

Circuit Court for Washington County
Case No.:17552

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1994

September Term, 2017

ANTHONY M. CHARLES

v.

STATE OF MARYLAND

Fader, C.J.,
Nazarian,
Arthur,

JJ.

PER CURIAM

Filed: March 1, 2019

*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 1995, a jury sitting in the Circuit Court for Washington County convicted Anthony Mollet Charles of possession of more than 50 grams of cocaine with intent to distribute, transporting more than 28 grams of cocaine into the State, and driving on a suspended license. The court sentenced him to a total term of 20 years’ imprisonment. This Court affirmed the judgments. *Charles v. State*, No. 283, September Term, 1996 (filed December 3, 1996). The circuit court denied Mr. Charles’s subsequent requests for post-conviction relief, and this Court denied his applications for leave to appeal those decisions.

Mr. Charles was released from prison in 2007.¹ In 2012, a grand jury for the United States District Court for the Western District of Virginia returned a one-count indictment charging Mr. Charles with possession with intent to distribute a controlled dangerous substance in violation of 21 U.S.C. §§841(a)(1) & (b)(1)(C). He was arrested on that charge in 2014. On November 23, 2015, pursuant to a plea agreement, Mr. Charles entered a guilty plea to the federal offense and the court sentenced him to imprisonment for 90 months.

Mr. Charles then sought to challenge his 1995 Maryland conviction through a petition for writ of error coram nobis.² He alleged that his federal sentence was enhanced

¹ While serving the Maryland sentence, it appears that Mr. Charles also served a sentence imposed in 1997 by the State of New Jersey for possession of cocaine. At a hearing in federal court in 2015, Mr. Charles informed the court that his New Jersey sentence “ran together” with the Maryland sentence.

² Mr. Charles had also filed a petition for coram nobis relief before he was sentenced in the federal court case, but the circuit court denied relief because he had not established that, in fact, he was facing an enhanced sentence in federal court due to the Maryland conviction. Mr. Charles’s appeal of that decision to this Court was ultimately dismissed.

(continued)

because of his status as a career offender and, for that reason, he was suffering a significant collateral consequence as a result of the Maryland conviction. Absent the 1995 Maryland conviction, he alleged that the sentencing guidelines for the federal offense would have been lower than the 90-to-130 months range called for in his plea agreement. The circuit court denied relief. Mr. Charles appeals. We affirm because, by the terms of his plea agreement, Mr. Charles waived any right to appeal or collaterally attack his federal sentence and, therefore, he is not suffering a significant collateral consequence that could be alleviated even if he prevailed in overturning the 1995 conviction.³

DISCUSSION

“Coram nobis is extraordinary relief designed to relieve a petitioner of substantial collateral consequences outside of a sentence of incarceration or probation where no other remedy exists.” *State v. Smith*, 443 Md. 572, 623 (2015). Relief is “justified ‘only under circumstances *compelling such action to achieve justice.*’” *State v. Rich*, 454 Md. 448, 461 (2017) (quoting *Smith*, 443 Md. at 597) (further quotation omitted). To be eligible for the

Mr. Charles filed a second petition for coram nobis relief shortly after he was sentenced in federal court, the denial of which is the subject of this appeal. It appears that he raised the same allegations in both petitions, adding one additional claim in the second petition. The court denied the second petition after concluding that the claims raised were either barred by res judicata, waived, or finally litigated in other proceedings.

³We affirm because we are convinced that the circuit court correctly denied relief, even though our reasons for that result may differ. *See Guardado v. State*, 218 Md. App. 640, 641 (2014) (“We are satisfied that the circuit court reached the correct result [in denying a petition for writ of error coram nobis]. Therefore, we will affirm its judgment, although our reasoning differs from that of the court.”) (citing *Offutt v. Montgomery County Bd. of Educ.*, 285 Md. 557, 564 n. 4 (1979) (“[A]n appellate court may affirm a trial court’s decision on any ground adequately shown by the record.”))

(continued)

writ, a petitioner must meet certain requirements, including that the petitioner is “suffering or facing significant collateral consequences” because of a conviction which can be “legitimately” challenged ““on constitutional or fundamental grounds.”” *Smith*, 443 Md. at 623-24 (quoting *Skok v. State*, 361 Md. 52, 78-79 (2000)). The writ is intended to provide a means to overturn an otherwise final and unchallengeable conviction ““in order to remove these consequences.”” *Skok*, 361 Md. at 76 (quoting 3 Wright, *Federal Practice and Procedure Criminal 2d*. § 592, at 429-32 (1982)).⁴

We review the circuit court’s ultimate decision to grant or deny a petition for coram nobis relief for an abuse of discretion. *Rich*, 454 Md. at 471. In doing so, we will not “disturb the *coram nobis* court’s factual findings unless they are clearly erroneous[.]” *Id.* “[L]egal determinations,” however, are “reviewed *de novo*,” *id.*, which is also the standard we shall employ in reviewing the legal sufficiency of Mr. Charles’s petition for writ of error coram nobis. *See Smallwood v. State*, 451 Md. 290, 308 (2017) (“Generally, the standard of review when appellate courts consider the legal sufficiency of a petition for writ of actual innocence is *de novo*.”)⁵

⁴ *See also 3 Federal Practice & Procedure Criminal* § 624 (4th ed. 2011) (Noting that criminal convictions “entail adverse collateral legal consequences” and “[c]oram nobis is available to challenge a conviction in order to remove these consequences.” (quotation omitted.))

⁵ In reviewing the legal sufficiency of a petition for writ of error coram nobis, we see no reason why the standard of review would be any different than the standard we use when reviewing the legal sufficiency of a petition for writ of actual innocence.

Although the parties on appeal raise a variety of contentions for and against reversal of the circuit court’s decision denying coram nobis relief to Mr. Charles, we shall focus on the legal sufficiency of his petition as we believe it is dispositive. *See footnote 3.*

Maryland Rule 15-202 provides that a petition for writ of error coram nobis shall include a recitation of “the significant collateral consequences that resulted from the challenged conviction.” Rule 15-202(b)(F). Absent a significant collateral consequence, a petitioner is not entitled to relief.

As noted, Mr. Charles alleged in his petition that the significant collateral consequence he was suffering was an enhanced federal sentence. His own attachments to that petition, and in particular his written plea agreement with the United States of America and the transcript from his federal plea and sentencing hearing, defeat his eligibility for relief even if he could successfully establish that his 1995 conviction was reversible on constitutional, jurisdictional, or other fundamental grounds.

The plea agreement, signed by Mr. Charles on March 31, 2015, provided that he would plead guilty to possession with intent to distribute cocaine powder, an offense carrying a maximum statutory penalty of 20 years’ imprisonment (30 years for a person with a prior felony drug conviction) and a maximum fine of \$1,000,000. *See* 21 U.S.C. § 841(b)(1)(C). The agreement further provided that Mr. Charles and the government “agreed that [he] shall be sentenced to a period of incarceration within the range of ninety (90) and one hundred and thirty (130) months, and that this is a reasonable sentence under all the facts and circumstances of this case.” Mr. Charles also agreed to “expressly waive the right to appeal [his] sentence . . . on any ground” and to “waive any right [he] may have

to collaterally attack, in any future proceeding, any order issued in this matter, unless such attack is based on ineffective assistance of counsel[.]”

On November 23, 2015, Mr. Charles appeared in court and the terms of the plea agreement were placed on the record. When asked whether he wanted the court to accept the plea agreement – which would bind the court to impose a sentence in the 90-to-130 months range – Mr. Charles responded, “Yes, sir.”

In discussing the 90-to-130 months sentencing range called for in the plea agreement, the government noted that, based on his criminal history, “Mr. Charles is a career offender” and the “guideline range for a career offender would be 151 to 188 months.” After reviewing the presentence investigation report (which noted the 1995 Maryland conviction and a 1997 New Jersey conviction for distribution of a controlled dangerous substance, as well as other convictions) the court agreed that, absent the plea agreement, the sentencing guideline range would be 151-to-188 months. Defense counsel concurred.

Defense counsel informed the court that “what really has driven this case from Mr. Charles’s point of view has been his status as a career offender. Absent that status, we would be talking about a whole different range and you can see to what extent that status would prejudice him had he gone to trial and lost or had he been sentenced under the guideline sentence as a career offender.”⁶ In advocating for the court’s acceptance of the 90-to-130 months sentencing range called for in the plea agreement, defense counsel stated

⁶ Without Mr. Charles’s career offender status, defense counsel asserted that the sentencing guideline range was 37-to-46 months.

that, “while it is below what would be the career offender guideline range of 151 to 188 [months], [it] takes into account what the government has alluded to in three areas, from our perspective.” Defense counsel then mentioned the “age of the case,” the possible inability of the “key” government witness (a co-defendant) “to recall” the events, and the fact that the “drugs have been destroyed and [are] not available for a trial.” Defense counsel explained: “So in negotiating a range, we tried to find an area that was less than the career offender guideline status, but yet would have been higher than what the guideline range would have been if he were not a career offender.” In sum, defense counsel maintained that the 90-to-130 months guideline range was both “appropriate” and “reasonable.”

As the discussion continued, the court reiterated that, “if he goes forward without a plea agreement, [] he could be sentenced up to the statutory maximum . . . [of] 20 years.” After conferring with Mr. Charles off the record, defense counsel informed the court that Mr. Charles still desired to enter the plea, and noted that “we negotiated that deal and at the time, evaluated the evidence and all sides of it and the potential range of risk associated with an [841] enhancement. There’s no mandatory minimum, but it would raise the maximum.”⁷ The court ultimately found that there were “justifiable reasons why the Court should vary downwards from the much higher guidelines range of 151 to 188 range down

⁷ The maximum sentence is generally 20 years’ imprisonment, but may be enhanced to a 30-year maximum for a person with a “prior conviction for a felony drug offense.” 21 U.S.C. § 841(b)(1)(C).

to the 90 to 130 range.” The court then accepted the plea and sentenced Mr. Charles to 90 months’ imprisonment.

Given that Mr. Charles waived any right to appeal or collaterally attack his federal sentence, we hold that his petition for writ of error coram nobis was legally insufficient because he is not suffering a significant collateral consequence which a successful petition for coram nobis relief could alleviate. In other words, even if a court determined that his 1995 conviction was reversible, it would be of no benefit to Mr. Charles because he waived his right to collaterally attack his federal sentence.⁸

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

⁸ We are mindful of the fact that when Mr. Charles entered his plea, he had already filed his first petition for coram nobis relief which the circuit court denied two weeks prior to his federal plea and sentencing hearing. The circuit court denied relief because Mr. Charles’s alleged collateral consequence – an enhanced federal sentence – was at that point “merely theoretical.” Thus, despite his allegation that the 1995 Maryland conviction was flawed and his knowledge that it could be challenged in a petition for writ of error coram nobis, Mr. Charles nonetheless entered the plea and, by the express terms of his plea agreement, waived his right to appeal or collaterally attack his federal sentence.