

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

JAMES E. WILLIAMS v. STATE OF TENNESSEE

**Direct Appeal from the Circuit Court for Coffee County
No. 21,887 L. Craig Johnson, Judge**

No. M2006-01056-CCA-R3-CO - Filed July 23, 2007

The Petitioner, James E. Williams, appeals the trial court's denial of his petition for writ of error coram nobis and motion to reopen his petition for post-conviction relief. The State has filed a motion requesting that this Court affirm the trial court's denial of relief pursuant to Rule 20, Rules of the Court of Criminal Appeals. We find the State's motion has merit. Accordingly, the motion is granted and the appeal is affirmed pursuant to Rule 20, Rules of the Court of Criminal Appeals.

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

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which DAVID H. WELLES, and JERRY L. SMITH, JJ, joined.

James E. Williams, pro se.

Robert E. Cooper, Jr., Attorney General and Reporter; Jennifer L. Bledsoe, Assistant Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

On November 9, 1987, the Petitioner was convicted of robbery with a deadly weapon, aggravated kidnaping, assault with intent to commit first degree murder and grand larceny and received an effective sentence of life plus seventy-five years. The Petitioner filed a subsequent pro se petition for post-conviction relief, which the post-conviction court denied, and this Court affirmed on appeal. The Petitioner filed a second petition for post-conviction relief, which was denied, and this Court affirmed on appeal. On December 21, 2006, the Petitioner filed a petition for writ of error coram nobis and motion to reopen his petition for post conviction relief, contending that the newly discovered evidence of two police reports would prove his innocence. On April 6, 2006, the trial court dismissed the Petitioner's petition finding that there was no newly discovered evidence that provided a lawful grounds for relief and that the Petitioner's claims were without merit. On May 3, 2006, the Petitioner filed a notice of appeal.

The Petitioner contends that the trial court erred in denying his petition for writ of error coram nobis and his motion to reopen his petition for post-conviction relief. The State contends that the petition for writ of error coram nobis was filed outside the one year statute of limitations. Further, the State asserts that the Petitioner's claims do not raise allegations of newly discovered evidence to negate his guilt. We agree with the State.

A petition for writ of error coram nobis relief must be filed within one year of the time judgment becomes final in the trial court. See Tenn. Code Ann. § 27-7-103. Based on the record, it is clear that the Petitioner's petition was filed several years after the statute of limitations had run. However, due process may require that the statute of limitations for filing a petition for writ of error coram nobis be tolled. See Workman v. State, 41 S.W.3d 100, 103 (Tenn. 2001). In Tennessee, a writ of error coram nobis should be granted when "subsequently or newly discovered evidence . . . may have resulted in a different judgment, had it been presented at trial." Tenn. Code Ann. § 40-26-105 (2003); Workman, 41 S.W.3d at 104. The Petitioner's claims do not address evidence that may have resulted in a different judgment had the evidence been presented at trial. We conclude, therefore, that the trial court properly denied the relief sought by the Petitioner.

Similarly, if we were to treat this as a petition for post-conviction relief, the Petitioner's claims are time-barred. The Petitioner filed his petition beyond that time allowed by the statute, and none of the exceptions to this time limit apply in this case. See Tenn. Code Ann. § 40-30-102(b). Under the Post-Conviction Procedure Act, exceptions to the statute of limitations are set forth. These exceptions include: (1) claims based upon a new rule of constitutional law applicable to a petitioner's case; (2) claims based upon new scientific evidence showing innocence; and (3) claims based upon sentences that were enhanced because of a previous conviction and the previous conviction was subsequently found to be illegal. See Tenn. Code Ann. § 40-30-102(b)(1)-(3) (2003). The Petitioner has failed to assert any of these exceptions for tolling the statute. He cites no new constitutional rule, refers to no new scientific evidence, and makes no claim that an earlier conviction has been overturned. See Tenn. Code Ann. § 40-30-106(g) (2003). Thus, no grounds exist as an exception to the statute of limitations.

Accordingly, the State's motion is hereby granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

ROBERT W. WEDEMEYER, JUDGE