

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2003

WINSTON L. JOHNSON, **
 Appellant, **
 vs. ** CASE NO. 3D01-3231
THE STATE OF FLORIDA, ** LOWER
 Appellee. ** TRIBUNAL NO. 95-33456

Opinion filed May 14, 2003.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Dade County, Thomas Carney, Judge.

Winston L. Johnson, in proper person.

Charles J. Crist, Jr., Attorney General, and Steven R. Parrish, Assistant Attorney General, for appellee.

Before COPE, GREEN and RAMIREZ, JJ.

On Rehearing Denied

PER CURIAM.

We conclude that Winston Johnson is not entitled to a hearing on his postconviction motion under McLin v. State, 827 So. 2d 948 (Fla. 2002).

Defendant-appellant Johnson was convicted of attempted second

degree murder. He was charged with shooting a grocery store employee, Artis Walker (also known as Artis Harris). The evidence showed that prior to trial, the defendant attempted to get the victim to change his testimony. The defendant was convicted at a trial in which he was identified as the shooter by the victim as well as three witnesses: Nathaniel Blash (who was the intended victim), Benjamin McKinney, and Rabeeh Awad.

The victim subsequently filed an affidavit which states in its entirety, "I Artis K. Harris have made a mistake also chose the wrong person who is Winston L. Johnson who is now in prison for a crime he did not commit. I was not pressured by anyone to change my plead."

The defendant is not entitled to a hearing. All of the trial witnesses were individuals who knew the defendant and could readily identify him. The victim's recantation affidavit in no way undercuts the testimony of the other witnesses who identified the defendant as the shooter.

Rehearing denied.