

Circuit Court for Baltimore City
Case No. 17502127

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1189

September Term, 2017

ANTHONY GRANDISON

v.

STATE OF MARYLAND

Woodward, C.J.,
Fader,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 1, 2018

* 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 1975, Anthony Grandison, appellant, was convicted of sodomy and common law assault in the Circuit Court for Baltimore City. Those convictions were affirmed by this Court on direct appeal in 1976.¹ Thirty-seven years later, in June 2013, appellant again challenged those convictions in a petition for a writ of error coram nobis.² The circuit court denied the petition and this appeal followed.

Appellant presents four questions for our review, which we have distilled into one:

Did the circuit court err in denying coram nobis relief based on a finding that appellant was not facing significant collateral consequences as a result of his 1975 convictions for sodomy and assault?³

¹ *Grandison v. State*, No. 80, Sept. Term 1976 (filed October 26, 1976).

² Appellant previously filed a petition for coram nobis relief from his 1975 sodomy and assault convictions in February 2008. The circuit court denied the petition on grounds that appellant did not allege that he faced significant collateral consequences as a result. On appeal, we affirmed the denial of the petition. *See Grandison v. State*, No. 2208, Sept. Term 2009 (filed April 11, 2011). Two years later, in February 2013, Grandison filed the petition for coram nobis relief at issue in the present case, which included allegations of significant collateral consequences. Because we did not reach the merits of appellant's petition for coram nobis relief in the prior action, we shall address them now.

³ The four questions presented by appellant, as they appear in his brief, are:

1. DID THE CIRCUIT COURT BASE ON ITS ERRONEOUS RELIANCES ON AND MISINTERPRETATION OF THE HOLDINGS IN GRANDISON III [referring to *Grandison v. State*, 341 Md. 175 (1995)] ERROR IN RULING THE USE OF HIS PRIOR CONVICTIONS OF SODOMY/ASSAULT HAD NO BEARING ON THE JURY IMPOSING TWO DEATH SENTENCES DURING HIS RESENTENCING PROCEEDING SINCE THOSE CONCLUSIONS ARE IN DIRECT CONFLICT WITH THE COURT OF APPEALS HOLDINGS?
2. DID THE CIRCUIT COURT BASE ON ITS ERRONEOUS RELIANCES ON AND MISINTERPRETATION OF THE HOLDINGS IN GRANDISON III ERROR IN CONCLUDING ASSUMING ARGUENDO APPELLANT'S COLLATERAL CONSEQUENCE ARGUMENT HAS

(continued)

Finding no error, we affirm.

The writ of error coram nobis is an equitable action originating in common law whereby a petitioner seeks to collaterally challenge a conviction after the judgment has become final. *Coleman v. State*, 219 Md. App. 339, 354 (2014), *cert. denied*, 441 Md. 667 (2015). The writ is available to “a convicted person who is not incarcerated and not on parole or probation” and who is “suffering or facing significant collateral consequences from the conviction.” *Skok v. State*, 361 Md. 52, 78-79 (2000) (emphasis added). It is “an extraordinary remedy justified only when circumstances compel such an action to achieve justice.” *Duncan v. State*, 236 Md. App. 510, 526 (2018).

Due to the “‘extraordinary’ nature of relief under coram nobis, appellate courts review a coram nobis court’s decision to grant or deny the petition for a writ of error coram

MERIT HIS DUE PROCESS VIOLATION DURING HIS 1975 TRIAL WAS HARMLESS BEYOND A REASONABLE DOUBT IN RELATIONS TO HIM RECEIVING THE DEATH PENALTY?

3. DID THE CIRCUIT COURT BASE ON ITS ERRONEOUS RELIANCES ON AND MISINTERPRETATION OF THE HOLDINGS IN GRANDISON III ERROR IN CONCLUDING APPELLANT’S UNGER ISSUE IS WAIVED AND THE CENTRAL ISSUE IN THIS CASE IS NOT THE ADVISORY ONLY JURY INSTRUCTION DURING HIS 1975 TRIAL BUT THE ADMISSIBILITY OF HIS PRIOR CONVICTIONS AT HIS CAPITAL RESENTENCING HEARING SINCE THOSE CONCLUSIONS DEFINES COMMON LEGAL SENSE?
4. DID THE CIRCUIT COURT ERROR IN FAILING TO RULE ON THE MERITS OF GRANDISON’S CORAM NOBIS CLAIM THE USE OF THE SODOMY/ASSAULT CONVCTIONS IN FEDERAL COURT AS PREDICATE FELONY OFFENSE TO OBTAIN HIS CONVCTION FOR VIOLATION OF FORMER TITLE 18 USC 1202 ON ITS OWN CONSTITUTE SIGNIFICANT COLLATERAL CONSEQUENCES.

(continued)

nobis for abuse of discretion.” *Id.* at 527. We will not “disturb the coram nobis court’s factual findings unless they are clearly erroneous, while legal determinations shall be reviewed de novo.” *Id.* (quoting *State v. Rich*, 454 Md. 448, 471 (2017)).

Appellant claims that the 1975 convictions for sodomy and assault should be reversed because of a jury instruction that was later held to be unconstitutional.⁴ He asserts that he “has suffered, and continues to face significant collateral consequences” of the challenged convictions in that, but for these convictions, (1) a capital re-sentencing jury, that considered a pre-sentence investigation report that reflected the 1975 sodomy and assault convictions, would not have imposed the death penalty for his 1984 convictions for first-degree murder, and (2) his criminal record would not have reflected the predicate felony conviction that he claims formed the basis for federal charges, and ultimate conviction, in 1979, for possession of a firearm by a convicted felon.

With respect to appellant’s first contention, we previously rejected an identical claim made by appellant with respect to another of his criminal convictions, also in 1975, for wearing, transporting or carrying a handgun. *See Grandison v. State*, No. 150, September Term 2014) (filed October 14, 2015). In that unreported opinion, we affirmed the denial of a petition seeking coram nobis relief from the 1975 handgun conviction, holding that “there is no doubt that the principal factor relied upon in imposing the death sentences was that [appellant] engaged in a ‘murder for hire’ scheme . . . not that he had previously [been] convicted of wearing, carrying, or transporting a handgun.” *Id.* at 11.

⁴ Appellant cites *Unger v. State*, 427 Md. 383, 391 (2012) in support of this claim.

Likewise, in the instant case, we hold that the principal factor upon which the capital sentencing jury imposed the death penalty at the 1994 resentencing was the nature and circumstances of the murder for which appellant was then being resentenced, not that he had been previously been convicted of sodomy and assault.⁵

Next, although the coram nobis court did not express a ruling on Grandison’s claim that the 1979 federal conviction for possession of a firearm by a convicted felon is a significant collateral consequence of the 1975 felony convictions, no remand is necessary as the record is sufficient for this Court to decide the issue.⁶ Appellant did not submit documentation establishing that the 1979 federal charge was predicated on the convictions he challenged in the coram nobis petition, or that he was convicted of that charge, or that he is still subject to any sentence imposed. Accordingly, based on the record before the coram nobis court, appellant did not meet his burden of proving that he is suffering or facing significant collateral consequences, as a result of the convictions challenged in his petition for coram nobis, related to his 1979 federal charge. *See Skok v. State*, 361 Md. 52, 79 (2000) (“petitioner’s “allegations failed to show any outstanding adverse legal consequences from his conviction . . . which were necessary . . . to vacate the judgement

⁵ As we noted in our unreported opinion in *Grandison v. State*, No. 150, Sept. Term 2014 (filed October 15, 2015), the fact that Governor Martin O’Malley commuted appellant’s death sentences to life sentences without the possibility of parole does not moot the issue in this appeal, as appellant will remain imprisoned for the remainder of his natural life. *Id.* at 15, n. 12.

⁶ *See Smith v. State*, 219 Md. App. 289, 295 (2014) (declining to remand case for a statement of reasons for the denial of a petition for writ of coram nobis where the issue could be decided on the record.)

of conviction[.]’”) (quoting *U.S. v. National Plastikwear Fashions, Inc.*, 368 F.2d 845, 846 (1966)).

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