

Circuit Court for Baltimore City
Case Nos. 190274026, 28, 30

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2562

September Term, 2016

RONALD NANCE

v.

STATE OF MARYLAND

Woodward, C.J.,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 6, 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.

In 1991, Ronald Nance and Kevin Hardy were tried jointly before a jury in the Circuit Court for Baltimore City, and both were convicted of first-degree murder, attempted second-degree murder, conspiracy to commit murder, and related handgun offenses. This Court affirmed the judgments. *Nance and Hardy v. State*, 93 Md. App. 475 (1992). The Court of Appeals granted their petition for writ of certiorari and affirmed. *Nance and Hardy v. State*, 331 Md. 549 (1993).

In 2012, Hardy filed a petition for writ of actual innocence based on the discovery that Joseph Kopera, who testified at trial as an expert in firearms identification, had falsified his academic credentials. Kopera, a State witness, testified that he had examined four bullets removed from the murder victim’s body and that three were .22 caliber bullets and the fourth a .38 caliber bullet.¹ Hardy asserted in his petition that Kopera was “a ballistic expert imposter” and that Kopera’s testimony “was desperately needed and used in [] [the State’s] case to bolster the State’s theory of two shooters of the victim[.]”² The circuit court dismissed the petition, without a hearing. Hardy appealed. This Court concluded that Hardy was entitled to a hearing on his petition and thus, vacated the dismissal and remanded for a hearing. *Hardy v. State*, No. 1329, Sept. Term, 2012 (filed June 19, 2014). The Court of Appeals then granted the State’s petition for writ of certiorari and held that Hardy’s petition had satisfied “the pleading standards” and, consequently,

¹ The transcripts from the Nance and Hardy trial are not in the record before us. Thus, we are not aware of the full extent of Kopera’s testimony.

² Hardy’s petition for writ of actual innocence is not in the record before us. The description of Hardy’s petition, as related in this opinion, is taken from *State v. Hunt and Hardy*, 443 Md. 238, 246 (2015).

agreed with this Court that Hardy was entitled to a hearing on his petition. *State v. Hunt and Hardy*, 443 Md. 238, 264 (2015).

In 2016, Nance, the appellant herein, filed his own petition for writ of actual innocence and like Hardy, sought relief based on Kopera’s falsification of his academic credentials. Nance’s petition appears to have been substantially similar to the petition Hardy had filed. Similar to Hardy, Nance asserted that Kopera’s testimony “suggested, if only implicitly, that the two different guns must have been held by two different shooters” and that Kopera’s testimony “gave the State’s case otherwise muddled in impeached testimony and changing stories by cognitively impaired, drug abusing eye witnesses an aura of scientific infallibility[.]” Nance further asserted that the “exposure of a State’s witness as a liar whom the State had failed to vet would have undermined the other credibility judgments that the State was asking the jury to make.” Nance requested a hearing on his petition. The circuit court dismissed the petition, without a hearing. Nance appeals. Because we see no discernable difference between Nance’s petition and Hardy’s petition, we vacate the circuit court’s order and remand the case with instructions to the circuit court to hold a hearing on Nance’s petition. Although we hold that Nance is entitled to a hearing on his petition, we express no opinion as to whether Nance can prove his claim or whether he would be entitled to any relief.³

³ In urging us to affirm the circuit court’s dismissal, the State relies on *McGhie v. State*, 449 Md. 494 (2016). *McGhie*, however, is distinguishable because McGhie’s petition was denied *after* a hearing. The only issue before us is in this appeal is whether Nance was entitled to a hearing before the court issued its ruling.

In its brief filed in this Court, the State moved to dismiss Nance’s appeal on the grounds that it was not filed within thirty days of the date of the circuit court’s order dismissing Nance’s petition. The State noted that the circuit court’s order was dated December 22, 2016, and Nance’s notice of appeal was filed on January 25, 2017. The State, however, overlooks the fact that the December 22nd order was entered on the docket on December 28, 2017, and it is from the date of the docket entry that the thirty-day appeal period runs. *See* Md. Rule 8-202 (“the notice of appeal shall be filed within 30 days after *entry* of the judgment or order from which the appeal is taken”) (emphasis added). Consequently, Nance’s notice of appeal was timely filed.

**APPELLEE’S MOTION TO DISMISS
APPEAL DENIED. JUDGMENT OF THE
CIRCUIT COURT FOR BALTIMORE CITY
DISMISSING APPELLANT’S PETITION
FOR WRIT OF ACTUAL INNOCENCE
VACATED. CASE REMANDED TO THE
CIRCUIT COURT FOR A HEARING ON
APPELLANT’S PETITION FOR WRIT OF
ACTUAL INNOCENCE. COSTS TO BE
PAID BY MAYOR AND CITY COUNCIL OF
BALTIMORE.**