE CIRCUIT COURT
FOR CECIL COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**