

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs February 25, 2014 at Knoxville

ANTHONY WASHINGTON v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 94-02811 John W. Campbell, Judge

No. W2013-01494-CCA-R3-CO - Filed March 31, 2014

The Petitioner, Anthony Washington, appeals as of right from the Shelby County Criminal Court's dismissal of his petition for writ of error coram nobis. The Petitioner contends that the coram nobis court erred by summarily dismissing his petition as having been untimely filed and failing to state a cognizable claim. Discerning no error, we affirm the judgment of the coram nobis court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

D. KELLY THOMAS, JR., J., delivered the opinion of the court, in which JOSEPH M. TIPTON, P.J., and JAMES CURWOOD WITT, JR., J., joined.

Anthony Washington, Henning, Tennessee, pro se.

Robert E. Cooper, Jr., Attorney General and Reporter; Lacy Wilber, Assistant Attorney General; Amy P. Weirich, District Attorney General; and D. Gregory Gilbert, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

It appears from the record that the Petitioner pled guilty to first degree murder and several other offenses in October 1995. On April 22, 2013, the Petitioner filed a pro se petition for writ of error coram nobis. The petition alleged that an April 2012 report from the United States Department of Justice (DOJ) revealed that juveniles in Shelby County Juvenile Court were routinely not given written notice of the charges against them prior to an initial hearing before a magistrate, thus, violating their right to due process. The Petitioner alleged that he was a juvenile when he was arrested on the underlying charges and that the DOJ report was newly discovered evidence that "he did not receive his petition at his detention hearing."

The Petitioner argued that had he been aware of this due process violation, “he would have been able to suppress the coerced statement that he had made to police” and that his inability to suppress the statement affected the voluntariness of his guilty plea. The Petitioner did not attach his judgments of conviction, his statement to the police, or the DOJ report to his petition for writ of error coram nobis. The coram nobis court summarily dismissed the petition finding that it had not been timely filed and that it did not state a cognizable claim for coram nobis relief. The Petitioner now appeals, raising the same arguments found in his initial petition.

A writ of error coram nobis is an extraordinary remedy available only under very narrow and limited circumstances. State v. Mixon, 983 S.W.2d 661, 666 (Tenn. 1999). A writ of error coram nobis lies “for subsequently or newly discovered evidence relating to matters which were litigated at the trial if the judge determines that such evidence may have resulted in a different judgment, had it been presented at the trial.” Tenn. Code Ann. § 40-26-105 (2006); see State v. Hart, 911 S.W.2d 371, 374 (Tenn. Crim. App. 1995). The purpose of a writ of error coram nobis is to bring to the court’s attention a previously unknown fact that, had it been known, may have resulted in a different judgment. State v. Vasques, 221 S.W.3d 514, 526-27 (Tenn. 2007). The decision to grant or deny the writ rests within the discretion of the coram nobis court. Teague v. State, 772 S.W.2d 915, 921 (Tenn. Crim. App. 1988). “A court abuses its discretion when it applies an incorrect legal standard or its decision is illogical or unreasonable, is based on a clearly erroneous assessment of the evidence, or utilizes reasoning that results in an injustice to the complaining party.” State v. Wilson, 367 S.W.3d 229, 235 (Tenn. 2012).

A petition for writ of error coram nobis must be filed within one year of the date the judgment of the trial court becomes final. See Tenn. Code Ann. §§ 27-7-103, 40-26-105; Mixon, 983 S.W.2d at 671. The one-year limitations period may be tolled only when required by due process concerns. See Workman v. State, 41 S.W.3d 100, 103 (Tenn. 2001). Courts must “balance the petitioner’s interest in having a hearing with the interest of the State in preventing a claim that is stale and groundless” in determining whether due process tolls the statute of limitations. Wilson, 367 S.W.3d at 234. To do so, courts perform the following steps:

- (1) determine when the limitations period would normally have begun to run;
- (2) determine whether the grounds for relief actually arose after the limitations period would normally have commenced; and (3) if the grounds are “later-arising,” determine if, under the facts of the case a strict applications of the limitations period would effectively deny the petitioner a reasonable opportunity to present the claim.

Id. (quoting Sands v. State, 903 S.W.2d 297, 301 (Tenn. 1995)).

Here, the Petitioner's contention appears not to be with the failure to provide him written notice of the charges prior to his juvenile detention hearing, but with trial counsel's failure to suppress his statement to the police. The one-year statute of limitations expired in 1996. The Petitioner filed his petition over fifteen years later. We agree with the coram nobis court's assessment that the Petitioner's grounds for relief did not actually arise after the expiration of the limitations period; therefore, the DOJ report was not newly discovered evidence. As such, due process does not require tolling of the statute of limitations.

The Petitioner and his trial counsel would have been aware of whether he received written notice of the charges against him prior to his juvenile detention hearing in 1995. Therefore, none of the facts alleged in the petition were unknown to the Petitioner at the time of his trial. Nor is there anything in the record beyond the Petitioner's assertions to suggest that the findings of the DOJ report would have been applicable to the Petitioner's case.

Additionally, whether the Petitioner received written notice of the charges against him prior to his juvenile detention hearing was not a fact related to his trial. Furthermore, the Petitioner has previously raised the issue of trial counsel's failure to suppress his statements to the police in a post-conviction proceeding. See Anthony L. Washington v. State, No. 02C01-9610-CR-00373, 1997 WL 666170 (Tenn. Crim. App. Oct. 28, 1997), perm. app. denied, (Tenn. June 8, 1998). Accordingly, we conclude that the coram nobis court did not err in summarily dismissing the petition for writ of error coram nobis.

In consideration of the foregoing and the record as a whole, the judgment of the coram nobis court is affirmed.

D. KELLY THOMAS, JR., JUDGE