

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs December 13, 2022

FILED

01/10/2023

Clerk of the
Appellate Courts

REGINOLD C. STEED v. STATE OF TENNESSEE

**Appeal from the Criminal Court for Davidson County
No. 2015-B-1337 Angelita Blackshear Dalton, Judge**

No. M2022-00879-CCA-R3-ECN

Petitioner, Reginold C. Steed, appeals the error coram nobis court's summary dismissal of his petition for error coram nobis relief. Following review of the record and applicable law, we affirm the judgment of the coram nobis court in accordance with Rule 20 of the Rules of the Tennessee Court of Criminal Appeals.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed
Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

JILL BARTEE AYERS, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and TIMOTHY L. EASTER, JJ., joined.

Reginold C. Steed, Henning, Tennessee, Pro Se.

Johnathan Skrmetti, Attorney General and Reporter; David H. Findley, Senior Assistant Attorney General; Benjamin A. Ball, Senior Assistant Attorney General; Glenn R. Funk, District Attorney General; and Amy M. Hunter, Assistant District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

Petitioner was found guilty after a jury trial of one count of attempted voluntary manslaughter, one count of especially aggravated robbery, and one count of aggravated assault. *State v. Reginold C. Steed*, No. M2016-01405-CCA-R3-CD, 2017 WL 1830105, at *1 (Tenn. Crim. App. May 5, 2017). The proof established that Petitioner robbed and shot the victim multiple times. The victim testified that they met so that Petitioner could repay the victim a \$500 loan. Petitioner testified that he met the victim to purchase

marijuana from him and shot the victim to defend himself. *Reginold C. Steed v. State*, M2018-00492-CCA-R3-PC, 2019 WL 169265, at *1 (Tenn. Crim. App. January 11, 2019).

Petitioner was sentenced as a Range I offender to an effective twenty-seven year sentence in the Tennessee Department of Correction. On July 7, 2016, Petitioner's motion for new trial was denied by the trial court. On May 5, 2017, this Court affirmed Petitioner's conviction and sentence on direct appeal. *Reginold C. Steed*, 2017 WL 1830105, at *1. Petitioner timely filed a petition for post-conviction relief. In an order filed February 28, 2018, the post-conviction court denied Petitioner's petition for post-conviction relief. On January 11, 2019, this Court affirmed the denial of the petition for post-conviction relief. *Reginold C. Steed*, 2019 WL 169265, at *1.

On April 18, 2022, Petitioner filed a *pro se* petition for writ of error coram nobis. In his petition, Petitioner alleges "newly discovered evidence" consisting of an allegation of recanted trial testimony of the victim in the case would have resulted in a different judgment at trial. Petitioner contends that the victim in the case "recanted his testimony, and the recantation was never communicated to the jury or presented in evidence." Specifically, Petitioner maintains that "[t]his recantation was recorded in the original victim impact statement received by Officer Marshall, but the pertinent recantation was removed from the record." Petitioner specifically alleges that the victim impact statement and pre-sentence report were removed from the court file, and that such removal is "prima facia proof that a fraud has been committed on the Court regarding this subject victim impact statement and the recantation contained therein, which goes to the heart of his case." Petitioner alleges that he discovered the new evidence "in mid-August, 2021 when by chance he requested a copy of his [c]riminal [c]ase [s]ummary from the Clerk of the Court."

In his appeal, Petitioner argues he is entitled to equitable tolling because the record did not contain a victim impact statement containing the recantation, constituting a fraud on the court. The State argues that the coram nobis court properly denied the petition because it is time-barred, and no grounds justify equitable tolling. We agree with the State.

The writ of error coram nobis is "an extraordinary procedural remedy," and is subject to a one-year statute of limitations which is measured from the date the judgment becomes final. *Nunley v. State*, 552 S.W.3d 800, 816 (Tenn. 2018) (quoting *State v. Mixon*, 983 S.W.2d 661, 672 (Tenn. 1999)); *see also* T.C.A. § 27-7-103. Compliance with the one-year statute of limitations is an "essential element of a coram nobis claim." *Nunley*, 552 S.W.3d at 828 (quoting *Harris v. State*, 301 S.W.3d 141, 144 (Tenn. 2010)). Due process may require tolling of the statute of limitations if there is evidence to which the petitioner did not have access in order to timely assert a claim. *Workman v. State*, 41 S.W.3d 100, 102 (Tenn. 2001) (citing *Seals v. State*, 23 S.W.3d 272, 279 (Tenn. 2000)). A coram nobis petition must show on its face that it was timely filed pursuant to *Mixon*, or

contain specific facts showing entitlement to equitable tolling pursuant to *Workman. Nunley*, 552 S.W.3d at 800.

The one-year statute of limitations may be tolled if a petition for a writ of error coram nobis seeks relief based upon new evidence of actual innocence discovered after expiration of the limitations period. *Id.* at 828-29. And “[i]n keeping with the extraordinary nature of the writ,” Petitioner must set forth facts demonstrating that the claim arose after the statute of limitations would have started to run and that a strict application of the limitations requirement would deny him a reasonable opportunity to present his claim. *Id.* at 829.

The coram nobis court possesses the discretion to summarily dismiss a petition if it fails to show on its face that it is timely filed or that the averments merit due process tolling. *Id.* Whether due process considerations require tolling of a statute of limitations is a mixed question of law and fact, which is reviewed de novo with no presumption of correctness. *Id.* at 830. “The *inquiry ends* if his petition is not timely and if he has failed to demonstrate that he is entitled to relief from the statute of limitations.” *Id.* at 831 (petitioner’s other claims pretermitted by his untimely petition and failure to establish due process tolling) (emphasis added).

On January 11, 2019, this Court entered its opinion affirming the post-conviction court’s denial of post-conviction relief. The judgment became final thirty days thereafter, on February 10, 2019. Pursuant to *Mixon*, Petitioner was required to file his coram nobis petition on or before February 10, 2020. He filed his petition on April 18, 2022, more than two years after the one-year statute of limitations. The coram nobis court properly found the petition untimely.

In considering whether the Petitioner’s allegations merit due process tolling of the statute of limitations, the record is clear that the issue of victim recantation was known to Petitioner at the time of his timely filed post-conviction petition. In its opinion affirming the post-conviction court, this Court considered the stand-alone issue waived and not subject to plain error review since it was raised for the first time on appeal. *Reginold C. Steed*, 2019 WL 169265, at *9. However, this Court addressed the victim’s alleged recantation as part of the ineffective assistance of counsel claim and found it to lack merit. *Id.* Petitioner is not entitled to equitable tolling.

Further, this Court has previously concluded that there is no credible evidence that the alleged recantation ever existed. The only proof supporting the Petitioner’s claim that the victim recanted his statement is Petitioner’s testimony that his father saw a handwritten note in Petitioner’s file signed by Officer Marshall indicating that the victim now claimed he did not know who had perpetrated the crimes against him. *Reginold C. Steed*, 2019

WL169265, at *8. However, Officer Marshall testified that she never interviewed the victim and that when she received the victim impact statement from the victim, she forwarded it to the court, the district attorney's general's office, and the Petitioner's attorney. *Id.* at *4. A review of the record shows that the victim impact statement was in the file.

In an error coram nobis proceeding, “a [n]ew trial should be granted upon basis of newly discovered recanted testimony only if the following conditions are met: (1) trial court is reasonably well satisfied that testimony given by material witness was false and new testimony is true; (2) defendant was reasonably diligent in discovering new evidence, or was surprised by false testimony, or was unable to know of falsity of testimony until after trial; and (3) jury might have reached different conclusion had truth been told.” *State v. Ratliff*, 71 S.W.3d 291, 298 (Tenn. Crim. App. 2001). None of these conditions have been met. We agree with the error coram nobis court that this issue was previously raised and litigated. *Reginold C. Steed*, 2017 WL 1830105, at *1. Accordingly, Petitioner is not entitled to equitable tolling of the statute of limitations.

When an opinion would have no precedential value, this court may affirm the judgment or action of the trial court by memorandum opinion when the judgment is rendered or the action taken in a proceeding without a jury and such judgment of action is not a determination of guilt, and the evidence does not preponderate against the finding of the trial judge. *See* Tenn. Ct. Crim. App. R. 20. We conclude that this case satisfies the criteria of Rule 20. The judgment of the coram nobis court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

JILL BARTEE AYERS, JUDGE