

Circuit Court for Baltimore City  
Case No: 110105033

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 3016

September Term, 2018

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RONALD BROOKS, SR.

v.

STATE OF MARYLAND

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Graeff,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: February 4, 2020

\*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 2011, a jury in the Circuit Court for Baltimore City convicted Ronald M. Brooks, appellant, of first-degree assault, use of a handgun in the commission of a crime of violence, reckless endangerment, shooting and discharging a handgun of unknown caliber, and wearing, carrying, or transporting a handgun. The jury found him not guilty of attempted murder. The court sentenced him to a total term of 20 years' imprisonment. On appeal, this Court vacated the sentences as to reckless endangerment and wearing, carrying, or transporting a handgun, but otherwise affirmed the judgments. *Brooks v. State*, No. 931, September Term, 2011 (Md. App. October 19, 2012).

In 2018, Mr. Brooks, representing himself, filed a petition for writ of actual innocence. Following a hearing, the circuit court denied relief. Mr. Brooks appeals. Because we discern no abuse in the court's discretion in denying relief, we shall affirm the judgment.

There is no dispute that, on March 19, 2010, Mr. Brooks shot Tavon Harrington in the back. The issue at trial was whether Mr. Brooks was justified in shooting Mr. Harrington, whom he claimed had approached his home, knife in hand, looking for his son. After an initial confrontation with Mr. Harrington outdoors, Mr. Brooks testified that he went into his house, retrieved his gun, went back outside, and after hearing that Mr. Harrington was "trying to run [his son] down with the knife," he chased Mr. Harrington (who was chasing Mr. Brooks's son) around the back of the house and shot at Mr. Harrington three times. His trial testimony that he shot Mr. Harrington was consistent with a statement Mr. Brooks had given to the police the day after the shooting. Mr. Harrington,

who was rendered a paraplegic after the shooting, testified that he had a cell phone in his hand, not a knife or any other weapon.

On November 26, 2018, the circuit court convened a hearing on Mr. Brooks’s actual innocence petition. In its written order and ruling, the circuit court addressed the following allegations raised by Mr. Brooks in support of his petition: (1) the failure of his wife, a State witness, to be advised that she had the right to invoke the spousal privilege to avoid testifying; (2) a statement by Yvonne Robinson, a State witness; (3) a statement/affidavit of his son, Davonta Brooks; (4) information that cameras were possibly monitoring the location of the crime scene; (5) a March 20, 2010 statement of his wife; and (6) a statement made by the victim on October 29, 2015 to a local television reporter regarding the shooting, which Mr. Brooks characterized as a “recantation” of his trial testimony. When asked by a reporter how he came to be shot, the victim replied that he was at a cookout and heard shots and was hit as he was running away.<sup>1</sup>

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<sup>1</sup> In his petition, Mr. Brooks also included the allegation that a detective gave “perjured” testimony at trial. Because the transcript from the actual innocence hearing is not in the record before us, it is not clear whether Mr. Brooks pursued this allegation at the hearing. But in any event, Mr. Brooks’s “evidence” of the detective’s perjury is not only meritless, it is not “newly discovered” and it does not support a claim of Mr. Brooks’s actual innocence. Mr. Brooks points to the detective’s response at trial to a question as to whether Mrs. Brooks had advised the detective of her son’s whereabouts during the incident, to which the detective responded: “I believe she said he might have been in the house.” Mr. Brooks compares that to Mrs. Brooks’s police statement indicating that, during questioning regarding her son, Mrs. Brooks said that “he couldn’t run in the house.” “He couldn’t get in there.” Because the police statement would have been available to the defense before trial and, in any event, discoverable in time to move for a new trial, it is not newly discovered evidence under the actual innocence statute. Moreover, in its written response to Mr. Brooks’s petition, the State cited the trial transcript showing that the defense objected to the detective’s answer and the objection was sustained.

The circuit court found that (1) the spousal privilege was not evidence; (2) the statement of Ms. Robinson was not newly discovered because Mr. Brooks testified at the actual innocence hearing that he had received the statement seven months after trial and, therefore, in time to move for a new trial; (3) the statement/affidavit of Davonta Brooks was not newly discovered evidence because at the actual innocence hearing Mr. Brooks testified that his trial counsel either had the statement/affidavit or was aware of its contents at the time of trial; (4) Mr. Brooks’s allegation regarding possible cameras in the area had been rejected by the circuit court in an earlier petition; (5) the March 20, 2010 statement of Mrs. Brooks was not newly discovered evidence because it was “discussed and played for the jury” during the trial; and (6) the victim’s 2015 statement to the media does not create a substantial or significant possibility that the result of Mr. Brooks’s trial may have been different because “the statement does not contradict Harrington’s trial testimony that he ‘heard gunshots so [he] started running,’ and was shot in the back.”

On appeal, Mr. Brooks does not refute the factual findings made by the circuit court, but simply reiterates the arguments he made before that court. The record before us does not include the trial transcripts nor the transcript from the actual innocence hearing. *See* Rule 8-411 (the appellant is responsible for ordering any relevant transcript and ensuring that the transcripts are transmitted by the trial court to the appellate court). Based on the record that is before us, we are not persuaded that the circuit court abused its discretion in denying Mr. Brooks’s petition for a writ of actual innocence. *Smallwood v. State*, 451 Md. 290, 308-09 (2017) (“Courts reviewing actions taken by a circuit court after a hearing on a

petition for writ of actual innocence limit their review [ ] to whether the trial court abused its discretion.”).

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**