

Circuit Court for Montgomery County
Case No. 138299C

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2326

September Term, 2024

WILLIE ORLANDO McKINNON

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: September 11, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Willie Orlando McKinnon, appellant, appeals from the denial, by the Circuit Court for Montgomery County, of a petition for writ of actual innocence. For the reasons that follow, we shall affirm the judgment of the circuit court.

We recount some of the pertinent facts from our previous opinion in Mr. McKinnon's case:

At trial, the State called Montgomery County Police Detective Brian Dyer, who confirmed that in January 2021, he was “working on a string of lottery ticket and cigarette thefts and robberies.” The first robbery occurred on January 12, 2021, at a 7-Eleven, and “in the days and weeks to come, there were numerous other ones.” Detective Dyer subsequently identified Mr. McKinnon and men named Prince Singletary, Emanuel Harried, and Joseph Crenshaw as suspects in the robberies. The detective also “linked to these crimes” a “black Toyota Camry.” On January 19, 2021, Detective Dyer went to Prince George's County, where detectives had stopped the Camry and its occupants, Mr. McKinnon and a woman named Tracey Copeland. Mr. McKinnon was wearing “a black . . . down jacket with a GUESS emblem, a triangle GUESS emblem on the shoulder[,] and . . . a fur hood.” Police subsequently searched the Camry and discovered two sets of gloves, lottery tickets, “a tire iron and jack,” “black and green Newport cigarette boxes,” “two green Newport cigarette packs,” four “cigar packs,” a “white Capri cigarette box, four gold Benson and Hedges cigarette boxes, two green Benson and Hedges cigarette boxes,” a “plastic bag containing 12 Newport cigarette boxes,” a “plastic bag containing 10 green Newport cigarette boxes,” a “red Redskins T-shirt,” a “blue Columbia jacket,” and a “plastic bag containing four packs of lottery tickets and 11 Newport cigarette boxes.” Detective Dyer noted the blue Columbia jacket as having been “seen in surveillance footage, both at . . . a couple different events and . . . at [a] Dodge Park Sunoco . . . where tickets were allegedly being cashed.”

On January 30, 2021, Detective Dyer saw Mr. McKinnon again, after he and Mr. Harried were arrested. At the time of the arrests, Mr. Harried was wearing a “jacket . . . believed to be seen in surveillance videos during some of [the] events.” Mr. McKinnon was wearing a “black, puffy jacket with fur around the hood and [a] Guess logo,” a “gray sweatshirt,” a “pair of black boots,” a “pair of blue jeans,” and a “black hat.” The boots, jacket, and sweatshirt were “believed to be seen in numerous events on surveillance footage that [police] were investigating.” On the day of Mr. McKinnon's arrest, he was stopped in a “silver Infiniti SUV” that was “right next to the

Dodge Park Sunoco.” Police searched the vehicle and discovered a “lottery drawer[] that . . . tickets are stored in,” a “plastic bag[] containing multiple cigarette packs of varying brands and lottery tickets,” “numerous packs of” Camel and Newport “cigarettes, all unopened,” “a roll of coins,” “two books of lottery tickets and a single lottery ticket,” two “carton[s] of Newport cigarettes,” “one carton of Marlboro cigarettes,” another “plastic bag containing lottery tickets,” a “surgical mask,” a “pair of black and gray gloves,” thirty to forty unopened packs of Newport, Maverick, Camel, and Marlboro cigarettes, a “black . . . LUXE-T hoodie” that had been “seen in the surveillance footage at one of the events,” a “red[] Grubhub bag” that “was . . . seen in one of the events,” a “black bag” that “was believed to be seen in one of the events,” and two “metal tray[s] with keys” that “they . . . keep lottery tickets on.”

On February 12, 2021, Mr. Singletary was arrested. Detective Dyer subsequently “met with . . . and interviewed” Mr. Singletary. During the interview, the detective showed Mr. Singletary three 7-Eleven “asset protection alerts” containing photographs of individuals. In the photographs, Mr. Singletary identified himself, Mr. Harried, and “Willie.” Mr. Singletary “originally referred to him as Orlando and then . . . said it’s Willie McKinnon.”

The State also called Mr. Singletary, who confirmed that in January 2021, he was “involved in a series of thefts at various 7-Elevens in Montgomery County.” Mr. Singletary subsequently “pled guilty in Montgomery County” to theft. Mr. Singletary testified that he would get to Montgomery County in “a black car” that was sometimes driven by Mr. Harried and sometimes driven by Mr. McKinnon. Once the group arrived at a 7-Eleven, Mr. Singletary would go inside and look for “[s]ecurity.” Mr. Singletary would then go behind the counter, steal cigarettes, and put them in a bag. Mr. Harried, Mr. McKinnon, or “someone else” would “usually” be with Mr. Singletary. “Sometimes” the other person would be “behind the register with” Mr. Singletary, but “sometimes they’d just watch [Mr. Singletary’s] back.” Mr. Singletary would then “leave the store” and “get back in the car that [he] came in.” Mr. Singletary would subsequently sell the cigarettes to “[w]hoever wanted” them, but he would “go[] to the Dodge Park Sunoco in Landover” to “cash tickets,” specifically “[s]cratch offs.” The tickets had been obtained from the 7-Elevens, and Mr. Singletary received some of them from Mr. Harried. Mr. Singletary did not “ever remember wearing gloves,” but recalled that Mr. Harried wore them.

The State subsequently submitted into evidence photographs, taken on January 12, 2021, of individuals inside a 7-Eleven on Connecticut Avenue

in Kensington. Mr. Singletary identified two of the individuals as himself and Mr. Harried. The State also entered into evidence photographs of the black Toyota Camry, which Mr. Singletary identified as “look[ing] like the car that [he] drove in [or] at least one of the cars that [he] drove in.” Mr. Singletary confirmed that when Detective Dyer asked whether Mr. McKinnon was “in the car,” Mr. Singletary replied: “[Y]es. Yeah.” The State subsequently submitted into evidence an excerpt of a transcript of an interview of Mr. Singletary conducted by Detective Dyer. In the excerpt, Mr. Singletary confirmed that he and Mr. Harried, who carried a tire iron, entered the 7-Eleven while Mr. McKinnon, who drove the black Toyota Camry, was in the vehicle. Mr. Singletary subsequently identified Mr. McKinnon in court.

Following the close of the evidence, the jury convicted Mr. McKinnon of armed robbery, conspiracy to commit armed robbery, and related offenses with respect to the January 12, 2021 robbery. With respect to the other robberies, the jury convicted Mr. McKinnon of numerous counts of theft, conspiracy to commit theft, theft scheme, and conspiracy to commit theft scheme.

McKinnon v. State, No. 1467, Sept. Term 2023 (filed December 4, 2024), slip op. at 1-4.

On December 12, 2024, Mr. McKinnon filed the petition for writ of actual innocence, in which he contended that he had discovered evidence that Detective Dyer conspired with Mr. Harried to “set [Mr. McKinnon] up . . . by placing items at the crime [scene] that had [Mr. McKinnon’s] prints on them.” Mr. McKinnon also contended that Detective Dyer “obtained the vid[e]o from the robbery that showed [Mr.] Harried leaving the items to be found and deleted this action and present[ed] a copy of the film that had been redacted to remove this action.” Mr. McKinnon further contended that Mr. Harried “submitted a signed affidavit attesting to [the] conspiracy.” Mr. McKinnon contended that “this information was not available at the time of [trial], and is therefore truly newly discovered evidence that would have changed the outcome of” trial. On January 2, 2025,

the court denied the petition. On January 7, 2025, we issued the mandate evidencing our opinion of December 4, 2024.

Mr. McKinnon contends that, for numerous reasons, the court erred in denying the petition. We disagree. Md. Code (2001, 2018 Repl. Vol., 2024 Supp.), § 8-301(a) of the Criminal Procedure Article, states, in pertinent part, that a person convicted of a crime in a circuit court may “file a petition for writ of actual innocence . . . if the person claims that there is newly discovered evidence that . . . could not have been discovered in time to move for a new trial under Maryland Rule 4-331.” Rule 4-331(c) states, in pertinent part, that a “court may grant a new trial or other appropriate relief on the ground of newly discovered evidence which could not have been discovered by due diligence in time to move for a new trial . . . on motion filed within one year after the later of (A) the date the court imposed sentence or (B) the date the court received a mandate issued by the final appellate court to consider a direct appeal from the judgment[.]” Here, Mr. McKinnon filed his petition nearly one month before we issued our mandate. Mr. McKinnon discovered the evidence presented in his petition in time to move for a new trial pursuant to Rule 4-331(c), but failed to do so. Hence, the court did not err in denying the petition.

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