

Circuit Court for Cecil County
Case No. 07-K-07-000161

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2115

September Term, 2017

DANIEL IAN FIELDS

v.

STATE OF MARYLAND

Leahy,
Shaw Geter,
Thieme, Raymond, G., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Thieme, J.

Filed: October 9, 2018

*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.

This appeal arises from the denial of a petition for a writ of error coram nobis filed in the Circuit Court for Cecil County by appellant, Daniel Fields. In that petition, Appellant claimed that his Sixth Amendment right to effective assistance of counsel had been violated in various ways during his 2007 jury trial. Appellant presents us with the following question: “Did the circuit court err in denying the petition for a writ of error coram nobis?” For the reasons discussed below, we answer that question in the negative and we therefore affirm the judgment of the circuit court.

BACKGROUND

Because a detailed exposition on the facts and circumstances of appellant’s case is not necessary for the resolution this appeal, we only briefly summarize it. On July 17, 2007, appellant was found guilty of third-degree sexual offense, fourth-degree sexual offense, and providing alcohol to a minor. Appellant was thereafter sentenced to 10 years’ imprisonment with all but eighteen months suspended in favor of five years’ probation. Appellant was also required to register as a sexual offender, which he did. Appellant did not thereafter take a direct appeal. In 2012, appellant violated his probation and, as a result, the circuit court executed five years of the previously suspended sentence.

In 2015, appellant filed a petition for post-conviction relief, which he later amended in 2017. However, appellant later sought, and obtained, permission to withdraw his petition with prejudice.¹ Appellant thereafter filed a petition for a writ of error coram nobis

¹ Apparently, appellant chose to dismiss his petition for post-conviction relief because he believed that, by the time a hearing could be scheduled on it, he would no longer
(continued)

raising substantially the same claims he had raised in the petition for post-conviction relief, which, as noted above, all dealt with ineffective assistance of counsel.²

The court held a hearing on the merits of the coram nobis petition on October 13, 2017, and, on December 8, 2017, denied the petition in a memorandum opinion and order. This appeal follows.

DISCUSSION

I.

A writ of error coram nobis is an extraordinary remedy justified only when circumstances compel such an action to achieve justice. Coram nobis is available to raise fundamental errors when attempting to show that a criminal conviction was invalid under the circumstance “where no other remedy is presently available and where there were sound reasons for the failure to seek relief earlier.” *State v. Rich*, 454 Md. 448, 461 (2017), *Skok v. State*, 361 Md. 52, 72-73 (2000); *see also State v. Smith*, 443 Md. 572, 597 (2015).

be “confined under a sentence of imprisonment[,] or on parole or probation” as required by Md. Crim. Proc. Code Ann. § 7-102 in order to be eligible for post-conviction relief.

² Specifically, appellant claimed that his right to effective assistance of counsel was denied when trial counsel (1) missed opportunities to “cast doubt on the alleged victim’s credibility and the accuracy of her perceptions” by not requesting certain jury instructions and not asking certain witnesses certain questions, (2) undermined appellant’s testimony that he never touched the victim’s vagina by eliciting from the underage victim that she was “certain” that appellant had done so, (3) unnecessarily permitted the introduction of appellant’s prior conviction for assault by failing to object when the prosecution asked appellant whether he was an “aggressive person,” (4) did not object to the “improper issuance” of a jury instruction regarding impeachment by prior conviction, and (5) failed to consult with appellant about filing, and/or failed to file, a direct appeal.

As observed in *Rich*, the Court of Appeals has outlined five requirements for obtaining coram nobis relief.

First, “the grounds for challenging the criminal conviction must be of a constitutional, jurisdictional or fundamental character.” *Skok*, 361 Md. at 78 (citing *United States v. Morgan*, 346 U.S. 502, 512 (1954)). Second, “a presumption of regularity attaches to the criminal case, and the burden of proof is on the coram nobis petitioner.” *Id.* (citing *Morgan*, 346 U.S. at 512). **Third, “the coram nobis petitioner must be suffering or facing significant collateral consequences from the conviction.”** *Id.* at 79. Fourth, “[b]asic principles of waiver are applicable to issues raised in coram nobis proceedings. Similarly, where an issue has been finally litigated in a prior proceeding, and there are no intervening changes in the applicable law or controlling case law, the issue may not be relitigated in a coram nobis action.” *Id.* (citation omitted) (citing *Morgan*, 346 U.S. at 512). Fifth, “one is not entitled to challenge a criminal conviction by a coram nobis proceeding if another statutory or common law remedy is then available.” *Id.* at 80.

Rich, 454 Md. at 462 (emphasis added). As is explained *infra*, the third requirement is at issue in the instant case.

II.

In denying appellant coram nobis relief, the court briefly addressed each of appellant’s contentions and found them lacking merit. The coram nobis court also denied appellant’s petition on the basis that appellant’s “case lacks compelling circumstances” warranting coram nobis relief because (1) appellant was not suffering from a sudden, or unforeseen, collateral consequence from his conviction because the requirement that appellant register as a sexual offender was known at the time of the conviction, and (2) appellant had waived his claims by not seeking an appeal, and by dismissing his petition for post-conviction relief with prejudice.

Before this Court appellant contends that the coram nobis court erred in finding that appellant had waived his claims, and that the error “tainted the proceedings below and clouded the court’s judgment” as to the merits of appellant’s claims of ineffective assistance of counsel. Appellant would have us reverse the judgment of the circuit court and remand the case for a new hearing on the merits.

The State contends that the coram nobis court did not abuse its discretion in denying appellant’s petition for a writ of error coram nobis. Preliminarily, the State claims that the coram nobis court’s waiver finding was correct, and that that finding did not taint the court’s otherwise correct determination that appellant’s claims of ineffective assistance of counsel lacked merit. The State additionally claims that appellant is not eligible for coram nobis relief because the collateral consequence, *i.e.*, sexual offender registration, that he claims to be suffering from as a result of his convictions, does not qualify appellant for coram nobis relief because appellant is not “suddenly” faced with that consequence given that he was aware of it at the time of his convictions.

III.

In *Vaughn v. State*, 232 Md. App. 421 (2017), Vaughn, a coram nobis petitioner, claimed that, *inter alia*, sexual offender registration was the significant collateral consequence he suffered from as a result of his criminal conviction making him eligible for coram nobis relief. *Vaughn* examined the policy behind the coram nobis eligibility requirement outlined in *Skok, supra*, that a coram nobis petitioner be suffering from a significant collateral consequence stemming from the criminal conviction being attacked. *Id.* at 427-29. After reviewing the relevant case law, *Vaughn* determined that, not only

must a petitioner be suffering from a significant collateral consequence as a result of the criminal conviction, a “petitioner must show that the [consequence] is one that he or she did not know about at the time” of the conviction.³ *Id.* at 429. This Court then determined that, because Vaughn did not show that he was unaware at the time of his criminal conviction of the requirement that he register as a sexual offender, that he was not eligible for coram nobis relief. *Id.* at 430.

In the instant case, appellant claimed in his petition for a writ of error coram nobis that he “experiences significant collateral consequences as a result of his conviction for committing a sexual offense in the third degree ... namely Tier III, lifetime registration on the Maryland Sex Offender Registry.” However, like *Vaughn*, appellant did not allege, much less prove, that he was unaware at the time of his criminal conviction that he would have to register as a sexual offender. As a result, he is not eligible for coram nobis relief. Moreover, a final observation in *Vaughn*, seems apt here as well:

[B]ecause appellant knew about the requirement to register as a sex offender when he pled guilty, grant of coram nobis relief is not required to achieve justice. In that regard, what we said in *Coleman v. State*, 219 Md. App. 339, 353-54 (2014) is relevant:

[Even] assuming that a petitioner has met the prerequisites for coram nobis relief, we are not aware of any Maryland decision mandating that relief be granted in the absence of “circumstances compelling such action to achieve justice.” As the Supreme Court stated in *United States v. Denedo*, 556 U.S. 904, 916 (2009), “judgment finality is not to be lightly cast

³ One distinction between Vaughn’s case and appellant’s case is that Vaughn pleaded guilty, while appellant went to trial. We do not find this distinction analytically meaningful under the circumstances.

aside; and courts must be cautious so that the extraordinary remedy of coram nobis issues only in extreme cases.”

Vaughn, 232 Md. App. at 429.

We are persuaded that, for the reasons explained above, the circuit court did not abuse its discretion in denying appellant’s petition for a writ of error coram nobis.

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