

Circuit Court for Prince George's County
Case No. CT900270B

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1303

September Term, 2020

JAMES BEAMAN

v.

STATE OF MARYLAND

Shaw Geter,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 4, 2021

*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.

James Beaman, appellant, was convicted of four counts of first-degree murder and four counts of use of a handgun in the commission of a crime of violence, following a jury trial in the Circuit Court for Prince George’s County. This Court affirmed his convictions on direct appeal. *See Beaman v. State*, No. 1537, Sept. Term 1990 (filed Aug. 14, 1991).

In 2020, Mr. Beaman filed his third petition for writ of actual innocence asserting that two witness, Doria Rogers and William Little, had perjured themselves at his trial. This claim was based solely on the fact that both witnesses had allegedly provided contradictory testimony at the trial of Mr. Beaman’s co-defendant, which occurred approximately two months after Mr. Beaman’s trial had concluded. Notably, Mr. Beaman raised the same claim regarding Ms. Rogers’ testimony in a motion for a new trial and in two prior petitions for writ of actual innocence. The circuit court dismissed the petition for writ of actual innocence without a hearing, finding that neither witnesses’ testimony constituted newly discovered evidence and that the petition also failed to distinguish how Mr. Beaman’s claim with respect to Ms. Rogers’ testimony was different from the one that he had raised in his prior petitions. On appeal, Mr. Beaman claims that the court erred in dismissing his petition for writ of actual innocence without holding an evidentiary hearing. For the reasons that follow, we shall affirm.

A court “may dismiss a petition [for writ of actual innocence] without a hearing if the court finds that the petition fails to assert grounds on which relief may be granted.” Md. Code Ann., Crim. Proc. § 8-301(e)(2). And “to prevail on a petition for writ of innocence, the petitioner must produce evidence that is newly discovered[.]” *Smith v. State*, 233 Md. App. 372, 410 (2017). In short, the existence of newly discovered evidence is a “threshold question.” *Argyrou v. State*, 349 Md. 587, 602 (1998). “To qualify as ‘newly discovered,’

evidence must not have been discovered, or been discoverable by the exercise of due diligence,” in time to move for a new trial. *Id.* at 600-01 (footnote omitted); *see also* Rule 4-332(d)(6). In analyzing whether newly discovered evidence could have been found using due diligence, the test is “whether the evidence was, in fact, discoverable and not whether the appellant or appellant’s counsel was at fault for not discovering it.” *Jackson v. State*, 164 Md. App. 679, 690 (2005).

Here, Mr. Beaman’s petition did not establish why he was unable to discover the allegedly contradictory testimony of Ms. Rogers and Mr. Little in time to move for a new trial. And we perceive no reason why he could not have discovered that evidence with due diligence as his co-defendant’s trial concluded approximately two months after he was convicted. Consequently, the court did not err in denying Mr. Beaman’s petition for writ of actual innocence without a hearing.¹

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**

¹ We note that Mr. Beaman’s claim regarding Ms. Rogers’ testimony was also subject to dismissal because his petition failed to distinguish how that claim was different than the claims about her testimony that he raised in his first two petitions for writ of actual innocence. *See* Crim. Proc. Art. § 8-301(b)(5) (requiring a petition for writ of actual innocence to “distinguish the newly discovered evidence claimed in the petition from any claims made in prior petitions”).